



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/SR.1659
17 August 2004

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-fifth session

SUMMARY RECORD OF THE 1659th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 12 August 2004, at 10 a.m.

Chairman: Mr. YUTZIS

later: Mr. PILLAI
(Vice-Chairman)

later: Mr. YUTZIS
(Chairman)

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Initial to fifth periodic reports of Tajikistan (continued) (CERD/C/463/Add.1; HRI/CORE/1/Add.128)

1. At the invitation of the Chairman, the members of the delegation of Tajikistan resumed their places at the Committee table.
2. The CHAIRMAN invited the delegation of Tajikistan to reply to the Committee's questions.
3. Mr. KHAMIDOV (Tajikistan) said that present-day Tajikistan was a peaceful, stable country where people lived in harmony; United Nations agencies had contributed considerably to that achievement. Tajikistan's civil war had never been an inter-ethnic conflict, but a conflict between nationalities. The current task was to overcome the legacy of that war.
4. With reference to some Committee members' description of Tajikistan as an "Islamic State", he pointed out that, while 93 per cent of the population were of the Islamic faith, Tajikistan was a secular republic that defended the interests of all persons under its jurisdiction.
5. The Committee had also observed that Tajikistan had found the "miracle key" to achieving peaceful coexistence and eliminating separatist tendencies. A range of historical, religious, geographical and moral factors contributed to that reality. Most importantly, the country had a long tradition of friendly and close links between different ethnic groups and nationalities.
6. Representatives of the Uzbek, Korean and Russian minorities had participated actively in drafting the report before the Committee. In addition, the report had been widely discussed among the general public, in the media, and by national associations and NGOs.
7. Replying to the question on the definition of racial discrimination, he said that Tajik legislation prohibited all forms of discrimination. A definition of the term was contained in article 7 of the Tajik Labour Code. Pursuant to article 10 of the Constitution, international legal instruments were recognized as a constituent part of the domestic legal order. The definition of racial discrimination contained in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) thus applied to domestic legislation. Should article 10 fail to satisfy the Committee's concerns, his Government would consider rewording it.
8. Ms. MUKHAMMADIEVA (Tajikistan), replying to a question on the alleged sharp rise in emigration among particular ethnic groups, said that, according to government statistics, while emigration had indeed been on the increase between 1989 and 1993, the numbers had stabilized following the peace accord in 1997.
9. The main reason for emigration in the past had been the political instability caused by the civil war. At present, the majority of migratory flows were labour-related. The Government, in cooperation with NGOs, the World Bank and the Asian Development Bank, had carried out a

survey covering the period 1999-2003 with the aim of establishing the standard of living and determining unemployment rates and job availability. Poverty levels had declined from 83 per cent in 1998 to 57 per cent at present, which had in turn caused migratory flows to decrease. A State poverty reduction programme had been adopted in an attempt to stem labour-related emigration.

10. Tajikistan had established a special representative's office to protect the rights of the large Tajik migrant worker population in Russia. In addition, representatives of the Ministry of Labour and Social Welfare regularly visited countries with large numbers of migrant workers from Tajikistan to monitor the protection of their rights and interests. Many migrant workers only left the country on a temporary basis, usually for seasonal work, and returned when jobs became available in Tajikistan. The majority of persons emigrating during the civil war had been of Tajik nationality.

11. Between 1989 and 2000, the population had grown by 23 per cent and data on population growth disaggregated by ethnic group were provided in the report. Fluctuations in the ethnic composition of the population in official statistics were mainly due to the redefinition of ethnic boundaries, which meant that communities previously associated with the same ethnic affiliation were henceforth grouped separately. That process had been of particular significance in the case of the Uzbek minority.

12. Five years before the 2002 census, a commission had been established to develop a preparatory programme in collaboration with a number of international organizations, NGOs and the United Nations Statistics Division. As a result, detailed information had been obtained on the relative representation of different ethnic minorities and a total of 137 different ethnic groups had been identified.

13. The Committee had enquired about the reasons for the lack of specific information on the Roma minority in the report and had requested further details. The Roma population in Tajikistan had increased from 1,800 in 1989 to 4,300 in 2000. Its members held positions as teachers, doctors, engineers and scientists. Some, were well-known artists. Roma children were integrated in regular schools. The majority of the Roma lived in rural areas and owned their land. Further studies were required to provide in-depth information on the subject, and that could be included in the next periodic report.

14. Mr. KHAMIDOV (Tajikistan), replying to questions on the implementation of the Convention by domestic courts and the lack of relevant case law, said that, according to court records, the Convention had never been directly invoked in domestic judicial proceedings. Since no complaints of racial discrimination had been lodged with the police or the courts, no criminal proceedings had been instituted. Consequently, the relevant provisions in domestic legislation had also never been applied. In that connection, he stressed that it was not the delegation's intention to conceal information, as that would be contrary to the country's interests.

15. Mr. KHUDOYOROV (Tajikistan), turning to a question on the prospects for the establishment of a national human rights institution in accordance with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights, he drew the Committee's attention to a number of existing institutions.

16. The Commission on Fulfilment of International Human Rights Commitments coordinated activities between, inter alia, ministries and departments, State committees, local executive bodies, and enterprises. The Commission comprised representatives of the Government and NGOs, including the president of the bar association. A number of NGOs that were not directly represented performed advisory functions. The Commission's decisions were binding on all State executive bodies and one of its main responsibilities was the drafting of country reports for submission to various human rights treaty bodies. Traditionally, it had drawn support from the United Nations Tajikistan Office of Peace-building (UNTOP), the Organization for Security and Cooperation in Europe (OSCE), and the Swiss Cooperation and Development Agency. The Office for Constitutional Guarantees of Citizens' Rights, attached to the Executive Office of the President, was also entrusted with the promotion and protection of human rights.

17. After a failed attempt to establish an independent national human rights institute in the mid-1990s, the Government was currently re-examining that possibility and would take appropriate action.

18. When Tajikistan had attained independence, the Government had seen no reason to alter the status of the Gorno-Badakhshan Autonomous Oblast. There were, however, no independent legislative bodies in the region, and Tajik legislation prevailed there.

19. Tajikistan's ethnic and cultural policy was based on respect for rights and freedoms, including those of all ethnic groups. Those groups enjoyed equal rights, and discrimination between people was prohibited. Dialogue among the different ethnic groups had proved vital to the establishment of peace and stability. A plan of action, endorsed by the President, had promoted inter-ethnic relations through symposiums, lectures, conferences, seminars and round tables, and had facilitated national consensus and reconciliation. The national minorities had been represented in the peace negotiations from the outset, as demonstrated by the representative of the Uzbek cultural centre in Tajikistan, who had been a member of the government delegation in the negotiations. A university rector and leading academic of Uzbek origin had also been a member of the national conciliation commission.

20. Mr. JONONOV (Tajikistan) said that his Government had taken several steps to encourage the return of Tajik refugees still living in neighbouring countries. The measures had included signing a national reconciliation accord, adopting an amnesty law, establishing the legal basis for the refugees' return, reintegrating the former opposition armed forces into the Tajik army and holding free elections, in which representatives of opposition parties had won seats. The Government had worked, and was continuing to work, in conjunction with UNHCR to encourage the return of refugees from the Commonwealth of Independent States (CIS) and Afghanistan, and much work had been done to restore the infrastructure destroyed during the civil war in Tajikistan. While there were no accurate statistics on the number of refugees still living in CIS countries, research had suggested that most of them were members of ethnic groups originating from Turkmenistan, Uzbekistan and Kyrgyzstan, and currently living in those countries.

21. There were currently about 1,900 Afghan refugees registered in Tajikistan, all of whom were respected as refugees, in accordance with State policy. Working in close cooperation with the UNHCR office in Dushanbe, the Government had established a school for the children among those refugees, which was currently attended by 660 pupils. Children under the age of 16

had been given periodic health checks. UNHCR and an NGO had helped to set up a refugee centre, which had provided over 600 Afghan refugee women with training in basic skills, information and communication technology, and foreign languages, including Russian and English. Free legal aid had been made available, as had information on international legal instruments and access to humanitarian aid. Employees of Tajik national institutions and courts had been given special training courses on issues relevant to the plight of the Afghan refugees, of whom 133 had been voluntarily repatriated and others resettled in 2003. In total, 13,000 of them had returned home since their arrival in Tajikistan.

22. Mr. KHUDOYOROV (Tajikistan) said that article 12 of the 2002 Refugees Act established that anyone granted refugee status, together with their family members, had the right to reside in settlements specified by the Government for the period during which they were recognized as refugees. A decree had been issued in July 2000 establishing the areas in which refugees and asylum-seekers were not permitted to live - a measure which had been taken in order to ensure security and social order. While an amendment passed in August 2004 had reduced the number of those areas to only seven, that measure had not contravened the requirement contained in article 5 (d) (i) of the Convention, since there had been no discriminatory purpose behind it.

23. Mr. KHAMIDOV (Tajikistan) explained that citizens of Tajikistan could only have dual citizenship under the circumstances specified in the relevant legislation. It was conditional upon the existence of a treaty between Tajikistan and the other State concerned. Treaties with other States, similar to that concluded with the Russian Federation, would be considered if another State showed an interest in such an agreement. The sharp increase in the number of renunciations of dual citizenship in 2002 and 2003 had resulted from the increase in the number of people who had returned to their place of permanent residence. While almost half of them had been born in the Russian Federation, for Tajik nationals most renunciations had been motivated by marriage to a foreign national or employment abroad.

24. Article 13 of the Citizenship Act provided that the Government should encourage stateless persons to acquire Tajik citizenship. While national policy was designed, therefore, to reduce statelessness, the Government would require more time to consider ratification of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Afghan refugees and stateless persons were granted Tajik citizenship in accordance with article 23 of the Citizenship Act, providing they had resided permanently in the country for five years or had completed three years of continuous residence following an application for citizenship.

25. Mr. KHUDOYOROV (Tajikistan) said that the main aim of the policy on ethnic issues was to ensure equality of opportunity for all citizens, regardless of national origin, race, gender, language, creed, political conviction, social status, level of education or property. No provisions of domestic legislation permitted discrimination or restrictions on grounds of national or ethnic origin. The overall aims of the policy were to support national and ethnic minorities, maintain cultural diversity, and foster tolerance and understanding among all citizens. Much work was currently being done on the State programme for the support and development of ethnic minorities for the period 2004-2006, which was at the drafting stage.

26. Since the adoption, in 1994, of legislation to protect the freedom of religion of members of minorities, substantial amendments and additions had rendered that legislation more democratic. It provided for freedom of conscience and worship, and equality among citizens, regardless of religion. Any direct or indirect restriction of rights was prohibited, as was the creation of any advantage for citizens of a particular religion. Churches and all religious organizations were separate from the State, and education was secular.

27. In a mixed marriage both spouses were considered equal partners in every respect, including choice of religion. One spouse's choice of religion had no effect on descendants' rights, and the surviving spouse was the legitimate heir in every case.

28. Mr. KHAMIDOV (Tajikistan) added that the information already provided on the number of religious organizations and communities had demonstrated that several national groups were represented in the many religions practised in his country.

29. In response to the question about citizens' right to use the language of their choice, he explained that anyone wishing to communicate with a State body could write to that institution in any language he chose. If the recipient did not understand the language in which the communication had been written, it would be translated into Tajik or Russian, at the recipient's expense. The State language, however, was Tajik, and all State officials and civil servants were obliged to use that language in their dealings with citizens, insofar as that permitted effective communication. The term "acceptable language" (CERD/C/463/Add.1, para. 6) meant that anyone who did not speak Tajik or Russian had the right to communicate with a State entity in his national language. It had been specifically stipulated that if a person did not speak the language used in a court, the State should pay for an interpreter. While Tajikistan had limited financial resources, the Government had made every effort to protect its citizens' rights.

30. Mr. KHUDOYOROV (Tajikistan) said that, in regions with a high concentration of national minorities and in individual cities and districts within those regions, local television companies broadcast programmes in Tajik, Russian and Uzbek. In addition, the State television channel produced a series called "Tajikistan - our common home", which focused on the lives of national minorities, including the Turkmen, Kyrgyz, Korean and Jewish minorities. It was also cooperating with the Korean community to make a weekly programme for students of the Korean language. The Committee on Television and Radio Broadcasting always gave sympathetic consideration to requests for programmes to be broadcast in minority languages.

31. Ms. MUKHAMMADIEVA (Tajikistan) said that, under article 6 of the Education Act, all citizens had the right to education regardless of their race, national origin, sex, language, religion, social status or property or the nature of their employment. Article 7 guaranteed citizens the freedom to choose their language of instruction. Her Government ensured the effective exercise of that right by establishing the requisite number of educational institutions and classes and by providing the necessary conditions for them to operate. Currently, education was provided in the official language, Tajik, and in Russian, Uzbek, Kyrgyz and Turkmen. There were also bilingual schools, which, though they offered various language combinations, used a common curriculum developed by the Ministry of Education. In addition to the common core elements, pupils at those schools studied the language, literature, history and geography of their own peoples. Teaching materials were readily available in Russian, Kyrgyz and Turkmen. However, there had been difficulties in obtaining appropriate textbooks in the Uzbek language.

32. Mr. KHAMIDOV (Tajikistan) said that, for an independent country, recourse to textbooks produced in other countries that took no account of local history, geography or customs was a vexed issue. While the Government must take the lead in addressing the problem, it was to be hoped that representatives of the various national minorities would also give consideration to the publication within Tajikistan of teaching materials in their respective languages.

33. The Culture Act had been adopted in 1997 and revised in 2003. In accordance with article 1, the main purposes of the Act were to safeguard and protect the constitutional right of citizens to participate in cultural life; to provide legal guarantees concerning the right of civic associations freely to engage in cultural activities; and to define State policy on culture. Article 6 set forth the right of national and ethnic minorities to preserve, develop and protect their specific cultural characteristics and to establish their own cultural institutions and associations. The full text of the Act was contained in a compendium of Tajik legislation prepared for the purposes of the dialogue with the Committee, which would be distributed to members informally.

34. A question had been asked about the 1997 Amnesty Act. That was in fact a parliamentary decree, adopted by the Tajik Majlis. He had been directly involved in the drafting of the decree as a member of the Commission on National Reconciliation. Some 1,800 persons had benefited from the amnesty. Subsequently, three additional amnesty decrees had been issued, and a total of 50,000 members of the opposition had been released from prison or had had proceedings against them dropped.

35. Mr. KHUDOYOROV (Tajikistan) said that the core document submitted by his Government (HRI/CORE/1/Add.128) contained detailed information on the judicial system and on the efforts made to publicize the provisions of United Nations human rights instruments. A collection of articles on ICERD had been published in 2002 in Tajik and Russian, and distributed to ministries, government departments, judges and lawyers. The Council of Justice, which was responsible for the functioning of the courts, organized monthly seminars, lectures and round-table discussions focusing on the international norms recognized by Tajikistan. Moreover, candidates sitting the examination for admission to the judiciary had to demonstrate their familiarity with those norms. A number of judges had travelled abroad to attend training courses on human rights issues, and during its visit to Geneva, his delegation had discussed with the United Nations High Commissioner for Human Rights the possibility of providing additional training for judges and law enforcement officials on human rights protection and the independence of the judiciary.

36. Ms. MUKHAMMADIEVA (Tajikistan) said that there were 60 national minority organizations in her country. They were required to register with the Ministry of Justice and to adopt statutes setting forth their purposes and principles. They published books in their respective languages, conducted language courses, held meetings where participants could discuss their native culture and traditions, celebrated national holidays, and maintained ties with members of their respective communities living in other countries. Most had their own youth and women's groups. The organizations' activities were described in a quarterly journal entitled Friendship, and their representatives made regular appearances on radio and television. A list of the national minority organizations had been distributed informally.

37. Concerning pensions, no distinction was made between members of national minorities and other citizens. The level of payments was set by the Ministry of Labour and Social Welfare. National minorities were represented in all ministries and government departments. She was not able to provide precise statistics, however.

38. Mr. KHUDOYOROV (Tajikistan) said that, in accordance with the legislation on the legal status of foreign nationals, foreign nationals permanently resident in Tajikistan were entitled to receive pensions and other benefits on the same basis as Tajik citizens. Where length of service was a condition for receiving a pension, foreign nationals could count years during which they had been employed abroad.

39. He was pleased to report that, as a result of the revision of the Criminal Code, commission of an offence with racial enmity was now included in the list of aggravating circumstances specified in article 62 of the Code. Furthermore, following Tajikistan's ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, legislation had been enacted and a dedicated department established within the Ministry of the Interior to combat trafficking in persons.

40. Mr. KHAMIDOV (Tajikistan) said he trusted that his delegation had covered all the points raised by the Committee. Any outstanding issues would be dealt with in the next periodic report.

41. Mr. Pillai (Vice-Chairman) took the Chair.

42. The CHAIRMAN thanked the delegation of Tajikistan for its extensive replies to the questions put by the Committee.

43. Mr. THORNBERRY observed that allowing citizens to use the language of their choice in their dealings with government bodies and authorities was an important tool for nation-building and for creating among citizens a sense of common ownership of State institutions. Also, if citizens were comfortable in their dealings with the authorities, the distance between the Government and the people would be narrowed.

44. He requested further information on intercultural education, which was important for building common interests. He wished to know whether ethnic groups learned about each other's cultures only in minority areas or in all areas of the country. The new State programme for the support and development of ethnic minorities should contain provisions on intercultural education. He asked to what extent the State controlled the content of textbooks on subjects such as history, the teaching of which was often controversial in countries with diverse cultural backgrounds. He wondered whether minority culture representatives had any input in the national curricula.

45. Mr. KJAERUM said that the Committee had been informed of cases where refugees who had submitted applications within the necessary deadline had not been granted citizenship. He wished to know why that had been so. He asked how many cases of involuntary repatriation had been recorded and what measures were being taken to prevent it. The Committee had also been

informed that there were seven regions in Tajikistan where refugees were not permitted to settle. He wondered why that was the case, since such a regulation was contrary to article 5 (d) (i) of the Convention, which provided for freedom of movement.

46. Mr. BOYD commended the representatives of Tajikistan for their exhaustive responses to the Committee's questions. He had been particularly interested to receive information on the concept of acceptable language, and was impressed by the capacity of the Tajik Ministry of Justice to receive communications in several languages.

47. He was concerned about the information that no complaints of discrimination had been brought before Tajik courts. A lack of complaints was usually due not to the fact that there was no discrimination, but to ignorance of complaints procedures. Measures should be taken to encourage education and awareness-raising on the availability of remedies for redressing grievances, in order to ensure that the public, and vulnerable groups in particular, knew that the Government was willing to respond to racial discrimination.

48. Mr. Yutzis (Chairman) resumed the Chair.

49. Mr. de GOUTTES noted with interest the information given by the delegation about a new amendment to the Criminal Code under which racial motivation of an offence constituted an aggravating circumstance. The Committee considered it important that judges and other law enforcement officials should receive training in human rights issues since that gave them a heightened awareness of the importance of following up discrimination-related cases. Tajikistan's efforts in that regard should be commended. The non-existence of complaints concerning discrimination could be indicative of victims being unaware of their rights, or of laws not being effectively applied by law enforcement officials.

50. Mr. SHAHI asked whether the Tajik and Turkmen languages still used the Cyrillic alphabet. If that was not the case, he wondered whether the change to the Latin alphabet in Uzbek had affected Tajik-Uzbek intercultural dialogue. He also wished to know whether laws relating to personal affairs, such as those pertaining to marriage and inheritance, conformed to the different jurisprudence of Muslim society or whether they had been amended and replaced by civil legislation.

51. Mr. KHAMIDOV (Tajikistan) thanked the members of the Committee for their comments and questions. Replying to questions about the non-existence of criminal cases involving racial discrimination, he said that his country had nothing to hide from the Committee. In the event that a person of one nationality committed an act of violence against a person of another nationality, the case would fall within the category of hooliganism, since violence did not occur on the basis of race, skin colour or religion. His delegation would transmit the Committee's concerns to the President of the Republic, and efforts would be made to provide further material for the Committee in due course.

52. Legislation in Tajikistan was based on Romano-German family law, although some provisions, such as those pertaining to marriage, were based on traditional Islamic law. However, marriages would not be legally recognized if they had not been solemnized by the relevant State bodies. Tajikistan was a secular country, with a policy of religious freedom for all. There were therefore no religious provisions incorporated in Tajik legislation.

53. Mr. AVTONOMOV (Country rapporteur) thanked the delegation for having presented the periodic report and for having engaged in a frank and open dialogue with the Committee. The report illustrated the Government's will to implement the Convention successfully. He commended the delegation's comprehensive replies to the Committee's questions, and hoped that information on any of the questions that had not been answered would be forthcoming in the next report.

54. A full investigation into the Roma population was required so that both the Government and the Committee could have a complete picture of the situation of that group. The growth of that group served as a general indication that they felt comfortable in Tajikistan, but a more detailed analysis of the situation was necessary, with particular emphasis on the extent of their integration into Tajik society.

55. Although attention must be paid to internal conflicts and acts of violence, which were not always noticed by law enforcement authorities, giving too much publicity to such acts could serve to encourage violence. Investigations should be carried out to find out why there were no complaints of racial discrimination or racially motivated violence, and efforts must be made to raise public awareness of the right to recourse in such situations, and to dispel any fear of reporting such incidents.

56. The Cyrillic alphabet was still used in the Tajik language. Alphabets were an integral part of languages and cultures, and changing them not only led to confusion, but also had financial implications due to the need to republish all books and documents. He did not believe that the use of the Cyrillic alphabet would impede Tajikistan's development.

57. Further information on the Gorno-Badakhshan Autonomous Oblast would be welcome in the next report. The Committee's concluding observations would be transmitted to the delegation, and he assumed that they would be forwarded to the Government. Information on further developments should be submitted to the Committee in the next report.

58. The CHAIRMAN joined Mr. Avtonomov in thanking the delegation of Tajikistan for its presentation of the country report and the detailed responses it had given to the Committee's questions and comments.

The meeting rose at 1 p.m.