

# TAJIKISTAN 2006-2010

## UNIVERSAL PERIODIC REVIEW PREPARED BY PUBLIC ASSOCIATIONS OF THE REPUBLIC OF TAJIKISTAN

### REPORT # 2

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During the reporting period the Government of the Republic of Tajikistan has adopted a number of positive measures to improve human rights situation in the country. Thus for example state programs related to education and gender equality were adopted. Recent amendments to the Family Code of Tajikistan increased a marriage age thus providing additional protection to minors against forced marriages. Other reforms are planned and conducted in the field of human rights in Tajikistan.

Recognizing the importance of reforms undertaken by the Government to promote and protect human rights, public associations of Tajikistan prepared the current report to assist in prioritizing government's actions in the field of human rights.

The current report was prepared by a coalition of public associations (PA) of Tajikistan which includes 26 organizations. Six working groups were established, each of which prepared separate thematic blocks. Thematic blocks are based on the monitoring of public associations and information gathered by the authors, in particular reports of international organizations, media reports, national legislation of Tajikistan and international documents. Due to limited format, each thematic block specifies problems followed by recommendations to the authorities of Tajikistan. A list of acronyms is provided in the end of the report.

**Keywords:** *Republic of Tajikistan, gender equality, rights of women, rights of the child, right to an adequate housing, marginalized groups, minorities, persons with disabilities, health, labor migrants, refugees, stateless.*

## **I. GENDER EQUALITY AND RIGHTS OF WOMEN**

1. Despite a number of positive measures introduced by the Government of Tajikistan to overcome gender inequality and increase the role and the status of women in the society, there is no actual equality of men and women in all spheres of life. The main challenges of the implementation of gender policy include a lack of effective mechanisms for the implementation of laws and national strategies, the absence of proper monitoring and evaluation of their implementation, the low level of gender awareness among public servants, and the absence of state communication strategy to promote gender equality.

2. Women do not have de facto equal rights to education, land, credits and other resources. Women occupy secondary positions in the government, which does not allow them influencing decision making processes. The achievement of actual equality of men and women is also hindered by a lack of effective operational mechanisms for the protection of rights of women against discrimination and violence, including domestic violence, and also by the inadequate use of special interim measures aimed at creating equal opportunities for women.

### ***Recommendations***

3. Bring the legislation in compliance with the Law on state guarantees of equal rights of men and women and equal opportunities for their realization. Special attention shall be paid to the implementation of mechanisms on provision of state guarantees of gender equality in sectoral (field) legislation.

4. Develop mechanisms of mandatory gender expertise of draft legislation, and continued monitoring and evaluation of the implementation of gender laws, strategies and programs.

5. Adopt the Law on protection from domestic violence, in combination with other regulatory and legislative acts supporting the practical implementation of this law.

6. Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women signed by the Republic of Tajikistan in September, 2007.

7. Promote activities aimed at improving the level of gender awareness among public servants at all levels of the government. Conduct trainings and workshops in partnership with public associations.
8. Use special interim measures ensuring equal access of women to the decision making process in public sector, land and credits, professional education and other spheres.
9. Develop and implement a communication strategy to promote gender equality. This shall be done by the Government of the Republic of Tajikistan in close partnership with independent mass media.

## **II. RIGHTS OF THE CHILD**

10. Despite the existing policy of de-institutionalization, the number of children in foster homes and orphanages is increasing. The living conditions of these children are unacceptable. The existing legislation does not set the standards for the state protection of children who lost parental support.
11. Children left without parental support do not have opportunities to enter higher educational institutions. While the legislation provides benefits for admission, it does not, however, address the problems of transportation, accommodation and food provision during the exams and classes.
12. Children from state foster homes have the right to housing in accordance with the legislation. However, this provision is not implemented in reality, which has a negative impact on the adaptation and integration of children in the society.
13. Orphans are in a risk group of potential victims of violence, including sexual abuse. Girls more often become victims of human trafficking and sexual exploitation. There is no reliable statistics on these victims in the country.
14. Patriarchal family traditions and existing stereotypes on the role of woman in the family foster isolation and discrimination of girls. They are unable to get adequate education at the same level as boys, and are often confined to family responsibilities and domestic tasks and unable to take an active part in public life.
15. In the absence of legal prohibition of corporal punishment, the use of disciplinary punishment of children, including corporal punishment, is a widespread practice in families and in schools. There is no established complaint procedure for such cases.
16. Child labor is widely used in cotton fields, in markets and within families. The absence of a clear definition of 'child labor' in the legislation is one of the challenges in this regard.
17. Despite the remarkable reforms of the Criminal Procedure Code (CPC), there is no separate juvenile justice system. There are neither mechanisms for the prevention of juvenile delinquency nor any alternative justice for children.
18. Juvenile correctional facility has a special cell for offenders. Children can be put in disciplinary isolator for any offence. This is a closed facility, and children do not have any opportunity to file a complaint against facility officers who define the punishment. This practice represents a serious violation of the rights of the child.
19. The draft law on responsibilities of parents for the education and upbringing of children was presented for public debates in January, 2011. This document contains a number of prohibitions for children. These provisions can become a subject to varying interpretations and can lead to unreasonable limitations of child freedoms, and also violation of parental rights. This law contradicts the principles of ensuring the best interests of the child as prescribed in the Convention on the right of the child.

### ***Recommendations***

20. Define basic legislative standards of state support of children in state institutions.

21. Develop and support the practice of foster parenting, family foster homes and other types of alternative care, which is closer to family care.
22. Develop a system of mandatory provision of information and consultations on housing rights to children from state institutions.
23. Provide a clear definition of ‘child labor’ in the legislation of the Republic of Tajikistan, which shall comply with international standards. Eliminate the practice of forced child labor, including in cotton fields.
24. Introduce a separate system of juvenile justice.
25. Develop and adopt the program on prevention of juvenile delinquency and alternative justice, including by reforming closed facilities into open child centers.
26. Liquidate disciplinary isolator in juvenile correctional facilities.
27. Do not adopt the draft law on responsibilities of parents for education and upbringing of children.

### **III. RIGHT TO AN ADEQUATE HOUSING**

28. Forced eviction of citizens from houses for the sake of state and public needs and of unsuitable living conditions became frequent in the last few years. A major concern is the practice of massive evictions due to the implementation of master reconstruction plans in towns and cities, including Dushanbe. There is also a concern that these plans are developed by the state organs without any public consultations.<sup>1</sup>
29. Evicted citizens are either not provided with compensatory housing at all, or given a housing which living conditions, value and size are not equivalent to the previous one, or they just provided with a land plot for house construction. This situation was created by an inadequate property assessment system on the part of relevant public bodies, ineffective complaint mechanisms and absence of independent property assessment expertise.
30. The illegal privatization of dormitories owned by enterprises and institutions is persistent along with absence of the normative framework regulating the functioning of dormitories. This leads to the evictions of their residents, who have the right to live there, without provision of alternative housing.
31. There is a major concern about the massive resettlement of 7,167 families from the areas which will be flooded as a result of the construction of Rogun dam. Residents are usually provided with a land plot and inadequate compensation (680-685 USD) in order to build a new house. Part of this compensation (50%) is provided in form of credit. The existing situation is worsened by the lack of information provided to residents regarding future plans and how they impact their lives.

#### ***Recommendations***

32. Provide a clear definition of ‘state and public needs’ and ‘equivalent value housing’ in the housing legislation.
33. Ensure public access to information on master construction plans for towns and cities, and encourage participation of citizens in the development of these plans.
34. Create an independent body for housing assessment and adopt relevant regulations, which will reflect the real market price of housing.
35. Suppress any cases of selling of dormitories as a public property through auctions and develop basic regulations on dormitories.
36. Develop mechanisms of legal protection in cases of forced evictions and provide compensation to evicted residents of equivalent value for acquired or demolished housing.

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<sup>1</sup> “Access to justice in the context of provision of legal aid in cases of evictions”, December 2009 - August 2010. Bureau on Human Rights and Rule of Law.

37. Provide residents of areas which are to be flooded due to the operations of Rogun dam with comprehensive and objective information about their rights in relation to massive evictions, provide all families with adequate housing and conduct regular monitoring of forced evictions from flooded areas with the participation of civil society organizations.

#### **IV. RIGHT TO THE ENJOYMENT OF THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH**

38. Child and maternal morbidity and mortality rates remain very high in Tajikistan, especially in rural areas. This is caused by the absence of mobile medical facilities, ineffective system of child and mother care, and also by the lack of will and financial abilities of the population to seek for medical assistance.

39. Within the framework of health reform the School of pediatrics of the State Medical University was closed due to establishment of family medicine institute. Since children aged 0-15 years old constitute about 39% of the population, this negatively impacts the access of children to quality health care and prevention.

40. There is no access to palliative assistance for incurable patients (e.g. patients with TB and cancer). Ambulatory patients do not have access to anesthetics and opiates due to the absence of relevant regulatory framework and specialized pharmacies.

41. The absence of qualified personnel, lack of motivation of the medical staff, inadequate technical and material supply of medical facilities are among the causes of deteriorating health status of the population.

42. In spite of the implementation of health reforms, including the introduction of an institute of family medicine, the adoption of state programs to fight diseases such as tuberculosis and HIV and immunization campaigns conducted with the support of international donors, the quality of prevention and diagnostics of diseases remain at a very low level.

#### ***Recommendations***

43. Develop and strengthen the network of district and rural medical facilities, including mobile units, which are capable to provide adequate medical assistance and conduct preventive measures at the primary level. Support the establishment of private medical clinics.

44. Introduce specialization of pediatrician in the state medical facilities.

45. Improve the quality of education and training of medical staff, especially nurses, paramedics, midwives and family doctors in professional training centers.

46. Ensure access to palliative care for incurable patients by improving existing legislation and establishing of the network of state pharmacies for provision of anesthetics and opiate drugs.

47. Adopt urgent measures to improve the material and technical base of medical facilities by attracting investment and donor resources, purchase of medical equipment through leasing and franchising and review of the possibilities for gradual transition to health insurance. The system of medical insurance shall take into account the needs and real capabilities of patients from different social groups.

48. Review the possibilities of adoption of international best practices on decentralization of provision of medical services, which can improve the quality of services and create healthy competition in the market of health services.

#### **V. RIGHTS OF MARGINALIZED GROUPS**

49. Despite a number of positive developments in the legislation regarding drug addiction, drug addicts continue facing constant humiliation and abuse. Law enforcement agencies still force drug addicts to confess in crimes which they did not commit.

50. The Law of the Republic of Tajikistan on drug therapy is outdated and provides methods of treatment and rehabilitation which are not effective. The introduction of Opium Substitutions Therapy (OST) is considered as one of the most effective methods of drug therapy. However, the access to this kind of therapy is hindered by various bureaucratic requirements (e.g. requirement to present identification document). Moreover, the existing OST program will cover only 700 persons in five years, which is inadequate since the number of injecting drug users (IDU) reached 20 to 25 thousands persons.

51. Although the legislation of the Republic of Tajikistan includes provisions regarding responsibilities for violating anonymity and confidentiality of HIV cases, the existing practices allow the disclosure of such information. For example, surgery preparations include mandatory HIV test and disclosure of passport details. In many cases doctors try to transfer HIV positive patients to other medical facilities, which violate their right for access to healthcare.

52. Stigma and discrimination against people living with HIV is a widespread phenomenon. There are cases of refusal to pay salaries, provide humanitarian aid, to give employment opportunities and access to education. Women are the most vulnerable group among people living with HIV.

53. Some AIDS related NGOs which provide comprehensive and quality services to vulnerable groups experience discrimination from certain state officials and representative of international organizations.

54. Representatives of sexual minorities (LGBT) in Tajikistan remain the most invisible and closed group for research and prevention purposes. Hatred and intolerance of the society towards LGBTs force them to leave the country or to hide their sexual orientation. Since LGBTs are afraid that their sexual orientation could be revealed, they rarely seek for medical, legal or psychological assistance.

55. LGBTs are regular subjects of illegal detention and blackmailing by law enforcement agencies.

### ***Recommendations***

56. Introduce a new training module for law enforcement agencies and medical staff in order to ensure their tolerance towards people living with HIV, LGBTs and IDUs.

57. Develop and adopt a national strategy on awareness-raising about LGBTs among law enforcement agencies, medical staff and the population in order to eliminate stigma and discrimination.

58. Eliminate bureaucratic barrier hindering the access to OST and improve the quality of OST services.

59. Prohibit discrimination based on sexual orientation and gender identification in the national legislation.

60. Ensure confidentiality of people living with HIV during the provision of medical services.

61. Improve coordination of activities between different sectors in order to protect the rights of vulnerable groups and organizations, working in this area.

62. Develop and introduce a protocol on hormonal therapy for trans-gender individuals. This shall be done by the Ministry of Health in cooperation with NGOs working to protect the rights of LGBTs. This protocol shall be introduced in the curriculum of medical educational institutions.

## **VI. RIGHTS OF PERSONS WITH DISABILITIES**

63. Buildings, public transport, communication facilities and roads are not able to accommodate the needs of persons with disabilities (PD). This considerably hampers their movement and limits their access to social infrastructure.

64. The discrimination against PDs is persistent in terms of employment opportunities, career development, access to education, medical and legal assistance, and also bonuses and benefits. Disabilities are ranked based on the ability of a person to work. Thus persons with disabilities of the first and second groups are considered as 'incapable to work' and it is prohibited to employ them.

65. Women with disabilities are subjects to more serious discrimination by the society and in their families, especially in rural areas. Many women with disabilities are not informed about their rights, and do not have even basic education. Girls with disabilities are isolated by their parents and are not allowed to attend special schools or secondary schools, which leads to high rates of illiteracy among them. Girls with disabilities are subjects of psychological pressure, especially when they reach puberty, which negatively impacts their psychological health in future.

66. Persons with psychiatric challenges are usually provided with psychiatric assistance in special facilities, where they spent considerable amount of time. These facilities work beyond their capacities and are overcrowded, lack proper food supply, and provide outdated and ineffective care and drug therapy.

67. The right to education of children with disabilities is violated. Some children receive education at home; however, the quality of such education is low due to the absence of special educational program. Moreover, children who are able to attend educational institutions face challenges due to architectural barriers and lack of accessibility of buildings. Children with disabilities are isolated from society due to the absence of an appropriate approach to their education in schools, the lack of specialized institutions, stigma from their peers, the absence of targeted work with parents and the low level of legal awareness among parents.

68. There are limited opportunities for working with children with disabilities because of the lack of relevant specialists such as speech pathologists, sign language tutors, speech therapists, and sign language interpreters,

### ***Recommendations***

69. Develop and adopt a new set of criteria for defining disability in the national legislation in compliance with international standards. Eliminate criteria on the ability to work from the definition of disability.

70. Create barrier free environment for persons with disabilities: install the relevant devices required for the movement of persons with disabilities and their access to social infrastructure.

71. Ratify the Convention on the right of persons with disabilities.

72. Adopt measures raising the level of awareness of the population in order to eliminate stigma and discrimination against people with disabilities.

73. Continue implementing a program of inclusive education.

74. Develop and implement a basic benefit package for children with disabilities (social package), which shall also include medical assistance.

## **VII. LABOR MIGRATION**

75. In accordance with the data of the State Statistics Committee for 2010, 735,000 citizens of Tajikistan left the country as labor migrants. However, national experts estimate that the number of labor migrants is between 1 and 2 million. The absence of effective system of registration of labor migrants leads to this significant gap between different statistical data.

76. In accordance with the data of the National Bank, the total volume of remittances of labor migrants to Tajikistan reached USD 2.1 bln. in 2010, which represents a considerable contribution to the economy of the country. Therefore, the country's policy is focused mainly on the export of labor resources and the improvement of the situation of labor migrants in

destination countries. The new draft of the National Strategy on Labor Migration for 2011-2015 does not consider measures aimed at returning and providing employment opportunities for labor migrants in Tajikistan.

77. Regulatory functions concerning labor migration were transferred twice from one agency to another (in 2007 and 2011). A new governmental body was created in 2011 on the basis of previously functioning structures responsible for labor migration. However, no interim governance measures are foreseen during the period of formation and development of the new body.

78. There is no competent or free of charge state service to help labor migrants which would provide them with reliable and clear information and assist them with pre-departure orientation.

79. Private employment agencies have to operate beyond the legal framework due to the weak legislative base regulating their activities. Inadequate state control over the activities of private employment agencies increases the risks of human trafficking and labor exploitation among labor migrants.<sup>2</sup>

80. There is no state support for the prevention of negative consequences of labor migration such as the increasing number of left and abandoned wives and children of labor migrants. Abandoned wives are often uneducated, and have no specialization or labor skills. They are left without any financial means, which make them vulnerable to depressions, suicides, diseases, hunger and domestic violence committed by husband' relatives, and they prone to be involved in prostitution.<sup>3</sup>

### ***Recommendations***

81. Improve the system of collection and analysis of statistical data on labor migrants.

82. Include measures promoting entrepreneurship in national development programs, including the creation of favorable conditions (e.g. taxes) for small and medium businesses.

83. Adopt measures for the improvement of inter-ministerial and inter-state coordination of activities related to labor migration.

84. Establish a competent state service supporting labor migrants by providing them with pre-departure orientation.

85. Adopt a separate law which will regulate activities of employment agencies in accordance with international standards prescribed by the UN conventions and International Labor Organization.

86. Conduct regular studies on the social and economic status and legal challenges of families of labor migrants (including widows and orphans of labor migrants) in order to develop strategies aimed at protecting and supporting these groups. The assessment of the status of abandoned families of labor migrants shall be included in different studies, including poverty assessments.

## **VIII. REFUGEES AND STATELESS**

87. In violation of Article 14 of the Law of the Republic of Tajikistan on refugees and the principles of “non-refoulement”, the practice of deportation of refugees still exists. Moreover, the right of the person to appeal against deportation is often violated.

88. As practice shows many refugees have problems with employment. In the absence of any in-kind or social support from the state, refugees are deprived of any opportunity to support their families. Therefore, they often have to rely on the assistance provided by UNHCR and its partner organizations.

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<sup>2</sup> Study of IOM and ILO ‘Labor migration and private employment agencies in Tajikistan’, 2009.

<sup>3</sup> ‘Abandoned wives of Tajik labor migrants’, IOM study of social and economic conditions and survival opportunities of wives of labor migrants, August 2009.

89. According to UNHCR, not a single appeal for citizenship of refugees who have lived in Tajikistan for a long time was satisfied.

90. In order to become a permanent resident of Tajikistan, an individual must provide a document on temporary registration and an agreement of relatives or friends about the residential registration (*propiska*). Foreign citizens and stateless persons do not have the right to purchase housing in the Republic of Tajikistan. This makes residential registration of stateless persons almost impossible.

### ***Recommendations***

91. Improve the collection and exchange of data and the refugees' registration procedure in collaboration with UNHCR in order to improve the quality of refugee status determination procedure, and also to better define and address the challenges faced by the vulnerable groups of refugees.

92. Facilitate the integration of refugees through their naturalization in accordance with the Law on citizenship of the Republic of Tajikistan.

93. Ratify the the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention of on the Reduction of Statelessness.

94 Eliminate the system of residential registration (*propiska*) and temporary registration as unconstitutional towards the citizens of the Republic of Tajikistan. The registration of foreign citizens and stateless persons shall be done only for notification purposes.

95. Improve the integration of economic, social and cultural rights of refugees and stateless persons in the Poverty Reduction Strategy and other national development programs along and allocate required resources for their implementation.

## LIST OF ACRONYMS

HIV	Human Immunodeficiency Virus
CC	Civil Code
CPC	Criminal Procedure Code
CAT	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
LGBT	Lesbian, Gay, Bisexual and Transgender Minorities
PD	Persons with Disabilities
ICCPR	International Covenant on Civil and Political Rights
NGO	Non-governmental Organization
OST	Opium Substitution Therapy
PA	Public Association
UN	United Nations
IDU	Injection Drug Users
RT	Republic of Tajikistan
AIDS	Acquired Immune Deficiency Syndrome
UNHCR	Office of the United Nations High Commissioner for Refugees