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## COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty seventh session

### SUMMARY RECORD OF THE 40th MEETING

Held at the Palais Wilson, Geneva,  
on Friday, 10 November 2006, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

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*The meeting was called to order at 3.05 p.m.*

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)  
*(continued)*

Initial report of Tajikistan (*continued*) (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 delegation of Tajikistan resumed their places at the Committee table.*

Articles 6 to 9 of the Covenant (*continued*)

2. The CHAIRPERSON invited the Tajik delegation to respond to the questions posed during the previous meeting.

3. Mr. KHUDOEROV (Tajikistan), responding to the question about the participation of non-governmental organizations (NGOs) in the drafting of the periodic report, indicated that the report under consideration had been prepared by a Governmental Commission responsible for the implementation of human rights obligations and that many NGOs had made contributions. The drafting had lasted several years and had been conducted in a transparent manner, with assistance especially from Mr. Kolosov, a member of the Committee on Economic, Social and Cultural Rights.

4. Mr. SHABOZOV (Tajikistan) said that there no single national plan covering all of the areas spelled out in the Vienna Declaration and Programme of Action, but programmes, strategies and plans had been adopted in each field. Furthermore, a full set of laws had been adopted to ensure a legal basis for the realization of the economic, social and cultural rights. With regard to the place of the International Covenant on Economic, Social and Cultural Rights, he pointed out that, under article 10 of the Constitution, all international instruments adopted by Tajikistan formed an integral part of the domestic legal order and that all legislative texts adopted were studied beforehand in the light of those instruments.

5. Responding to the question on migrants, he pointed out the existing agreements on the subject, which were listed in the written reply of the Government to item 15 of the list of issues. He stressed the problems encountered in trying to determine exact statistics on migrants owing to the great variety of sources and data. He gave annual data on the migration of Tajik workers abroad based on household surveys and migrant cards issued, and indicated that 318 000 migrants were now in the country.

6. With regard to polygamy, he pointed out that the practice was prohibited under article 33 of the Constitution and that the Criminal Code specified criminal punishments for that crime. Information on the subject had been included in the Government's written reply to item 23 of the list of issues and there had been 159 convictions for bigamy or polygamy in the first half of 2006, which showed that all of the relevant State bodies were working very hard in that field. He added that the crime was often linked to warlords. The Government was working to prevent polygamy, in particular by keeping women and young girls informed, which should lead quickly to a reduction in the number of cases in the country.

7. Ms. BRAS GOMES asked, with reference to article 9 of the Covenant and the reform of the pension system planned by Government, which of the three components had priority, namely, the first level, which was basic protection and social assistance pensions for inactive citizens who are not entitled to a pension based on their work; the second level, which was mandatory social insurance linked to a job; or the third level, which was private pensions and the bill on State pensions, and what would be the criteria for the choice. She expressed her disappointment at the low level of public participation in the reform, the absence of discussions on the subject and the lack of available information, and asked what the Government intended to do to make the process more transparent and to give the people concerned the feeling that they were involved in the decisions that affected them first and foremost. She also asked whether the Tajik authorities had set a target for the minimum pension, given that the current pension amounted to no more than 35 per cent of the average salary, which was itself quite low, although it had been raised 14 times between 1992 and 2005.

8. She wished to know more about the coverage available to independent workers, a category that included farm workers of both sexes, and whether female farm workers were covered by maternity benefits. With regard to the allowances paid for the care of orphans under State guardianship, she asked whether the non-payment of those allowances could be due to a lack of information among the people who took care of those orphans. Finally, with regard to the family allowances paid each month until the child reached 18 months, she asked whether there were plans to extend the period of payment of the allowances, given that it was often poverty that pushed parents to refuse to take care of a child and protect his rights, which could also lead to the abandonment of the child.

9. Mr. TEXIER was troubled by the Government's response with regard to article 6 of the Covenant and in particular by the calculation method it used to compute the unemployment rate. He asked whether it wouldn't be possible to devise a method that would make it possible to obtain a more realistic image of the situation by using, for instance, the standards set by the International Labour Organization (ILO). He also asked whether the reported fall in the number of unemployed since 2000 was simply hiding an informal labour market problem in the country. Young people were the group most affected by unemployment, and he asked what measures the Government intended to take to improve the situation. Finally, he asked whether the statistics on the unemployed were broken down by sex.

10. He asked whether the Government had formulated annual or longer-term plans to raise the minimum wage, which, according to paragraph 259 of the initial report, did not meet the requirements set down in article 7 of the Covenant and therefore did not correspond to the living standard of the majority of the population. He also wanted to know whether Tajiks who emigrated abroad left the country for economic reasons, such as difficulties in finding work or inadequate living standard. With regard to the equality between men and women in employment, he expressed his surprise at the delegation's use of the term "segregation" as opposed to "discrimination" and asked whether that segregation was based on a cultural fact and whether there were ways of countering it. He also asked whether the principle laid down in article 7 of the Covenant, namely, equal pay for work of equal value, was applied in the private sector.

11. With regard to article 8 of the Covenant, he wished to know whether there were opposition trade unions in Tajikistan, i.e. unions that were not leftover from the earlier system of a single trade union of the time of the Soviet Union and whether the trade unions were affiliated with international confederations, such as the recently created International Trade Union Confederation.

12. Ms. GHOSE, noting the problems of stray children, child prostitution and drug addiction among children, asked whether the State was taking steps to combat child labour. Citing the existence of State-run shelters and children's homes, she asked whether the authorities were acting to prevent children in those homes from getting jobs in the cotton harvest or other local activities, often for payment only in kind or for no wage at all. She expressed surprise at how little information there was in the report on sexual harassment in the workplace and said that a law prohibiting that practice would, in her view, be a desirable measure to encourage women to take jobs in the public and private sectors.

13. Mr. RZEPLINSKI, noting that many migrant workers died abroad, especially in the Russian Federation, owing to the fact that the jobs they got were among the most dangerous, wanted to know what measures the Government had taken to offer some protection to such people and whether the families of the deceased had the right to a pension from the national social protection system.

14. He expressed surprise that a single trade union covered 90 per cent of the workers and asked under what conditions trade union activities could be restricted. He found it surprising that, despite the low level of wages, wage earners never went on strike, and asked for more information on the situation of children forced to work in the cotton fields, which explained, in his view, the high number of school dropouts and information on the "dekhan" farm workers, who were working under conditions close to slavery and were paid very late and subjected to heavy taxation.

15. Finally, he asked the delegation to explain the salary gap between teachers, who earned the equivalent of \$10 per month, and members of law enforcement bodies, whose salary was 10 times higher.

16. Mr. ABDEL MONEIM asked whether trade unions monitored labour contracts to ensure that they were drafted in such a way as to respect all the provisions of the Covenant dealing with the right to work, in particular with respect to the minimum wage. He wished to know what justified the fact that certain people received supplements to their pensions, as mentioned in paragraph 385 of the initial report of the State party, and in particular social assistance pensions for "services to the nation". Finally, he would like more information on how the amount of the minimum pension was set, a responsibility that should not depend entirely on the President of the Republic.

17. Mr. RIEDEL asked whether the State party planned to ratify ILO Convention No. 102 (1952) on minimum standards of social security and ILO Convention No. 118 (1962) on equality of treatment in social security.

18. He wished to know what measures the Government intended to take to ensure that orphan children who were legally entitled to receive a State pension were in fact able to obtain it. The problem clearly had arisen, perhaps because the legal representatives of the orphans were unaware of their rights or the public services concerned were inefficient in making the payments.

19. Finally, he would welcome more information on measures that the Government planned to take to avoid the exclusion of HIV-infected people from the social security system because they hesitated to reveal their seropositivity out of fear of ostracism by society.

20. Mr. MALINVERNI, referring to paragraph 457 of the initial report, wondered where the State party had found the resources to raise the minimum wage and the average salary by so much and in so short a time and whether the rise was simply keeping up with inflation. Citing the Government's written reply to item 25 of the list of issues, he wished to know what the cases specified in the law were that could justify a derogation from article 35 of the Constitution, which stipulated that no one could be subjected to forced labour. Finally, he asked the delegation to confirm or deny the information furnished by informal sources according to which 20 per cent of children in the State party worked.

21. Mr. SADI asked whether, as it would appear from the initial report and the Government's written replies, both legal and illegal migrant workers had the same rights in the country and, if that was the case, whether the State party planned to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. He wished to know what could explain the fact that certain State enterprises could set a minimum wage higher than that set by the presidential decree, which would lead to the establishment of inequality of treatment of wage earners.

22. Finally, he wished to know whether the State party planned, like many other countries in the world, to oblige the enterprises and institutions of the country to hire a certain percentage of persons with disabilities.

*The meeting was suspended at 4.10 p.m. and resumed at 4.25 p.m.*

23. Mr. KHAMIDOV (Tajikistan) said that it was now forbidden to hire school-aged children to harvest cotton.

24. Mr. SHABOZOV (Tajikistan) said that article 74 of the Labour Code prohibited the employment of children under 15 years old and that only minors aged 14 or 15 enrolled in a technical training course could serve as interns in a company and only if the working conditions were not likely to injure their health or interfere with successful completion of their studies and if their workload was no greater than 23 hours of work per week. Minors from 15 to 17 years of age were allowed to work no more than 35 hours per week.

25. It had been noted, with regard to the private sector, that a certain number of children were working in family businesses, on the basis of the generally accepted idea that work forged one's character and had a positive influence on a child's development. Girls were also increasingly urged by their parents to enter the labour market so as to prepare for adult life, and 16 per cent fewer girls now went on to pursue higher education than in the early 1990s.

26. The phenomenon of stray children was due mainly to the decline in the economy: parents were no longer able to provide for the needs of the entire family and children were often forced to accept low skilled work, which was usually poorly paid. It was difficult to estimate the number of children who were in that situation. Orphan children were often looked after by child protection organizations, which monitored the children, in cooperation with the Ministry of Labour and Social

Protection, so as to ensure that they were not forced to work and that they could be reintegrated into the school system as much as possible. A psychological assistance and social reintegration centre for stray children had been established and various projects had been started to enable youth between 14 and 18 years of age to gain professional training. Accelerated literacy courses were also offered to those young people who needed them.

27. Mr. MAKHMADALIEV (Tajikistan) said that his country had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in 2002, and that the Ministry of Labour had carried out a very extensive study on the nature of migratory flows and on the problems faced by migrant workers. Remittances sent by migrant workers were not limited or controlled and they had become a real boon for the Tajik economy. Since 2001, an office of the Ministry of Labour and Social Protection had been operating in the Russian Federation. Its purpose was mainly to advise the many Tajik nationals in the Russian Federation on all aspects of labour migration, in particular by helping them to find legal work and providing legal advice.

28. The calculation of retirement pensions was based on the principle of solidarity across generations. Steps had been taken to raise the minimum level of pensions, as the gap between the minimum and maximum pensions was very large. Despite the efforts of the authorities, one pensioner in five was still receiving a pension that did not allow him to live in decent conditions. For that reason pension reform had been undertaken in 1998. The retirement age was 63 for men and 58 for women. The percentage of active workers in the population continued to fall and there was now one retiree per two workers.

29. With regard to protection of the most vulnerable groups in society, one had to say that the economic crisis had led to serious deterioration in the living conditions of Tajiks, especially children, and had produced inequalities. The most underprivileged children received allowances to help them meet their basic needs. The challenge now for Tajik authorities was to train the younger generations for the new market conditions, so that they could acquire the skills they needed to find work easily.

30. Ms. MUHAMMADIEVA (Tajikistan) said that article 102 of the Labour Code expressly prohibited discrimination in the workplace and promoted the principle of equality in treatment, regardless of race or sex. The situation in practice was certainly not always satisfactory, as women traditionally got the less-well-paid jobs. On 1 April 2006, Tajikistan had adopted a whole set of measures aimed at increasing women's salaries in a certain number of sectors where they were very active. Thus, according to the most recent surveys, women's salaries were found to have risen by about 40 per cent in the fields of health and education. The disparities in salary were less striking in the civil service, which also employed many women.

31. Mr. KHUDOEROV (Tajikistan) said that under article 35 of the Constitution, no one could be forced to perform forced labour. Article 8 of the Labour Code adopted in 1998 specified the cases in which the State could issue an appeal to citizens, requesting them to perform work. Such cases involved exceptional circumstances in which the health and life of the population were under threat, such as in wartime. One should also distinguish between forced labour and punishments involving mandatory labour and retraining that could be imposed on convicts by the judicial authorities under article 147 of the Criminal Code.

32. Mr. KHAMIDOV (Tajikistan) said that all trade unions in the country had the same rights. Trade union organizations could voluntarily establish trade union associations based on economic sector or geographic region. The independence of trade unions with respect to the State authorities, economic bodies and political and other associations was guaranteed by law. Trade unions did not answer to any authority nor were they under any kind of control. Trade unions acted with complete independence in all respects, including drafting and adopting their statutes, deciding on their structure, electing administrative bodies, organizing their activities and holding assemblies, conferences and plenary meetings and sessions. Interference of any kind by public bodies and State agents in their activities was prohibited, except in certain case specified in the law. Employers were not authorized to deny or refuse the right to join a union. That had never happened in Tajikistan.

33. The Federation of Trade Unions of Tajikistan was an independent public organization that included various national sectoral committees and inter-union associations, which joined on a voluntary basis with a view to strengthening and coordinating the activities of their members in terms of representation and the protection of the professional, social and economic rights and the interests of members of trade unions. Trade unions and professional associations that did not belong to the Federation were not registered. The 19 national sectoral committees and the 3 regional trade union councils, which represented about 1 million members, all belonged to the Federation.

34. Mr. TEMUROV (Tajikistan) said that, according to official statistics, there were about 600 people suffering from AIDS, of which most were men, under 25 years of age and drug addicts. For a long time, the national situation in that area could not be evaluated for lack of funds, but the assistance of the Joint United Nations Programme on HIV/AIDS had made it possible to determine that the real situation was a lot darker than previously thought. Socially, the main factors associated with the disease were unemployment and poverty and membership in the most vulnerable groups of the population, namely, migrants and sex workers. How HIV/AIDS was transmitted was not well understood by the population. The establishment of a joint body to combat HIV/AIDS, malaria and tuberculosis, with a joint mechanism for monitoring and follow-up, had made it possible to develop indicators and organize campaigns to raise awareness. Thanks to \$8 million in assistance from the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria, prevention had been strengthened, especially among groups at risk, counselling centres had been established for migrant workers, and free antiretroviral treatment had been given to those needing it. The law protected the rights of people infected with HIV/AIDS, but many of those affected did even seek to get treated or to take advantage of any assistance; for that reason, information was a top priority of the Ministry of Health.

#### Articles 10 to 12 of the Covenant

35. Ms. GHOSE asked why the bill against domestic violence had still not been adopted and wished to know what was being done in terms of training, awareness-raising and assistance for victims.

36. Mr. RIEDEL wished to know what steps had been taken to fight opportunistic infections that affected those infected with HIV/AIDS, what the current rate of vaccination against hepatitis B was and what had been done recently to ensure wider access to drinking water so as better to fight intestinal infections. He also asked

what was being done to improve the situation of prisoners infected with HIV/AIDS, a third of whom, according to NGOs, were not getting appropriate treatment, and those infected with tuberculosis, whose treatment was hampered by the low budget allocations in that sector.

37. He also wished to know whether forced internments in psychiatric wards were reviewed periodically in order to protect the rights of those concerned and whether the children placed in the new specially designed units in mental institutions received the appropriate education. He asked, finally, what measures had been taken to benefit persons with disabilities, especially children.

38. Mr. MALINVERNI asked the delegation to comment on the alarming statistics on violence against women, which had been reported in the Government's written reply to item 26 of the list of issues and noted that, if the perpetrators of domestic violence were not automatically prosecuted, as the response indicated, the reality was doubtless even more alarming. He also asked why the Government had adopted the particular method used to determine the poverty threshold, which was described in paragraph 456 of the initial report of the State party as self-evaluation by the population. Noting that the poverty rate had fallen sharply from 81 per cent in 1999 to 64 per cent in 2003, he asked whether that positive trend had continued in 2006.

39. Ms. BARAHONA RIERA, noting that nearly a million Tajiks had emigrated to the Russian Federation and other countries, asked whether there were any statistics broken down by sex and whether the impact on the families that stayed in the country had been evaluated. Like other members of the Committee, she expressed her regret at the absence of a specific law against domestic violence and stressed that the Criminal Code had not declared such acts to be crimes in their own right. With regard to human trafficking, she wished to know more details on the number of victims, the assistance they received and on what was being done to make judges and the police more informed about the new legislative provisions, so that the perpetrators could be more effectively brought to justice. Finally, it would be useful to have more information on the impact of the shift to a market economy on the health system, in particular on how the system was financed - whether, for instance, the system was financed entirely by the State or partially by the contributions of beneficiaries - and on the reform now under way and whether it was tending towards privatization.

40. Mr. SADI asked why the State party had not managed to reduce the number of forced marriages and girls getting married before they were 17 years old. He also asked whether marital rape had been declared a crime and whether women enjoyed the same rights as men with respect to their ability to give their nationality to their children.

41. Mr. TIRADO MEJIA, referring to the written reply of the Government to item 31 of the list of issues, asked whether there had been cases of tuberculosis or death by starvation in institutions besides the National Psychiatric Hospital. He also asked, supported by Mr. RZEPLINSKI, for more details on confinements to psychiatric institutions by court decision, such as the types of decision, number of cases, grounds, and so forth.

42. Ms. BRAS GOMES, noting that in the initial report of the State party the latest housing figures were for 2003, asked for information on the current situation.

43. Mr. RZEPLINSKI asked what plans had been made to ensure the availability of housing and drinking water for the one and a half million inhabitants who would be living in Dushanbe by 2012. He welcomed the ban on polygamy but asked what would happen to the "illegal" wives and their children if a man with several wives were put in prison, for example. He also wished to know whether there were any female prosecutors and, if so, how many. He asked finally what was being done to protect people exposed to passive tobacco smoke.

*The meeting rose at 6 p.m.*