



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2563rd meeting

Held at the Palais Wilson, Geneva, on Friday, 11 August 2017, at 10 a.m.

Chair: Mr. Khalaf (Vice-Chair)

later: Ms. Crickley (Chair)

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In the absence of Ms. Crickley (Chair), Mr. Khalaf (Vice-Chair) took the Chair.

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 *(continued)*

Combined ninth to eleventh periodic reports of Tajikistan (continued)
(CERD/C/TJK/9-11; CERD/C/TJK/Q/9-11)

1. *At the invitation of the Chair, the delegation of Tajikistan took places at the Committee table.*

2. **Mr. Shohmurod** (Tajikistan), replying to questions raised by Committee members at the previous meeting, said that, under the Constitution, the Gorno-Badakhshan Autonomous Region was an integral and indivisible part of Tajikistan. State policy took into account the specificities of the Region but it did not seek to create cultural or linguistic divisions in the country. The Region had, however, been granted special geographic status, and legislative measures had been introduced to preserve its unique cultural and linguistic traditions, which stemmed from its historical links to Persian- and Turkic-speaking peoples.

3. The Pamiris who inhabited the Region were not an ethnic group per se; rather, they were persons who had ties to the lands in the Pamir Mountains. Under a constitutional law amended in 2007, the authorities in Gorno-Badakhshan had the right to develop and implement educational programmes, taking into account the area's diverse cultural, linguistic and demographic features. There was no single official language in the Region; a number of different languages and dialects were spoken, including Shughni and other Pamiri, or Badakhshan, languages. Legal provision had been made to ensure that those languages could be freely used, thereby conserving the cultural and linguistic heritage of the Region. Moreover, the fact that the Pamiri languages were spoken in a mountainous, and somewhat isolated, area had aided in their preservation. One of the main obstacles, however, was the lack of an established alphabet for the Pamiri languages. Reforms had been undertaken in the 1930s with a view to developing a Roman alphabet and publishing books; however, when Stalin had come to power, those efforts had ceased.

4. The Government was very much aware of the need to keep the country's minority languages alive. For that purpose, in 2015, the local authorities in the Gorno-Badakhshan Autonomous Region had established a commission to formulate proposals on the use and development of Pamiri languages in the Region. As a result, work had begun with a view to creating a Pamiri alphabet and issuing publications. In the same year, the Government had started a programme of language training for teachers, which included the study of minority languages such as Pamiri and Yagnobi. The teaching of the Yagnobi language had continued uninterrupted since the beginning of the twentieth century. The Yagnobi peoples were from the Yagnob Valley in the north-eastern part of the country, but a resettlement programme had been undertaken some decades earlier owing to safety concerns, since the area was prone to earthquakes. However, the Yagnobi had not been forcibly relocated; in fact, many continued to live in the area, while others were now spread throughout the country.

5. According to the results of the 2010 population census, the number of Roma (also known as Lyuli, Jughli or Mugat) in Tajikistan had fallen by almost 50 per cent since 2000, although some academics and civil society organizations believed that their numbers had actually increased. Admittedly, the Roma communities' nomadic way of life made it difficult to obtain an accurate picture of their situation. It was clear, however, that many had left the country during the 1992 civil war. Most earned their livelihood as small traders or as beggars. Efforts were being made to ensure that members of the Roma population were issued with passports and other personal documentation. In many cases, their nomadic existence meant that they had no interest in being officially registered; however, a lack of documentation caused problems for them and their children when it came to gaining access to education and basic services.

6. In 2015 a law regarding foreign sources of funding for NGOs had been amended, not in order to restrict such funding but rather to increase transparency, combat money-

laundering and ensure compliance with the country's international commitments. As a member of the Eurasian Group on Money Laundering and Financing of Terrorism, Tajikistan had taken a number of measures, including enacting legislation, aimed at preventing money-laundering and the financing of terrorism from occurring on its territory.

7. Lastly, pursuant to a procedure adopted through a law in 2013, the views of the local population were taken into account before places or regions were renamed. Decisions on such changes were taken first at the local level — at local assembly meetings — before being submitted to the lower and then the upper chambers of parliament. While, inevitably, there would be some dissenting opinions, the view of the majority prevailed.

8. **Ms. Taghoizoda** (Tajikistan) said that the proportion of ethnic Tajiks in the country was increasing by 2 to 3 per cent annually as a natural result of population growth: Tajiks tended to have large families. The Ministry of Education had approved the publication of teaching materials in Uzbek for children in school grades one to four. The production of such materials in Russian, Kyrgyz and Turkmen was dependent on financial support from Russia, the World Bank and other sources.

9. The amnesty bill had not yet been approved. However, the Refugee Act had been amended in 2014 to provide for the establishment of temporary shelters for asylum seekers. A new provision on the procedure for obtaining refugee status was being drafted, with due regard for international human rights obligations. The Government had launched a project to address statelessness, as a result of which over 8,000 stateless persons had obtained citizenship in 2016. Refugees and asylum seekers were not allowed to live in certain towns for reasons of security, law and order. However, refugees and asylum seekers had the same rights to education, employment and medical assistance as citizens of Tajikistan. Indeed, several refugees were currently enrolled in higher education courses. Almost 90% of Afghan children in Tajikistan were attending school; the remainder either chose not to or could not do so for health reasons.

10. There were no limitations on the rights of Jughis to education, employment or health care. Hundreds of Jughis children received schooling alongside other Tajik citizens. Almost 200 members of the Jughis community had received unemployment benefits in 2016 and 2017, with a further 100 or so finding work in handicrafts, livestock-rearing and other sectors.

11. The Government had set up some 140 centres across the country to assist people living with HIV and AIDS. In 2013, over half of those living with HIV and AIDS had been men, around a third had been women and 10 per cent had been children. Unfortunately, those data had not been disaggregated on the basis of ethnicity.

12. **Mr. Rahmon** (Tajikistan) said that, under the Constitution, all persons were equal before the law and the courts and enjoyed equal rights and freedoms, regardless of race. The Government had put in place a number of mechanisms to protect human rights. The office of the Commissioner for Human Rights (Ombudsman) was empowered to investigate complaints from both citizens and stateless persons regarding human rights violations, including alleged abuses by the authorities. Its decisions could be appealed. The Code of Administrative Offences provided for administrative accountability for the creation or dissemination of material inciting racial hatred. During the reporting period, however, no complaints of racial discrimination had been made to the authorities.

13. During the reporting period, almost 200 cases of human trafficking had been investigated. A new law on human trafficking had been adopted and the Government had launched a national plan for its implementation. It had approved a proposal for the creation of a State fund to assist victims and had established specialized support institutes. Victims were housed in crisis centres and provided with free medical care, legal assistance and psychiatric support. Moreover, the Criminal Code had been amended to include sanctions for the use of slave labour. As a result of the various preventive measures taken, including the establishment of multinational treaties providing for the extradition of perpetrators, the country had seen a decline in human trafficking.

14. **Mr. Sattorzoda** (Tajikistan) said that the Government routinely involved civil society in the drafting of reports on compliance with international human rights obligations.

Its current periodic report to the Committee was no exception. The Ombudsman's office was independent. Laws had been introduced and existing legislation amended to ensure it operated in accordance with the Paris Principles. Changes to the remit of the Ombudsman's office had formalized its right to visit temporary holding centres for migrants and asylum seekers. The Ombudsman's programme of activities for 2016–2020 included activities to advance the rights of migrant workers and their families.

15. **Mr. Yeung Sik Yuen** said that he would like to have specific information on unaccompanied child refugees and asylum seekers. In particular, he wished to know what efforts were being made to ensure coordination between asylum services and child protection services to uphold the principle of non-detention of children. The Committee had been given to understand that mandatory HIV testing for foreigners had been abolished. Could the delegation confirm whether that was true?

16. A high dropout rate among children from disadvantaged groups such as the Jughli community could be a result of the State's failure to ensure that the appropriate conditions were in place for their education. He would like to know whether the authorities had taken measures to encourage Jughli to obtain the necessary documentation to enable them to access education and other services. For example, had they considered minimizing the cost of obtaining documents? Concerning the Pamiri minority, his particular concern was that Pamiri cultural heritage and languages should be preserved.

17. The Committee would be grateful if the State party would provide disaggregated demographic data in writing so that it could better analyse the situation in Tajikistan and recommend appropriate measures. It would be particularly helpful to learn why ethnic minority populations had shrunk in recent years, both as a percentage of the total and in absolute terms. The Committee also wished to understand why the number of schools providing education in minority languages had fallen.

The meeting was suspended at 11.30 a.m. and resumed at 11.55 a.m.

18. *Ms. Crickley resumed the Chair.*

19. **Mr. Avtonomov** said that discrimination was not always a conscious policy carried out by governments; sometimes certain population groups found themselves in a situation of structural discrimination that had developed over many years. One manifestation of such structural discrimination was the stereotyping of members of the Jughli community as beggars. The Committee advocated programmes aimed at overcoming the mutual distrust between Jughli and the rest of the population. One useful approach was to enlist the help of Jughli scholars, artists, scientists and other educated individuals to engage with members of the community and encourage them to participate in education. Other initiatives might seek to change customs such as early marriage, which confined Jughli women to a life of domestic work and left them vulnerable to multiple discrimination. The State party might also examine and learn from other countries' experiences and practices, such as the nomadic schools that had been established in the Russian Federation to provide education for Roma and indigenous peoples in remote areas. The situation of the Pamiris was better than that of the Jughli, although he considered that a lack of trust had also hindered their integration and needed to be addressed.

20. He would be interested in learning whether the State party's population included Afrodescendants and whether it planned to take part in the International Decade for People of African Descent. He would also like to know whether the State party intended to ratify the amendments to article 8 of the Convention and make the optional declaration under article 14 of the Convention, recognizing the competence of the Committee to receive and consider communications.

21. **Mr. Kut** said that renaming a geographical place name in the minority language, in accordance with the wishes of those who lived there, was very different from changing a minority-language place name at the behest of the majority. Even if the State party followed all the correct consultation procedures for making such a change, the outcome might still be that the majority imposed its will upon the minority, which was discriminatory.

22. **Mr. Khalaf**, noting that new legislation on racial discrimination had not been ruled out and that discussions in that regard were continuing, said that rather than relying on the

fragmented provisions in the Criminal Code, the Labour Code and other laws, the State party should work towards the development of a single unified law on racial discrimination. The manner in which human rights treaties were integrated into the domestic legal order remained unclear. He would therefore appreciate clarification of whether international instruments had direct effect in the legal system, whether they had primacy over ordinary law and how they were applied by the courts.

23. He remained curious about the procedure for regularizing the situation of persons with irregular status. He specifically wished to know what legal framework had been established for granting citizenship to stateless and undocumented individuals. He would also be grateful for information on whether the Act amending the Refugee Act had entered into force. If so, what steps had been taken to implement it? Lastly, he wondered what measures the Government had adopted to raise public awareness of the Convention and to promote coexistence as the cornerstone of society.

24. **Ms. Dah**, referring to the question of the courts' ability to invoke international treaties, said that she was concerned that situations might arise in which judges were instructed to apply an international treaty in the absence of a domestic law establishing specific offences and sanctions. She wished to learn on what basis sanctions would be determined. Might judges impose sanctions on their own initiative or had guidelines been established that they could follow?

25. **Mr. Calí Tzay** said that the State party was to be congratulated for its education programmes for minorities; however, the Committee had received information indicating that the quality of bilingual education was not good enough to enable minority students to go on to university. He would be interested to know what the State party was doing to improve standards in bilingual education for minorities and ensure equal rights in access to higher education. He would also welcome more information about procedures for bringing complaints of racial discrimination before the courts. In particular, he wondered whether such procedures were clear and whether information about how to lodge a complaint was easily accessible to the population, for example via a website. He would also be grateful for a response to his question about restrictions on marriages between Tajik women and foreign nationals or stateless persons.

26. **Mr. Amir**, noting that the proposed amendments to article 8 of the Convention concerned funding for the Committee's activities, said that action to combat racial discrimination would be greatly undermined if the Committee was unable to function for financial reasons. He wondered whether the amendment had been submitted to the State party's parliament with a view to its ratification.

27. **Mr. Shohmurod** (Tajikistan) said that the amendment had not yet been submitted to the parliament. It was currently being considered by the Ministry of Foreign Affairs, which would submit its recommendation in due course.

28. Article 10 of the Constitution stipulated that international legislation recognized by Tajikistan was a constituent part of the domestic legal system, and that if there was a discrepancy between domestic legislation and recognized international legislation, the latter would have primacy. The Convention therefore had primacy over domestic legislation, and litigators could invoke its provisions before the courts. The Supreme Court had issued a decree permitting judges to apply international legislation in the event of a conflict with domestic legislation. Decisions on such matters, which were often quite complex, were left to the discretion of the judges concerned.

29. As had been noted, it had been recommended during the second cycle of the universal periodic review that Tajikistan should enact comprehensive legislation on racial discrimination. The matter was currently under discussion, and the Committee's recommendations would be borne in mind. With a view to raising awareness of legislation to combat racial discrimination and of the possibility of filing complaints to ensure that persons who committed racist acts were held criminally liable, the Ministry of Justice had established an electronic database in which it incorporated all legislation as soon as it entered into force.

30. Steps had been taken to change the names of some towns and regions that were of Turkic origin, in each case following a lengthy debate. The decision to replace the name of the district of Tavildara with its historical name, Sangvor, was the only case he could recall in which a certain amount of dissatisfaction had been expressed.

31. The right to education in minority languages was recognized and educational establishments at various levels taught minority languages, although there was a declining trend in the number of people wishing to study in those languages. That trend did not reflect any type of discrimination, however. In some cases members of minority groups preferred to study in the country where their language was spoken, for instance in the Russian Federation, Kyrgyzstan or Uzbekistan. Newspapers were published in several languages in Tajikistan, including 83 in Tajik, 27 in Russian and 6 in Uzbek.

32. With regard to marriages between Tajik women and foreigners, major problems had arisen several years earlier in connection with human trafficking, primarily of women who had married foreigners and been taken abroad for trafficking purposes. A governmental working group had travelled to various countries to investigate and return the women to Tajikistan. The resulting protective mechanism was a temporary measure that had effectively eliminated the trafficking phenomenon. Religious marriages were another problem, since only civil marriages were legally recognized. The Ministry of Justice was working with civil society organizations and local authorities to raise awareness of the applicable laws.

33. The Constitutional Act on Citizenship enabled stateless persons who had lived in Tajikistan for five years to obtain identity documents. A new commission on questions of nationality would study the case files of applicants and submit them to the Government for a decision on the granting of citizenship.

34. No fines were imposed for failing to submit the documents required for a birth certificate within three months of an infant's birth. The Ministry of Health had launched programmes, with the assistance of international organizations, aimed at registering all births. Awareness-raising activities by the Ministry of Justice had led to a decline in the number of late registrations, including by the Roma community.

35. Following the 2010 population census, a brochure containing disaggregated data, including with respect to the Roma population, had been published in 2012.

36. **Mr. Murillo Martínez** said that the Committee would be grateful if the State party would provide information in its next report on the life expectancy of minority groups and the number of minority detainees, which would enable it to undertake a comparative analysis. Information on whether racial discrimination could constitute an aggravating circumstance in legal proceedings and whether the burden of proof could be reversed in cases involving racial discrimination would also be welcome.

37. **Mr. Shohmurod** (Tajikistan) said that racial discrimination was not recognized as an aggravating circumstance under domestic legislation.

38. **The Chair** requested the State party to provide information in writing within 48 hours regarding reversal of the burden of proof in discrimination cases.

39. **Mr. Yeung Sik Yuen** said that the Committee's review of the State party's report had been hindered by the lack of disaggregated data on the ethnic composition of the population, on relevant social and economic indicators, and on enjoyment of rights under the Convention by minorities and non-citizens in the fields of employment, education and health care. The Committee would appreciate receiving additional written information on those and other matters raised during the dialogue with the State party.

40. In November 2013 the Government Commission on International Human Rights Obligations had adopted a plan of action based on the Committee's concluding observations on the State party's previous periodic report (CERD/C/TJK/CO/6-8). However, the plan focused on analysing the need to adopt certain measures rather than on their implementation, and it failed to provide for progress indicators and mechanisms to monitor implementation. Hence, concrete measures had not been taken to implement the Committee's recommendations at the national level.

41. He agreed with Ms. Dah's view that it would be difficult for Tajik courts to apply the provisions of the Convention in the absence of a domestic law on racial discrimination and wished to underscore the need to adopt such a law, which should reflect the provisions of articles 1 and 4 of the Convention.

42. **Mr. Shohmurod** (Tajikistan), expressing confidence that the interactive dialogue would contribute to the implementation of his country's obligations under the Convention, said that the Government and civil society would closely study the Committee's recommendations with a view to improving the country's legislation and enhancing the protection and promotion of human rights.

The meeting rose at 1 p.m.