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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-seventh session

SUMMARY RECORD OF THE 39th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 10 November 2006, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Tajikistan (E/C.12/TJK/1; E/C.12/TJK/Q/1 and Add.1; HRI/CORE/1/Add.128)

1. At the invitation of the Chairperson, the members of the delegation of Tajikistan took places at the Committee table.
2. Mr. KHAMIDOV (Tajikistan), introducing his country's initial report (E/C.12/TJK/1), said that Tajikistan had a strategy for national development until 2015 which defined sustainable economic growth and broader access to the main social services as priorities of State policy. It also aimed to reform government to ensure transparency and accountability and to combat corruption.
3. After a period of serious economic difficulties and widespread poverty following the collapse of the Soviet Union and civil war, reforms and strategic programmes had paid off: between 2000 and 2005, gross domestic product (GDP) had risen by 9.3 per cent, inflation had decreased by around 6 per cent and external debt had been cut by almost two thirds, to 39 per cent of GDP; in addition, poverty rates had dropped from 81 per cent in 1999 to 64 per cent in 2003.
4. Tajikistan had real assets on which to base further economic and social development, such as major hydroelectrical resources, fossil fuels, an attractive natural environment for tourists, plenty of yet-unused land available for agriculture, and low labour costs. However, some obstacles remained, such as lack of access to the sea, lack of oil and gas and the remoteness of many areas from the country's economic centres.
5. By resolving the economic problems it faced, Tajikistan could ensure the implementation of social, cultural and other rights. Among other economic projects, it was planning to build new hydroelectric power stations, create alternative energy sources, especially in remote areas of the country, invest in the country's tunnel, motorway and bridge infrastructure in order to reduce the cost of transportation, and improve access to the south of the country.
6. Mr. ATANGANA, referring to the list of issues (E/C.12/TJK/Q/1), asked how the State party explained that the provisions of the Covenant had not so far been invoked before Tajikistan's courts, as it had stated in its response to the Committee's first question (E/C.12/TJK/Q/1/Add.1), when, in its response to the second question, it had provided various illustrations of measures taken to raise awareness among judges, policymakers, law-enforcement agents and other officials and teachers on the rights recognized in the Covenant.
7. Ms. BRAS GOMES asked the delegation whether in 2006 the Government's protection of refugees in Tajikistan had declined and the number of rejected asylum-status applications had increased.

8. She also wondered if it was true that Afghan refugees - none of whom had been granted citizenship - were more prone to mistreatment by the police in Tajikistan than were other residents.
9. Finally, she would like the delegation to explain how, as mentioned in its reply to item 11 of the list of issues, Tajikistan expected to reduce illegal immigration by prohibiting the settlement of refugees and asylum-seekers in large cities such as Dushanbe - which, by significantly reducing their employment prospects, seemed discriminatory.
10. Moreover, she asked the delegation's opinion on the reported revival in Tajik society of patriarchal attitudes detrimental to the status of women. She also invited the delegation to provide further information regarding item 12 of the list of issues on the measures, legislative or otherwise, the State party had taken to promote gender equality, in particular in relation to access to religious practice and to the persistence of negative stereotypical attitudes relating to the roles and duties of women, including widows.
11. Ms. GHOSE asked whether the State party envisaged measures to assist low-paid women workers in Tajikistan.
12. She wondered if the numerous minorities of Tajikistan, including Uzbeks, Turkmen and Russians had the same rights as Tajik citizens, whether they lived separately or were permitted to settle anywhere in the country, and whether the Government had taken measures to integrate them into society and to promote their languages.
13. Mr. RZEPLINSKI expressed serious concern at the impact of the executive branch of government on the independence of the Tajik judiciary.
14. In view of reports of public officials in remote areas of the country not taking their obligations towards the local community seriously, he asked the delegation to provide more information on the measures the State party had taken in places other than Dushanbe to raise awareness among judges, policymakers, law-enforcement agents and other officials and teachers on the rights recognized in the Covenant (E/C.12/TJK/Q/1, question 2).
15. Mr. SADI wondered to what extent policymakers in Tajikistan took the Covenant into consideration in the country's economic reform process, since market economies did not always scrupulously observe the obligations under the Covenant.
16. He would also like to know if NGOs had participated in the elaboration of Tajikistan's report, and asked the delegation to explain the absence of a national human rights institution in Tajikistan.
17. Finally, he inquired to what extent the Government had succeeded in eradicating corruption in Tajikistan.
18. Mr. KERDOUN recognized the major efforts made by the Tajikistan Government to tackle corruption, inter alia through initiatives such as the National Anti-Corruption Conference held in 2004 and the Anti-Corruption Action Plan. Nevertheless, he would appreciate further information on the precise nature and causes of corruption and the reasons for its prevalence among State officials and, indeed, society at large, as well as on strategies that had been

developed to prevent corruption from spreading to future generations. He would also welcome information on any action plans that had been formulated to check the influence of former warlords in spreading corruption.

19. The media had reported that the re-election in 2006 of the President of Tajikistan had been largely due to an insufficient number of suitable candidates standing for the office; clarification of the situation relating to presidential candidates would therefore be appreciated.

20. Ms. BARAHONA RIERA said she welcomed the prohibition of polygamy in Tajikistan, but would like to know whether that prohibition had provoked any conflict between legislation and religious practice in a country experiencing a sharp increase in religious participation, and whether any efforts had been made to resolve social tension caused by the issue.

21. She would also be grateful for information on any steps taken to resolve the problem of the forced migrants who had been left without accommodation or shelter following the General Agreement on the Establishment of Peace and National Accord in 1997, as well as measures adopted to protect migrant workers and prevent them being exploited.

22. Mr. TEXIER inquired about the discussion taking place in Tajikistan on the establishment of an independent commission on human rights, as no such commission yet existed. Regarding the independence of judges, he would like to know why the President appointed judges to office for only 10 years, when one of the fundamental requirements for judicial independence was security of tenure. He would also welcome more information on judges' salaries, as in cases where judges received insufficient salary they could be drawn into corruption more easily, and on the Council of Justice, in particular about the fact that five of the seven members of the Council were chosen by the President.

23. He was also concerned that a judge could be relieved of his duties where several of his judgements had been overturned or modified by a higher court, as well as by the fact that in the Tajik judicial system, as the Human Rights Committee had already observed in July 2005, the Procurator's Office had great power in legal matters, resulting in unequal treatment of the two sides of cases.

24. Mr. MARCHAN ROMERO requested information on the precise legal status of ethnic minorities in Tajikistan and of the minority languages used within the country. Although minority languages were recognized, it was not clear whether they had legal status as official languages. Examples of the use of minority languages, such as in education, access to culture and the press, would also be welcomed.

25. He would also appreciate details of the situation of the Uzbek population present in Tajikistan, as that ethnic group formed the largest minority in the country, yet worryingly had the greatest number of political prisoners.

26. Mr. MALINVERNI asked for clarification on the role of the Procurator's Office, as he was aware that several States formerly part of the Soviet Union had experienced difficulties in separating the office from the powerful role it had occupied historically in the Soviet Union.

According to the report of the Special Rapporteur on the independence of judges and lawyers concerning his mission to Tajikistan (E/CN.4/2006/52/Add.4), instead of being reduced, the role of the Procurator's Office was being strengthened. He inquired about the scope of the powers of the Procurator's Office and whether it was independent.

27. Mr. RZEPLINSKI would appreciate further explanation of the different roles and powers of the Council of Justice and the qualifications boards, as both bodies appeared to have similar functions. He would also be glad to know whether these two bodies promoted the independence of judges, or hindered it.

28. As foreign debt in Tajikistan was high in relation to its GDP, he would welcome information on the influence of foreign debt on social policy and whether restructuring of that debt was taking place.

29. He also requested clarification of the issue of social security for victims of the Tajikistan civil war and their beneficiaries, as it seemed that social security was strongly oriented towards veterans of the Second World War, despite the great number of people who had been wounded or killed in the civil war.

30. He would also appreciate further discussion on those responsible for the atrocities committed during the civil war. Although harsh punishment would not necessarily be appropriate, the fact that none of the perpetrators of such crimes had been held to account amounted to discrimination against their victims.

31. Ms. GHOSE asked whether the delegation could give any examples of women and members of ethnic minorities who occupied decision-making positions.

32. Mr. KHAMIDOV (Tajikistan) welcomed the opportunity for debate offered by the questions of Committee members. He also reminded the Committee that Tajikistan was still a new democracy and there was still much work to be done.

The meeting was suspended at 11.10 a.m. and resumed at 11.35 a.m.

33. Mr. KHUDOEROV (Tajikistan) said that Tajikistan had been very active in addressing the matter of judicial, political, legal and administrative machinery. The legal foundations for the Republic were in accordance with international human rights law, including the Covenant. There were a number of legislative instruments to protect economic, social and cultural rights in Tajikistan, including Presidential Decree No. 691 of 9 April 1997 on legal policy and the legal education of citizens of Tajikistan and Decision No. 272 of 12 June 2001 approving the State system of human rights education in the Republic of Tajikistan, which provided human rights information and education to all categories of the population.

34. During the process of preparing the initial report, a working group had been established as part of the committee on the implementation of Tajikistan's international obligations in the field of human rights to which reports had been presented by many different ministries, including the Ministries of Health, Finance, Trade, Education and Culture. Their submissions testified to

the fact that governmental departments had considered the requirements of the Covenant and had furnished information corresponding to it. Many important officials, government and parliamentary representatives, judges and political experts had participated in the seminars and round tables held to discuss the initial report.

35. The study centre for judges and the Council of Justice formed part of the plan to address questions of international law, including the implementation of the Covenant. The study centre involved not only judges in office, but also candidate judges. It was planned to impart instruction to all those working in legal mechanisms in Tajikistan.

36. Mr. DJONONOV (Tajikistan) said that Afghans comprised over 99 per cent of refugees in Tajikistan. His country was a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, and refugees had the same rights and freedoms as Tajik nationals. They had the right to education and free health care as well as other rights under the Constitution and the law. The Ministry of Labour and Welfare had set up a special committee bringing together various government departments and including officers of the border guards in order to resolve the issues in that area.

37. Within the legal framework, the regulations had been tightened up recently and a strict visa regime was in operation. As a result, a number of Afghan asylum-seekers had been turned away. One reason for that was that Tajikistan effectively constituted a “buffer State” helping to prevent illegal immigration to other countries in the region. In addition, a number of Afghan nationals had recently been deprived of their refugee status because they had been found to be going in and out of Afghanistan unhindered in order to conduct business there.

38. On the question of access to the labour market, he pointed out that recent studies had shown that there were a number of services that were in fact in the hands of Afghan refugees.

39. The Ministry of Foreign Affairs and the Tajik consulates had the task of protecting the rights of Tajik nationals working abroad. Agreements on the subject had been signed with the Russian Federation and with Pakistan, while the Tajik Government, and notably the Ministry of Labour, had representatives in the Russian Federation, and would shortly be establishing an office in Kazakhstan, to help protect Tajik migrant workers’ rights.

40. Mr. MAKHMADALIEV (Tajikistan) said that fewer than 400 refugees had been registered in Tajikistan between 1993 and 1995. At that time the Office of the United Nations High Commissioner for Refugees (UNHCR) had been responsible for registration, but the task had been taken over by the State Migration Service in 1995. He provided statistical data on asylum applications and the granting and extension of refugee status in recent years, as well as cases of voluntary departure and assisted repatriation under UNHCR auspices.

41. He said the State Migration Service helped refugees with family reunification. In some cases refugee children attended special schools, while others went to ordinary State schools.

42. Ms. MUHAMMADIEVA (Tajikistan) said that there was no gender discrimination in Tajikistan, but that, while there was a fairly even distribution of the sexes in government agencies, there was some segregation in companies and government departments. In banking, a high-paid sector where, except in senior management, women had in the past comprised the overwhelming majority of employees, they now accounted for only 30 per cent and as a result their average pay in that sector was lower than men's.
43. The number of people employed in small businesses had doubled between 2000 and 2005 and the percentage of women employees had also increased, rising from 18 per cent to around 25 per cent in that period. In certain sectors women predominated, accounting for more than 70 per cent of those employed in small businesses in the trade, industry and services sectors.
44. Nearly all Tajikistan's ethnic minorities were represented in State bodies, right up to senior management levels. Women, too, were well represented in senior positions in ministries, although there tended, once again, to be a certain gender segregation depending on the field.
45. On the question of patriarchal attitudes, she said the Committee for Women's and Family Affairs had quarterly meetings at which it discussed the representation of women and ethnic groups in government departments and reported to the Deputy Prime Minister. There was also a weekly television programme on patriarchal attitudes, relations between the sexes and family violence. The period between 1992 and 1997 had seen a resurgence of patriarchal attitudes but the problem had diminished following the signing of the peace agreement.
46. Lastly, she said the Committee for Women's and Family Affairs had a subcommittee which dealt with religious matters.
47. Mr. KHUSHVAHTOV (Tajikistan) said there was extensive mother-tongue teaching for ethnic minorities in State schools. All such groups had access to either a full or a basic curriculum in their own language. Ethnic minorities were represented on teaching staff, too, and textbooks in certain subjects were made available in some of the minority languages.
48. Mr. KHAMIDOV (Tajikistan) pointed out that history textbooks were published only in Tajik, for it was very important for the citizens of a country to share a common awareness of their country's history.
49. It was true that there were areas of Dushanbe where certain ethnic groups predominated but that was for purely historical reasons, not as a result of any action on the part of the Government.
50. Mr. AMIROV (Tajikistan) said that, under the Constitution, every citizen had the right to participate in the cultural life of the nation. A programme was currently being developed dealing with the culture of national minorities in Tajikistan. Numerous cities and regions had artistic groups drawn from many different ethnic backgrounds. Spiritual and cultural monuments were preserved by the State and protected by law.
51. Under the Constitution, citizens had the right to education and to own property, regardless of ethnicity, race, sex, language or religious or political beliefs.

52. Mr. KHUDOEROV (Tajikistan) said the reduction of corruption was a concrete means of implementing economic, social and cultural rights, and Tajikistan had introduced a range of legislative, preventive and institutional measures in that regard, as detailed in the Government's written replies to the list of issues. As a result, a reduction in nepotism in State employment had been noted and proceedings had been taken against a number of police officers and judges for acceptance of bribes and abuse of power.

53. Mr. KHAMIDOV (Tajikistan) said that combating corruption posed a major challenge, and largely depended on the country's level of economic development and an adequate salary level for civil servants and State employees. The Government had adopted a strong position to combat corruption, which had yielded positive results. A plan for judicial reform was currently being drafted, which provided for increases in the salaries of judges and law-enforcement agents, and improvements in their working conditions.

54. With regard to the independence of the judiciary, he agreed with the comments made to the effect that many former Soviet countries found it difficult to set aside the heritage of the past, and said that the Government was fully aware that constructing new State structures was a complex task, which required appropriate debate. Such discussions were ongoing in Tajikistan, not only in civil society, but also among law-enforcement agencies, the Procurator's Office and court officials. Until recently the term of office for judges had been 5 years, but that had been found to be insufficient, and therefore the President had increased the term to 10 years. It was clear that the Government was moving in the right direction, and appointments for life would be introduced in the not too distant future. However, before such a step was taken, judges must be provided with increased training to ensure that they were sufficiently well prepared.

55. The nature of the constitutional provisions relating to the Procurator's Office was unusual, but the problem would be resolved shortly. The Government was not indifferent to those issues, and the appropriate structures had been galvanized.

56. Mr. KHUDOEROV (Tajikistan) said that the system for the nomination and appointment of judges was transparent. The Council of Justice was a constitutional body which decided organizational issues relating to the courts, from the district to the provincial level, and provided professional training for judges. However, its competence did not extend to the Supreme Court, the Supreme Economic Court or the Constitutional Court. On the basis of the conclusions of the colleges of judges, the Council submitted candidacies for appointment by the President. The Council was made up of seven members, including the Chief Justice of the Supreme Court, a representative of the Ministry of Justice, representatives of both houses of Parliament and the State adviser to the President of Tajikistan on personnel policy. The colleges of judges were elected at judges' conferences, in other words they were organs of judicial self-administration which acted to protect the interests of judges. The colleges decided whether candidates were qualified to serve as judges, and submitted their recommendations to the Council of Justice. Candidates could appeal the decisions of the colleges of judges to the Supreme Court. The Supreme Court and the Supreme Economic Court had their own qualifications colleges for judges of those courts, which were appointed at the plenary sessions of the courts. The qualifications colleges nominated candidates and forwarded their recommendations to the President, who submitted them to the Parliament.

57. In 2006, there had been a salary increase of several hundred per cent for all judges. However, raising salaries was not sufficient to ensure the independence of the judiciary. The Government must also ensure procedural independence of judges, and work was under way in that area. By presidential decision of May 2000, working groups had been established to draft new codes of civil and economic procedure. The courts were funded from the State budget; expenditure on judicial organs had been 0.33 per cent of total spending in 2004 and 0.43 per cent in 2006, while the proposed budget for 2007 saw that figure increase slightly to 0.44 per cent. Although that was not a very large amount, it did show that the Government was moving to strengthen the judicial authorities, within the limits of its economic capabilities.

58. Concerning the reference to judges being removed from office because their decisions had been overturned by a higher court, under the Constitution, a judge was not held responsible if a decision of his was overturned, provided that he had not deliberately violated the law. However, disciplinary measures must be taken in respect of judges who had knowingly violated the law.

59. Mr. KHAMIDOV (Tajikistan) said that there were eight registered political parties in Tajikistan, and they all had the right to put forward presidential candidates. The recent presidential election had been transparent. Of the eight parties, two had boycotted the election and another had not put forward a candidate. Of the five candidates who had stood, the President had been legitimately re-elected, reflecting the will of the people.

60. Regarding field commanders who had participated in the armed conflict, after the signing of the peace agreement in 1997, all those who had participated, on both sides, had been granted amnesty. However, since then some of the leading commanders on each side had been imprisoned.

61. Mr. KHUDOEROV (Tajikistan) said that the question of establishing a national human rights institution was currently under consideration. The report of the 2006 meeting organized by the United Nations and the Organization for Security and Cooperation in Europe on the possibility of establishing a national human rights institution had been circulated to the ministries and local authorities.

62. Mr. BAKHRONOV (Tajikistan) said that, in previous years, foreign debt had amounted to 110 or 120 per cent of GDP. However, as of October 2006, that figure had stood at \$828 million, or approximately 30 per cent of GDP. Direct Government debt made up 24 per cent of GDP, while the remainder was non-governmental, business debt. In 2005 and 2006, the Government had decided to restructure foreign debt with the cooperation of the International Monetary Fund (IMF), the Russian Federation and a number of other donor countries. In 2006, \$98.7 million owed to the IMF had been written off. An agreement had been reached with the Russian Federation to restructure \$250 million. Efforts were also under way to restructure debts to Turkmenistan and the World Bank. A loan from China would be used primarily to develop the energy sector.

The meeting rose at 1 p.m.