



**International Covenant on
Civil and Political Rights**

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**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Second periodic report

Tajikistan*

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Second periodic report of Tajikistan on implementation of obligations under the International Covenant on Civil and Political Rights

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I. General information

1. This report is submitted in accordance with article 40, paragraph 1, of the International Covenant on Civil and Political Rights and has been drawn up in accordance with the Guidelines concerning the form and contents of periodic reports from States parties. The report covers the period 2005–2010 and contains information on the human rights situation since submission of Tajikistan's initial report (CCPR/C/TJK/2004/1) in 2005. It consists of four sections. The first section considers the human rights situation in Tajikistan. The second section gives an overview of legislation on civil and political rights during the period 2005–2010, and the laws and regulations adopted. The third gives information on the situation concerning the rights proclaimed in the different articles of the Covenant. The fourth section describes the measures taken to implement the conclusions and recommendations of the Human Rights Committee.

2. The report was drawn up by a working group of the Government Commission on International Human Rights Obligations. The working group included representatives of the Office for Constitutional Guarantees of Citizens' Rights of the Executive Office of the President (working group leader), the Supreme Court, the Office of the Commissioner for Human Rights, the Ministry of Foreign Affairs, the Ministry of Justice, the Office of the Procurator-General, the Ministry of Internal Affairs, the National Legislation Centre in the Office of the President and other ministries and departments.

3. During the preparation of the report, the working group held regular consultative meetings with civil society organizations. The draft report was discussed at public hearings and sent for consideration to State bodies; recommendations were received both from the State bodies and from civil society institutions.

4. The report preparation process was given broad coverage in the country's media.

II. Specific provisions

A. Human rights legislation adopted between 2005 and 2010

5. The following legislation was adopted between 2005 and 2010.

2005

- Status of Members of the Armed Services Act
- Act on State guarantees of equal rights for men and women and equal opportunities in the exercise of such rights
- HIV/AIDS Act
- Act on the Border Force of the State National Security Committee
- State Forensic Investigation Act
- Anti-corruption Act
- Biosafety Act
- Procuratorial Agencies Act

2006

- Act on protection of the population against tuberculosis

- State Civil Registration Act

2007

- Code of Administrative Procedure
- Regularization of Traditions, Festivals and Ceremonies Act
- Voluntary Associations Act
- Investment Act
- Joint-Stock Companies Act
- Physical Culture and Sport Act
- Human Organ and/or Skin Transplant Act
- Act on social protection for citizens exposed to radiation as a result of the disaster at the Chernobyl nuclear power plant
- Civil Service Act

2008

- Code of Civil Procedure
- Arbitration Tribunals Act
- Right of Access to Information Act
- Commissioner for Human Rights Act
- Community Action Groups Act
- National Security Agencies Act
- Enforcement Proceedings Act
- Government Financial Control and Anti-corruption Agency Act
- Social Services Act
- Accounts Indicator Act
- Commercial Confidentiality Act
- State Procurement of Public Goods and Services Act

2009

- Code of Administrative Offences
- Code of Criminal Procedure
- Act on public participation in ensuring social order
- Town and Village Self-government Act
- Freedom of Conscience and Religious Associations Act
- Subsistence Level Act
- Laws and Regulations Act
- Act on medical and social protection for diabetics
- Act on donation of blood and blood components

- Act on the State language of the Republic of Tajikistan

2010

- Act on amnesty of individuals and legal persons for money-laundering
- Act on social protection for persons with disabilities
- Environmental Education Act
- Contributory and State Pensions Act
- Amnesty laws from 2005 to 2010

2011

- Act on procedure and conditions for detention in custody of suspects, accused persons and defendants
- Police Investigations Act
- Environmental Information Act
- Other laws and regulations
- Judicial Reform Programme approved by the Presidential Decree of 23 June 2007
- Anti-corruption Strategy 2008–2012, approved by Government Decision No. 34 of 26 January 2008
- Government Crime Prevention Programme 2008–2015, approved by Government Decision No. 543 of 2 January 2007
- National Strategy to Promote the Role of Women for the period 2011–2020

On 23 July 2009, Parliament introduced amendments to the Constitutional Act on the Constitutional Court, fundamentally broadening the Court's mandate and the range of persons allowed to apply to it.

6. The Code of Administrative Procedure, which entered into force on 1 May 2007, governs the preparation, adoption and implementation of administrative law instruments, the examination of administrative petitions and complaints, the conduct of administrative court proceedings, and the cooperation of administrative bodies. The aim of the Code is to ensure that the administrative bodies respect the rule of law, human and civil rights and freedoms, and the interests of society, the State and legal entities.

7. The country's first Commissioner for Human Rights was designated on 27 May 2009, under the Commissioner for Human Rights Act, adopted in 2008. The Act aims mainly at strengthening the constitutional guarantees of the protection of human and civil rights and freedoms by the State, and helping to ensure that such rights and freedoms are implemented and respected by State authorities and local government bodies in towns and villages (djamoats), their officials, and the staff of enterprises, institutions and organizations, regardless of their organizational and legal form.

8. The new Code of Criminal Procedure, which was adopted on 3 December 2009 and entered into force on 1 April 2010, establishes a new procedure for criminal proceedings, with the function of authorizing pretrial detention and other sanctions now being exercised by the courts.

9. The Right of Access to Information Act adopted on 18 June 2008 further contributed to the country's democratization by ensuring transparency in the activity of all Government bodies. Under the Act, any citizen is entitled to request State bodies to provide information,

which they are obligated to make available, in the form desired by the applicant, within one week. If the reply necessitates the examination of additional material, the time limit is extended to one month. Unless the information requested is a State secret, a civil servant refusing to provide it is subject to sanction, including punishment under criminal law.

10. The Presidential Decree of 7 February 2009 on official responses to critical and analytical materials in the media was issued to improve implementation standards and increase the media's role in the political, social and economic life of society. Heads of Government agencies are required under the Decree to take prompt steps in response to criticisms and suggestions made in the media. Furthermore, heads of ministries, departments and local authorities are required to hold a press conference on their activities every three months.

11. The State Financial Audit and Anti-Corruption Agency in the Office of the President was set up by the Presidential Decree of 10 January 2007 to bolster the fight against corruption. Its main tasks consist in the prevention, detection and repression of corruption-related offences, inquiry and investigation into crimes involving corruption, and monitoring of public finances.

12. The Anti-Corruption Strategy 2008–2012, approved by the Government Decree of 2 January 2007, is an integral part of the State Crime Control Programme for the period 2008–2015. It aims to protect human and civil rights and freedoms and the legal interests of individuals, society and the State from corruption; to improve the legal and regulatory framework for the prevention, detection and repression of corruption-related offences; to optimize procedures, methods and means for countering corruption; to make greater use of preventive measures in combating corruption; to collaborate with civil society organizations; and to broaden and step up Tajikistan's international cooperation in the area of combating corruption.

13. The National Centre for Legislation in the Office of the President was set up by Presidential Decree of 17 March 2009 with the aim of improving legislation and making legislative activity more effective. There are regulations governing its activities, and its main functions are:

- (a) Draft formulation of legislative improvements and bills and their submission to the President for consideration, according to established procedures;
- (b) Methodological organization of the preparation of draft legislation, and development, compilation and introduction of advanced technologies for the preparation of draft legal and regulatory instruments;
- (c) Legal review of bills submitted for consideration by the Majlis-i Namoyandagon (Assembly of Representatives, the lower chamber of parliament);
- (d) Development of priority goals for legal research related to legislative activity;
- (e) Comparative studies on the legislation of Tajikistan and of other States and international legal instruments ratified by Tajikistan;
- (f) Preparation and publication of practical commentaries on legal codes and other legal and regulatory instruments.

B. Projects developed in the area of human rights

14. The Act on State protection of parties to criminal proceedings, adopted in 2011, offers a range of measures including security and social support arrangements, aimed at the protection of victims, witnesses, suspects, accused persons, defendants, convicted offenders, exculpated suspects, their defence counsel and legal representatives, civil

claimants and defendants, experts, specialists and other participants in criminal proceedings; and lays down a framework and procedures for the provision of such assistance. The forms of security provided comprise personal protection, protection of residence and property, provision of means for personal protection and communication, secrecy of personal information on the protected individuals, temporary change of residence, alteration of documents, change of appearance and relocation to a new place of work or study.

15. In connection with the adoption of the new Code of Criminal Procedure, amendments have been made to the Constitutional Act on procuratorial bodies to comply with recommendations formulated by the Special Rapporteur on the Independence of Judges and Lawyers, the Human Rights Committee and the Committee against Torture. The relevant bill contains safeguards related to human rights and fundamental freedoms in the area of criminal and civil justice.

16. A number of legislative amendments were drawn up in connection with the adoption of the Commissioner for Human Rights Act in order to harmonize the country's legislation. They include amendments to the Penal Enforcement Code giving the Commissioner power to obtain unhindered access to pretrial detention centres and places of deprivation of liberty and to hold discussions with detainees and prisoners in private and without any limitation as to their duration; furthermore, prisoners' correspondence may not be censored.

17. A working group on amendments and additions to family legislation has been created in connection with the introduction of the new institution of judicial chambers for family affairs in the regular courts. The questions to be considered will, in particular, relate to the jurisdiction of the chambers and the issues that could be considered by family courts.

18. A working group on amendments to the Criminal Code set up by presidential decree in May 2009 has drafted a bill to include in the Code a specific article on torture that fully satisfies the requirements of article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

19. In April 2010, the President set up a working group to study the social and legal issues related to the abolition of capital punishment from the country's legislation. The working group, which includes the heads of the law enforcement agencies and the Armed Forces, as well as officials from the Executive Office of the President, has drawn up and is implementing a plan of measures in line with its mandate.

20. A parliamentary working group is in the process of finalizing the bill on social and legal protection against domestic violence.

21. In light of the further strengthening of State guarantees of freedom of speech and the independence of the media, Parliament is currently considering a bill on the media.

22. A presidential decree of 3 January 2011 approved the Judicial Reform Programme for the period 2011–2015, which further strengthens the judiciary, gives the courts a greater role in protecting human rights and freedoms and continues to improve the legal system. In particular, the Programme includes the development and adoption of an act on legal aid and restrictions on the consideration of cases by the Supreme Court and the Higher Economic Court.

III. Detailed description of the situation concerning the rights proclaimed in the Covenant

Right of self-determination (art. 1)

Recognition of the right of self-determination

23. The right of self-determination is a precondition for the full enjoyment of human rights. As a Member State of the United Nations, Tajikistan respects and supports this right in accordance with the norms of international law. The Declaration of Independence of the Republic of Tajikistan, adopted by the Supreme Soviet on 9 September 1991, proclaimed the people's right to self-determination and the State's commitment to abide by international law, international obligations and the principles for establishing a State governed by the rule of law.

Freedom to dispose of natural wealth and resources

24. The Government actively promotes the realization of the freedom to dispose of natural wealth and resources. Under article 13 of the Constitution, the soil, subsoil, water, airspace, and fauna and flora are all the exclusive property of the State, which acts as the guarantor of their efficient use in the interests of the people.

Promotion of realization of the right to self-determination

25. The territory of Tajikistan is indivisible and inviolable. Tajikistan consists of Gorno-Badakshan Autonomous Province, the provinces, cities and districts.

26. The State guarantees the sovereignty, independence and territorial integrity of Tajikistan. Any propaganda or actions aimed at dividing the unity of the State are banned.

27. Chapter 7 of the Constitution affirms the legal status of Gorno-Badakshan Autonomous Province, according to which it is an integral and indivisible part of the Republic of Tajikistan. Its legal status is further affirmed in the Constitutional Act on the legal status of Gorno-Badakshan Autonomous Province. Under the Constitution, the Assembly of People's Deputies of Gorno-Badakshan Autonomous Province has the right to initiate legislation.

28. The Constitution states that Russian is the language of communication between ethnic groups. All ethnic groups and nationalities living in the country have the right freely to use their mother tongue. This provision is further affirmed in other chapters of the Constitution and in legislation. Specifically, article 88 of the Constitution provides that court proceedings shall be conducted in the State language or the language of the majority of the local population. Persons who are not proficient in the language of the proceedings shall be provided with the services of an interpreter. Article 18 of the Code of Criminal Procedure states that a participant in court proceedings who does not speak the language in which the proceedings are conducted is entitled to make statements, give evidence, submit petitions, consult the case file and address the court in his or her mother tongue and to use the services of an interpreter, as provided for in the Code, failing which, the proceedings shall be conducted in the language of the majority of the local population. Under article 7 of the Education Act, the State guarantees its citizens the right to choose their language of instruction, providing for education to be given in the State language and, in areas with large non-Tajik ethnic populations, in the native language of those populations, as far as the capacity of the education system allows. The freedom to choose the language of instruction in general educational schools is ensured by setting up the required number of classes and groups and providing the conditions for them to function. Legislation on language and State

educational standards govern teaching of the State language in all schools, irrespective of their organization or legal status. All schools also provide teaching of the Russian language as the language of communication between ethnic groups, and of a foreign language as a means of acquiring knowledge of humanity's scientific and cultural heritage.

Implementation of the norms of the Covenant in domestic legislation, prohibition of discrimination (art. 2)

Ensuring respect for the rights recognized in the Covenant, without discrimination

29. Practically all the norms of the Covenant are implemented in domestic legislation. The fundamental provisions are affirmed first and foremost in the Constitution.

30. Article 19 of the Constitution states that Tajikistan guarantees judicial protection to all. Everyone has the right to request that his or her case be examined by a competent, independent and impartial court established by law. No one may be detained or held in custody without legitimate grounds. An individual is entitled to the services of a lawyer from the moment he or she is detained (Covenant, arts. 2 and 14).

31. Under article 18 of the Constitution, the inviolability of the person is guaranteed by the State. No one may be subjected to torture, or cruel or inhuman treatment. It is prohibited to force a person to take part in medical or scientific experimentation (Covenant, art. 7).

32. Article 35 of the Constitution provides that everyone has the right to work and to choose his or her profession or occupation and the right to labour protection and to social protection against unemployment. Remuneration for work must not be lower than the minimum wage. No restrictions are permitted in labour relations. Equal pay must be paid for equal work. No one may be subjected to compulsory labour except in the cases prescribed by law. The employment of women and children in heavy or underground work or in work in harmful conditions is prohibited (Covenant, art. 8).

33. According to article 5, human beings and their rights and freedoms are the supreme value. Life, honour, dignity and the other inherent human rights are inviolable. Human and civil rights and freedoms are recognized, observed and protected by the State. Further, under article 14, human and civil rights and freedoms are regulated and protected by the Constitution and laws of the Republic and by international legal instruments recognized by Tajikistan. Human and civil rights and freedoms shall be exercised directly. They determine the purpose, content and enforcement of laws, drive the agenda of the legislature, the executive and local authorities, and are protected by the judiciary. Civil rights and freedoms may be restricted only in order to uphold the rights and freedoms of other citizens, maintain social order and defend the constitutional system and territorial integrity of Tajikistan (Covenant, art. 9).

34. Article 33 of the Constitution states that the family is protected by the State as the foundation of society. Everyone has the right to found a family. Men and women who have attained marriageable age have the right freely to enter into marriage. Spouses have equal rights in family relations and the dissolution of marriage (Covenant, arts. 17 and 23).

35. Under article 26 of the Constitution, everyone has the right independently to determine his or her attitude to religion, to profess either individually or in community with others any religion or none, and to take part in religious services, ceremonies and rites (Covenant, art. 18).

36. Under article 34, mothers and children enjoy the special protection and patronage of the State. Parents are responsible for their children's upbringing, and children who have reached the age of majority and are fit to work are required to care for their parents. The

State provides for the protection of orphaned and disabled children and for their upbringing and education (Covenant, art. 24).

37. In accordance with article 27 of the Constitution, citizens are entitled, directly or through representatives, to participate in political life and the governing of the State. Citizens have equal rights to enter public service. On reaching 18 years of age, citizens are entitled to participate in referendums, to vote and, on reaching the age established by the Constitution, constitutional laws and legislation, to stand for election (Covenant, art. 25).

38. Article 17 states that all persons are equal before the law and the courts. The State guarantees the rights and freedoms of all, irrespective of ethnic origin, race, sex, language, religion, political opinions, education, social status or property. Men and women have equal rights (Covenant, art. 26).

39. The provisions of the Covenant are also expressed in the civil, family, labour, criminal and penal enforcement codes and the Code of Criminal Procedure, as well as in other legislation.

40. Discrimination is prohibited in the first instance by the Constitution, which, in article 17, states that all persons are equal before the law and the courts. The State guarantees the rights and freedoms of all, irrespective of ethnic origin, race, sex, language, religion, political opinions, education, social status or property.

41. Article 30 of the Constitution bans propaganda and agitation that incite social, racial, religious or linguistic enmity and hatred.

42. Chapter 19 of the 1998 Criminal Code, which covers offences against the constitutional rights and freedoms of the individual and the citizen, specifies in article 143 what constitutes a criminal violation of the equal rights of citizens, namely:

(a) A direct or indirect breach or restriction of the rights and freedoms of the person and the citizen on grounds of sex, race, ethnic origin, language, social origin, personal, material or official status, place of residence, attitude to religion, beliefs or membership of a political party or voluntary association that damages the rights and legitimate interests of the individual is punishable by a fine of between 200 and 500 times the minimum wage or by deprivation of liberty for up to 2 years;

(b) The same conduct, when committed by an individual using violence or the threat of violence or abusing his or her official position, is punishable by deprivation of liberty for between 2 and 5 years, which may be accompanied by deprivation of the right to hold certain positions or engage in certain activities for up to 3 years.

In addition, in Chapter 21 of the Criminal Code, covering offences against public safety, article 189 defines criminal liability for incitement to ethnic, racist, regional or religious enmity:

(a) When committed publicly or with the use of the mass media, acts intended to incite ethnic, racial, regional or religious enmity or discord, insult national dignity or promote exclusivity on the basis of citizens' attitude to religion or ethnic, racial or regional origin are punishable by restriction or deprivation of liberty for up to 5 years;

(b) The same acts, when committed repeatedly, with the use or threat of violence, or abuse of an official position, by a group of persons or by a group of persons acting by prior agreement are punishable by deprivation of liberty for between 5 and 10 years, which may be accompanied by forfeiture of the right to hold certain positions or engage in certain activities for up to 5 years;

(c) The acts referred to in article 189, paragraphs 1 and 2, when committed by an organized group, or inadvertently resulting in death or other serious consequences or the

forcible removal of a citizen from his or her permanent residence, or constituting a dangerous or particularly dangerous repeat offence, are punishable by deprivation of liberty for between 8 and 12 years, which may be accompanied by forfeiture of the right to hold certain positions or engage in certain activities for up to 5 years.

43. Furthermore, issues related to the prohibition of discrimination on the grounds of race, ethnic language and belief are also addressed in many acts and legislation, including the criminal, civil, labour and family codes, and the acts on citizenship, migration, employment promotion, freedom of conscience and religious organizations, and the legal status of foreign nationals.

44. In addition to the legislation, a large number of regulations also apply to matters addressed in the Covenant.

45. Apart from the traditional protection mechanisms and other practical means of protecting human rights and freedoms, there are also: (a) the Commissioner for Human Rights – the Ombudsman; (b) the Central Commission on Elections and Referendums (considers violations of rights during elections and referendums); (c) the Civil Service Department in the Office of the President (protects the rights and interests of civil servants in line with article 8, paragraph 2, of the Civil Service Act). The judiciary has been strengthened through the adoption of a number of legal instruments, including the Code of Civil Procedure; the Code of Economic Legal Procedure; the Criminal Code; the Code of Administrative Offences; and the acts on sentence enforcement, on arbitration tribunals, and on the Commissioner for Human Rights; and through amendments and additions to the Constitutional Act on the Constitutional Court. Under the new Code of Criminal Procedure, many of the regulatory powers relating to the conduct of criminal proceedings, including those concerning remand in custody, house arrest, house searches, seizure of property and temporary suspension, were transferred to the courts as of 1 April 2010. These changes broaden the courts' area of competence and increase their responsibility. It is therefore necessary to take special measures to raise the requirements for the selection of judges and to upgrade their professional capabilities. The Commissioner for Human Rights Act was adopted on 20 March 2008, establishing the Office of the Commissioner for Human Rights and specifying the procedure for his or her appointment and dismissal, mandate and methods of work in protecting and promoting human rights in Tajikistan. The main role and mandate of the Commissioner for Human Rights are described in articles 11 and 12 of the Act as helping to: (a) ensure respect for human and civil rights and freedoms; (b) restore violated human and civil rights; (c) ensure the improvement of domestic legislation on human and civil rights and freedoms; (d) promote citizens' legal awareness of issues related to the protection of human and civil rights and freedoms, the forms of such protection and related methods; (e) encourage cooperation among State bodies in protecting human and civil rights and freedoms; and (f) promote the development and coordination of international cooperation in the protection of human and civil rights and freedoms.

46. In order to fulfil his or her role, the Commissioner for Human Rights collects and analyses information received from Government authorities; local government bodies; institutions, organizations and enterprises irrespective of their organizational and legal form; individuals; and the media. In examining a complaint, the Commissioner may: (a) freely visit all Government authorities, local government bodies, and institutions, organizations and enterprises, irrespective of their organizational and legal form, voluntary organizations, penal enforcement facilities, and all military units and other military formations in the national territory; (b) request and receive necessary information, documents and material from the heads and staff of Government authorities, local government bodies, and institutions, organizations and enterprises, irrespective of their organizational and legal form; (c) receive explanations on issues requiring clarification during the review of complaints from the heads and staff of such entities, but not from

judges regarding court decisions; (d) examine independently or jointly with competent State bodies, officials or civil servants the activity of State bodies, local government bodies, penal enforcement facilities and institutions, organizations or enterprises, irrespective of their organizational and legal form, in respect of their compliance with human rights; and (e) commission competent State bodies and academic institutions to conduct expert research on issues arising in the course of examination of a complaint, as well as ensure immediate access for citizens to heads and other staff of State bodies, local government bodies, institutions, organizations and enterprises, irrespective of their organizational and legal form, and voluntary associations, and for military personnel to put complaints to officers.

47. The Commissioner for Human Rights has the right to appoint the managerial staff of remand centres and the administration of both remand centres and places of deprivation of liberty in the country. He or she may participate in the sessions of the Majlis-i Milli (the upper chamber of parliament) and the Majlis-i Namoyandagon, Government meetings, and meetings of State bodies.

Ensuring equal rights for men and women (art. 3)

48. The State guarantees the rights and freedoms of all, irrespective of ethnic origin, race, sex, language, religion, political opinions, education, social status or property.

49. Equality between men and women is guaranteed in article 17 of the Constitution and regulated by the criminal, civil, family and labour codes, the Code of Criminal Procedure, the Reproductive Health and Reproductive Rights Act and other national laws and regulations.

50. Tajikistan was one of the first countries of the Commonwealth of Independent States to ratify the Convention on the Elimination of All Forms of Discrimination against Women (on 26 June 1993), undertaking thereby to protect women's rights from violation. To uphold the principles proclaimed in the Convention, Tajikistan has provided for the implementation of its norms and provisions through legislation.

51. Legislation provides for the uniform legal regulation of all relations involving men and women, irrespective of gender, except where a distinction is made in order to extend specific privileges to women (on physiological or other grounds) as are necessary to ensure that equal results can be achieved by men and women. The Government Decision of 6 August 2001 also approved the State programme on the Guidelines for a State policy to ensure equal rights and opportunities for men and women in the Republic of Tajikistan for the period 2001–2010, which has been completed successfully.

52. Implementation of the gender policy is demonstrating the Government's commitment to promoting gender equality. Steps have been taken to improve the institutional mechanisms in order to promote women to senior posts in ministries and Government departments. With the aim of training and promoting women leaders, a State programme for the education, selection and placement of capable women and girls in leadership positions for the period 2007–2016 and a Presidential Decree on the allocation of presidential grants to foster women's entrepreneurial activities for the period 2008–2010 have been adopted. Each year, one million somoni are allocated from the State budget to that programme and to capacity-building in the ministries and Government departments; funding for the Family and Women's Affairs Committee in the Office of the President to promote gender equality has thus been doubled since 2009.

53. In 1998, as a special measure to accelerate the achievement of real equality between men and women, the Government developed and approved a national plan of action to enhance the status and role of women, ensure equal rights and opportunities in all spheres

of public life, prevent all forms of violence and reduce the effects of adverse environmental factors on women's health.

54. The Presidential Decree of 3 December 1999 on enhancing the role of women in society played an important role in ensuring the broad participation of women in public life and in the administration of the State, enhancing their social status and the health of the nation's gene pool, and energizing their role in strengthening the moral bases of society. Current legislation on women's rights and protection from violence, particularly the Act on State guarantees of equal rights for men and women and equal opportunities for their enjoyment, provide specific mechanisms and procedures for achieving real equality.

55. Adopted in 2000, the State programme on the Guidelines for a State policy to ensure equal rights and opportunities for men and women in the Republic of Tajikistan for the period 2001–2010 addressed a series of issues related to ensuring equal rights for men and women, the role of women in politics, the economy and the family, and on preventing violence against women; a number of policy documents protecting, inter alia, the rights of mothers and children, and reproductive health, and guaranteeing equal rights for men and women were also adopted.

56. The Act on State guarantees of equal rights and opportunities for men and women was adopted in 2005, together with an implementation mechanism. To ensure effective implementation of the guarantees, the Government has also adopted measures to achieve equal opportunities in education and science, elections, in the formation of selection commissions in the civil service, and in the social and economic spheres.

57. Measures aimed at achieving gender equality raise issues requiring priority attention. They are aimed exclusively at implementing State gender policy. It is planned to introduce a flexible quota for women in Government departments, to increase the number of women in the civil service and to develop targeted programmes to promote women to positions of leadership.

58. In 2009 and 2010, 38 women civil servants attended training courses, 20 within the country and 18 in countries such as Italy, China, Malaysia, Thailand and Japan.

59. Tajikistan's legislation does not allow discrimination on the basis of sex. Article 17 of the Constitution declares that men and women are equal. Women have the same economic, political, social and cultural rights as men. However, there are some barriers, particularly social and cultural ones, that prevent women fully enjoying their constitutional rights. Given this situation, the Government is adopting and implementing special gender programmes at macro-level and micro-level touching on the areas of politics and Government management, education and employment. The special gender programmes include the quota system, an effective instrument that, since 2000, has made it possible to double the number of women in central and local representative bodies. Women currently make up 8.8 per cent of deputies in the Majlis-i Milli, 17.5 per cent of deputies in the Majlis-i Namoyandagon, 11.6 per cent of members of provincial assemblies of people's deputies and 23 per cent of members of municipal and district assemblies of people's deputies.

60. Increasing numbers of women are working in the judiciary, the law enforcement agencies, the customs authorities and the Armed Forces. Twenty per cent of judges are women. Women are showing increasing interest in public and political activities, as can be seen from the number who have joined political parties and other voluntary associations.

61. Women are also active in public and political activities through non-governmental organizations (NGOs) where they can independently gain experience of setting up and developing organizations, work, communications and competitiveness, with men's as well as women's groups.

62. With the introduction of the presidential quota during the period 2006–2010, a total of 7,211 young women from outlying rural districts attended institutes of further education in the country. Given the difficult economic situation in the country, the Government is also taking measures to provide financial support to female undergraduate and postgraduate students, and girls who are orphans. Targeted educational initiatives have been implemented under the State programme on the Guidelines for a State policy to ensure equal rights and opportunities for men and women in the Republic of Tajikistan for the period 2001–2010.

63. Particular attention has been paid in the Government's poverty reduction strategy programme to the issue of female employment.

64. The Government Decision of 4 July 2006 and 4 September 2008 approving the allocation of presidential grants to foster women's entrepreneurial activities during the period 2008–2010 has helped to develop entrepreneurship among women, with a total of 3,300,000 somoni awarded over that time. The small businesses, including agricultural processing plants, set up with the grants have created 5,000 new jobs.

65. One of the main areas in promoting female employment is support for women's self-employment and business initiatives through microcredit, which is an effective instrument in the poverty reduction strategy.

66. The Civil Service and other acts adopted in 2007–2008, together with international treaties on public service recognized by Tajikistan, guarantee equal rights and opportunities for men and women in realizing their constitutional rights to public service, and facilitate the implementation of the Presidential Decree of 3 December 1999 on enhancing the role of women in society and the Act of 1 March 2005 on State guarantees of equal rights for men and women and equal opportunities for their enjoyment.

67. The Civil Service Department in the Office of the President has developed a draft personnel policy on ways of attracting women into the civil service, including to senior positions.

68. The Government's combined initial, second and third periodic reports under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/TJK/1-3) have been an effective instrument in monitoring implementation of the Convention. The country received the concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/TJK/CO/3), which formed the starting point for a new round of action to improve the position of women and achieve gender equality.

69. Given the urgency of the problem, the Government is working together with international organizations and civil society to develop specific measures on the path to gender equality. For instance, the Government Family and Women's Affairs Committee collaborates closely with the Ot Ravenstva Yuridicheskogo - k Raventsvu Fakticheskomu (From Legal Equality to Real Equality) civil society coalition, set up in May 2008.

70. In November 2008, the Committee organized a civil society forum attended by representatives of more than 70 civil society organizations working on gender issues. The participants signed a memorandum on cooperation and mutual information. The coalition works on the basis of a partnership agreement, and currently has 93 member organizations from Dushanbe and other parts of the country.

71. Together with the coalition, the Committee developed and adopted a joint plan of action on implementation of the concluding observations of the Committee on the Elimination of Discrimination against Women. The coalition set up 10 working groups on: monitoring, assessment and improving legislation, temporary special measures to promote women, overcoming gender stereotypes, equal access to education and land, preventing

violence against women, developing women's entrepreneurship and fostering their economic activity, equal access to medical services, and working with older people and persons with disabilities.

72. One aspect of women's rights is the issue of reproductive health, greater attention to which has become a key health-care strategy for reducing infant and maternal mortality and women's dependence on abortion. Reproductive health centres have been established, with the principal aim of introducing new perspectives and approaches into the work of the Ministry of Health regarding the improvement of contraceptive assistance, mainly within the framework of primary health care. Citizens are free to choose whether and when to have children. Relations between men and women and family planning issues are based on equality, freedom and mutual responsibility and respect (Reproductive Health and Reproductive Rights Act, art. 9). The Criminal Code makes it an offence to force a woman to have an abortion (art. 124).

73. The following figures were recorded for crimes against women: 312 in 2005; 114 in 2006; 334 in 2007; 346 in 2008; 322 in 2009; and 215 for the first nine months of 2010 (compared to 241 for the first nine months of 2009).

74. With the gradual implementation of planned measures, the number of women entering the civil service has grown. The total of 4,963 women in the civil service, or 26.7 per cent of the staff, in 2009 was 3.3 per cent higher than in 2005, 2.2 per cent higher than in 2006, 2.7 per cent higher than in 2007, and 3.1 per cent higher than in 2008. As of 1 July 2010, there were 4,793 women in the civil service, accounting for 26.8 per cent of the staff.

75. There has also been an increase in the number of women in the central Government agencies, from 19.3 per cent of the staff in 2005 to 24.4 per cent in 2009; in local authorities women represented 27.3 per cent of the staff in 2005 and 34.7 per cent in 2009; and in town and village authorities, the figures were 19.0 per cent in 2005 and 24.6 per cent in 2009. As of 1 July 2010, there were 2,814 women in the central Government agencies, representing 26.4 per cent of the staff, or 1.8 per cent more than the previous year; the figures for local authorities were 1,353 women, or 32.7 per cent of the staff, which was 5.4 per cent more than in 2005; and in town and village authorities, there were 3,075 women, or 25.3 per cent of the staff, 6.3 per cent more than in 2005 and 0.7 per cent more than 2009.

76. In 2005, 836 women were senior Government officials, representing 22.5 per cent of the senior staff; there were 787, or 20.3 per cent, in 2006; 782, or 19.4 per cent, in 2007; 764, or 18.8 per cent, in 2008; and 820, or 19.8 per cent, in 2009. Currently, there are 1,084 women in senior posts, representing 22.5 per cent of the total senior staff.

77. As of 1 July 2010, an improvement could be seen in the gender situation in the make-up of the Majlis-i Milli and the Majlis-i Namoyandagon, the Constitutional Court, the Higher Economic Court, the Office of the Commissioner for Human Rights, the Office of the Procurator-General, the Civil Service Department, the Statistics Agency, the ministries of education, labour and social protection, finance, economic development and trade, and culture, the Construction and Architecture Agency and the Central Archives, where women made up 30 to 40 per cent of the civil service staff.

78. To improve gender equality in the civil service system, in 2006 the Institute for the Advanced Training of Civil Servants introduced systematic training for its civil servants on aspects of gender policy. With support and funding from the Tajikistan office of the Organization for Security and Cooperation in Europe (OSCE), staff from the Institute developed and carried out a specialized training programme on gender issues in the civil service. This made it possible to raise the level of awareness of civil servants, particularly women, quite substantially to the issues of discrimination, gender balance, the elimination of all forms of discrimination against women, and formal and actual equality.

79. Six or seven training seminars are held each year for civil servants from Government agencies in Soghd and Khatlon provinces, Gorno-Badakhshan Autonomous Province and the city of Dushanbe. Between 2006 and 2010, over 30 five-day training seminars on gender were held for civil servants from local and central Government agencies.

80. The participants were senior staff and officials from the central and local government agencies working on gender-related issues. Staff of the aforementioned ministries and Government departments and senior staff and officials of the local agencies in those regions received training.

81. Between 2006 and 2010, a total of 636 civil servants — 532 women and 102 men — received training at these seminars.

82. From 2007 to June of 2010, 1,569 women attended retraining and further training courses, including field courses, run by the Institute, some with financial support from foreign organizations. The Institute's training plan for 2009 included further training courses for a total of 584 senior women officials, 220 more than in 2008. Between 2007 and 2010, together with the Family and Women's Affairs Committee, the Institute ran three further training courses on professional ethics and morality for civil servants, State management, and the legal basis of the civil service, attended by a total of 210 senior officials from departments of women's affairs. The same year, further training courses were held for 100 talented women and girls in the civil service. So far, more than 1,400 women civil servants have attended further training courses run by the Institute since 2006.

83. The Civil Service Department in the Office of the President is continuing to work on gender indicators in the relevant State agencies in order to increase the number of women in the civil service to a minimum of 30 per cent.

Conditions in which citizens' rights and freedoms may be restricted (art. 4)

84. Under article 14 of the Constitution, citizens' rights and freedoms may be restricted only in order to uphold the rights and freedoms of other citizens, maintain social order and defend the constitutional system and territorial integrity of Tajikistan.

Prohibition of any unwarranted restriction of citizens' rights (art. 5)

85. The Constitution and other laws prohibit any unwarranted restriction of citizens' rights. They provide the bases and conditions for restrictions on citizens' rights and freedoms that meet the requirements of international standards.

86. Restrictions on human and civil rights and freedoms in emergency situations: a state of emergency is a temporary measure declared with the aim of safeguarding the security of the citizens and the State where there is a real threat and danger to the State system, citizens' rights and freedoms, the independence and integrity of the State, as a result of which Government agencies are unable to function normally. In such cases, under article 46 of the Constitution and the Constitutional Act on the Legal Regime in Emergencies, of 3 November 1995, the President has the right to declare a state of emergency.

87. Such restrictions must pursue legitimate aims. They should be used, primarily, to ensure public order, protect the rights and freedoms of other persons and the constitutional order resulting from article 14 and other articles of the Constitution and the Covenant. The Criminal Code penalizes the incitement of ethnic, racial, regional or religious hatred (art. 189), forcible seizure or retention of power (art. 306), and public calls for violent overthrow of the constitutional order (art. 307), specifically prohibiting and establishing criminal liability for such actions. Constitutional norms are thus specifically expressed in sectoral legislation. Certain restrictions may also be placed on the rights of persons declared guilty by a court of having committed offences: deprivation of liberty, suspension from official

duties and similar. For example, under article 27 of the Constitution, persons declared by a court as lacking legal capacity or who are being held in places of deprivation of liberty pursuant to a court sentence are not entitled to participate in elections and referendums.

88. Under the Constitution, no restrictions may be placed on the following citizens' rights: protection of the rights of a citizen outside of the country (art. 16), equality of all persons before the law and the courts, equality of men and women (art. 17), the right to life, residence and inviolability of the person (art. 18), guarantees of judicial protection, the right to a fair, independent and honest court, the right to legal defence (art. 19), presumption of innocence (art. 20), inviolability of the home (art. 22), the right to inspect documents that affect the interests of the person concerned (art. 25) and the right to join and participate in a political party (art. 28).

Right to life (art. 6)

Legal protection of the right to life

89. Article 18 of the Constitution stipulates that everyone has the right to life. In addition to that article and other domestic legislation on the right to life, Tajikistan has also recognized a number of fundamental international instruments directly concerning the right to life.

90. Under article 5 of the Constitution, life, honour, dignity and other natural human rights are inviolable. The constitutional understanding of the right to life is based on the following premises: the existence of the right to life, resulting from the natural principle that every person is entitled to it from birth, its inalienability and its inherent nature. Assertion of the right to life in domestic legislation is not restricted to the Constitution. It is guaranteed by a series of legal devices, enshrined both in the Constitution and in sector-specific legislation, that are directly or indirectly aimed at supporting and guaranteeing the life of the individual.

Imposition of the death sentence only for especially serious offences

91. Under article 18 of the Constitution, no one may be deprived of life, except by the verdict of a court for especially serious offences. However, Tajikistan has now chosen the path to the complete abolition of the death penalty. The Criminal Code of the Tajik Soviet Socialist Republic of 1961, in force at the time of independence, provided for the death penalty for 44 different offences. In 1992, amendments were made to the Criminal Code, increasing the number of articles to 47. The new Criminal Code adopted in 1998 also retained the death penalty for 15 different offences. The Act on amendments to the Criminal Code was adopted, on a presidential initiative, on 1 August 2003, reducing the number of offences subject to the death penalty to five. Just one year later, in 2004, on a presidential initiative, a moratorium was announced on the application of the death penalty. The Suspension of the Death Penalty Act came into force throughout the country on 15 July 2004.

92. The main advantage of the Act is that it puts a moratorium not only on the application of the death penalty, but also on its use in sentencing. Hence today there is nobody in the country sentenced to death. Life imprisonment has been introduced as an alternative to the death penalty; it may not be imposed on women, individuals who were under 18 at the time of the offence, or men over the age of 63.

Prohibition of the deprivation of life by acts of genocide

93. Article 398 of the Constitution penalizes acts aimed at the destruction of an ethnic, racial or religious group in whole or in part through their total or partial physical

extermination, forcible obstruction of childbirth or transfer of children of a group to another group, causing serious bodily harm or otherwise creating conditions of life calculated to bring about the physical destruction of members of the group, and qualifies them as genocide.

Right to pardon, commutation of sentence and amnesty

94. In accordance with legal procedure, amnesty may be granted in the form of an act concerning a category of persons. A person who has committed an offence may be released from criminal liability by an act of amnesty; a person sentenced for an offence may be fully or partially released from both a primary and a supplementary sentence, or the remaining part of the sentence may be curtailed or commuted to a milder form of punishment, or the conviction expunged (Constitution, art. 82). Under article 59 of the Constitution, a bill on amnesty must be submitted to the Majlis-i Namoyandagon by the President. Three acts on amnesty were adopted between 2005 and 2010: on 18 June 2006, in honour of the fifteenth anniversary of the country's independence; on 20 June 2007, in honour of the tenth anniversary of the Day of National Reconciliation; and on 3 November 2009. The amnesty acts were applied to a total of 35,481 persons.

95. Of that number, 33,623 were men and 1,858 were women; 22,208 were released and 13,273 had their prison sentences reduced.

Year	Total	Amnestied		Released	Prison sentence reduced
		Men	Women		
2005–2010	35 481	33 623	1 858	22 208	13 273
2006	13 808	13 208	600	9 157	40 651
2007	9 373	8 687	686	5 058	4 315
2009	12 300	11 728	572	7 993	4 307

According to article 69 of the Constitution, the President may pardon specific individuals. Where persons convicted of an offence are pardoned, they may be fully or partially released from both the primary and the supplementary sentence, any remaining part of the sentence may be curtailed or commuted to a milder form of punishment, or the conviction expunged; however, the application of an act of amnesty or pardon shall not impede the right of the victim to receive compensation for harm caused by the criminal act.

96. A working group was set up by the President in April 2010 to study the social and legal basis for the existence of the death penalty in Tajikistan's legislative system. The group includes ministers, chairpersons of State committees, the Chairperson of the Supreme Court, the Procurator-General and the Commissioner for Human Rights. It is studying the question of excluding the death penalty from the Criminal Code, and the possibility of ratifying the Second Optional Protocol to the Covenant.

Prohibition of torture, cruel treatment and punishment (art. 7)

On 21 July 1994, Tajikistan acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force on 10 February 1995.¹

¹ More detailed information on implementation of the provisions of the Convention can be found in Tajikistan's second periodic report under the Convention (CAT/C/TJK/2) of November 2010.

97. The comment to article 117 of the Criminal Code gives a definition of torture as “the infliction of physical or mental suffering with a view to coercing a person to testify or perform any other action against that person’s will, or as a form of punishment or for any other purpose”.

98. Articles 12 and 88 of the new Code of Criminal Procedure provide that evidence obtained during questioning or preliminary investigation through force, intimidation, torment, inhumane treatment or other unlawful means is invalid and may not be taken as grounds for bringing charges or used as evidence in a criminal case. Article 10 of the Penal Enforcement Code categorically prohibits the subjection of a convicted person to torture or cruel, inhuman or degrading treatment or, even with the person’s consent, to medical or other forms of scientific experimentation that may endanger his or her life or health.

99. As a party to the Covenant and to the Convention against Torture, Tajikistan has committed itself to take all necessary measures to prevent torture in its territory. To that end, the State has adopted a series of acts prohibiting cruel treatment of individuals and imposing criminal and administrative liability for acts linked to torture, cruel or abusive treatment, and civil liability for the consequences of their use.

100. Article 117, paragraph 2, of the 1998 Criminal Code first stipulated that the use of physical and mental suffering caused by torture or cruel treatment should be subject to harsher penalties. Although the article mentioned the elements of the offence, it did not explain the understanding of torture and cruel treatment and so, on 17 May 2004, a note was added explaining “torture” and the motives and aims of its use. The note states that torture is the “infliction of physical or mental suffering with a view to coercing a person to testify or perform any other action against that person’s will, or as a form of punishment or for any other purpose”.

101. The Criminal Code does not contain any special articles on penalties for officials for the use of torture or cruel or degrading treatment. However, this does not mean that Tajikistan’s criminal legislation affords no possibility to prosecute officials for torture or cruel or degrading treatment. This can be done, in particular, under articles 316 (improper exercise of authority) and 354 (coercion to testify by a person conducting an initial inquiry or pretrial investigation, or a person administering justice) of the Criminal Code. There are 19 other articles of the Criminal Code that also impose liability for the use of unlawful actions involving torture and other types of cruel and inhuman treatment.

102. The Criminal Code stipulates that officials, like private individuals, may be held criminally liable for offences against the life and health of individuals (battery, causing of different degrees of bodily injury). However, in committing such offences with the abuse or improper exercise of authority in cases provided for in legislation, they are liable both for offences against the individual and for malfeasance. Official liability for the use of violence or fundamental violations of the rights and legal interests of the individual are addressed in article 314 (abuse of authority), 315 (nonfeasance), 316 (improper exercise of authority), 317 (misappropriation of official powers), 322 (negligence), 348 (criminal prosecution of a person known to be innocent), 349 (deliberate pronouncement of an unlawful sentence, decision or other judicial acts), 353 (bribery or coercion to give false testimony, false opinion or erroneous interpretation), 354 (coercion to testify by a person conducting an initial inquiry or pretrial investigation, or a person administering justice), 358 (unlawful detention or remand in custody), 391 (abuse of authority or official position, improper exercise of official powers or nonfeasance), and 392 (negligence). Furthermore, under article 62, paragraph 1 (j), of the Criminal Code, the use of particular cruelty, sadism, bullying or torment of the victim in the commission of an offence is considered an aggravating circumstance. The offences listed above carry criminal sentences of 5 to 15 years’ deprivation of liberty, fines, forfeiture of the right to exercise certain activities or to

occupy certain posts, community service, punitive work or reductions in military entitlements.

103. Thus, the Criminal Code lays out a system of legal norms for the prosecution of individuals guilty of using torture, cruel treatment and punishment. Not wishing to settle for what has already been achieved, Tajikistan is actively continuing to implement the norms of international human rights instruments. Thus, in particular, active measures are being taken towards the full implementation of the norms of the Convention against Torture in criminal legislation. A working group on amendments to the Criminal Code set up by presidential decree in May 2009 has drawn up a proposal for the inclusion in the Code of a specific article on torture, which fully satisfies article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in implementation of Tajikistan's international obligations to translate the norms of the Convention into domestic legislation. Such a step would obviate the need for future legislation on responsibility for the use of torture in law enforcement, and enable all actors to work effectively to prevent torture in the country.

104. A new Code of Criminal Procedure came into force in Tajikistan on 1 April 2010, one of its aims being to guarantee protection from unwarranted indictment or conviction, the unlawful restriction of individual rights and freedoms, and the immediate rehabilitation of any innocent person who has been indicted or convicted (art. 2). As stated in its article 10, respect for the honour and dignity of the individual is a responsibility of officials and agencies conducting criminal proceedings. No party to criminal proceedings may be subjected to violence, torture or other cruel or degrading treatment.

105. Under article 12 of the Code of Criminal Procedure, the judge, the procurator, investigator and the person conducting the initial inquiry must protect the rights and freedoms of those involved in the case, create the conditions for the realization of those rights, and take timely measures to meet the legitimate demands of the participants.

106. Section 4 of the Code of Criminal Procedure (coercive procedural measures) includes Chapter II on persons in detention, which gives detailed provisions for the detention of individuals, suspects, and accused or convicted persons, and their rights. Thus, according to article 91, remand in custody consists in the delivery of the person to a criminal prosecution authority and a brief period of confinement in places specified by the law. Under article 94, within 3 hours of the time that a suspect is taken into custody, a report must be drawn up stating the grounds, place and time of detention, the suspect must be informed of his or her rights, including the right to counsel, and to testify in the presence of that counsel, and that the suspect may not be held for more than 72 hours without a court ruling. Within 12 hours of the actual arrest, the body conducting the criminal proceedings and detaining the person must, under article 100 of the Code, inform a member of the detainee's family or a close relative of the arrest and of the place of detention, or must allow the detainee to do so.

107. The provisions of articles 49 and 53 of the Code that the defence counsel may participate in the proceedings from the time that a decision is taken to bring a criminal case against the suspect, or the time of actual detention, and the right of the defence counsel to private discussions with the client without any limitation as to their number or duration, are an important safeguard against the use of torture or cruel treatment in order to obtain a confession.

108. Although article 15 of the previous Code of Criminal Procedure prohibited obtaining evidence from accused persons and others involved in a case by means of violence, threats or other unlawful means, it did not contain any provisions that any evidence so obtained was null and void and may not be invoked in court proceedings or in sentencing. This imperative requirement set forth in the Convention against Torture is expressed in article 88

of the current Code, which provides that evidence obtained during questioning or preliminary investigation through force, intimidation, torment, inhumane treatment or other unlawful means is invalid and may not be taken as grounds for bringing charges or used as evidence in a criminal case.

109. Judges play a decisive role in deciding which evidence is admissible in court. The judge must guarantee the admissibility of evidence and witness statements presented. The judge must therefore be convinced that any confession or evidence was not obtained using torture or other mistreatment.

110. A further safeguard against the use of torture or other cruel treatment is the fact that any person who has been subject to physical or mental pressure during the initial inquiry or pretrial investigation has the right to lodge a complaint with the Office of the Procurator, which is responsible for overseeing enforcement of the law in the pretrial investigations and initial inquiry, in respect of the use of torture or other cruel treatment, calling for disciplinary or criminal charges to be brought against the person responsible (arts. 120 and 121). A refusal to bring a criminal case after investigation may be appealed against.

111. Article 163 of the Criminal Code penalizes unlawful refusal to process applications from citizens, failure without due cause to observe the time limits for processing applications, adoption of unfounded decisions in violation of the law, and infringements of legislation on communications from citizens that cause significant harm to the rights or protected interests of citizens, society or the State.

112. It frequently happens in judicial practice that a defendant complains of having been subject during the judicial proceedings to unlawful methods involving mental or physical pressure aimed at obtaining evidence, the use of torture or other cruel treatment. In some cases this may be considered as one way of avoiding criminal liability and discrediting the law enforcement agencies conducting the initial inquiries and investigation, in others it may indicate a wish to avoid the punishment deserved. However, such declarations are always subject to careful investigation.

113. The work of correctional labour establishments and the agencies enforcing court rulings against persons held in administrative detention and sentences in the form of punitive deduction of earnings with or without deprivation of liberty, are conducted in strict compliance with the law. The officials of these establishments and agencies are responsible for ensuring such compliance.

114. Under article 12, paragraph 2, of the Code of Administrative Offences, where an administrative penalty is imposed or measures are taken to ensure that administrative offence proceedings can be brought in respect of natural or legal persons who have committed an administrative offence, it is prohibited to inflict pain or physical or mental suffering or to resort to intimidation, any form of discrimination or degrading treatment.

115. Article 10 of the Penal Enforcement Code categorically prohibits the subjection of a convicted person to torture or cruel, inhuman or degrading treatment, or, even with the person's consent, to medical or other forms of scientific experimentation that may endanger his or her life or health. It is clearly stated in article 16 of the Code that convicted persons have the right to proper treatment from the staff of the establishment or agency enforcing the sentence and that they may not suffer cruel or degrading treatment.

116. Correctional institutions operate according to strict internal regulations (Penal Enforcement Code, art. 83) that lay down the procedures relating to the reception of convicted persons; the rules governing the conduct of convicted persons during periods of work, rest and study; the list of educational measures and the list of jobs and positions in which such persons may not be employed; the list of objects and personal effects that convicted persons may have with them, and the permitted quantities; the confiscation of

items that such persons may not use; the rules governing checks, visits, and the receipt of parcels and letters and their delivery to prisoners; and the list of food products and personal items that may be sold to them.

117. Article 38 of the Constitution accords everyone the right to health protection. Article 105 of the Penal Enforcement Code provides for the medical care of persons serving sentences of deprivation of liberty in places of detention. The Ministry of Justice and the Ministry of Health determine the procedure for providing medical services to persons deprived of their liberty, the organization and conduct of health and safety inspections, and the use of medical institutions of health agencies and their personnel for this purpose.

118. One of the most important safeguards against the use of torture or cruel or inhuman treatment is the legal right to financial compensation for harm, access to the necessary medical care and rehabilitation. Thus, under article 12 of the Code of Criminal Procedure, compensation must be paid in accordance with legal procedure for any harm caused by a violation of a person's rights and freedoms during criminal proceedings.

119. Article 1086 of the Civil Code expressly states that harm caused to citizens as a result of unlawful conviction, unlawful criminal prosecution, unlawful preventive measures such as remand in custody or travel restraints, and imposition of unlawful administrative penalties such as detention or punitive work, shall be compensated in full, under the statutorily prescribed procedure, regardless of whether officials of bodies conducting initial inquiries, pretrial investigators, the procurator's office or the courts were at fault. Harm caused to citizens as a result of other unlawful activities by bodies conducting initial inquiries, pretrial investigators, the procurator's office or the courts shall be compensated on general grounds. The size and nature of compensation for harm to health is set out in articles 1101, 1103 and 1105 of the Civil Code.

Prohibition of slavery and the slave trade (art. 8)

120. Abduction and unlawful deprivation of liberty are criminal offences (Criminal Code, arts. 130 and 131). Employment contracts concluded upon engagement for work must conform to labour legislation, which envisages free and fair work with equal pay for work of equal value. Recruitment for the purposes of sexual or other exploitation is a criminal offence (Criminal Code, art. 132).

121. The Trafficking in Persons Act of 15 July 2004 defines the legal and organizational basis of the system used to combat human trafficking in the country and the legal status of victims. The Comprehensive Programme to Combat Human Trafficking for the period 2006–2010 was approved by a Government Decision of 6 May 2006 and successfully implemented. To step up that work, on 3 March 2011, the Government approved a new anti-human trafficking programme for 2011 to 2013.

122. Under article 35 of the Constitution, no one may be subjected to compulsory labour except in the cases prescribed by law. This constitutional provision and other legal instruments, in particular the Labour Code and the Criminal Code, safeguard the prohibition of slavery, the slave trade, serfdom and other related phenomena.

123. Following Tajikistan's accession to the United Nations Convention against Transnational Organized Crime and its two additional protocols on the suppression of trafficking in persons, especially women and children, and on the smuggling of migrants by land, sea and air, the rules contained therein were incorporated into domestic criminal legislation. In particular, criminal liability for trafficking in persons is established in article 130, paragraph 1, of the Criminal Code, while article 167 deals with trafficking in minors.

124. Article 8 of the Labour Code states that forced labour is prohibited except in the case of labour required on the basis of military law, in an emergency threatening the lives,

personal safety or health of the population, or as a result of the entry into force of a court sentence and performed under the supervision of the State authorities responsible for ensuring compliance with the law in the enforcement of court sentences.

125. In implementation of the Trafficking in Persons Act, the Government has set up an interdepartmental commission to combat trafficking in persons, which includes the heads of: the Office of the Procurator-General, the Ministry of Internal Affairs, the State National Security Committee, the ministries of labour and social protection, foreign affairs, education, health, and economic development and trade, and the Government Customs Service.

Right to liberty and security of person (art. 9)

126. The right to liberty and security of person is the most important human right, received from the moment of birth. Under article 18 of the Constitution, everyone has the right to liberty and security of the person. No one may be subjected without legal justification to arrest, detention or exile (art. 19). Detention, like any other restriction of liberty, is regulated by the Code of Criminal Procedure and the Code of Administrative Offences.

127. Under article 10 of the Code of Criminal Procedure, officials and agencies implementing criminal proceedings are obliged to respect the honour and dignity of the individual, and no participant in a criminal case may be subjected to violence, torture or other cruel or degrading treatment.

128. Under article 11 of the Code of Criminal Procedure, nobody may be detained and held in custody without legal grounds. A person's apprehension and confinement in a medical establishment or a reformatory are allowed only on the basis of a decision taken by a court or judge. A person subject to pretrial preventive detention or held on suspicion of having committed an offence must be held in a place that presents no danger to life or health. A person held in custody has the right to lodge a complaint. An order by a court or judge to release a detained person is immediately enforceable.

129. Article 21 of the Constitution states that the law protects the rights of victims. The State guarantees victims a judicial remedy and compensation for injury.

130. Illegal detention or remand in custody is punishable under article 358 of the Criminal Code.

131. Articles 91 and 92 of the Code of Criminal Procedure state that a person may only be detained on the basis of:

- (a) Suspicion of having committed a crime;
- (b) A decision by the criminal prosecution authority;
- (c) A decision (pronouncement) by a court or judge to detain a convicted offender pending appeal against a conditional sentence or non-enforcement or suspension of a sentence, or conditional early release from serving a sentence.

A person is considered to be suspected of having committed a crime if, during or immediately after commission of the crime:

- (a) Eyewitnesses, including any victim of the crime, directly identify the person as the perpetrator of an offence characterized in criminal law or apprehend that person;
- (b) Clear signs incriminating the person have been found on the person or in his or her clothes, possessions or personal items, at the person's home or place of employment, or in his or her vehicle;

(c) Other grounds exist sufficient to suspect that the person has committed a crime and the person has tried to flee from the scene of the crime or from the criminal prosecution body, or has no permanent place of residence, or lives at a different location, or the person's identity has not been established.

The procedure for remand in custody is governed by articles 111 and 112 of the Code of Criminal Procedure, according to which, remand in custody may be imposed as a preventive measure by decision of a court or a judge only for persons suspected or accused of or standing trial for offences that under criminal law incur penalties of more than 2 years' deprivation of liberty. Persons suspected or accused of or standing trial for serious and especially serious crimes may be subject to remand in custody as a preventive measure on the sole grounds of the serious nature of the offence. In exceptional cases, this preventive measure may be used for crimes incurring penalties of less than 2 years' deprivation of liberty if those involved do not have a permanent place of residence in Tajikistan or their identity has not been established, or if they have hidden from criminal prosecution bodies or a court, or if they have violated a preventive measure. The period of detention is up to 2 months, and may be extended to 18 months. No further extension is allowed.

132. The number of applications made between 1 April and 30 June 2010 to preliminary investigation bodies concerning restrictions on constitutional civil rights under the new Code of Criminal Procedure considered by the courts is shown in the table below.

No.		<i>Total considered</i>		<i>Of which, granted</i>	<i>Of which, granted</i>
		<i>Applications</i>	<i>Persons</i>		
1	Remand in custody	636	704	588	116
2	Inspection of home	1	2	2	-
3	Search of home	101	114	102	12
4	Confiscation of property	52	61	56	5
5	Search and removal of goods	13	14	13	1
6	Seizure of money	10	10	9	1
7	Tapping and recording of telephone and other conversations	5	7	5	2
8	Temporary suspension of the accused from post	2	2	1	1
9	Other application	92	107	91	16
10	Total	912	1 021	867	154

Under article 119 of the Code of Criminal Procedure, appeals against any acts (or omissions) and decisions of the person conducting the initial inquiry, the investigator, the procurator, the court or the judge may be lodged at any time during the inquiry, preliminary investigation or the court proceedings. It has been found that, over the period 2007–2009 and the first half of 2010, a total of 51 persons were detained unlawfully on suspicion of having committed an offence, and 28 persons were subject to unlawful preventive custody. Officials were held liable for allowing detention and remand in custody without grounds, in violation of the law. Order No. 2 of the Procurator-General of 10 August 2000 on strengthening procuratorial supervision of strict compliance with the law in connection with the detention, remand in custody, criminal prosecution, committal for trial and sentencing of citizens requires members of the law enforcement agencies to comply strictly with the law when a citizen is arrested or remanded in custody. The procuratorial bodies

systematically monitor compliance with this Order in holding facilities and remand centres; if any violations are discovered, the law enforcement officers concerned are prosecuted.

Right of persons deprived of their liberty to humane treatment and respect for the dignity of the person (art. 10)

133. The implementation of the Government programme on the humanization of the country's criminal policy encourages progress within the penal enforcement system. The Head of State took the political decision to transfer the system from the Ministry of Internal Affairs to the Ministry of Justice. The ensuing functioning of the penal enforcement system under the Ministry of Justice since December 2002 constitutes a step towards separating criminal prosecution authorities from the penal enforcement authorities.

134. The further development of the penal enforcement system is being accompanied by a review of current legislation with a view to humanization of the implementation of penalties through the development and adoption of new legal and regulatory instruments in line with the relevant international norms and standards.

135. The Government has approved a programme for improving material and operational conditions in the detention facilities and, on the basis of existing facilities, has built a medical institution (brought into operation in December 2005), a remand centre in Khujand, Sughd province (brought into operation in September 2008), and a remand centre in Kulob, Khatlon province. Facilities brought into operation in the past two years include strict regime and reinforced regime penal colonies in Sughd province, a penal colony for former law enforcement staff, a medical institution and a facility for women.

136. The Government has done a lot in recent years to improve detention conditions, particularly with the building of a new hospital, refurbishment of the remand centre and the reconstruction of a number of non-residential facilities (a children's colony, a women's colony), where buildings have been erected to house minors and persons serving life sentences. Monitoring has been carried out, as well as a number of projects to improve conditions in detention, with the direct involvement of the Swiss Cooperation Office in Tajikistan, the AIDS Foundation East-West, the United Nations Children's Fund (UNICEF) and local voluntary organizations (the Analytical and Advisory Centre on Human Rights). International organizations such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the United Nations Development Programme (UNDP), the AIDS Foundation East-West, Karakhad and the Caritas-Luxembourg DOTS (tuberculosis control) programme have unrestricted access to penal establishments in the country.

137. Detention conditions for convicted offenders are laid down in the Penal Enforcement Code, in accordance with which a prison comprises separate sections for men, women, minors and adults. Pregnant women prisoners are also held in the women's colony.

138. As there are no separate facilities for children under the age of 3, they are placed in a nursery in the women's colony, to which their mothers have free access. The nursery was built with the help of the Open Society Institute Assistance Foundation, Tajikistan.

139. Article 105 of the Penal Enforcement Code provides for the medical care of persons serving sentences in places of detention. All the medical and health services for persons serving sentences in places of detention are organized and provided in accordance with the Internal Regulations of Correctional Institutions and with Tajik legislation.

140. Despite these achievements, there are still a number of problems requiring urgent solutions. The medical and health care in question needs further improvement. Problems that exist in the establishments under the Ministry of Justice's Central Penal Enforcement Department include tuberculosis, HIV/AIDS, drug addiction and alcoholism. Improvements are needed to hospital infrastructure and equipment, including for the detention or

outpatient treatment of convicted offenders suffering from an active form of tuberculosis; and through the development of a system for the strict isolation of patients suffering from communicable diseases.

141. Upgrading medical support for convicted offenders will involve setting up, within the provincial penal enforcement departments, medical sections or health services with their own epidemiological units and bacteriological laboratories.

142. Over the past five years, the Central Penal Enforcement Department has signed a number of agreements and memoranda of understanding with various international organizations and NGOs regarding assistance in bringing places of deprivation of liberty into line with minimum international standards, including through legal training for penitentiary personnel and through AIDS, tuberculosis and malaria prevention programmes. Furthermore, these organizations have provided direct support for improving the relevant legal framework with a view to further reforming the prison system.

143. In cooperation with international and non-governmental human rights organizations, namely the Organization for Security and Cooperation in Europe (OSCE), the International Centre for Prison Studies (ICPS) and Penal Reform International, extensive work is taking place to train the personnel of detention facilities in international human rights norms and standards.

144. Projects such as those on penal reform and human rights in the context of international norms and standards, and an educational programme for the penitentiary services have been implemented. The Bureau for Human Rights and Rule of Law NGO is currently running a project entitled "Assistance for prison system reform: legal training and protection of the prisoners' right to qualified legal counsel".

145. The Executive Office of the President, together with the Office of the Commissioner for Human Rights, and with the assistance of the OSCE office in Tajikistan, is holding seminars for staff of the prison system on international and domestic mechanisms for safeguarding the rights of detainees and remand and convicted prisoners.

146. The Faculty of Law of the Tajik National University is running a Government-funded project on the challenges of using and applying alternative forms of criminal penalties.

Prohibition of imprisonment on the ground of inability to fulfil a contractual obligation (art. 11)

147. Under the Civil Code, failure to fulfil contractual obligations (breach of obligations) entails the civil (material) liability of the debtor. Under the Criminal Code, failure to fulfil contractual obligations is not considered a crime and consequently does not give rise to a criminal penalty, including deprivation of liberty. Disputes relating to breach of contractual obligations are resolved by way of civil action. A person who is not in a position to fulfil a contractual obligation incurs only material liability; unless there is evidence of a crime, no one may be prosecuted and deprived of their liberty. In accordance with current law and practice, failure to act upon the decision of a court regarding fulfilment of a contractual obligation does not give rise to deprivation of liberty.

148. The employment contract is one of the means of regulating labour and associated relations; when concluding such a contract the parties are free and enjoy equal rights. Coercion to conclude an employment contract is prohibited except in cases when a labour contract is mandatory under the Labour Code, other legislation or a voluntarily accepted obligation of the parties. The law may envisage certain other conditions (competitive examination, selection board). In this connection, article 4 of the Labour Code provides that a worker who voluntarily concludes an employment contract is obliged conscientiously to

perform his functions in accordance with the contract. Thus, any person who concludes an employment contract in accordance with the law voluntarily assumes the responsibility of performing the duties in question, and failure to do so entails the corresponding legal consequences that affect some of the employee's rights, but does not entail deprivation of liberty.

Right to freedom of movement and to choose a place of residence (art. 12)

149. The right to freedom of movement and to choose a place of residence has always been one of the fundamental personal rights and freedoms of the individual. It is classed in a specific group of rights and freedoms characterized by the opportunity for individuals to decide, of their own free will, on their way of life in a given locality and also to defend themselves from unlawful interference or encroachment in the sphere of their private life. Under article 24 of the Constitution, every citizen has the right to freedom of movement, to choose a place of residence and to leave and return to Tajikistan.

150. The constitutional right of everyone to freedom of movement and to choose a place of temporary and permanent residence is further enforced in the Civil Code (art. 21), the Legal Status of Foreign Nationals Act (arts. 5, 11 and 19) and a number of other laws and regulations.

151. Under the Legal Status of Foreign Nationals Act of 1 February 1996, foreign nationals may move around the territory of Tajikistan and choose a place of residence in accordance with the procedures prescribed by law.

152. Foreign nationals may enter Tajikistan provided that they hold an entry-exit visa issued by the Ministry of Foreign Affairs, its offices abroad or the embassies and consular posts of foreign countries with which Tajikistan has relevant agreements.

153. If foreign nationals enter Tajikistan for a stay of more than six months, they must obtain a residence permit from the internal affairs agencies. The validity of the permit is extended each time the entry-exit visa is extended. A residence permit cannot be extended unless the entry-exit visa is extended. A residence permit that is extended without a corresponding extension of an entry-exit visa is considered invalid.

154. Foreign nationals present in Tajikistan on other lawful grounds are considered temporary residents. They must register their national passports or equivalent documents in the prescribed manner within three days of arrival and leave Tajikistan upon expiry of the time limit for the visit.

155. In accordance with the Regulations on the Passport System, approved by the Government decision of 15 July 1997, citizens must register their place of residence and their current address. Foreign nationals and stateless persons residing in Tajikistan are also subject to residency registration.

Grounds for the expulsion of foreign nationals (art. 13)

156. Article 24 of the Constitution states that every citizen has the right to freedom of movement, to choose a place of residence and to leave and return to Tajikistan.

157. Foreign nationals and stateless persons enjoy the proclaimed rights and freedoms and have the same obligations and responsibilities as Tajik citizens, except in the cases prescribed by the Legal Status of Foreign Nationals Act of 1 February 1996.

158. A foreigner who is lawfully in the territory of Tajikistan may be expelled only in pursuance of a decision reached in accordance with legislation. He or she has the right to appeal against the expulsion, to have his or her case reviewed by the competent authority or

a person or persons especially designated by the competent authority, and to be represented for this purpose before such authority, person or persons.

159. Pursuant to article 31 of the Legal Status of Foreign Nationals Act, a foreign national may be deported from Tajikistan if:

(a) His or her activities are inconsistent with the interests of national security or the maintenance of public order;

(b) His or her deportation is essential for the protection of public health or morals or the protection of the rights and legitimate interests of Tajik citizens;

(c) He or she has flagrantly violated legislation on the legal status of foreign nationals in Tajikistan, or the country's laws on customs, currency and other matters.

160. In addition, under article 5 of the Refugees Act, persons who have been refused refugee status, who have had their refugee status revoked or who have lost their refugee status, and members of their family, are also subject to deportation. Decisions on the deportation of foreigners are taken by the State National Security Commission with the agreement of the Procurator-General. A deportation order is enforced if within one week of its issuance the person to be deported has not appealed to a court against the legality of the order.

161. Persons may be detained for the time required for deportation. The costs of deportation are borne by the foreign nationals concerned. The internal affairs agencies, acting in conjunction with the security agencies and the migration service, are responsible for monitoring compliance with the provisions of the Act not only by foreign citizens and stateless persons, but also by officials and other citizens.

162. Foreign nationals incur liability for violating regulations governing their stay, that is, for living in Tajikistan without a residence permit or with invalid documents; for not observing the established procedures on registration, movement in Tajikistan and choice of place of residence; for failing to leave the country on the expiry of their authorized period of stay; for not respecting the rules on transit through the country; and for violating the Refugees Act. Issues regarding the liability of foreign nationals enjoying privileges and immunities in accordance with legislation and international legal instruments are resolved through diplomatic channels. Violation of the Act by persons obliged to comply with its requirements (including persons who invite foreign nationals to Tajikistan on private business or who provide services for them) incurs liability under national legislation. A foreign national who infringes legislation on the legal status of foreigners or who disregards the procedures governing the stay of foreigners in Tajikistan may also have his or her authorized period of stay reduced. A foreign citizen's period of stay in Tajikistan may also be curtailed when the circumstances justifying the stay no longer apply. Decisions to reduce the length of a foreigner's period of stay are taken by the internal affairs agencies; such decisions may be appealed before the courts.

The right to appeal to the courts (art. 14)

163. The Constitution establishes that justice may be administered only through the courts. No other bodies or persons have the right to exercise judicial functions. The Constitution accords the right to judicial protection for all. All persons in Tajikistan may apply both to the local courts and, if all available domestic means of legal protection have been exhausted, to inter-State bodies for the protection of human rights and freedoms.

164. The right to judicial protection in procedural law (the right to appeal to the courts) is absolute and not subject to any restriction. This guarantee is enshrined in article 47 of the Constitution, which lists the rights that may not be restricted during a state of emergency, including the right to judicial protection.

165. Article 17 of the Constitution states that all persons are equal before the law and the courts. The State guarantees the rights and freedoms of all, irrespective of ethnic origin, race, sex, language, religion, political opinions, education, social status or property. Article 16 of the Code of Criminal Procedure recognizes this principle, stipulating that criminal justice is administered on the basis of the equality of citizens before the law and the courts, irrespective of background, social status, property, racial or ethnic origin, sex, education, language, views on religion, type and nature of occupation, place of residence or other circumstances. Equality before the courts is thus enshrined in the legislation in force.

166. Equality before the courts is also reflected in the principles of the equality of parties and of adversarial proceedings, provided for in article 20 of the Code of Criminal Procedure. The right to a fair and public trial by an independent and impartial tribunal is contained in article 19 of the Constitution. Article 8 of the Code establishes that criminal justice shall be administered only by the courts. The impartiality and independence of judges is established by article 87 of the Constitution; articles 8 and 17 of the Code contain provisions to the effect that judges are subject only to the law. The Constitutional Act on the Courts of Tajikistan contains the following guarantees on the independence of judges:

- (a) Judicial inviolability;
- (b) The procedure for the administration of justice;
- (c) The confidentiality of judicial deliberations when handing down judgments;
- (d) The prohibition, under threat of prosecution, of any person's interference in the administration of justice;
- (e) Criminal liability for contempt of court;
- (f) The right of judges to retire, transfer or be transferred to a different post or, at their own request, to be dismissed or released from their functions as judge;
- (g) The establishment of an association of judges;
- (h) The provision to judges by the State of a salary and social benefits in keeping with their status.

167. The judicial system consists of the following instances: the Constitutional Court, the Supreme Court, the Supreme Economic Court, the Military Court, the court of the Gorno-Badakhshan Autonomous Province, the provincial courts, the Dushanbe municipal court, the municipal and district courts, the economic court of Gorno-Badakhshan Autonomous Province and the provincial and Dushanbe municipal economic courts.

168. The Code of Criminal Procedure provides for the principle of open trials, according to which legal proceedings in all courts shall be open, except when this runs counter to the interests of protecting State secrets. Closed court hearings may also be permitted by a reasoned decision of the court: in cases in which the offender is under 16 years of age; where sexual offences are involved; with the aim of preventing the disclosure of information about intimate aspects of the lives of persons taking part in the hearing; and where required to protect the victim, a witness or other persons involved in the case or members of their families or their close relatives (Code of Criminal Procedure, arts. 19 and 273).

169. Article 20 of the Constitution states that no one is considered guilty of committing a crime until the relevant court sentence has become enforceable. No one may be prosecuted for a criminal offence after expiry of the statute of limitations or for acts that were not considered crimes at the time of their commission.

170. Under criminal procedure legislation, the presumption of innocence does not reflect the personal opinion of a judge, investigator or procurator, but the objective legal situation established by the following provisions of the Code of Criminal Procedure:

- “(a) No innocent person shall be prosecuted or convicted;
- (b) No one may be prosecuted other than on the basis of and according to the procedure established by law;
- (c) Circumstances shall be investigated in a thorough, impartial and objective manner. All elements that either incriminate or exonerate the accused, as well as any circumstances that tend to mitigate or aggravate his or her liability, shall be clarified;
- (d) The burden of proof lies with the prosecution, while, in the court considering the case, the burden of proof lies with the prosecutor involved in the legal proceedings;
- (e) The accused person is not obliged to prove his or her innocence. The court, procurator, investigator and the person conducting the initial inquiry do not have the right to transfer the burden of proof to the accused;
- (f) It is prohibited to attempt to obtain statements from an accused person or other persons involved in a case by violence, threats or other unlawful means;
- (g) A confession of guilt by the accused may form the basis of a conviction only if it is corroborated by all the available evidence in the case;
- (h) The accused may be adjudged guilty only if it is proved during the court proceedings that the defendant is guilty of the offence;
- (i) Any persisting doubt shall be interpreted in favour of the accused;
- (j) When there is not enough evidence to prove that the accused was involved in committing the offence and it is not possible to gather further evidence, the case proceedings shall be stopped or a not guilty verdict shall be delivered;
- (k) No one may lawfully be adjudged guilty of a crime and subjected to a criminal penalty otherwise than by a court sentence.”

171. The procedure for filing charges is regulated by the Code of Criminal Procedure. If there is enough evidence to file charges, the procurator, investigator and the person carrying out the initial inquiry make a decision, stating their grounds, on whether charges may be brought.

172. The procurator, investigator or the person conducting an initial inquiry notifies the accused of the day that the charges will be brought and at the same time informs him or her of his or her right either to apply for legal counsel or to petition the investigator to provide a lawyer. Charges are brought within two days of the decision to prosecute. This takes place in the presence of the defence counsel: if he or she has been involved in the criminal proceedings; in cases where it is legally required that the counsel be present; or if the accused has requested that the counsel be present. The accused is served a warrant to appear in court and the charges are brought on the same day. Where the defence counsel is legally required to be present, the investigator must take all available measures to ensure that he or she is present when the charges are brought. The investigator verifies the identity of the accused person, then checks the authorization for the counsel to lead the defence and reads out the formal charge to the accused and to the counsel.

173. The investigator must explain to the accused the main details of the charges, and particularly his or her right: to legal counsel; to know the nature of the charge against him

or her; to provide explanations concerning the charges being filed; to give evidence; to file complaints; to lodge an appeal in court against the legality and validity of the pretrial detention; and to have access to reports concerning any pretrial proceedings in which he or she will have participated, and the material transmitted to the court in support of the legality and validity of detention as a measure of restraint or the extension of the period of custody. The investigator must also explain the defendant's right, once the pretrial investigations and initial inquiries have finished, to have access to the entire case file; to transcribe from it any amount of information; to take part in the judicial review of any appeals; to participate in judicial proceedings in the court of first instance; to file objections; to file complaints regarding actions and decisions by the person carrying out the initial inquiry, the investigator or the procurator or the court; and to defend his or her rights and legitimate interests in any other ways or means which do not contravene the law.

174. The investigator submits to the accused and to the defence counsel the entire case file, appropriately filed and indexed. The material evidence is also made available and, on the request of the accused or his or her counsel, audio and video recordings, films and slides may be copied if these have been included in the official reports of the inquiry. It is the prerogative of the accused person or his or her counsel as to whether to consult the case file together or separately.

175. If the case file comprises several volumes, then the accused and his or her legal counsel are entitled to consult any of them repeatedly during the time which they are allocated, to transcribe any amount of information, to make copies of documents and to use any technological methods that have been authorized by the investigator. Any information transcribed or copied from the case file that is a State or trade secret, or other secret protected by law, shall be kept with the file contents and given to the defendant and his or her lawyer during the court proceedings.

176. The accused and his or her counsel have no time limit within which to consult all the documents in the file. However, if the accused and his or her counsel are obviously trying to prolong proceedings, the investigator is entitled to decide, by reasoned decision, on a period of time sufficient for consulting the case file.

177. Once the accused and the defence counsel have finished consulting the case file, the investigator shall ask them whether they intend to file complaints and, if so, on which matters, and what other petitions they wish to make.

178. The Code of Criminal Procedure establishes the rule that suspects, accused persons and defendants have the right to meet with their counsel at any stage of the proceedings in order to prepare their defence. This right is further protected by the Bar Act, in accordance with article 10 of which the defence counsel (lawyer) has the right to have unhindered, confidential and private consultations with his or her client, without any limitation as to their duration, including in cases where the person is detained.

179. Article 19 of the Constitution establishes that everyone has the right to the services of a lawyer from the moment of his or her detention. The procedure for the counsel's activities is governed by articles 49 to 53 of the Code. The defence counsel is allowed to take part in the case as soon as a decision has been made to bring charges, or from the moment of the suspect's actual arrest.

180. Article 50 of the Code sets out a list of persons who may, on their own initiative, request that a lawyer takes part in the criminal case. The suspect, accused person, defendant or his or her representative may request members of the Bar, mandated attorneys and representatives of trade unions and civil society organizations, in cases concerning their members, to act as the defence counsel. Relatives and representatives of the suspect, accused person or defendant may be allowed to act as defence counsel pursuant to a decision by the person performing the initial inquiry, the investigator or the procurator, an

order by the court, or a ruling by the judge. Particular attention is paid to the issue of whether or not the accused has expressed a desire to be represented by a defence counsel.

181. Criminal procedure legislation provides for the possibility of a refusal by the suspect, accused person or defendant to be represented by legal counsel (Code of Criminal Procedure, art. 52). In the event of such a refusal, the court (or judge) may, in cases specified by law, use its (his or her) discretion to provide access to the legal advice of a lawyer.

182. The right to compensation for persons who are unlawfully detained is covered in article 234 of the Code of Criminal Procedure. This stipulates that, in cases which are terminated for any of the reasons given in the Criminal Code or the Code of Criminal Procedure, or where there is no proof of the involvement of the suspect or accused person in the commission of the crime, the investigator must take all available legal measures for the rehabilitation of the individual and the reparation of any material loss incurred as a result of unlawful detention or arrest.

183. The Citizens' Appeals Act addresses the issue of compensation for damages to citizens where a law has been infringed during review of complaints and petitions. If the complaint or petition is upheld, the body (organization) which handed down the erroneous ruling compensates citizens for any losses incurred in the submission and review of the complaint or petition, including for any costs paid to the State, expenses resulting from the participation in the review of the complaint on the request of the relevant body and lost earnings over that period. Disputes about reimbursement are taken up in court.

184. Under the law, Tajik citizens, foreign nationals and stateless persons may request compensation for moral harm occasioned by unlawful acts and decisions by the body or official reviewing their complaint or petition. The monetary amount of such compensation is determined by the courts. Questions concerning damages are also regulated by the Civil Code. In particular, article 1115, paragraph 2, stipulates that, in cases where harm is caused to a citizen as a result of unlawful conviction, unlawful criminal prosecution, unlawful preventive measures such as remand in custody or travel restraints, or the imposition of unlawful administrative penalties such as detention or punitive work, compensation shall be given for moral harm, irrespective of whether the fault of the person responsible for inflicting the harm has been established. The question of the amount of damages and the procedure for claiming them is covered in article 1116 of the Civil Code. In line with this legislation, monetary compensation shall be awarded for moral harm. The amount of compensation is determined by the courts in accordance with the nature of the physical or mental suffering inflicted on the victim, as well as with the degree of fault of the person responsible. The courts evaluate the nature of the physical or mental suffering by taking into consideration the actual circumstances in which the moral harm was inflicted and the individual circumstances of the injured party. Article 358 of the Criminal Code criminalizes unlawful detention or remand in custody. Article 359 establishes that it is a criminal offence knowingly to pass an illegal sentence, decision or any other judicial act.

Determining the criminality and punishability of unlawful acts (art. 15)

185. Article 4 of the Criminal Code stipulates that the criminality of an act, its punishability and other consequences under criminal law may be determined only by the Criminal Code. No one may be adjudged guilty of a crime and given a criminal penalty otherwise than by a legal court sentence. Criminal legislation may not be applied by analogy. Article 6 of the Criminal Code establishes that any person who commits a crime shall be subject to punishment or other measures of criminal law provided for in the Criminal Code. Under article 7 of the Criminal Code, no one may incur criminal liability otherwise than by their own acts (action or omission). A person shall be held accountable only for those socially dangerous acts and their socially dangerous consequences in respect

of which his or her guilt has been established. There is no provision for strict liability, that is, criminal liability for causing harm without fault.

The effect of a criminal law at a specific time

The criminality and punishability of an act is determined by the law in force at the time that the act is committed. The time of commission of a crime is the time when a socially dangerous act takes place, regardless of when the consequences manifest themselves (Criminal Code, art. 12).

The retroactive effect of a criminal law

186. A criminal law revoking the criminality of an act, imposing a lighter penalty or otherwise improving the position of the person who committed the crime has retroactive effect, that is, it applies to persons who committed the act in question before the new law entered into force, including persons who are serving a sentence and persons who have served a sentence but whose criminal record had not been expunged. As soon as a law enters into effect revoking the criminality of an act, that act committed prior to the law's entry into force ceases to be considered a crime. If the new criminal law imposes a less severe penalty for a crime for which a sentence is currently being served, the penalty is reduced to the highest possible penalty established under the new criminal law entering into force. A criminal law establishing the criminality of an act, which imposes a heavier punishment or otherwise worsens the situation of the person who committed the act, does not have retroactive effect (Criminal Code, art. 13).

Application of criminal law to persons who commit crimes in Tajikistan

187. Persons who commit crimes in Tajikistan incur criminal liability under the Criminal Code, unless specified otherwise in international legal instruments recognized by Tajikistan. A crime committed in Tajikistan should be taken to mean an act which:

- (a) Was begun, continued or completed in Tajik territory;
- (b) Was committed outside Tajikistan, but had criminal consequences in Tajik territory;
- (c) Was committed in Tajik territory, but had criminal consequences outside Tajikistan;
- (d) Was committed in complicity with persons carrying out criminal activity in the territory of another State.

188. Where a crime is committed aboard a vessel or aircraft lawfully moving through open water or airspace outside Tajikistan and displaying the Tajik flag or Tajik identification markings, the perpetrator shall be subject to criminal liability under the Criminal Code of Tajikistan unless otherwise stipulated in the international legal instruments recognized by Tajikistan. A person who commits a crime aboard a Tajik warship or military aircraft, irrespective of its location, shall also face prosecution under the Criminal Code.

189. The question of the criminal prosecution of foreign diplomatic representatives and other persons enjoying immunity who commit crimes in Tajik territory shall be settled on the basis of the norms of international law (Criminal Code, art. 14).

Application of criminal law to persons who commit crimes outside Tajikistan

190. A citizen of Tajikistan or a stateless person residing permanently in the country may be prosecuted under the Criminal Code for an offence committed abroad if the offence is

considered a crime in the State where the act was committed and if the perpetrator has not been convicted of this crime in the foreign State. Where such persons are convicted, their punishment must not exceed the maximum penalty stipulated by the law of the foreign State where the crime was committed.

191. Under the Criminal Code, foreign nationals and stateless persons not residing permanently in Tajikistan are liable to prosecution for crimes perpetrated outside the country in the following cases:

- (a) If they commit crimes provided for in the norms of international law recognized by Tajikistan, or in treaties and agreements between Tajikistan and other States;
- (b) If they commit serious or extremely serious offences against Tajik citizens or directed against the interests of Tajikistan.

These rules are applied if the foreign nationals and stateless persons not residing permanently in Tajikistan have not already been convicted in another State. Unless otherwise stipulated in international legal instruments recognized by Tajikistan (Criminal Code, art. 15), a person's prior convictions and other consequences under criminal law of acts committed in another State should not be taken into consideration when categorizing an act by that person and determining the penalty for a crime committed by him or her in Tajikistan.

Extradition of persons who have committed crimes

192. A citizen of Tajikistan who has committed a crime in the territory of another State shall not be subject to extradition to that State unless there are bilateral agreements which provide otherwise.

193. Foreign nationals and stateless persons who have committed crimes outside Tajikistan and are still in the country may, in accordance with international treaties, be extradited to a foreign State to answer criminal charges or to serve a sentence (Criminal Code, art. 16).

The legal recognition of citizens (art. 16)

194. Under article 15 of the Constitution of November 1994, any person who was a Tajik citizen on the day that the Constitution was adopted is regarded as a Tajik citizen. The procedures for the acquisition and loss of Tajik citizenship are established by law.

195. Foreign citizens and stateless persons enjoy the proclaimed rights and freedoms and have the same duties and responsibilities as citizens of Tajikistan (Constitution, art. 16).

196. The legal recognition of citizens in the territory of Tajikistan is established in chapter 2 of the Constitution and in the Civil Code. These provisions take up the rights covered in the basic international human rights instruments.

197. No one may be restricted in his or her legal capacity. Dispositive capacity may be restricted in cases and procedures established by law. Acts of State bodies that restrict a citizen's dispositive capacity in disregard of the conditions and procedure prescribed by law concerning such capacity are invalid. A citizen's full or partial waiver of his or her legal capacity or dispositive capacity, and any other arrangements limiting such capacity, are void except when such arrangements are permitted by law.

198. In accordance with the general principles of law, the legal recognition of Tajik citizens shall not be conditional on their sex, race, social origin or religion. A person's legal capacity is legally established from birth and is extinguished by his or her death.

199. Citizens' exercise of their legal capacity is subject to limits. In exercising their rights and freedoms, citizens must not inflict damage on the environment, infringe the law or harm the legitimate interests of others.

200. The question of a person's dispositive capacity is addressed specifically in each branch of the law. Under the Criminal Code, a physical person of sound mind incurs criminal liability if he or she was aged 16 or over at the time of committing an offence. Persons aged 14 or over at the time of committing an offence incur criminal liability only for serious and extremely serious offences.

201. Criminal liability is not incurred by a person who was not of sound mind at the time of committing a socially dangerous act, that is, he or she could not realize the significance of his or her actions or control them owing to a chronic mental illness, temporary mental disturbance, feeble-mindedness or some other mental impairment. The courts may impose compulsory medical measures on persons who have committed a socially dangerous act and are deemed to be not of sound mind.

Inviolability of the person (art. 17)

202. Various Tajik legislative instruments contain guarantees for the exercise and protection of the rights of a person not to be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to arbitrary or unlawful attacks on his or her honour and reputation.

203. Under article 18 of the Constitution, the inviolability of the person shall be assured by the State. No one shall be subjected to torture or cruel and inhuman treatment. Coercive medical and scientific experimentation on human beings is prohibited.

204. Article 22 of the Constitution provides that a person's home is inviolable. Intrusion into a person's home and depriving a person of his or her home are prohibited except in cases prescribed by law. Article 23 of the Constitution safeguards the confidentiality of correspondence, telephone conversations and telegraphic and other forms of private communication except in cases prescribed by law. The collection, storage, use and dissemination of information about a person's private life without his or her consent are prohibited.

205. Under article 170 of the Civil Code, life, health, personal dignity, inviolability of the person, honour, good name, business reputation, inviolability of private life, and personal and family confidentiality are considered as the inalienable birthrights of every citizen. In accordance with article 171 of the Civil Code, if the non-material advantages which the citizen derives from these rights are infringed, the aggrieved party shall be entitled to compensation.

Safeguarding the right to the freedom of thought, conscience and religion (art. 18)

206. The freedoms of thought, conscience and religion, including the freedom of opinion, are recognized under national law as inalienable civil and human rights. At the legislative level, the freedoms of thought and conscience receive the same degree of protection from the State as those of religion and opinion. Article 8 of the Constitution safeguards the basic principle of the development of public life, according to which, the development of public life depends on political and ideological pluralism. No one ideology, including a religious ideology, may be established as the State ideology. Religious organizations are separated from the State and may not interfere in the affairs of the State. The establishment and operation of voluntary associations that promote racial, ethnic, social or religious enmity or call for the violent overthrow of the constitutional system and the formation of armed groups are prohibited. The freedom of conscience is also enshrined in article 26 of the Constitution, which stipulates that everyone has the right independently to determine his or

her views on religion, to profess either individually or in community with others any religion or none, and to take part in religious services, ceremonies and rites.

207. The Freedom of Conscience and Religious Associations Act of 26 March 2009 accords citizens the right to determine and express their views on religion and its attendant beliefs and to practise religion and perform acts of worship without hindrance. The law provides for some specific limitations, similar to those defined in article 18 of the Covenant.

208. Legislation also: establishes the principle of the equal rights of citizens, irrespective of their views on religion; affirms the basic principle of a secular society, that is, the separation of the church and religious organizations from the State; and determines that all religions and denominations are equal before the law.

209. The State policy to promote the freedom of conscience and the freedom of religion is implemented in strict compliance with the constitutional principles of the development of public life on the basis of political and ideological pluralism; of the freedom of association, including the separation of the church and religious associations from the State; and of the non-interference of the State in the operations of religious associations.

210. Order No. 873, issued by the Government on 21 May 2010 and designed to improve the status of the right to freedom of religion, created the Committee on Religious Affairs, an independent body.

211. The Islamic Institute was established in Dushanbe in October 1990 and now has over 1,000 students.

212. Under article 8 of the Freedom of Conscience and Religious Associations Act, every person has the right to receive the religious instruction of his or her choice either individually or in community with others. Religious organizations have the right to create religious schools according to their statutes and in conformity with procedure established by the law. Large- and small-scale mosque gatherings on Fridays may include study groups in which instruction of religious principles is provided in accordance with their rules and statutes. Religious teaching is permitted in certain cases provided for by law once a State licence has been awarded. With the written consent of parents or legal guardians, children between 7 and 18 years of age may, in their free time outside of school activities, be given religious instruction that does not follow the State education syllabus.

Freedom of expression (art. 19)

213. Article 30 of the Constitution accords to everyone freedom of expression, freedom of the press and the right to use the media. State censorship and prosecution for criticism are prohibited. Citizens have the right freely to express their beliefs and opinions, and to disseminate them in any form in the press and other media. Interference in the creative work of television and radio organizations by State bodies or local authorities and their officials, political parties, voluntary organizations or private individuals, as well as State censorship and prosecution for criticism, are prohibited. (Television and Radio Broadcasting Act, art. 6.)

Prohibition of war propaganda (art. 20)

214. In adhering to a peace-orientated policy, Tajikistan respects the sovereignty and independence of other States and determines its foreign policy on the basis of international norms. War propaganda is prohibited under article 11 of the Constitution.

215. The Constitution accords everyone freedom of expression, freedom of the press and the right to use the media. Propaganda and agitation which incite social, racial, ethnic, religious and linguistic enmity and hatred are prohibited. Article 30 prohibits State

ensorship and prosecution for criticism. Issues concerning the prohibition of war propaganda and the incitement of ethnic discord are regulated as follows.

216. The Criminal Code establishes criminal liability for acts intended to arouse ethnic, racial, regional or religious enmity or discord, insult ethnic dignity, or promote exclusivity on the grounds of citizens' views on religion or ethnic, racial or regional affiliation, if the activities were carried out publicly or through the media. Public incitement to embark on a war of aggression is also an indictable offence. The dissemination of literature or publications containing: propaganda for war, violence and cruelty, racial, ethnic or religious exclusivity or intolerance; pornography; or incitement to commit other criminally punishable acts are also prohibited by article 22 of the Press and Other Media Act.

Freedom of peaceful assembly and grounds for restricting it (art. 21)

217. Article 29 of the Constitution establishes that citizens have the right to take part in legally authorized meetings, rallies, demonstrations and peaceful processions. No one may be compelled to take part in such events. This constitutional regulation satisfies and builds on the provisions of international agreements and other international instruments.

218. The law defines the conditions and procedure for organizing and running the events listed above; the rights and responsibilities of organizers, participants and central Government agencies; the grounds and procedure for suspending or stopping such events; and the need to give notification about holding large public events.

219. Under article 161, paragraph 1, of the Criminal Code, the illegal obstruction of the holding of a meeting, rally, demonstration or procession or of picketing; the prevention of participation in such events; and the coercion of persons to such participation are indictable offences if the acts in question involve violence or the threat of violence. In accordance with article 161, paragraph 2, of the Criminal Code, such acts committed with the abuse of one's official position are considered as aggravating circumstances when determining the individual's penalty.

Freedom of association (art. 22)

220. Citizens have the constitutional right to form associations. Citizens are entitled to take part in the formation of political parties, including parties of a democratic, religious or atheistic nature, trade unions and other voluntary associations. They may also freely join or leave them. Political parties help the population, on the basis of political pluralism, to form and express their will and to take part in political life. The structure and activity of such parties must be in line with democratic standards (art. 28).

221. The Voluntary Associations Act of 12 May 2007 governs the social aspects of citizens' enjoyment of the freedom of association, and of their rights to establish, operate, reorganize or dissolve voluntary associations.

222. The legal status of trade unions in Tajikistan is established in the Constitution, the Act on Trade Unions, Their Rights and Guarantees relating to Their Activities, the Voluntary Organizations Act, the Occupational Safety Act and other laws, regulations and international legal instruments recognized by Tajikistan.

223. The Act on Trade Unions, Their Rights and Guarantees relating to Their Activities (hereinafter, referred to as the Trade Union Act) defines the main priorities of the trade union movement, the principles of the organization and operation of trade unions, the main substantive rights enjoyed by them, and the basic areas, forms and guarantees of their activities. Article 1 specifies that a trade union is a voluntary public association of workers having common interests by virtue of their occupation, in both the production and the non-

production spheres, for the protection of their labour, social and economic rights and the interests of their members.

224. Article 6 of the Act prohibits discrimination against citizens on the basis of their membership or non-membership of a trade union. The membership or non-membership of a trade union does not entail any restriction of the labour, social or other rights and freedoms accorded under the Constitution and the Trade Union Act. The recruitment, promotion and dismissal of workers on the basis of their membership of or their joining or leaving a particular trade union are prohibited. The main legal feature of trade unions which distinguishes them from other voluntary associations is that they may represent and defend the social and labour rights and interests of workers. They also have the right to conduct collective bargaining, to sign and oversee compliance with contracts and collective agreements and to promote employment.

225. In accordance with article 227 of the Labour Code and article 14 of the Trade Union Act, trade unions, public inspectors and commissions from the relevant elected trade union bodies carry out public monitoring of compliance with labour law and with regulations on occupational safety.

226. The Labour Code and the Social Partnership, Contracts and Collective Agreements Act provide additional new legal possibilities for the parties to the social partnership to improve the full range of conditions pertaining to work, remuneration, health and occupational safety, and further develop legal regulations governing individual and collective labour relations.

227. A Government decision of 2 February 2009 approved the General Agreement between the Government, the employers' associations and the Federation of Independent Trade Unions of Tajikistan for the period 2009–2011.

228. In general, the legal and regulatory instruments adopted by Tajikistan meet the requirements of the conventions and the recommendations of the International Labour Organization (ILO). As of 1 November 2010, Tajikistan had ratified 49 international conventions and 21 ILO recommendations.

229. Of the ILO conventions ratified by Tajikistan, the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) is of fundamental importance to trade unions. Conventions which determine the basic rights of trade unions include: the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Collective Bargaining Convention, 1981 (No. 154).

230. Many ILO conventions and recommendations, the International Covenant on Economic, Social and Cultural Rights and other international legal instruments ratified by Tajikistan are of considerable importance, in terms of both principles and regulations, in further developing trade union legislation, establishing statutes for trade unions and contributing to the provisions of collective contracts and agreements.

231. The Federation of Independent Trade Unions of Tajikistan is an integral part of the world trade union movement and, through its cohesiveness and solidarity, plays an active role in international efforts in respect of globalization.

Support and protection of the family (art. 23)

232. The Constitution and the Family Code regulate the basic provisions of family relations. The family, as the foundation of society, enjoys the protection of the State. Everyone has the right to found a family. Men and women, on attaining marriageable age, have the right to enter freely into marriage. Spouses have equal rights in family relations

and in the event of the dissolution of the marriage. Article 33 of the Constitution prohibits polygamy.

233. Article 32 of the Family Code guarantees the equal rights of spouses in the family. Specifically, each spouse is free to choose his or her occupation, profession, activity, place of residence and current address. Questions of paternity, maternity, the upbringing and education of the children and other issues related to family life are resolved jointly by the spouses based on the principle of spousal equality.

234. A marriage contract shall not give rise to gender-based discrimination. Upon marriage, it is the prerogative of spouses to choose the surname of either one of them as their common surname, to keep their respective premarital surnames, or to attach the surname of the other spouse to their own surname. A change in the surname of one of the spouses shall not entail any change in the surname of the other (Family Code, art. 33). The marriage or dissolution of marriage between a citizen of Tajikistan and a non-Tajik citizen shall not entail a change in citizenship. A change in citizenship of one of the spouses shall not entail a change in the citizenship of the other spouse. The dissolution of a marriage shall not affect the citizenship of any children born or adopted during the marriage (Constitutional Act on Citizenship, art. 8).

235. Articles 16 to 20 of the Constitutional Act on Citizenship also regulate questions relating to the citizenship of children. The equality of the property rights of spouses, as provided for in the Family Code, is very important in ensuring women's rights in the family. Thus, property accumulated by spouses during a marriage is owned by them in common. A spouse who, during a marriage, managed the household, looked after the children or for other valid reasons did not have an independent income, also has the right to joint ownership (Family Code, art. 34). Spouses shall possess, use and dispose of property held in common by mutual agreement (Family Code, art. 35).

236. In the event of the dissolution of a marriage, the legislation in force guarantees the equal rights of the spouses. If in divorce proceedings one of the spouses does not consent to the dissolution of the marriage, the court shall take steps to reconcile the spouses and is entitled to defer the proceedings by fixing a period of three months for the spouses to effect a reconciliation.

Rights of the child (art. 24)

237. Article 34 of the Constitution grants mothers and children the special protection and patronage of the State.

238. In accordance with article 57 of the Family Code, children have the right to the protection of their rights and legitimate interests. The article in particular provides for the right of a child of 14 years of age or older to apply independently to the courts.

239. Local government commissions on children's rights resolve issues related to the protection of the rights of the child through administrative channels.

Prohibition of discrimination in the exercise of political and civil rights (art. 25)

240. In accordance with article 27 of the Constitution, citizens are entitled, directly or through representatives, to participate in political life and the governing of the State. Citizens have equal rights to enter public service. On reaching 18 years of age, citizens are entitled to participate in referendums, to vote and, on reaching the age established by the Constitution and the law, to stand for election.

241. Tajik legislation on elections establishes that all citizens who have attained the age of 18 years before election day have the right to vote, irrespective of their ethnic origin, race, sex, language, faith, political position, social status, education or wealth. They take

part in elections on an equal basis. The electoral register includes all such citizens who, at the moment that the register for a given electoral district was compiled, are residing in the country on a temporary or permanent basis and are eligible to vote.

242. On 25 May 2009, considering the need to improve the electoral process and to ensure that, in accordance with article 12 of the Constitutional Act on Elections to the Majlis-i Oli, elections shall be open, transparent and democratic, the Central Commission on elections and referendums in Tajikistan adopted regulations governing the procedure for the participation of national and international observers, authorized representatives of candidates and political parties and representatives of the media in elections to the Majlis-i Oli and to Local Councils of People's Deputies.

243. The parliamentary elections held in February 2010 after improvements had been made to electoral legislation, in terms of organization, democratic basis and transparency, represented a marked improvement on previous such elections. This was confirmed by the conclusions of the majority of international observers monitoring the preparation and management of the elections.

244. Voters, bodies of political parties whose candidates were running for election, candidates themselves, their authorized representatives, observers, the electoral commission and the procurator were entitled to seek legal remedies in court if they considered that voting rights had been infringed owing to the decisions, actions or inaction of the local or central government, officials or civil servants.

245. The Central Commission on Elections and Referendums in Tajikistan and area and district electoral commissions have the right to initiate legal proceedings against local and central government bodies, officials, civil servants, bodies of political parties whose candidates are running for election, candidates and the electoral commission for violating electoral law.

246. In 2010, the courts examined 33 cases regarding the elections. Of these, 11 were admitted, 17 were dismissed and in 5 cases the proceedings were terminated.

Equal rights before the law (art. 26)

247. Article 17 of the Constitution states that all persons are equal before the law and the courts. The State guarantees the rights and freedoms of every person regardless of his or her ethnic origin, race, sex, language, faith, political opinions, education, social status or property. Men and women have equal rights. Fundamental human and civil rights and freedoms are set out in chapter 2, articles 14 to 47, of the Constitution. Direct or indirect violation or restriction of human rights and freedoms is criminalized in article 143 of the Criminal Code. The constitutional principles of the equality of rights and freedoms are consolidated in article 5 of the Criminal Code (principle of equality before the law); articles 7 and 16 of the Code of Criminal Procedure (administration of justice and the equality of citizens before the law and the courts); article 1 of the Family Code (prohibition of all forms of limitations of the rights of citizens entering into marriage and within family relations, whether on social, racial, ethnic, linguistic or religious grounds); article 7 of the Labour Code (the prohibition of discrimination in labour relations); article 6 of the Education Act (State guarantees for the rights of citizens to education); article 6 of the Code of Civil Procedure (administration of justice solely in the courts and on the basis of the equal rights of citizens before the law and the courts); and a number of other laws and regulations.

Rights of minorities (art. 27)²

248. The constitutional right of all peoples and ethnic groups residing in Tajikistan to freely use their mother tongue is safeguarded in article 2 of the Constitution and in article 4 of the Act on the State Language of 5 October 2009.

249. Tajik legislation taken as a whole, from the Constitution to statutory instruments, is consistent in its approach to the respect of the rights of all the peoples and ethnic groups residing in the country, including the right to use their mother tongue. The question of the linguistic rights of ethnic minorities has become an issue of major importance in Tajikistan.

250. Under the Education Act, the State provides general education in the State language while guaranteeing citizens the right to choose their language of instruction. In areas with large non-Tajik ethnic populations, it provides schooling in the native languages of those populations, as far as the capacity of the education system allows. The freedom to choose the language of instruction at general education schools is ensured by setting up the required number of classes and groups and providing the conditions for them to function.

251. At all schools, regardless of their organizational or legal status or form of ownership, studies of the State language are governed by the country's laws on language and State educational standards. All schools provide teaching of the Russian language — the language of communication between ethnic groups — and of one foreign language, as a means for students to acquire knowledge of mankind's scientific and cultural heritage and of scientific and technological achievements and to enable them to become professionally mobile.

252. Teaching takes place in the State language. Preschool and general education; initial, secondary and higher vocational training; and postgraduate vocational studies may also be conducted in other languages. At the same time, the conditions are being established to allow all peoples and ethnic groups to choose their language of instruction freely and in accordance with the law.

IV. Replies to observations of the Human Rights Committee**Paragraph 6 of the Committee's concluding observations (CCPR/CO/84/TJK)**

253. Human rights are a multidimensional phenomenon recognized around the world as humanity's greatest asset. Tajikistan endorses the goals of the World Programme for Human Rights Education recommended by the United Nations General Assembly and notes that human rights education makes an enormous contribution to the enjoyment of those rights.

254. There is a growing trend in the country to actively inform the population and law enforcement officers on human rights issues. A network of educational institutions provides training and retraining for lawyers and law enforcement officers. These institutions include law faculties of higher educational establishments, in particular the Tajik National University, the Ministry of Internal Affairs Academy, the State National Security Committee College, the Procuratorial Staff Development Centre, the Ministry of Justice Staff Development Centre and the Judicial Training Centre under the Council of Justice.

² For more detailed information on the rights of minorities, see the fifth periodic report of Tajikistan on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/463/Add.1).

255. Under the programme on the State system of human rights education, approved by Government Decision of 12 June 2001, the situation of human rights education is being systematically analysed and measures are being taken to improve human rights training and education within the education system. Measures are also being taken in other ministries and departments to train staff, and inform the public and raise its awareness of human rights.

256. In accordance with the Presidential Decree of 9 September 1997 on legal policy and the legal education of Tajik citizens and pursuant to the Government Decision on arrangements to improve citizens' legal education and legal work in the country, a legal training and education programme for 2009–2019 was drawn up and approved by Government Decision of 29 April 2009. On the basis of those documents, appropriate educational programmes have been developed and introduced in the Ministry of Justice Institute of Advanced Training for Staff of the Law Enforcement and Judicial Authorities, and Legal Services of Enterprises, Institutions and Organizations (hereinafter, the Institute) and in the Central Penal Correction Department.

257. Ministry of Justice staff participate actively in international and national conferences, seminars, round tables and discussions attended by human rights experts and specialists.

258. Two-month training courses are organized for young staff of the Central Penal Correction Department at its training centre, with the participation of the most qualified staff members and visiting human rights experts (lecturers in human rights).

259. In accordance with a plan approved by the Ministry of Justice, groups of participants undergo training courses in the Institute and the Central Penal Correction Department and receive a certificate upon completion.

260. Regular seminars for judges on the study and application of international human rights standards have been held in the Judicial Training Centre under the Council of Justice since 2005.

261. Human rights training was given in 2005 to 220 judges with up to five years of work experience, in 2006 to 219 judges, in 2007 to 200 judges, in 2008 to 194 judges, and in 2009 to 119 judges.

262. With a view to improving judges' practical skills, the Council of Justice held short-term training seminars in the regions (Khatlon, Soghd, Gorno-Badakshan Autonomous Province, Dushanbe, Gissar) on the rights of children, women and refugees, which have also become relevant following Tajikistan's independence in view of the international legal obligations it has taken on in the field of human rights.

263. In addition, in 2006, in the framework of the Universal Training Programme-2 project, the Judicial Training Centre under the Council of Justice, with the assistance of UNICEF, conducted seminars on international minimum standards of juvenile justice for 179 judges.

264. It should also be noted that in 2008, the legal information centre in Dushanbe held seminars on human rights and refugee rights for 35 judges, looking at the application of international and national refugee rights standards to the work of judges in Tajikistan, and international and domestic legislation on refugees and the procedure for granting refugee status.

265. The curriculum of the State National Security Committee College includes the subject of human rights as a separate discipline, and public international law and constitutional law as optional courses.

266. Every three months, the Procuratorial Staff Development Centre under the Procurator's Office organizes one week courses for procuratorial officials and investigators from the Procurator's Office on various aspects of human rights, as well as examining citizens' complaints and drawing up recommendations for the procuratorial staff.

267. In 2007, a handbook entitled *The Role and Tasks of the Procuratorial Agencies of Tajikistan in Defending Human and Civil Rights* was published with the support of the Danish Institute for Human Rights, and financial support from the Swedish International Development Cooperation Agency. It gives a detailed account of all aspects of the work of the Procurator's Office from the viewpoint of human rights and the rule of law.

268. In 2006, a department of human rights and comparative law was established within the law faculty of the Tajik National University. It teaches human rights together with other subjects to first-year students (64 hours) and second-year students (72 hours), as well as to second-year students from the distance education department (30 hours). Since 2008, the subject of human rights has been taught to full-time students of the history and philosophy faculties (36 hours). Special courses on women's rights, refugees' rights and issues linked to the protection of the rights of the child have gradually been introduced. Textbooks for all subjects have been issued in two languages, Tajik and Russian.

269. The Ministry of Internal Affairs Academy provides human rights training for militia officers in the form of a separate course on safeguarding human rights in the work of the internal affairs agencies, in accordance with the educational curricula of 1999; the course consists of 34 hours of lectures and 24 hours of independent preparation under the guidance of a lecturer, a total of 58 hours.

270. The Academy also offers courses in administrative law (119 hours), criminal law (238 hours), criminal procedure (255 hours), international law (52 hours) and a special course on the preliminary investigation procedure (102 hours) as part of its training for militia officers on human rights in the activities of the internal affairs agencies.

271. A course on safeguarding human and civil rights and freedoms in the work of the law enforcement agencies (30 hours) and another in international humanitarian law (20 hours) are taught to the students of faculty No. 1 studying to become law enforcement managers and specializing in State and local management.

272. Teaching staff of the Academy with at least five years' experience provided training in international law and human rights to 65 Academy staff members in 2005, to 55 staff members in 2006, to 73 staff members in 2007, and to 46 staff members in 2008.

273. In addition, to ensure that human rights training takes account of international standards, weekly classes on, inter alia, the European Convention on Human Rights and other international instruments are conducted in various departments of the Ministry of Internal Affairs, primarily for staff directly involved in detecting and investigating crime. In 2009 alone, Academy teaching staff held more than 70 training sessions on various aspects of the observance of human rights in the work of the internal affairs agencies.

274. Experience shows that cases of domestic violence against women do occur in society. Tajikistan has taken specific measures to put an end to this phenomenon. A working group made up of deputies and staff from the Office of the President, ministries, departments and non-governmental organizations has been established under the Majlis-i Namoyandagon, to work on a bill on the prevention of domestic violence.

275. The Criminal Code provides for sanctions for the following acts that may be prompted by gender discrimination: beating (art. 116), cruel treatment (art. 117), trafficking in persons (art. 130¹), recruitment for the purposes of sexual or other exploitation (art. 132), rape (art. 138), sexual assault (art. 139), sexual coercion (art. 140), sexual intercourse with persons under the age of 16 (art. 141), depraved acts (art. 142), bigamy or polygamy (art.

170), enticement into prostitution (art. 238), and the establishment or keeping of brothels, procurement and living off the earnings of prostitution (art. 239).

276. In statistical records, criminal cases involving the use of violence against women used to be registered under “other crimes”. Since 2002, in order to make such records more reliable, the Council of Justice has compiled its own statistics on cases in this category (Criminal Code, arts. 109, 110, 111, 116, 117, 120, 130, 130¹, 133, 134 and 181). In 2010, on a proposal by the Council of Justice, additions were made to the relevant reporting forms to make it possible to track trends and take measures to prevent the above-mentioned crimes.

277. The number of cases involving violence against women over the period 2007–2009 and the first half of 2010 has evolved as follows.

Category of crime	Articles of the Criminal Code	Years				
		2006	2007	2008	2009	1st half of 2010
Crimes involving violence against women	109 110 111 116 117 120 130 131 133 134 181	114 cases relating to 123 persons	228 cases relating to 139 persons	108 cases relating to 110 persons	108 cases relating to 117 persons	336 cases relating to 40 persons

The number of cases brought for crimes linked to violence against women in the period 2006–2009 is as follows.

Category of crime	Articles of the Criminal Code	Years				
		2006	2007	2008	2009	1st half of 2010
1 Trafficking in persons	130 ¹ 167	8 cases relating to 15 persons	15 cases relating to 31 persons	7 cases relating to 14 persons	8 cases relating to 17 persons	2 cases relating to 5 persons
2 Rape	138	53 cases relating to 60 persons	70 cases relating to 84 persons	70 cases relating to 78 persons	53 cases relating to 57 persons	17 cases relating to 18 persons
3 Bigamy or polygamy	170	192 cases relating to 192 persons	183 cases relating to 183 persons	162 cases relating to 162 persons	140 cases relating to 140 persons	49 cases relating to 49 persons
4 Enticement into prostitution and establishment or keeping of brothels, procurement or living off the earnings of prostitution	238 239	80 cases relating to 83 persons	89 cases relating to 97 persons	54 cases relating to 55 persons	75 cases relating to 77 persons	37 cases relating to 38 persons

278. The Ministry of Internal Affairs has carried out work to prevent and respond to cases of domestic violence. It has instructed all its regional, municipal and district departments to step up the work of district inspectors in suppressing, preventing and recording all cases of domestic violence, beating, cruel treatment, threats and blackmail against women. Meetings and preventive discussions with representatives of “dysfunctional families” are held on a regular basis. Non-governmental organizations have run seminars and training courses for the district militia inspectors dealing directly with problems of domestic violence. A new post of inspector in charge of combating domestic violence was introduced into the internal affairs agencies system in 2010.

279. Article 62 of the Criminal Code describes aggravating circumstances of an offence, such as when it is committed against a woman known by the perpetrator to be pregnant, or against a small child, a minor or other unprotected or helpless person who is dependent on the perpetrator.

Paragraph 7 of the Committee’s concluding observations – please see part 3 of the present report, and the combined fourth and fifth periodic reports submitted by Tajikistan to the Committee on the Elimination of Discrimination against Women in 2011

Paragraphs 8 and 9 of the Committee’s concluding observations

280. In its concluding observations, the United Nations Human Rights Committee expresses concern about the procedure for the implementation of the death penalty and recommends that the families and relatives of persons executed before the moratorium be informed of the burial sites of those persons. In April 2010, the President set up a working group to examine the social and legal justifications for the death penalty in the legislative system. The working group is made up of ministers, chairpersons of State committees, the Chairperson of the Supreme Court, the Procurator-General and the Commissioner for Human Rights. It is examining the question of eliminating the death penalty from the Criminal Code, as well as the possible ratification of the second Optional Protocol to the International Covenant on Civil and Political Rights.

Paragraph 10 of the Committee’s concluding observations

281. In its concluding observations, the Human Rights Committee expresses concern about the widespread use of ill-treatment and torture by investigators and other officials to obtain information, testimony or self-incriminating evidence from suspects, witnesses or arrested persons. Tajikistan is taking steps to eliminate offences against the person and the use of torture or cruel treatment. To this end, the Government is improving the various procuratorial oversight systems and judicial controls to ensure that anyone found to have used torture is punished in accordance with the law. The country’s criminal legislation provides for punishment for the use of torture, beatings and cruel treatment.

282. Under national legislation (Code of Criminal Procedure, art. 122), investigators from the Procurator’s Office are entrusted with investigating crimes, including torture, linked to the abuse of official capacity (official powers).

283. The Militia Act, the Code of Criminal Procedure and other laws and regulations contain provisions enabling persons who believe that their rights and freedoms have been infringed by the actions of militia agencies or officials to submit complaints to a higher internal affairs authority, the Procurator or the courts. In such cases, the above-mentioned authorities examine the complaints and take measures to bring the offenders to justice.

284. An analysis by the Ministry of Internal Affairs Department of Human Resources and Personnel Management of citizens’ complaints and petitions concerning unlawful conduct

by militia officers shows that the number of such complaints and petitions concerning violations of citizens' legal rights decreased every year in the period from 2007 to 2010: from 60 in 2007 to 53 in 2008, 40 in 2009, and 23 in the period from 1 January 2010 to 31 May 2010. A total of 176 statements were filed in the specified period. Of these, 50 were corroborated and appropriate disciplinary measures were taken against the offenders.

285. The following information on criminal proceedings instituted against individuals for torture is based on data from the Ministry of Internal Affairs Information Centre.

<i>Articles of the Criminal Code</i>	<i>Criminal proceedings were instituted against:</i>				
	<i>Total</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>4 months of 2010</i>
314 (abuse of authority)	42	2	15	22	3
315 (nonfeasance)	5	4	0	1	0
316 (improper exercise of authority)	18	4	8	2	4
322 (negligence)	31	0	6	24	1
391 (abuse of authority or official position)	1	0	0	1	0
Total	x	10	29	50	8

286. According to the Office of the Procurator-General, during the period from 2005 to 2010 and the first six months of 2011, criminal proceedings were instituted under article 314 of the Criminal Code (abuse of authority) against 137 law enforcement officers, under article 315 (nonfeasance) against 1 law enforcement officer and under article 316 (improper exercise of authority) against 164 law enforcement officers (from the Procurator's Office, the State National Security Committee, the Ministry of Internal Affairs, the customs service, military personnel, etc.). All those guilty of improper exercise of authority received appropriate penalties in accordance with the Criminal Code and other laws, taking into account the nature of the crime committed, or the official misconduct, and the consequences.

Paragraph 11 of the Committee's concluding observations

287. The Code of Criminal Procedure provides that a suspect, accused person or defendant has the right to communicate with counsel at any stage of the proceedings in order to prepare his or her defence. This right is granted under article 48 of the Code of Criminal Procedure and is further protected by the Bar Act, under article 10 of which the defence counsel (lawyer) has the right to have unhindered, confidential and private discussions with his or her client, without any limitation as to their duration, including in cases where the person is detained.

288. Article 19 of the Constitution states that everyone has the right to the services of a lawyer from the moment of his or her detention. The procedure for the defence counsel's activities is governed by articles 49 to 53 of the Code of Criminal Procedure. The defence counsel is allowed to take part in the proceedings as soon as a decision is made to bring charges, or from the moment of the suspect's actual arrest.

Paragraph 12 of the Committee's concluding observations

289. Under the Code of Criminal Procedure brought into force on 1 April 2010, arrest warrants and other restrictions on the constitutional rights of citizens are issued by the judicial authorities. Article 111 stipulates that, if proceedings are to be initiated in respect of a suspect detained in accordance with the procedure established by the Code, then the

decision and the case file must be submitted to the judge at least 8 hours before the expiry of the detention period (72 hours).

Paragraph 13 of the Committee's concluding observations

290. It should be noted that, under the current Code of Administrative Offences, a person may be placed in administrative detention for up to 15 days, and for up to 30 days for violating regulations governing a state of emergency; such detention must be ordered by a judge and is subject to direct judicial supervision.

291. Administrative detention is only ordered in exceptional cases for different types of administrative offences explicitly provided for in the relevant articles of the special section of the Code of Administrative Offences and cannot be applied to pregnant women, women with children under 14 years of age, persons under 18 years of age, persons with disabilities in categories I and II, or persons who have reached retirement age.

Paragraph 14 of the Committee's concluding observations

292. In 2007 alone, 57 per cent of convicted persons were subjected to penalties other than the deprivation of liberty, such as community service, punitive work, fines and conditional suspended sentences. In 2010, the Criminal Code was amended with a view to making it more humane. In accordance with these amendments, if persons guilty of an economic crime (a total of 54 offences) fully reimburse the material damage before a court sentence is passed, they are subject to a fine or another penalty not consisting in deprivation of liberty.

293. There is no overcrowding in prisons and other places of deprivation of liberty. Moreover, amnesty laws adopted in 2006, 2007 and 2009 led to the release of more than 10,000 convicted persons.

294. The Government has done much in recent years to improve detention conditions, particularly with the building of a new hospital, the refurbishment of the remand centre and the reconstruction of a number of non-residential facilities (a children's colony, a women's colony), where buildings have been erected to house minors and persons serving life sentences. Monitoring has been carried out, as well as a number of projects to improve conditions in detention, with the direct involvement of the Swiss Cooperation Office in Tajikistan, the AIDS Foundation East-West, UNICEF, and local voluntary organizations (the Analytical and Advisory Centre on Human Rights). International organizations such as the Global Fund, UNDP, the AIDS Foundation East-West, Karakhad, and the "Caritas – Luxembourg" DOTS (tuberculosis control) programme have unrestricted access to penal establishments in the country.

Paragraph 15 of the Committee's concluding observations

295. With regard to the Committee's concern about the absence of any provision in the Code of Criminal Procedure prohibiting the use of evidence obtained in violation of the law, it should be noted that, under article 88 of the Code of Criminal Procedure, evidence obtained during questioning or preliminary investigation through force, intimidation, torment, inhumane treatment or other unlawful means, is invalid and cannot be used as grounds for bringing charges.

Paragraph 16 of the Committee's concluding observations

296. Article 17 of the Constitution states that everyone is equal before the law and the courts. The State guarantees individual rights and freedoms, irrespective of ethnic origin, race, sex, language, faith, political opinions, education, social status or property. Under article 8 of the Code of Criminal Procedure, criminal justice is administered by the courts.

No one may lawfully be adjudged guilty of a crime and subjected to a criminal penalty other than by a court sentence. According to article 9 of the Code, criminal justice is administered on the basis of equality of all citizens before the law and the courts, irrespective of background, social status or property, race, ethnic origin, sex, education, language, views on religion, type and nature of occupation, place of residence or other circumstances.

297. All court proceedings are open to the public, except when this runs counter to the interest of protecting State secrets.

298. At the same time, in practice, the courts increasingly tend to hand down judgements of acquittal. In 2005, 132 persons were partially and 42 persons fully acquitted; in 2006, 159 persons were partially and 33 persons fully acquitted; in 2007, 96 persons were partially and 16 persons fully acquitted; in 2008, 86 persons were partially and 11 persons fully acquitted; in 2009, 41 persons were partially and 4 persons fully acquitted; and in 2010, 31 persons were partially and 2 persons fully acquitted.

Paragraph 17 of the Committee's concluding observations

299. Please see the detailed information in the report on the implementation of article 14 of the Covenant.

Paragraph 18 of the Committee's concluding observations

300. The issue of the jurisdiction of military courts is being considered in the framework of the legal and judicial reform programme, approved by presidential decree in January 2011.

Paragraph 19 of the Committee's concluding observations

301. In accordance with article 280 of the Code of Criminal Procedure, proceedings in courts of first instance must be conducted in the presence of the defendant. If the defendant fails to appear in court, the case must be deferred. If there is no due cause for the defendant's failure to appear in court, the court or judge may order the defendant's arrest and apply or change a preventive measure in his or her regard. If a defendant remanded in custody refuses to appear in court proceedings, the court and the judge may examine the case in his or her absence with the mandatory participation of the defence counsel. Current court practice is not to hand down sentences in absentia.

Paragraph 20 of the Committee's concluding observations

302. Article 20 of the General Military Duties and Military Service Act of 20 November 2000 states that the following citizens are exempt from military service:

- (a) Persons who for health reasons are deemed unfit or only partially fit for military service;
- (b) Persons who are performing or have performed military or alternative service;
- (c) Persons who have performed military service in another State;
- (d) Persons who have a PhD degree or similar.

The issue of adopting a law on alternative service is being widely addressed together with civil society.

Paragraph 21 of the Committee's concluding observations

303. Article 30 of the Constitution accords everyone freedom of speech, freedom of the press, and the right to use the media. Propaganda and agitation that incite social, racial, ethnic, religious or linguistic enmity and hatred are prohibited. State censorship and prosecution for criticism are prohibited. The list of information that constitutes Government secrets is determined by law. The Criminal Code imposes penalties for refusal to provide citizens with information (art. 148) and for obstruction of the lawful professional activities of journalists (art. 162).

304. Article 2 of the Press and Other Media Act guarantees the right of all citizens to hold opinions, express their beliefs freely and disseminate them in any form in the press and other media.

305. Interference in the activities of the media, obstruction by officials of State agencies or public entities of the lawful professional activities of journalists, and coercion of journalists to make information public or refrain from making it public are prohibited and subject to criminal prosecution (Press and Other Media Act, art. 37; Television and Radio Broadcasting Act, art. 6).

306. Obstruction of the lawful professional activities of journalists is also liable to criminal prosecution. Under article 162 of the Criminal Code, any manner of obstruction of the lawful professional activities of journalists or coercion of journalists to make information public or to refrain from making it public, when accompanied by threats of violence, destruction or damage of property, circulation of slanderous fabrications or publication of any other information that the victim wishes to remain secret, or by threats to infringe a journalist's rights and legitimate interests are liable to criminal prosecution.

Paragraph 22 of the Committee's concluding observations

307. These observations of the Committee are currently being discussed at various levels in the country.

Paragraph 23 of the Committee's concluding observations

308. In its concluding observations, the Human Rights Committee claims that there are reports of persistent recourse to corporal punishment as a means of discipline in schools.

309. Article 26 of the Education Act states that discipline is maintained in schools on the basis of respect for the honour and dignity of day and residential pupils and teachers. The use of physical or mental violence against them is prohibited. This Act is the main normative instrument in the field of education. General education schools have self-governance bodies, such as teachers' councils, school boards and parents' committees, whose main function is to develop and reflect the interests of those engaged in the teaching and education process, as well as to ensure their protection.

310. In accordance with article 39 of the Education Act, day and residential school pupils, and undergraduate and postgraduate students in educational institutions are entitled to protection against unlawful acts (or omissions) on the part of the administration, teaching and other staff that infringe their rights, or injure their sense of honour, dignity or authority.

311. There are, moreover, dozens of international organizations and non-governmental organizations in the country working in this area. In addition, a detailed review of the use of corporal punishment in schools has not identified a single case officially recorded by the Ministry of Education that confirms the above-mentioned reports.

Paragraph 24 of the Committee's concluding observations

312. Trafficking in persons is recognized as one of the most socially dangerous transnational phenomena and is considered throughout the world as a grave crime that violates individual rights and freedoms and may also pose a threat to the national security of many States and undermine their social and economic stability.

313. The criminal offence of trafficking in persons is defined in international law as the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, such as abduction, fraud, deception, abuse of power or of a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

314. In view of the relevance and urgency of these issues, the Government has taken an active part in global efforts to combat trafficking in persons and has adopted appropriate organizational and legal measures at the international and national levels.

315. The comprehensive measures adopted are clearly reflected, first and foremost, in the country's accession to and ratification of the key international legal instruments aimed at combating this negative phenomenon. They include:

(a) The United Nations Convention against Transnational Organized Crime of 15 November 2000;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 15 November 2000;

(c) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime of 15 November 2000;

(d) The Convention on the Rights of the Child of 20 November 1989;

(e) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 25 May 2000;

(f) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 25 May 2000;

(g) The ILO Worst Forms of Child Labour Convention, 1999 (No. 182);

(h) The ILO Forced Labour Convention, 1930 (No. 29);

(i) The ILO Abolition of Forced Labour Convention, 1957 (No. 105), and others.

316. With a view to implementing international obligations and developing national legal doctrine in this field, article 130, note 1, on trafficking in persons, has been added to the Criminal Code.

317. In addition, the Trafficking in Persons Act was drawn up and adopted on 15 July 2004. On 6 May 2006, to ensure the efficient implementation of the Act, the Government adopted a comprehensive programme to combat human trafficking for the period 2006–2010, which helped to introduce and implement the types of activities provided for under the Act for all those involved in the prevention and suppression of crimes linked to trafficking in persons, as well as the comprehensive protection of victims. During the implementation of the Act and the comprehensive programme, the Government reinforced the action of the law enforcement agencies in prosecuting and suppressing crimes linked to trafficking in persons, and planned and implemented informative and educational

awareness-raising activities. Victims of trafficking were given access to rehabilitation and reintegration services.

318. Twenty-two articles of the Criminal Code cover offences linked to trafficking in persons; a special type of statistical reporting system has been developed for such offences for the purpose of continuous monitoring and standardized recording.

319. Particular attention is also paid to combating trafficking in children. All children in the country are considered to be at risk. Thus, under article 167 of the Criminal Code, trafficking in minors is a criminal offence punishable by deprivation of liberty for up to 15 years with confiscation of property.

320. Since 2006, 61 cases of trafficking in minors have been brought to light. During the same period, the judicial authorities examined 39 criminal cases under this article with regard to 78 persons; convictions and other guilty verdicts were handed down.

321. The Government Commission on the Rights of the Child is also involved in this process and the Government's national plan of action to protect children's rights is being implemented.

322. In addition to the adoption of proactive measures to combat trafficking in children, the Government pays particular attention to supporting and assisting victims of trafficking in persons. At present, with the support of the International Organization for Migration (IOM), two support and assistance centres for victims of trafficking are in place in the country, one of them specializing in working with victims of trafficking in children. Its work is aimed at providing psychological and medical assistance to minors who have been subjected to various types of exploitation, to children who have been subjected to violence, and to children at risk. To date, 81 children have been trained in various professions in this centre.

323. Combating trafficking in women is also a priority area in the work of the law enforcement agencies. A working trip to the city of Dubai was organized for law enforcement officers from 12 to 25 February 2010. As a result of this trip, 15 Tajik women were identified as victims of trafficking. All of them were brought back to Tajikistan and underwent rehabilitation programmes. Thus, in 2010 alone, five criminal cases were brought against nine persons under article 130, note 1 (trafficking in persons). Serious measures are being taken to find employment for and train young women, to stop them falling prey to traffickers.

324. The Girls' Support Service has been set up to provide comprehensive assistance to young girls between 10 and 18 years of age who have been subjected to violence, exploitation or trafficking in the country. Ten similar services have been established in the regions.

325. Health-care staff in maternity hospitals and children's homes work actively to prevent trafficking in children. Experts are being trained to work with victims of trafficking. Rules for the organization and provision of social and medical assistance to victims of trafficking have been adopted by Order of the Ministry of Health. There are now telephone helplines in 30 medical institutions, and psychological assistance rooms for victims of trafficking have been set up in 8 medical institutions.

326. Special attention is being paid to professional training for law enforcement officers in combating human trafficking. To this end, a national training centre for combating trafficking in persons has been established under the law faculty of the Tajik National University and equipped in cooperation with IOM.

327. Cooperation between State agencies, international organizations and civil society is of particular importance in combating human trafficking. In 2010, a dialogue on the subject

was organized on the initiative of the Government and with the support of the OSCE mission to Tajikistan. This has now become a permanent forum and serves as a mechanism for achieving efficient cooperation.

328. Given the completion of the Comprehensive Programme and the objective need to continue work in this area, as well as to gain ground in the complex fight against trafficking in persons, the Government has adopted a comprehensive programme to combat trafficking in persons in Tajikistan for 2011–2013.

Paragraph 25 of the Committee’s concluding observations

329. Amendments to the electoral legislation are currently under discussion.
