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Universal Periodic Review

## Report of the Working Group on the Universal Periodic Review\*

### Tajikistan

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\* The annex to the present report is circulated as received.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....	1–4	3
I. Summary of the proceedings of the review process .....	5–87	3
A. Presentation by the State under review .....	5–44	3
B. Interactive dialogue and responses by the State under review .....	45–87	8
II. Conclusions and/or recommendations.....	88–93	12
Annex		
Composition of the delegation .....		22

## Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its twelfth session from 3 to 14 October 2011. The review of Tajikistan was held at the 1st meeting on 3 October 2011. The delegation of Tajikistan was headed by Bakhtiyor Khudoyarov, Minister of Justice of the Republic of Tajikistan. At its 5th meeting held on 5 October 2011, the Working Group adopted the report on Tajikistan.
2. On 20 June 2011, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Tajikistan: Costa Rica, Mauritius and Thailand.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Tajikistan:
  - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/12/TJK/1);
  - (b) A compilation prepared by OHCHR in accordance with paragraph 15 (b) (A/HRC/WG.6/12/TJK/2);
  - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/12/TJK/3).
4. A list of questions prepared in advance by Canada, the Czech Republic, the Netherlands, Norway, Slovenia, Sweden, Switzerland, and the United Kingdom of Great Britain and Northern Ireland was transmitted to Tajikistan through the troika. These questions are available on the extranet of the UPR.

## I. Summary of the proceedings of the review process

### A. Presentation by the State under review

5. The delegation considered the universal periodic review an important instrument to ensure dialogue, improve the fulfilment of the State's commitments towards human rights and assess the positive changes as well as problems that the country faced.
6. Despite the challenges encountered since independence, Tajikistan became a full-fledged member of the international community and declared the protection of human rights and fundamental freedoms a priority in its policy. Tajikistan adhered to the principles of the Universal Declaration of Human Rights and acceded to seven core human rights treaties.
7. The Constitution recognized the supremacy of international legal acts over the national legislation. A number of State bodies have been established to implement Tajikistan's international obligations, including the Commission on Ensuring the Fulfilment of International Obligations in the Field of Human Rights. The first Human Rights Ombudsman was appointed in 2009, based on the 2008 Law on the Human Rights Ombudsman.
8. Tajikistan has cooperated with the United Nations human rights treaty bodies. The delegation reported on visits by three Special Rapporteurs conducted over the period 2005–2008, the upcoming visit by the Special Rapporteur on adequate housing, as well as on invitations to visit the country extended by Tajikistan to the Special Rapporteurs on the

question of torture, on extrajudicial, summary or arbitrary executions and on the right of everyone to the enjoyment of the highest standard of physical and mental health.

9. The Constitution guarantees everyone the freedom of speech and press, and censorship and persecution for expressing critical views are prohibited. The delegation informed about a number of independent and private media outlets functioning in the country, including 127 newspapers, 20 private television channels and 9 private radio stations.

10. Eight political parties and over 2,000 public associations have been registered. To enhance the role of women in society, a number of laws and measures for their implementation have been adopted, including the 2005 Law on the State guarantees of equality of men and women and equal opportunities for their realization.

11. The delegation informed about several developments in the area of human rights, including the adoption of the National Action Plan on Juvenile Justice Reform (2010–2015); the adoption of the Comprehensive Programme on Combating Human Trafficking (2011–2013) and the 2004 Law on combating human trafficking.

12. Since independence, significant results have been achieved in respect of the enjoyment of the freedom of religion. In 2009, the Law on freedom of conscience and religious associations was adopted to regulate the relations between the State and religious associations and the legal status of religious associations. The legal system does not give preference to any religious movement or tendency and it does not allow anyone to impose their ideology on the whole of society.

13. The social protection of the population remained the primary task of the Government. In the past five years, the minimum wage and pension have increased by 3 and 4 times, respectively and 582,000 new jobs have been created. Furthermore, Tajikistan was one of the pilot countries in the implementation of the Millennium Development Goals and thus, under the auspices of the United Nations, a comprehensive evaluation of the country's needs had been conducted. As a result, the National Development Strategy for 2006–2015 and National Poverty Reduction Strategies were adopted to ensure stable economic progress and enhance the quality of life of the population.

14. In 2010, the new Law on the social protection of persons with disabilities was adopted and the Government allocates additional funds on an annual basis for the higher education of persons with disabilities.

15. Free secondary public education is guaranteed and despite the economic difficulties, the Government has continually increased financing of the education sector. In 2011, 17 per cent of the national budget has been allocated to the education sector. In 2001, human rights was introduced as a subject in secondary schools.

16. The delegation reported on the reforms to the criminal codes and the implementation of a State programme aimed at making the policy in respect of criminal law more humane. The new Criminal Procedure Code was adopted in 2010 to bring it in line with international human rights standards, including the principles of presumption of innocence and equality of arms. The new Code provides a mechanism for consideration by a court of the legality and justification of detention. The status of the defender in the criminal process has also been strengthened.

17. A moratorium on the use of death penalty was introduced and life imprisonment is intended only as an alternative to the death penalty for serious offences. A working group has been established by Presidential order to study the social and legal aspects of the abolition of the death penalty. In August 2011, the Law on amnesty was adopted and about 4,000 prisoners were granted amnesty and released from the prisons.

18. In 2011, the Law on the order and conditions of detention of suspects, accused and defendants was adopted, which regulates several important issues regarding places of detention, including the obligatory medical examination by medical officers in places of detention. In 2011, the financing of the penitentiary system was increased sixfold compared to 2004. Furthermore, a draft amendment to the Criminal Code was developed to introduce a separate article on torture, in line with article 1 of the Convention against Torture.

19. Since 2007, the Government has implemented judicial and legal reforms to improve laws and procedures regulating the justice system, with the aim of further strengthening the judiciary and the status of judges.

20. An effective legal framework to combat corruption has been established and the Government has taken comprehensive measures in this area, including the ratification of the United Nations Convention against Corruption and the adoption of the Law and strategy on combating corruption and the establishment of the National Council on combating corruption.

21. Although results have been achieved, including the high level of ratification of international human rights and the moratorium on use of death penalty, the Government must still address a number of issues, including the difficulties relating to the process of transition from the planned economy to market relations, improving the living standards of the population and raising public awareness on human rights. In this respect, the Government would welcome the continued assistance of the international community to implement the Millennium Development Goals and improve the system of protection and promotion of human rights.

22. The delegation provided responses to a number of advanced questions, including those on the prohibition of torture and the ratification of the Optional Protocol to the Convention against Torture. The delegation stated that the Government has undertaken a number of measures to combat the use of torture. The law establishes criminal liability for the use of torture. Under the Criminal Procedure Code, evidence obtained during initial inquiries and pretrial investigations through the use of force, coercion, inhuman treatment or other illegal means is considered invalid and may not serve as a basis for a charge. In the past 8 months, the Prosecutor's office initiated investigations into 16 out of 66 complaints received from individuals. Over 1,500 police officers were subject to disciplinary sanctions and some of them lost their job due to violations of freedom from torture. The Ombudsman also deals with the issue of the use of torture, which has also been discussed in a session of the National Security Council at the initiative of the President. Furthermore, as a preventive measure, seminars and training were organized for the judiciary, the Prosecutor's office and law enforcement agencies.

23. The delegation stated that an inter-ministerial working group has been established to study the possibility of Tajikistan ratifying the Optional Protocol to the Convention against Torture. A working group has also been established to introduce further improvements to the Criminal Code. In this respect, amendments have been drafted to introduce a definition of torture in line with the Convention.

24. In response to questions on the advancement of women's role in society, the delegation informed that about 24 per cent of civil servants were women, and that 81 out of 381 judges were women. Training has been provided to women working in the central and local Government bodies. A gender network has been established for women involved in agriculture to assist and enhance their entrepreneurship, and a Presidential programme has been established to provide grants to women entrepreneurs.

25. With regard to questions about domestic violence, the delegation informed that there were legal services and hotlines available to support women and girls who were victims of domestic violence. As a result, over one hundred girls have received legal, psychological,

social and rehabilitation services in the framework of the project implemented by the Government Committee on Women's Issues and Families since 2009. Based on the decision of the Ministry of Interior, inspectors specialized in issues of domestic violence were introduced.

26. Regarding religious freedom, the delegation stated that the 2009 Law on conscience and religious organizations was adopted taking into account international human rights instruments, the Constitution as well as recommendations by the Special Rapporteur on freedom of religion or belief. The Law on the responsibility of parents for the upbringing and education of children was adopted following a broad consultation of citizens and stakeholders in order to protect children's right to education, to protection from physical and psychological violence and from proselytization, in line with the requirements of Convention on the Rights of the Child. According to the Law, children are entitled to religious education and other activities manifesting their religion on the consent of their parents. A State body on the issue of religious freedom was established and 3,829 religious associations have been registered. There are several religious educational institutions and courses on religions have been introduced in primary and secondary schools.

27. Domestic legislation developed based on the Paris Principles provides a broad mandate to Commissioner for Human Rights (Ombudsman). The Ombudsman enjoys full independence from the Government; he has unlimited access to State bodies, the army and penitentiary institutions, may request and received information from State bodies, carry out independent investigations related to the work of State bodies and request the relevant bodies to initiate disciplinary and criminal measures against officials whose actions have resulted in violations of human rights. The Ombudsman, in cooperation with NGOs and journalists, have started carrying out visits to places of detention. Public complaints reception centres have been established in four regions of the country.

28. Regarding the judiciary, the delegation stated that the Constitution and relevant laws guaranteed the independence of the judiciary and set out the functions and terms of office of judges. The length of judges' tenure as well as the remuneration of judges and other members of the judiciary have been raised. The question of the lifelong appointment of judges is currently being examined. The Council of Justice is a collegial body established to, inter alia, put forward proposals for judicial reform, thereby removing the responsibility for those issues from the executive branch.

29. Regarding defamation laws, the delegation stated that criminal cases have been initiated by individuals claiming to have been slandered or insulted.

30. An inter-ministerial working group has been examining the issue of adhesion to the Convention on the Rights of Persons with Disabilities, however, the 2010 Law on the social protection of disabled persons has already incorporated norms contained in the Convention.

31. Regarding questions on child labour, the delegation stated that child labour is regulated by the Labour Code and other relevant laws, including a provision in the Law on education which bans the use of pupils and students in agricultural labour during the school year, and a section in the national poverty reduction strategy. Tajikistan noted that the high level of unemployment has an impact on child labour, with many children taking on jobs, often at the order of their parents. The issue of child labour will also be included in future poverty reduction strategies.

32. Regarding rights during administrative arrest, Tajikistan stated that in accordance with the Code of Administrative Offences, rights during administrative arrest are the same as for those detained under the Criminal Code or the Criminal Procedure Code, and would be further enlarged in the Law on the code of administrative procedure currently under preparation.

33. Tajikistan stated that it is not a country of transit for human trafficking. An inter-departmental commission has been set up to organize the return of trafficked persons, as well as a specific unit on trafficking within the Ministry of Interior. No case of involvement of Government officials in human trafficking has been recorded.

34. As to the question regarding access by detainees to an independent doctor, this is guaranteed by the 2010 Law on procedures and conditions of detention.

35. Regarding the question of identity of transgender persons, the delegation noted that identity documents are issued on the basis of the Law on civil registration, and that a certificate of change of gender issued by a medical organization was required.

36. Regarding measures to implement the 2011-2015 national strategy on the migration of Tajiks for labour abroad, Tajikistan referred to measures to address health-related issues and the legal protection of Tajik nationals working abroad. A number of consular representations are already operating in the Russian Federation and Kazakhstan, which provide consular assistance and protection; there are plans to open additional ones and increase the resources allocated thereto.

37. Regarding implementation of treaty bodies' recommendations, Tajikistan referred to the significant changes to its legislation, inter alia, the Civil Code, the Criminal Code, the Criminal Procedural Code and others, as well as reforms to the judiciary and law enforcement.

38. The power to limit civil rights was transferred from the procurator to the judge, and the execution of sentences from the Ministry of the Interior to the Ministry of Justice. The inadmissibility of evidence obtained under torture has been introduced, and in the draft amendments to the Criminal Procedural Code, a separate article has been foreseen, which introduces a definition of torture in line with the Convention against Torture. The Criminal Code provides for the reduction in the number of crimes punishable by the death penalty to five.

39. The delegation expressed disagreement with the assessment that between 33 and 50 per cent of women in Tajikistan experienced physical, physiological or sexual violence, stating that the facts at the disposal of the Government contradicted those numbers; only 2 per cent of individuals who applied to the 37 advisory centres for help claimed to be victims of domestic violence.

40. Regarding the death penalty, the President established an inter-ministerial working group on this issue in 2010. Among other undertakings, with the participation of NGOs and international partners, an international conference was held in May 2011 with the support and cooperation of the Organization for Security and Co-operation in Europe. The delegation expressed its belief that the steps undertaken in this regard would assist in deciding whether to ratify the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR).

41. Regarding concerns expressed about the prosecution of journalists, the delegation mentioned that there had been two such cases in the last 18 months, and that in one case, the prosecution was not related to the journalistic work of the individual, but rather to his extremist activities.

42. The delegation asserted that mass media in Tajikistan are free and that citizens could freely express their views and convictions through them. The number of registered media outlets exceeds those that are State-owned. In 2011, Parliament elaborated a draft law on mass media with a view to expanding the scope of their activities and freedoms and to ensure also that they provide objective information.

43. The delegation also indicated that in August 2011, the International Committee of the Red Cross had been invited to visit detention centres in Tajikistan. The scope of the draft cooperation agreement with the ICRC will be based on the outcome of this visit and the international obligations and national legislation of Tajikistan.

44. As to freedom of religion, the delegation explained that the new law on religious activities does not restrict freedom of religion, but regulates registration procedures. The law sets out a framework for the functioning of religious organizations and guarantees the freedom of religion. Every citizen has the right to profess any or no religion and to participate in religious services and ceremonies. There is no law forbidding women to wear the hijab or to perform prayers in mosques. The latter issue has been subject to a fatwa by religious scholars, in whose affairs the State could not interfere.

## **B. Interactive dialogue and responses by the State under review**

45. During the interactive dialogue, 42 delegations made statements. A number of countries recognized Tajikistan's open participation in the universal periodic review and thanked Tajikistan for preparing a comprehensive national report, with the involvement of various Government departments and civil society stakeholders. Recommendations made during the dialogue can be found in section II of the present report.

46. Sri Lanka commended the steps taken to improve the quality of education, including the shift towards a 12 year general-education system, and asked to have further insights on this transition. It noted that citizens were provided with medical and health care assistance free of charge. It also commended Tajikistan for the measures adopted to ensure public security and to combat terrorism. Sri Lanka made a recommendation.

47. The Czech Republic expressed appreciation for the constructive participation of Tajikistan in the universal periodic review. It made recommendations.

48. Algeria noted with appreciation the adoption of a moratorium on the death penalty. It also acknowledged the problems highlighted in the national report, especially the high level of poverty, and encouraged Tajikistan to remain committed in its efforts against drug trafficking. Algeria made recommendations.

49. The Russian Federation noted progress achieved in acceding to international human rights treaties, the harmonization of national legislation in accordance with international norms, the creation of a national human rights institution and the moratorium on the death penalty. It also noted the challenges the country faced, including poverty. The Russian Federation made recommendations.

50. France enquired about measures planned to align the legislation with the definition of torture in the Convention against Torture. A moratorium had been introduced in 2004 and legislation allowed to commute death sentences, but Tajikistan remains the only country in Central Asia which has not abolished the death penalty. It also referred to the numerous incidents of pressure and defamation against journalists and allegations of arbitrary arrests and torture. France made recommendations.

51. China recognized the positive measures taken to promote socio-economic development and the implementation of the Millennium Development Goals. China appreciated the poverty-reduction strategy as well as the importance attached to gender equality, elimination of domestic violence, quality of education, health-care services and the rights of persons with disabilities. Tajikistan has actively engaged in international human rights cooperation. China acknowledged the challenges faced by Tajikistan and called on the international community to provide assistance. It made a recommendation.

52. India noted with interest the measures taken by Tajikistan in a number of areas, including raising the age for marriage and the moratorium on the death penalty. It also welcomed the measures taken to strengthen the judicial branch. However, India acknowledged the insufficient resources that Tajikistan encountered and underlined the need for further technical assistance for the construction of prisons.

53. Canada, while acknowledging the security challenges and budget constraints, was concerned at restrictions on the practice of religion and on freedom of the press, conditions of detention and deaths in custody, impunity with regard to allegations of torture and confessions obtained through torture, lack of independence of the judiciary, domestic violence, discrimination against women, child labour, institutionalization of children with disabilities and incidents regarding lesbian, gay, bisexual and transgender (LGBT) persons. Canada made recommendations.

54. Hungary noted with appreciation the adoption of the Commissioner for Human Rights Act in 2008. It also commended Tajikistan for the moratorium on the death penalty and the adoption of the Disabled Persons Act. However it remained concerned by the discrimination still endured by disabled persons, particularly women and children. Hungary made recommendations.

55. Poland welcomed the cooperation of Tajikistan with the human rights mechanisms and special procedures and the establishment of the Human Rights Ombudsman Institution. However, it noted with concern that Tajikistan was not party to some of the core human rights treaties. It remained concerned by the high level of deaths in custody and by allegations of the use of torture by law enforcement agencies. Poland made recommendations.

56. Slovakia commended Tajikistan for the high ratification of international human rights instruments and its secondary school human rights education programme. It referred to the cases of deaths in custody and allegations of torture. It also raised concerns about the registration procedures for religious organizations, and media censorship. Slovakia made recommendations.

57. Switzerland indicated that Tajikistan was the last Central Asian country which has not abolished the death penalty. It welcomed the commitment taken by the Ombudsman to visit places of detention and the invitation extended to the Special Rapporteur on the question of torture to visit the country. Switzerland commended Tajikistan for the opening of a migration service. It expressed concern about the restrictions to freedom of the media in the country. Switzerland made recommendations.

58. Estonia noted with appreciation that Tajikistan has ratified the main international human rights instruments and made efforts to harmonize its domestic legislation with international law. It praised Tajikistan for having declared a moratorium on the death penalty. Estonia further appreciated the establishment of the Office of the Ombudsman. Estonia made recommendations.

59. Norway acknowledged the establishment of the Ombudsman and the adoption of the new Code of Criminal Procedure. It expressed concern at the increasing restrictions on religious and civil society organizations, and on independent media. It also noted that gender inequalities persisted in all spheres of life. Norway made recommendations.

60. Turkey positively observed achievements made with regard to human rights. It commended the establishment of the Ombudsman institution and the introduction of human rights into the secondary education curriculum. It welcomed the strategy to enhance the role of women, the national actions plans for children and the enhancement of juvenile justice. Turkey made recommendations.

61. Australia commended Tajikistan for the establishment of the Ombudsman institution and for the ratification of a number of core human rights treaties. It called on Tajikistan to implement commitments under those treaties at domestic level. It welcomed the draft law on domestic violence but remained concerned about reports of violence against women, forced marriages, child labour and trafficking. Other concerns related to the lack of a definition of torture and the persistence of the death penalty in domestic law. Australia made recommendations.

62. Germany enquired what steps had been taken to recognize the right to conscientious objection to compulsory military service, improve the conditions of enrolment and provide an alternative civil service. It noted that the national provision prohibiting unregistered religious activities was incompatible with international standards, observing that the registration requirements prescribed by the Law on Freedom of Conscience and Religious Associations were too extensive. Germany made recommendations.

63. Slovenia asked whether the Tajik Government intended to ratify the Second Optional Protocol to ICCPR and abolish the death penalty. After expressing concerns about, inter alia, patriarchal traditions, domestic violence and the role of women, Slovenia enquired whether further measures would be taken to combat prejudices against women. Slovenia welcomed the prohibition of hiring children for cotton harvesting, but enquired as to whether Tajikistan prohibited other forms of child labour. Slovenia made recommendations.

64. Japan commended Tajikistan for its ratification status in relation to human rights treaties. It expressed concern about allegations of torture and stressed the need for awareness raising, capacity building and improvement of the legislation in this area. It noted that despite policy developments, the gender gap still persisted. Japan made recommendations.

65. Brazil acknowledged Tajikistan's efforts to reduce poverty, but noted that there was a lack of funding for education, health care and social welfare. It welcomed the moratorium on the death penalty. While positively noting the free public secondary education, it observed a decline in the enrolment of girls in schools. Brazil recognized the steps taken in the field of gender equality but observed that patriarchal traditions and stereotypes were a structural source of discrimination. Brazil made recommendations.

66. Bangladesh welcomed the cooperation of Tajikistan with the Human Rights Council mechanisms and its efforts to combat trafficking in persons. It also commended the Government for the establishment of the Human Rights Ombudsman institution and took note of the programmes and initiatives to ensure the increased participation and equal treatment of women. It indicated that further progress needed to be made in economic areas. Bangladesh made recommendations.

67. The United States of America commended Tajikistan for its ratification status and efforts to prevent torture. It expressed concern regarding the Parental Responsibility Law and other provisions on religious freedom. It was concerned about continuing attacks on journalists and the use of lawsuits against them. It made recommendations.

68. Saudi Arabia noted that Tajikistan had acceded to most human rights instruments and submitted periodic reports on their implementation, thereby demonstrating its eagerness to cooperate with the international human rights mechanisms. Saudi Arabia highlighted efforts in the area of education, including steps to improve the quality of primary education. Saudi Arabia made recommendations.

69. Belarus welcomed Tajikistan's commitment to human rights and noted the high number of core human rights treaties ratified by Tajikistan. It acknowledged efforts made by Tajikistan to fight human trafficking. Belarus made recommendations.

70. Spain acknowledged the steps taken by Tajikistan to strengthen its legal human rights framework. It positively recognized Tajikistan's accession to most of the international human rights treaties. Spain made recommendations.

71. Afghanistan acknowledged Tajikistan's achievements, such as the enhancement of the role of women, the adoption of a programme for combating trafficking in persons, the poverty-reduction strategy and calls to reform the State administration. It suggested that Tajikistan, inter alia, adopt measures to alleviate the mass labour migration of the male population and the increase in the number of women-headed households and take stock of the provisions of the UNCT report framing the significance in the decline in the relative poverty rate in 2009, while extreme poverty was alleged to have remained almost unchanged compared to 2007.

72. Sweden noted positively the status of ratifications of core human rights treaties, but requested information on plans to better implement treaty body recommendations. Sweden requested more information on plans to further strengthen the independence of the judiciary. It also sought Tajikistan's view on issues relating to access to sources of information, including the Internet. Sweden made recommendations.

73. Indonesia applauded Tajikistan on its high rate of ratification of human rights instruments, and its efforts to promote ethnic and gender equality. However, it expressed concern that patriarchal traditions and stereotypes fostered discrimination against girls. It noted that the fight against torture remains a challenge. Indonesia appealed for further assistance to Tajikistan by the international community. It made recommendations.

74. Argentina acknowledged Tajikistan's efforts regarding human rights issues, such as the adoption of the National Plan of Action for Children (2003-2010), as well as education about human rights. It encouraged Tajikistan to continue to pay attention to that area. Argentina made recommendations.

75. Austria requested Tajikistan to elaborate on the measures taken to eliminate practices such as the detention of children below the age of 14, the lack of juvenile courts and punitive measures. It also enquired whether additional measures were planned to tackle child labour in agriculture and other informal sectors. Finally, Austria asked what efforts had been undertaken to strengthen freedom of expression and to guarantee the independence of the media. It made recommendations.

76. Uruguay acknowledged Tajikistan's adherence to the Convention on the Rights of the Child and its Optional Protocols, ILO Convention No. 82 and the Convention on the Elimination of All Forms of Discrimination against Women, without reservations. It noted the lack of awareness of women's rights, as well as the re-emergence of patriarchal attitudes and stereotypes in rural areas. It acknowledged the campaigns to protect children from ill-treatment, and the establishment of rehabilitation centres for women and children. It was concerned that such activities were limited to certain regions, that corporal punishment was not prohibited by law and was used to discipline and that child labour was widely used. Uruguay made recommendations.

77. The United Kingdom of Great Britain and Northern Ireland commended Tajikistan for its commitments to human rights, but underlined that progress was needed, particularly regarding the independence of the media and freedom of religion. It also noted that the correctional system needed urgent reform and that the penal reform required more than the construction of new prisons. It remained concerned by the persistence of torture in pretrial detention facilities. It made recommendations.

78. Morocco enquired about Tajikistan's position on the gender approach in development policies and requested more information on the Youth Programme and its implementation. Morocco made recommendations.

79. Romania noted efforts to combat poverty and commended Tajikistan on the ratification of the ICCPR and the law introducing a moratorium on the death penalty. It also noted positively the adoption of laws on women's empowerment and the increasing number of women in public office. However, it pointed to implementation deficiencies reported by treaty bodies and expressed concern about corporal punishment. Romania made recommendations.

80. Malaysia commended Tajikistan for its cooperation with OHCHR and the treaty bodies. It also noted the Government's efforts to enhance the socio-economic development of its people, evidenced by its national poverty-reduction strategies and the strong emphasis on social infrastructure, public health care and education. Malaysia made recommendations.

81. Pakistan was encouraged to note that the Constitution guarantees the rights and freedoms of every person. It noted that poverty poses a major challenge. It acknowledged the steps taken to provide equal opportunities for men and women, and hoped that the State programme for the education, selection and placement of capable women in leadership positions would ensure wider participation of women in the development of society. Pakistan made recommendations.

82. Latvia noted with appreciation Tajikistan's openness and willingness to cooperate with special procedures mandate holders and made a related recommendation.

83. Costa Rica congratulated Tajikistan for the significant reduction in poverty in the last years, the implementation of human rights education and the moratorium on the death penalty. However, it expressed concern that the death penalty provision is still in force, women still faced discrimination, in practice, and at reports of a high incidence of torture and ill treatment. Costa Rica made recommendations.

84. Mexico acknowledged the steps taken by Tajikistan to promote universal access to health and public education, as well as to guarantee food security. In particular, it commended the decision to apply a moratorium on the death penalty and hoped that it would be promptly abolished. Mexico made recommendations.

85. Thailand commended Tajikistan for its cooperation with treaty bodies and the Human Rights Council mechanisms. It also recognised the Government's efforts to protect the rights of vulnerable groups, and appreciated its guarantee of free health-care provision and the promulgation of the HIV/AIDS Act. Thailand called on the international community to assist Tajikistan to promote and protect human rights. It made recommendations.

86. Belgium noted that the judiciary system was not provided with sufficient guarantees of independence. Belgium made recommendations.

87. Italy requested the Tajik delegation to elaborate on the alleged abuses and violations of human rights during the conscription process and when young people were already serving the military. It shared concerns expressed by the Special Rapporteur on freedom of religion or belief. Italy made recommendations.

## **II. Conclusions and/or recommendations\*\***

88. **The recommendations formulated during the interactive dialogue and listed below have been examined by and enjoy the support of Tajikistan:**

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\*\* Conclusions and recommendations have not been edited.

- 88.1. Consider issuing a standing invitation to Special Procedures (Brazil); Extend a standing invitation to all Special Procedures (Spain); Issue a standing invitation to all special procedures of the United Nations Human Rights Council (Romania); Consider extending a standing invitation to all Special Procedures of the Human Rights Council (Latvia);
- 88.2. Cooperate more closely with United Nations special procedures and treaty bodies in order to shorten the delay in presenting reports and implementing their recommendations (Sweden);
- 88.3. Put in place a National Human Rights Commission (Algeria);
- 88.4. Begin the accreditation process, as the Paris Principles play an important role in the promotion and protection of international human rights standards at the national level (Hungary);
- 88.5. Ensure that the structures and functions of the Human Rights Ombudsman Institution are in accordance with the Paris Principles (Poland ); Ensure that its NHRI accords in full with the Paris Principles (Australia);
- 88.6. Strengthen and improve the capacity and independence of the Ombudsman (Norway);
- 88.7. Take actions aimed at raising the level of the Ombudsman's Office to that of a National Human Rights Institution in line with the Paris Principles, in order to guarantee its autonomy when discharging its functions (Spain);
- 88.8. Continue with its commendable efforts to promote and protect human rights and freedoms (Sri Lanka);
- 88.9. Engage civil society in the UPR follow-up process (Poland);
- 88.10. Strengthen the protection and promotion of women's rights through appropriate legislative and policy measures and by addressing discriminatory social and cultural attitudes and practices (Norway);
- 88.11. Further expand the educational activities in the field of human rights with the focus on law enforcement, civil service and vulnerable groups (Turkey);
- 88.12. Establish a mechanism to follow up and evaluate the implementation of the mentioned national plan of action for children for the period 2003–2010 (Turkey);
- 88.13. Strengthen efforts to fulfil its obligations under CEDAW and CRC (Australia);
- 88.14. Continue its work for the clarification of all operational aspects of specific laws regarding gender equality and improve the implementation of these measures (Romania);
- 88.15. Take into account gender equality in all areas, in view of providing equal access to decision-making positions within the government as well as to education, justice and land (Switzerland);
- 88.16. Continue strengthening the measures it is taking to promote gender equality and the empowerment of women (Japan);
- 88.17. Further legislative and policy measures aimed at ensuring gender equality and combating violence against women and girls (Brazil);

- 88.18. Implement policies to ensure women's equality with regard to working positions and the home and seek to protect women from all forms of violence (Costa Rica);
- 88.19. Adopt political measures to increase the representation of women in decision-making and high-level posts in the public administration (Spain);
- 88.20. Continue its efforts to raise the level of gender awareness not only among public servants at all levels of the government, but also among community at large (Indonesia);
- 88.21. Carry out national programs to disseminate and create awareness among women in the country, related to all the aspects regulated by CEDAW (Uruguay);
- 88.22. Implement comprehensive measures, in particular in rural areas, to initiate a change with regard to the widely accepted subordination of women and its stereotypes in the country (Uruguay);
- 88.23. Bring the definition of torture in domestic law into line with the definition in article 1 of CAT (Czech Republic); Incorporate a definition of torture into its domestic law, in line with article 1 of CAT (Australia);
- 88.24. Establish a legal definition of torture in line with article 1 of CAT, and independent mechanisms to investigate and prosecute related cases (Canada);
- 88.25. Strengthen measures to combat and prevent torture and other cruel and degrading treatments (Brazil);
- 88.26. Adopt and implement efficient measures to prevent torture and other forms of ill-treatment, and ensure prompt and credible investigations into all allegations of torture including deaths in custody (Slovakia);
- 88.27. Continue its efforts in harmonizing its Criminal Code, particularly those articles related to torture, in line with the relevant international human rights instruments (Indonesia);
- 88.28. Take concrete actions to eradicate the use of torture, including through strengthening relevant provisions in national legislation (United Kingdom of Great Britain and Northern Ireland);
- 88.29. Evaluate the possibility of increasing its efforts to prevent, criminalize and eliminate all forms of violence against women, including measures aimed at the promotion of their rights and the elimination of patriarchal and discriminatory stereotypes (Argentina);
- 88.30. Treat violence against women as a criminal offence, and enact the existing draft Bill on Social and Legal Protection against Domestic Violence (Czech Republic);
- 88.31. Enact the draft bill on Social and Legal Protection against Domestic Violence and develop a national plan to prevent and eradicate violence against women (Canada);
- 88.32. Adopt legislative measures to criminalize and prosecute gender violence at public instances, as well as establish shelters for women victims of violence and train staff involved into investigations of those cases (Spain);
- 88.33. Implement the recommendations made by the Special Rapporteur on violence against women in 2008 (Spain);

- 88.34. Enact the legislation as it will help to protect the women of Tajikistan from domestic violence, in line with CEDAW and ICCPR, to which Tajikistan is a signatory (Indonesia);
- 88.35. Adopt and implement efficiently a law against domestic violence (Switzerland);
- 88.36. Intensify measures in comprehensively addressing the problem of human trafficking and violence against women, including by, among others, implementing social, educational and legal safeguards, public awareness campaigns to sensitize the community and to continue building law enforcement capabilities and capacities (Malaysia);
- 88.37. Enforce the Trafficking in Persons Act and intensify international and bilateral cooperation in order to further curb trafficking (Czech Republic);
- 88.38. Continue the efforts in view of the realization of the 2011–2013 programme on combatting human trafficking (Algeria);
- 88.39. Effectively combat human trafficking and swiftly investigate the whereabouts of kidnapped persons in particular (Turkey);
- 88.40. Continue to increase efforts to prevent and fight trafficking in persons, including by adopting measures necessary for the prosecution and punishment of perpetrators of trafficking in persons, and to ensure the provision of the access to shelter and rehabilitation to victims (Belarus);
- 88.41. Continue to fight against human trafficking with the cooperation of international organizations (Bangladesh);
- 88.42. Continue its ongoing efforts to improve the legal and regulatory framework to prevent, detect and suppress activities connected with trafficking in persons (Pakistan);
- 88.43. Continue its ongoing cooperation with neighbouring countries to combat the illicit drug trade (Pakistan);
- 88.44. Undertake further and concerted efforts, including changes in legislation and administrative procedures, to strengthen the effectiveness and independence of the judiciary (Sweden);
- 88.45. Establish the necessary measures and legislation to reform the judicial system in conformity with international standards on justice, including a juvenile justice system, and, in particular, guarantee the tenure of judges and magistrates (Mexico);
- 88.46. That substantive reform of the penal system is pursued as a priority by the Government (United Kingdom of Great Britain and Northern Ireland);
- 88.47. Take further measures to increase the capacity of penitentiary institutions and better promote the prisoners' rights, among others, the right to food and the right to safe water and sanitation (Morocco);
- 88.48. Ensure prompt, impartial and full investigations into all complaints and all instances of deaths in custody (Czech Republic 4); Ensure impartial investigations into all instances of death in custody (Poland);
- 88.49. Establish an independent complaints mechanism for persons held in custody (Poland);

- 88.50. Ensure that all births are registered and facilitate access to birth registration services including by reducing its cost (Uruguay);
- 88.51. Take all measures in order to protect and encourage the freedom of expression and make the limitations to the freedom of expression to comply with the international obligations (Switzerland);
- 88.52. Guarantee freedom of religion and worship, also by fighting all forms of discrimination against people belonging to religions minorities (Italy);
- 88.53. Ensure that abusive child labour practices are eliminated and promote access to education of these children in a vulnerable situation (Uruguay);
- 88.54. Continue efforts to monitor the cotton harvest in order to prevent forced labour and to take law enforcement efforts against trafficking (USA);
- 88.55. Incorporate in the domestic law the explicit prohibition of child labour; adopt an array of measures to guarantee inclusive education and the non-discrimination of children with disabilities in the regular education system (Spain);
- 88.56. Continue efforts to expand the right to education, especially in connection with the education of children (Saudi Arabia);
- 88.57. Develop programs allowing girls to stay in the educational system and avoid early drop-outs and the same should be provided for children with disabilities (Costa Rica);
- 88.58. Devote increased attention to spreading a human rights culture through educational institutions and media (Saudi Arabia);
- 88.59. Consolidate efforts of the systematic integration of human rights education and training in the school system with specific and updated programs for the State personal and the security agents (Morocco);
- 88.60. Continue its efforts to fight poverty and ensure sustainable development, and to implement at the maximum extent the national development strategy for 2006-2015 and the national poverty reduction strategy for 2010-2012 (Russian Federation);
- 88.61. Continue the implementation of measures aimed at fighting poverty as well as enhancing the general well-being of its citizens by ensuring their economic and social rights (Belarus);
- 88.62. Strengthen its ongoing measures to eradicate poverty (Pakistan);
- 88.63. Step up efforts to address the unemployment in particular in the rural regions including through special targeted programs to stimulate economic growth and development (Malaysia);
- 88.64. Continue to improve women's socio-economic condition in line with the recent reforms undertaken by the government (Bangladesh);
- 88.65. Accelerate efforts to improve access to adequate, clean and safe drinking water as well as providing sewage services for the population (Malaysia);
- 88.66. Intensify the programs on combatting HIV/AIDS (Algeria);
- 88.67. Increase its efforts in the area of health, education, guarantee the interest and protect rights of women and children, and promote overall social and economic development (China);

- 88.68. Promote, through its migration service, the civil, political and social rights of migrant workers (Switzerland);
- 88.69. Improve the system of gathering and analysis of statistics regarding migrants' workers and develop a national strategy for migration in the wider framework of the economic development policies of the country (Switzerland);
- 88.70. Continue to seek assistance from the international community, with the support of the UN Country Team and particularly the OHCHR, in strengthening its human rights policies, including ratification of the remaining key human rights conventions and implementation of the UPR recommendations that Tajikistan will accept (Thailand).
89. The following recommendations enjoy the support of Tajikistan, which considers that they are already implemented:
- 89.1. Harmonize domestic legislation in order that statements obtained under torture are not used as evidence in legal proceedings (Mexico);
- 89.2. Envisage an explicit reference to the ban of child's labour in the national law (Morocco);
- 89.3. Consider enacting legal prohibition to the use of corporal punishment (Brazil); Enact legislation to achieve the prohibition of corporal punishment of children in all settings, including in the home and in schools as a matter of priority (Romania);
- 89.4. Adopt legislation to explicitly prohibit all forms of corporal punishment everywhere, launch awareness-raising campaigns on the negative impact of corporal punishment in children; and provide training to teachers, parents, community leaders and penitentiary institutions officers (Uruguay).
90. The following recommendations will be examined by Tajikistan which will provide responses in due time, but no later than the nineteenth session of the Human Rights Council in March 2012. The responses will be included in the outcome report adopted by the Human Rights Council at the same session:
- 90.1. Ratify the Optional Protocol to the CAT and the Optional Protocol to CEDAW (Czech Republic); Consider ratifying the Optional Protocol to the CEDAW as well as the Optional Protocol to the CAT (Poland);
- 90.2. Ratify the Optional Protocol to the CAT and establish an independent national preventive mechanism (France);
- 90.3. Sign and ratify the Optional Protocol to the CAT (Estonia); Consider ratifying the Optional Protocol to the CAT in the near future (United Kingdom of Great Britain and Northern Ireland);
- 90.4. Ratify the Optional Protocol to the CAT and put in place a national preventative mechanism within the framework of the criteria and guarantees undertaken by this instrument (Switzerland);
- 90.5. Ratify OP-CAT; enact and implement laws and administrative measures to combat torture and make a declaration recognizing CAT's competence to receive communications (Costa Rica );
- 90.6. Ratify the Convention on the Rights of Persons with Disabilities (Algeria); Ratify the Convention on the Rights of the Persons with Disabilities in order to further promote and protect the rights of persons with disabilities (Thailand);

- 90.7. **Ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol (Hungary);**
- 90.8. **Consider acceding to the OP-CEDAW, OP-CAT and the CRPD (Brazil);**
- 90.9. **Sign and ratify CRPD and CED (Spain);**
- 90.10. **Ratify the Second Optional Protocol to ICCPR, aiming at the abolition of death penalty (Czech Republic) (Switzerland); Ratify the Second Optional Protocol to the ICCPR (Hungary); Ratify the Second Optional Protocol to ICCPR as soon as possible (Belgium) (France);**
- 90.11. **Ratify without reservations the Optional Protocol to the CEDAW and the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto (Austria);**
- 90.12. **Consider the possibility of ratifying CRPD and its Optional Protocol, CED, OP-CESCR, OP-CAT and OP-ICCPR (Argentina);**
- 90.13. **Ratify the 1954 and 1961 Statelessness Conventions (Germany); Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Slovakia);**
- 90.14. **Positively consider adhering to the Convention related to the Status of Stateless Persons of 1954 and other instruments related to Stateless Persons (Mexico);**
- 90.15. **Ratify remaining core human rights instruments (Slovenia);**
- 90.16. **Become a party to the major international human rights instruments to which it has not yet acceded, such as the International Convention for the Protection of All Persons from Enforced Disappearance, as well as issue a standing invitation to special procedures mandate holders (Japan);**
- 90.17. **Ratify OP-CAT and CED and extend a standing invitation to all HRC Special Procedures (Uruguay);**
- 90.18. **Adopt a new set of criteria for defining disability in accordance with international standards and ensure a higher level of awareness of the population in order to overcome stigmatization (Hungary);**
- 90.19. **Put in place mechanisms aimed at definitely abolishing the death penalty, as a consequence of the moratorium in force since 2004 (Spain);**
- 90.20. **Consider the abolishment of the death penalty (Italy);**
- 90.21. **Complete its consideration of the abolition of the death penalty and move to abolition (United Kingdom of Great Britain and Northern Ireland);**
- 90.22. **Take all necessary measures to abolish the death penalty, including by ratifying the Second Optional Protocol to ICCPR (Australia);**
- 90.23. **Take further steps in order to fully abolish the death penalty and modify the Criminal Code so no crime can be punished by the capital punishment (Hungary);**
- 90.24. **Proceed to all necessary legal and constitutional amendments in order to totally abolish the death penalty (Switzerland);**
- 90.25. **Fully abolish the death penalty (Estonia);**

- 90.26. Abolish the death penalty and consider ratifying the Second Optional Protocol to ICCPR (Romania 1);
- 90.27. Continue its efforts aimed at abolishing the use of the death penalty and continue with the application of the moratorium declared in 2004 (Argentina);
- 90.28. Prohibit corporal punishment of children in all settings and guarantee children's rights to adequate standard of living with special attention to orphans, providing them with access to safe drinking water and education (Slovenia);
- 90.29. Place the Council of Justice as a full independent body outside of the control of the executive (Belgium);
- 90.30. Amend the Criminal Procedural Code to the effect that detention records have to record the identity of the officers involved in detaining a person, in line with Principle 12 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Czech Republic);
- 90.31. Implement the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, otherwise known as the "Bangkok Rules" and seek appropriate assistance in its implementation from relevant UN agencies in order to further improve treatment of female offenders (Thailand);
- 90.32. Ensure that administrative detention is subject to the same right to challenge the lawfulness of detention as other forms of detention (Canada);
- 90.33. Open prisons and detention centres, including temporary and pretrial facilities, to national and international monitoring including from the ICRC (Canada);
- 90.34. Establish regular medical examinations of persons deprived of their liberty, set up an independent complaint mechanism for torture allegations and grant the ICRC full access to closed institutions and ensure that cases of torture will be systematically investigated and perpetrators held accountable (Austria);
- 90.35. Ensure detainees have prompt access to a lawyer, doctor and family members from the time that they are taken into custody, and consider the establishment of an independent health service to conduct examinations of detainees upon arrest and release (Turkey);
- 90.36. Conduct independent, impartial and transparent investigations into all human rights allegations, such as those raised by the Human Rights Committee and Special Rapporteur mandate holders, with a view towards ensuring against impunity (Thailand);
- 90.37. Introduce a separate system of juvenile justice, with particular emphasis on rehabilitation and reintegration activities, stop the application of isolation measures on juveniles and ensure that the minimum age of fourteen for criminal liability in domestic and international law is respected without exceptions (Austria );
- 90.38. Take all necessary measures to guarantee freedom of the press, in particular by repealing the criminalization of defamation so it is only covered by civil law, and introduce simplified and more transparent procedures for obtaining broadcasting licenses (France);

- 90.39. Counter the trend of repressing free speech, including restrictions on media outlets, and take concrete steps to meet its obligations to create an environment that fosters freedom of expression (Norway);
- 90.40. Consider changes in legislation and administrative procedures with the view to facilitate the establishment of independent media (Sweden);
- 90.41. Abolish the criminal provisions on defamation (Canada); Abolish criminal provisions on defamation and insult (Australia);
- 90.42. Revise provisions for slander and insult in the Criminal Code so that the provisions are not used to unduly restrict journalistic activity and considerably shorten the time span given to Government institutions for imparting information to the public (Austria);
- 90.43. Bring the Law on freedom of conscience and religious organizations in compliance with international norms, promote religious tolerance and remove restrictions imposed on religious education, activities of religious organizations and religious dressing (Canada);
- 90.44. Harmonize its domestic legal framework concerning freedom of religion and belief with its international obligations (Slovakia);
- 90.45. Repeal laws that negatively impact religious freedom, such as those that limit the right of women and minors to participate in religious activities, ban some minority religious groups and penalize unauthorized religious activity (United States);
- 90.46. Take steps to ensure that recent amendments to the Criminal Code of 2011 are in compliance with international obligations regarding freedom of assembly and freedom of conscience (Norway);
- 90.47. Ensure that religious and civil society organizations can operate without restrictions in accordance with its international obligations (Norway);
- 90.48. Enact legislation to prohibit, prevent and sanction child labour in all service sectors (Canada);
- 90.49. Eliminate child labour through sanctioning violations of the minimum age standards and strengthening the labour inspectorate (Austria);
- 90.50. Redouble its efforts in the area of poverty eradication and income disparity, including by allocating adequate human and financial resources and providing support and material assistance to the marginalized and disadvantage groups in the country (Malaysia).
91. The recommendations below did not enjoy the support of Tajikistan:
- 91.1. Revise its Law on the Responsibility of Parents for the Upbringing and Education of Children of 2 August 2011, which contains provisions highly endangering the freedom of religion and the aims of the CRC (Germany);
- 91.2. Take additional steps to improve freedom of expression, including dropping remaining charges against Mr. Usmonov, and to resolve without harm to them the cases of journalists, such as Makhmadyusuf Ismoilov (United States);
- 91.3. Remove the ban on wearing the hijab in schools and universities, and the prohibition on teachers under the age of 50 wearing beards (United States);

91.4. **Rescind the 2006 Council of Ulema fatwa against women attending mosques (United States).**

92. **Tajikistan offered the following comments:**

92.1. **Regarding the recommendation No. 91.1, the Law on the Responsibility of Parents for the Upbringing and Education of Children is in line with Tajikistan's international obligations; it expresses the will of the people of Tajikistan and is aimed at protecting the interests of children;**

92.2. **Regarding recommendation No. 91.2, individual human rights violations are not the subject of the universal periodic review process;**

92.3. **Regarding recommendation No. 91.3, no such bans are imposed in Tajikistan;**

92.4. **Regarding recommendation No. 91.4, Tajikistan is a secular country and does not intervene in the decisions of religious institutions.**

93. **All conclusions and recommendations contained in the present report reflect the position of the submitting States and the State under review. They should not be construed as endorsed by the Working Group as a whole.**

## Annex

### Composition of the delegation

The delegation of Tajikistan was headed by Mr. Bakhtiyor Khudoyarov, Minister of Justice of the Republic of Tajikistan, and composed of the following members:

- Mr. Sherkhoni Salimzoda, Prosecutor General of the Republic of Tajikistan;
  - Mr. Zafar Azizov, Chairman of the Council of Justice of the Republic of Tajikistan;
  - Mr. Alizoda Zarif, Ombudsman of the Republic of Tajikistan;
  - Mr. Abdurahim Kholiqov, Chairman of the Committee for Religious Affairs under the Government of the Republic of Tajikistan;
  - Ms. Sumangul Tagoeva, Chairman of the Committee on Women and Family Affairs under the Government of the Republic of Tajikistan;
  - Mr. Ramazon Rahimov, First Deputy Minister of Interior of the Republic of Tajikistan;
  - Ms. Latofat Sharipova, Deputy Minister for Labour and Social Security of the Republic of Tajikistan;
  - Mr. Muzaffar Ashurov, Head of Department of the constitutional foundations of the rights of citizens of the Executive Office of the President of the Republic of Tajikistan;
  - Mr. Khaydarali Kadyrov, Chief Specialist of the constitutional foundations of the rights of citizens of the Executive Office of the President of the Republic of Tajikistan;
  - Mr. Manuchehr Mahmudov, First Secretary of the Treaty and Law Department of the Ministry Foreign Affairs of the Republic of Tajikistan.
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