

TREATY BODY MONITOR

International Service for Human Rights



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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS 37TH SESSION, 6 – 24 NOVEMBER 2006 REPUBLIC OF TAJIKISTAN, INITIAL REPORT

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Information submitted to the Committee

On 31 May 2006, the Republic of Tajikistan submitted an initial report¹ and core report² to the Committee on Economic, Social and Cultural Rights (the Committee). The initial report details Tajikistan's implementation of the Covenant on Economic, Social and Cultural Rights (the Covenant). The core report outlines the demographic, economic and political situation in Tajikistan. The Committee produced a list of issues³ and the State provided written replies⁴ to these issues on 4 September 2006. Following the close of the 37th session,

¹E/C.12/TJK/1, 31 May 2006. Available at: <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

²HRI/CORE/1/Add.128, 18 February 2006. Available at: <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>. In paragraph 77 of its concluding observations the Committee invited the State to update its core document 'in accordance with the requirements of the Common Core Document in the Harmonised Guidelines on Reporting, recently approved by the international human rights treaty bodies'.

³E/C.12/TJK/Q/1, 28 February 2006. Available at: <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

⁴E/C.12/TJK/Q/1/Add.1, 04 September 2006. Available at: <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

the Committee released its concluding observations on Tajikistan.⁵ During the session the Committee regretted there was a lack of time to address all the issues it would have liked, and as a result the concluding observations covered many additional issues and recommendations that were not specifically addressed in the plenary session.

The Tajikistan Bureau on Human Rights and Rule of Law and International League for Human Rights submitted a joint alternative report.⁶ Central concerns of the report included calls for improvement in the judicial system through increased financial resources and training of judges and judicial staff, establishment of a national human rights institution, reform of the policies on labour migration, child protection, gender discrimination and violence, human trafficking and healthcare for the physically and mentally disabled.

The plenary session on Tajikistan was held on 10 and 13 November 2006 in Geneva. The delegation was led by Minister of Justice Mr Khalifabobo Homidov. The rest of the delegation was composed of nine male high-level representatives from a wide range of ministries. Mr Homidov dominated the dialogue and the central topics of the session were migrant workers and provisions for minority groups in Tajikistan.

Themes and issues

Standard of living

Committee members repeatedly asked how foreign debt affected the economy and enquired into improvements in the standard of living in Dushanbe. The delegation responded that they were in the early stages of restructuring their foreign debt as they recognised its negative impact on social and economic growth.⁷ It also highlighted that there had been a significant decline in the level of poverty in recent years (81% reduced to 64%) through its Poverty Reduction Strategy and that a survey of the economic situation in Tajikistan would be delivered in early 2007. Concerning infrastructure in Dushanbe, the delegation admitted there was a serious problem in the provision of housing⁸ and informed that a \$30 million project to improve the drinking water system in Dushanbe was due to be completed in June 2008.⁹

Health

The Committee raised concerns over the prevalence of TB and HIV/AIDS in prisons, rehabilitation of drug users and privatisation of the healthcare system. The delegation highlighted the law on penitentiary enacted in 2006 and stated that investigations were carried out after every TB death. However, it regretted that there was a lack of funds allocated, especially to the HIV/AIDS problem in prison.¹⁰ Regarding healthcare privatisation, the delegation stated that there was no privatisation of State facilities but clarified that there were more than 70 private health institutions that had been licensed by the State. It went on to assure that healthcare was provided free to the most vulnerable members of society and that primary healthcare was the priority in healthcare reform. The Committee asked without response about psychiatric care, mental healthcare units for children, disabled children, sexual and reproductive healthcare (especially the provisions in rural areas) and intestinal diseases that are linked with unclean drinking water.

⁵ E/C.12/TJK/CO/1, 24 November 2006. Available at: <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

⁶ NGO alternative report. Available at: <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

⁷ The delegation informed that foreign debt remained owed to the International Monetary Fund (IMF), the Russian Federation, Turkmenistan and the World Bank. It also informed that they had made a recent financial agreement with China to develop their energy sector but assured that this would not affect their other standing foreign debts.

⁸ The prediction of a rise in the population from 62,000 to a million in 2010 was highlighted as a cause for concern.

⁹ Funding for this project reaches in excess of \$30 million and will come from the Asian Development Bank (ADB), a Swiss foundation, a Japanese foundation and a range of NGOs.

¹⁰ The World Health Organisation (WHO) had raised concerns that there was a lack of information on the funds used to address this problem.

In its concluding observations the Committee encouraged the State to provide alternative forms of mental health treatment, in particular outpatient treatment and community-based rehabilitation.

Social security

The Committee asked about social security reform, benefits for war veterans, self-employed persons, orphans and fostered children, workers in informal positions (in particular young people), minimum wage, child-care allowances¹¹ and the stigmatisation of HIV/AIDS sufferers that leads them to not take advantage of social security. The Committee also raised concerns over the low number of those holding pensions and the gap between the minimum and maximum pensions. It also noted that the decisions on minimum pension level were taken by the President. Concern was also raised over the fact that compensation was not provided to civil war and Second World War veterans under State law. The delegation responded that pensions were available to veterans of the Second World War and that there was a State guarantee to ensure they received medical assistance.¹² Self-employed people were also entitled to an old-age pension, as well as a disability and injury pension under State law. The delegation further added that orphans as well as fostered children were provided for under State law, although admitted that there was a need for greater awareness and regulation, particularly with regard to foster parents. In its concluding observations, the Committee called for adoption of a minimum wage that would enable workers and their families to enjoy an adequate standard of living. In addition, the Committee recommended ratification of the ILO Covenants No. 102 (Minimum Standards) and 118 (Equal Treatment) on social security.

Corruption

The Committee enquired about the threat of corruption in Tajik politics, as well as the power of warlords over the State. The delegation referred to the State's adoption of the Istanbul Anti-Corruption Action Plan,¹³ and highlighted that it was also participating in the Anti-Corruption Network for Transition Economies. It highlighted several case examples of state officers or policemen convicted for bribery, as well as a decrease in allegations of nepotism. The delegation also drew attention to anti-corruption campaigns aimed to raise public awareness and assured the Committee that the last Presidential election was fair and democratic. The delegation stated that warlords were granted amnesty through peace agreements, whilst assuring that those who had not been in compliance with the law since their amnesty had been sentenced to prison. In its concluding observations the Committee called for prioritisation to developing and pursuing measures to combat impunity, corruption and nepotism.

Independence of the judiciary

The Committee enquired about the independence of the judiciary and the transfer of the responsibility for judicial reform from the Ministry of Security to the Ministry of Justice. The delegation conceded that the country had not yet escaped from its Soviet past but explained that a training centre for judges had been created in order to disseminate the Covenant and other international standards. Tajikistan stressed on several occasions that the President had made an announcement that life-terms for judges would be introduced in Tajikistan. The delegation assured the Committee of the independence of the Council of Justice and highlighted the establishment of a working group mandated to draft new procedures in order to facilitate

¹¹ Child-care allowance is only provided for 18 months after birth.

¹² The delegation detailed that there were three specialised centres for invalid veterans and the State provided free healthcare and transport to reach these centres.

¹³ Texts of the Istanbul Plan, National Report on the legislative, legal and institutional basis for combating corruption, OECD (Organisation for Economic Co-operation and Development) Assessment and Recommendations as posted on the website of the Anti-Corruption Network for Transition Economies www.anticorruptionnet.org
http://www.oecd.org/document/49/0,2340,en_36595778_36595926_37076785_1_1_1_1,00.html

greater equality within the courts. In its concluding observations the Committee encouraged the introduction of a system of appointing judges for an indefinite period.

Rights of minorities

The Committee primarily enquired about issues of discrimination, the prevalence of teaching in minority languages in Tajik schools, and reports of a large number of Uzbeks in Tajik prisons. The delegation insisted that minorities were represented in all spheres of economy and policy and, in the context of combating discrimination, the Ministry of Culture was presently drafting a plan aimed at further promoting the culture of minorities. Concerning education, the delegation explained that lessons were provided in Russian, Uzbek, Kyrgyz and Turkmen.. In response to the Committee's question of Uzbek prisoners, the delegation informed that a high number were in prison because they had been convicted of being part of a recognised terrorist group.

Rights of asylum seekers and refugees

The Committee enquired about the legal protection for asylum seekers and refugees in Tajikistan, as well as the right to work as it applied to asylum seekers. The delegation explained that Tajikistan is a sovereign State and has been confronted with illegal immigration and as a result it has implemented a stricter visa regime and tightened its legal framework on asylum seekers and refugees. The delegation highlighted that 99% of refugees are Afghans (as a result of the civil war in Afghanistan) and asserted that they did contribute to the economy and even upheld some industries, such as vehicle repair. In its concluding observations, the Committee called for facilitation of the procedures necessary for refugees and asylum seekers to obtain personal documents, including birth certificates, identity cards and work booklets. It also urged that the State Party revise its refugee law in order to grant asylum seekers the right to work.

Migrant workers¹⁴

The Committee asked about protection and compensation for Tajik migrant workers abroad and the situation for their families, in particular it asked about workers in the Russian Federation.¹⁵ It went on to ask about the composition of Tajik migrant workers, both abroad and in Tajikistan, as well as the provisions provided for migrant workers in Tajikistan. In response the delegation highlighted an agreement ratified in 2005 between the governments of Tajikistan and Russia aimed to protect migrant workers.¹⁶ It also described changes in the facilitation of money transfers between different countries that had made it easier for migrant workers to send their wages back to Tajikistan. The delegation added that a Tajik office in Kazakhstan to protect migrant workers was being established and that there was work on agreements with Belarus and Moldavia. The delegation was however unable to provide accurate figures and information on the type of work carried out and the numbers of female migrant workers outside Tajikistan. Nor did the delegation respond to questions on discrimination against migrant workers and their access to trade unions and social security in Tajikistan.

Gender discrimination

The Committee asked about traditional cultural attitudes to gender equality, sexual harassment and conditions for women left in Tajikistan while men worked overseas. The Committee welcomed the 2004 Act on Equal Rights and Opportunities for Men and Women and the National Plan of Action for the Advancement of

¹⁴The Republic of Tajikistan ratified the *International Covenant on the Protection of all Migrant Workers and Members of their Families* on 8 January 2002.

¹⁵ In the session the delegation informed that 320-340, 000 migrant workers leave Tajikistan to go to the Russian Federation and that influxes in immigration take place twice a year in summer and spring.

¹⁶ The agreement on 'the working activities of citizens of Tajikistan and the protection of their rights was signed on 16 October 2004 and then ratified by the Association of Representatives for Republic of Tajikistan in 23 December 2005 and by the State Duma of the Russian Federation on 23 December 2005 (see P. 24 of the written replies).

Women and the Enhancement of Their Status and Role for the period 1998-2005, as well as the establishment of the Government Committee for Women's and Family Affairs. The delegation stated there was no gender discrimination, only 'segregation', as women tend to work in lower paid jobs than men. It stressed that there had been progress; a high rate of women working in banking and credit that was previously entirely occupied by men, as well as an increase of 40% in April 2006 in the minimum wage for women. Furthermore, it asserted that the Tajik government recognised patriarchal attitudes posed restrictions on reaching full gender equality and as a result both a television programme had been aired to raise awareness and a seminar organised to broach questions of cultural attitudes and gender. The Committee also required information on laws for the prohibition and punishment of sexual harassment. The delegation pointed out to the Committee that three kinds of offences in the Criminal Code could be used to address sexual harassment (the detail and the location in the Criminal Code of these offences were not explicit). However, in its concluding observations the Committee called for adoption of specific legislation to render sexual harassment in the workplace a criminal offence.

Protection of the family

The Committee enquired into underage marriage, polygamy and domestic violence¹⁷. The delegation highlighted that 16 charges had been made relating to marriage of underage girls (there was no more specification or time period provided) and awareness campaigns had been carried out, in particular in rural areas. The Committee praised the introduction of legislation to prohibit polygamy but questioned how it was publicised and implemented.¹⁸ The Committee also asked about the progress in adoption of a law on domestic violence, and the delegation informed that a draft law was still under discussion. It added that the General Procurators Office was working with the Women's Affairs Co-ordination Council to study the statistics of crimes against women and that five confidential hotlines to support victims had been created. In its concluding observations the Committee urged adoption of a law on domestic violence and to render it a criminal offence.

Rights of the Child

The Committee questioned the link between child labour and high dropout rates from school (particularly 10-11 year olds),¹⁹ conditions in State boarding schools and education for girls. The delegation was keen to draw attention to increased budgetary allocations for education to be used for provision of textbooks, food aid and financial assistance to poor families to buy school materials. In addition, the delegation informed the Committee that restrictions had been imposed on working hours for those less than 18 years old. In its concluding observations, the Committee recommended that the State undertake a national survey on the nature and extent of child labour.

Other Issues

The Committee drew attention to the legislation to protect cultural patrimony. The State highlighted the increased budgetary expenditure allocated to culture and reminded the Committee that it was a party to the 1954 Hague Covenant for the Protection of Cultural Property in the Event of Armed Conflict, as well as its

¹⁷ The Committee was sceptical of the statistics on domestic violence provided by the State (see P. 36-37 of Written Responses) as without a law it claimed very few cases would be reported.

¹⁸ The delegation informed that there were 159 convictions for polygamy in 2006 so far. As justification that the State Party was taking steps to address the protection of women and the family the delegation highlighted that Tajikistan had signed the Vienna Declaration and Plan of Action of 1993 (a declaration that 'took historic new steps to promote and protect the rights of women, children and indigenous peoples by, respectively, support the creation of a new mechanism, a Special Rapporteur on Violence against Women; calling for the universal ratification of the Covenant on the Rights of the Child by the year 1995') and that a National Plan of Action had been created on how to implement it in Tajikistan. For more information and or reference to the text of the declaration refer to: <http://www.unhchr.ch/html/menu5/wchr.htm>.

¹⁹ UNICEF reported that 20% of 5-14 year olds work in Tajikistan.

Second Protocol.²⁰ It added that programmes from the Ministry of Culture are focused on integration of ethnic minorities.

The Committee noted that there was no independent national human rights institution in Tajikistan. The delegation responded that they regretted this absence and added that a book about the prospects of a national human rights institution in Tajikistan had been issued in 2006.

The Committee recognised the adoption of the 2004 Act on Trafficking in Persons in Tajikistan. The delegation added that trafficking was defined in State law and that significant efforts had been made to raise awareness. To date, 78 charges had been made under Article 17 of the Criminal Code.

Conclusions and Next Steps

The Committee submitted 11 pages of comprehensive concluding observations, expressing concern for every issue highlighted in the initial report. Evaluation and recommendations extended beyond issues covered in the plenary session and addressed the majority of the articles found in the Covenant. Many recommendations called for greater efforts to raise awareness on social security provisions and there was a striking number of requests for disaggregated data on subjects such as women in the workplace, trafficking, waiting lists for social housing, and disadvantaged and marginalised persons. The Committee requested the submission of the combined second and third periodic reports from Tajikistan by 30 June 2011.

²⁰ Tajikistan acceded to the Second Protocol to the Hague Covenant of 1954 for the Protection of Cultural Property in the Event of Armed Conflict on 21 February 2006.

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