

***A Coalition of public organizations
of the Republic of Tajikistan
"From the de-jure equality - to the de-facto equality"***



**INFORMATION TO GENERATE A LIST OF QUESTIONS TO THE CONSOLIDATED
FOURTH AND FIFTH PERIODIC REPORT OF TAJIKISTAN ON THE PROGRESS
MADE IN IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION OF
ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

Background

Over the past years, the State has taken a number of positive measures to promote gender equality through the adoption of the laws of the Republic of Tajikistan "On State Guarantees of Equal Rights and Opportunities for Men and Women" (2005), National Strategy for activation of the role of women in the Republic of Tajikistan for 2011-2020 (2010) and the approved Presidential Grants for Women Entrepreneurs (2008-2011), etc. However, there are no effective enforcement mechanisms with note dweak monitoring and evaluation of the progress toward their implementation and a significant number of planned activities that are not performed. Also, such a mechanism as "temporary ad-hoc measures" is used very seldom. The Government of Tajikistan does not fund the implementation of the National strategy on sensitization of the role of women in the Republic of Tajikistan for 2011-2020 and has no communication strategy to overcome gender stereotypes and promote gender equality either.

QUESTIONS ON THE CONVENTION ARTICLES

ARTICLE 1. DISCRIMINATION AGAINST WOMEN

1. The Constitution of the Republic of Tajikistan (RT) establishes the principle of priority of international treaties over domestic legislation. However, in practice, the tajikcourts had no examples of decision-making when the norms of the Conventions were directly applied.

Questions:

- 1. Did the tajikcourts consider the cases of gender-based discrimination? If "yes", how many? If "no", why?**
- 2. Please, provide details of the court practice of the direct applying the CEDAW. If there are no such cases, then why do the courts in hearing of cases not directly apply the norms of CEDAW?**

2. Article 143 of the Criminal Code of the Republic of Tajikistan does establish criminal liability for direct or indirect violation or restriction of rights and freedoms of citizens on grounds of sex, race, etc., which caused harm to the rights and legitimate interests of the citizen.

Questions:

1. **Provide information about the number of criminal cases that were instituted on the legally defined crimes related to gender discrimination under Article 143 of the Criminal Code and how many sentences were passed on the same corpus delicti?**
2. **If the husband forbids his wife to work or study, then shall it will be qualified as an offense under Article 143 of the Criminal Code of RT?**

ARTICLE 2. OBLIGATIONS ON ELIMINATION OF DISCRIMINATION

1. The Law of RT "On state guarantees of equal rights and opportunities for men and women" bears a declarative nature. The law does not reflect the implementation mechanisms of the enshrined guarantees of equal opportunities for women. Paragraph 12 of the concluding observations of the CEDAW Committee to Tajikistan is not executed following the initial, second and third periodic report: other laws and regulations are not brought in accordance with this Law. Monitoring and evaluation of the Act enforcement are not carried out. Annual reports on the implementation of this Act are not published in the media, as provided in Article 19 of this Law.

Questions:

1. **Are other laws and regulations brought in compliance with the Law of RT "On state guarantees of equal rights and opportunities for men and women"? Which piece of legislation was amended to provide the state guarantees for women?**
2. **Is there a gender analysis of existing laws and new laws adopted in Tajikistan?**
3. **What state structure does have the powers to monitor and evaluate the implementation of the Law of RT "On state guarantees of equal rights for men and women and equal opportunities for their realization"? Is a system for monitoring and evaluation of policies to ensure equal rights and equal opportunities for men and women developed and introduced in Tajikistan?**
4. **Are the yearly reports on the progress in implementation of this Act published in the media?**

2. In 2001, the President of the Republic of Tajikistan signed the Optional Protocol to CEDAW. However, despite the repeated calls of the tajik NGOs to ratify the document, Tajikistan so far hasn't ratified it.

Question: Please, provide information when Tajikistan intends to ratify the Optional Protocol to CEDAW?

3. In December 2012, the lower house of parliament adopted the Law "On the prevention of domestic violence". In April 2013, the Act should be considered by the upper house of parliament. The adoption of this law, will certainly contribute to the protection of women from domestic violence. But this is regarded not to be sufficient as the adoption of laws on amendments and additions to the Criminal Code, the Criminal Procedure Code and other laws of the Republic of Tajikistan along with a number of regulations needs to be provided for. For example, the Criminal Code does not provide for the responsibility for the psychological and economic violence. However, among the types of violence that often affects women psychological violence is dominated, followed by economic abuse, physical violence and sexual abuse. Meanwhile, nearly one in four women was subjected to several forms of violence at the same time.

Along with this, when referring women to law enforcement agencies in cases of physical violence against her, the perpetrator shall be prosecuted under Article 112 of the Criminal Code (bodily harm). This *corpus delictic* constitutes a crime related to the crimes of private prosecution and the woman herself must gather evidence. Another article of the Criminal Code - Article 117 (assault and torture) of the Act requires systematic character of perpetration and systematicness involves appeals to law enforcement agencies for more than three times. During this time, a woman's life may be in danger. All this makes it necessary to amend the Criminal Code and other legislative acts.

Question: Do you plan to make changes and additions to the Criminal Code and to incorporate in the new Penal Code the new formal components of a crime of domestic violence, considering all types of violence (physical, sexual, psychological and economic)? If "yes", then is it assumed that this crime will be referred to a public charge?

4. Tajikistan has adopted a National strategy for strengthening the role of women for the period of 2011-2020, which one of the main goals is to create conditions for a decent life for women without violence. One of the objectives of the Strategy envisages the development of a network of crisis centers and shelters for victims of violence. However, allocation of public funds for addressing this problem and realizing other tasks is not envisaged.

Question: Does the State budget for 2013 incorporate funding for the establishment of crisis centers in order to achieve Targets 7.3 of the National strategy for strengthening the role of women for 2011-2020. If so, in what amount?

5. People with HIV / AIDS and people living with HIV / AIDS is a matter of big concern that requires the adoption of specific measures to combat discrimination against them. The current legislation cannot yet ensure effective protection for people living with HIV / AIDS from discrimination and stigma. Studies show that the prevalence of stigma and discrimination against PLWHA is extremely high. For example, in a study conducted by the Center for Strategic Research in 2007, 86% of women PLWHA reported that they had to deal with various forms of discrimination. Although the Law of RT "On Combating HIV and AIDS" was adopted and it provides free health care and confidentiality and many other guarantees but in practice these safeguards do not work.

Question: Please, provide information on specific measures and actions, and mechanisms of implementation of the Law "On combating HIV and AIDS" to address stigma and discrimination against people living with HIV.

6. According to expert estimates, more than one million citizens of Tajikistan are constantly in labor migration and labor migration of women enrolls 15% of the total number of people traveling outside the country to work. Despite the growing number of traveling women - migrant workers, the government has not taken adequate measures to support them. The results of gender analysis of the National External Labor Migration Strategy of Tajikistan for the period of 2011 - 2015 years have shown that gender mainstreaming is missing in this paper. It either does not include specific measures to address the concerns of women-labor migrants. In addition, women - migrant workers from Tajikistan face stigmatization (women traveling alone to work, without a husband are more often exposed to being stigmatized) as in society there is a deeply rooted stereotype that migration is not a woman but a man's business¹.

Questions:

¹Interview of gender expert T. Bozrikovoya: <http://www.migrant.ru/news.php?id=404>

1. **Provide, please, information on measures taken by the Government of Tajikistan to collect data on the number of women migrant workers and the official statistics on the number of women-labor migrants.**
2. **Please provide information on what specific measures are included in the National External Labor Migration Strategy of Tajikistan for 2011-2015 to address the problems of female migrant workers, including their vocational training, legal literacy or awareness and other issues.**
3. **Give, please, the information on the amount of funding from the state budget for the implementation of measures outlined by the National Labor Migration Strategy of Tajikistan for the period of 2011-2015 years to address the concerns of women-migrant workers and members of the families of migrant workers.**
4. **Please provide information on measures taken by the Government to involve non-governmental organizations and women-migrant workers in the implementation, monitoring and evaluation of this strategy.**
5. **Please provide information about the measures that have been taken by the Government to ensure a proper understanding at the community level of pros and cons (costs & benefits) of different forms of female migration. Give, please, any information on the impact of such measures on reducing stigmatization of women-labor migrants, especially women-migrant workers, who travel on their own.**

ARTICLE 3. DEVELOPMENT AND ADVANCEMENT OF WOMEN

In 2010, the Government adopted the National Strategy for sensitization of the role of women in the Republic of Tajikistan for 2011-2020. However, so far no funding was provided from the state budget for the implementation of this strategy with no National Action Plan adopted for the implementation of the strategy. Many activities, scheduled under this plan, are not executed.

Questions:

1. **Are the state budget funds allocated for implementation of the National Strategy for strengthening the role of women in the Republic of Tajikistan for 2011-2020?**
2. **Does the Government of Tajikistan plan to adopt the National Action Plan for the implementation of the National Strategy for strengthening the role of women in the Republic of Tajikistan for 2011-2020?**

ARTICLE 4. ACCELERATION OF EQUALITY FOR MEN AND WOMEN

Notwithstanding the fact that the Law of RT "On state guarantees of equal rights for men and women and equal opportunities for their realization" in Article 5 emphasizes that "The State shall ensure equal representation of men and women in the legislative, executive and judicial branches of power through legal, organizational and other mechanisms", women make up less than 30% of civil servants, in particular, for management positions. In the Government of the Republic of Tajikistan there is only one woman, among the ministers there are no women at all. However, the Government of Tajikistan weakly uses such a mechanism as "temporary ad-hoc measures". The Law of RT "On Civil Service", the Regulations on the competition for filling vacancies in the administrative civil service have no provisions laid down for the use of the principle of a quota system.

Questions:

1. **What special measures are taken by the Government of RT to ensure women's equal access to decision-making positions at all levels of government? Has the**

- principle of assignment of quotas or "soft" quota system been actually applied in competitions for vacant positions in the public service?**
- 2. Is it planned to introduce in a national election law the rules on special measures (quotas) for the promotion of women in the legislature?**

ARTICLE 5. GENDER ROLES AND STEREOTYPES

1. The results of public monitoring, conducted by a coalition of public associations "From the de-jure quality to the de-facto equality " in 2009-2011, recorded a number of challenges and barriers to the implementation of the adopted laws and policies to promote gender equality. One problem is the low level of understanding of the importance of gender issues and gender sensitivity of public servants. Recommendations of the Committee (paragraph 16) on raising awareness and building capacity on gender issues among public officials are poorly executed. At the Institute for Advanced Training of Civil Servants, the courses on gender issues are delivered from time to time, and they are not part of the compulsory skill upgrading curriculum for civil servants. In addition, training in the institute is attended by a limited number of civil servants. The first persons of the ministries are not involved in these special courses, even though they are responsible for the development and implementation of policies in the relevant government areas.

Questions:

- 1. Are the courses on gender issues integrated in the educational program of the Civil Servant Training Institute as compulsory? If not, what is the barrier preventing this?**
- 2. Is reading of special courses on gender issues foreseen in a system of training for heads of ministries and departments (the first persons)? If "yes", how many ministers and deputy ministers were trained on gender issues for the last few years?**

2. The educational system and the media play a special role in overcoming gender stereotypes and promoting gender equality. However, the state-run media has no developed communication strategy for public discussion of issues of gender inequality, including the elimination of stereotypes.

Curricula of most higher education institutions have no courses on gender education of future professionals. The Ministry of Education and universities do not pay enough attention to the implementation of gender perspectives in the process of training of journalists.

Questions:

- 1. Has the Government of Tajikistan adopted a communications strategy to overcome gender stereotypes and promote gender equality?**
- 2. Please, provide information on the number of TV spots about overcoming gender stereotypes emitted by public television and radio channels and their frequency of broadcasting?**
- 3. Why didn't all universities in Tajikistan introduce the courses on gender education of students, as planned by the government program "State policy to ensure equal rights and opportunities for men and women in the Republic of Tajikistan for 2001-2010"?**

ARTICLE 6. EXPLOITATION OF WOMEN

The government of Tajikistan has made some efforts to combat trafficking for sexual exploitation. However, no comprehensive measures are formulated to protect migrant workers, especially women, from labor exploitation and slavery in the Russian Federation and other countries. Such cases are prevalent when the labor migrants from Tajikistan get into slavery and labor exploitation in employment caused by the recruiters, private or public employment agencies. Once getting in the labor exploitation in Russia, migrant workers from Tajikistan - women and men - rarely receive adequate support from the consular authorities in view of their lack in Russia and the absence of mechanisms to address promptly the migrants' complaints and to render assistance to them.

Questions:

- 1. Please provide information on the measures undertaken by the Government of the country to protect women - migrant workers from slavery and forced labor on their way to the Russian Federation and other countries.**
- 2. Please provide information about the steps being taken to monitor the activities of recruiters, private and public employment agencies, engaged in overseas employment. Does the government hold special companies to improve access for women, who plan to labor migration, to information about employment agencies, laws of destination countries and other issues?**
- 3. Please give the information about the mechanisms available for the protection of women - migrant workers, reporting the cases of trafficking in human beings for labor exploitation.**

ARTICLE 7. POLITICAL AND PUBLIC LIFE

1. In the consolidated fourth and fifth periodic report of Tajikistan it is noted that the Government has the managerial personnel reserve list of 700 most talented girls and women. However, in practice, no one tracks the advancing of women from the reserve list for executive positions.

Question: Does the Government of Tajikistan conduct monitoring on promoting women in the reserve list for management positions? How many women in the reserve list were appointed to senior positions for the last two years, and what positions?

2. The representation of women in government is less than 30%. Women from national minorities have even more limited opportunities to hold the positions and work in public authorities. Over recent years members of national minorities are displaced in the civil service, especially in leadership positions.

Question:

What measures are being taken by the Government to improve the access of women members of national minorities in the public service? Please present information on the number and proportion of women, members of national minorities, in the executive and legislative branches, including in executive positions.

ARTICLE 10. EDUCATION

1. One of the obstacles to gender equality in society is unequal access to education. The higher the education level, the lower the representation of girls and women in the student community. In

recent years, the number of girls in upper secondary schools and higher education has declined, particularly in rural areas. Of particular concern is the situation of girls' enrollment in grades 10-11 in such areas as Nurobod district (18.4%), Gornaya (Mountain) Matcha (20.2%) Vahdat (23%), Rudaki (27,9%), Matcha (28.5%) and Tavildara (31%) districts. In recent years, a sharp increase in gender inequality in access to primary vocational education has been noted. Over the past seven years, the proportion of girls among the students of primary vocational education institutions has almost two-fold decreased.²

Questions:

- 1. What steps are taken by the Government of Tajikistan to engage girls studying in 10-11 grades of general secondary school? Is there a specific application of Article 164 of the Criminal Code to specific individuals, preventing a child from the receipt of compulsory general (nine years) education? If "yes," how many of these cases over the last three years were reported?**
- 2. Are the programs for girls and women, who have left school prematurely (school dropped out) developed and implemented in accordance with international obligations under paragraph e) of Article 10 of the Convention?**

2. The problem of access to education for women with disabilities is acute. For example, according to the results of the study "The situation of women with disabilities in the Republic of Tajikistan", held in 2007, over 64% of women with disabilities do not have any education. Only 19.1% of all respondents have secondary education. The proportion of those with secondary vocational education and vocational technical training was 5.6% and 5.9%, respectively. The share of those who have higher or incomplete higher education made 5.0%.³

Question:

What measures are taken to ensure the rights of girls and women with disabilities to general education and vocational training? Please provide information about the percentage of children with disabilities enrolled by secondary school education?

ARTICLE 11. EMPLOYMENT

1. Employment is one of the most pressing problems for people with disabilities (PWD). The tajik legislation contains no prohibition on employment for PWD of any disability group. But in reality, there is a situation that only the disabled persons of Group 3 can be employed and work. People with disabilities of 1-2 groups can not be registered as unemployed either as in a certificate of Group 1 or Group 2 disability they are given, it says "incapacitated". Therefore, people with 1 and 2 degree of disabilities only receive a pension. Such a situation prevails, despite the fact that the law of Tajikistan permits employing disabled persons of all three groups of disability. The study, conducted in 2007, reported that more than 81.7% of women with disabilities do not work (in total 572 women were surveyed).⁴

Questions:

²See: Vazorati Maorif Jumhuri Tojikiston. Machmuai Omori sohai Maorif Jumhuri Tojikiston. Dushanbe, 2010, p. 77., Agency for Statistics under the President of Tajikistan. Education in Tajikistan in 2010. Dushanbe, 2010, p. 30.

³See: Research report "Situation of women with disabilities in the Republic of Tajikistan". Dushanbe, 2007. Section "Education". A total of 572 people were surveyed.

⁴See the results of the study "The situation of women with disabilities in the Republic of Tajikistan." Dushanbe, 2007, p. 24.

1. **Please provide information on the measures and programs to empower people with disabilities to be employed.**
2. **Does the Government take any measures to encourage people with disabilities to engage in entrepreneurial activity? Are there any benefits provided for people with disabilities in business registration?**

2. Over the last years, the growth of female labor migration and family migration can be observed. One of the factors contributing to the growth of labor migration is the difficulty of employment in the country and the low salaries. It is particularly difficult to find a job for wives of migrant workers, having no professional training. Limited opportunities in employment of women returning from migration are particularly in rural areas.

Questions:

1. **Are there programs in Tajikistan to promote the employment of wives of migrant workers, women with low competitiveness and being dependent on remittances?**
2. **Please provide information on what specific measures are incorporated in the National External Labor Migration Strategy for 2011-2015 for the reintegration of returning women-migrant workers. If there are such measures, please, specify, whether these measures are supported by funding from the Government.**

ARTICLE 12. EQUAL ACCESS TO HEALTH CARE

1. Malignant tumors remain one of the main causes of death in the country. Of particular concern is the growth of malignant disease in women. In 2005 the number of cases with the first time diagnosed malignant neoplasms among women was 29.7 per 100,000 population vs. 40.7 per 100,000 population in 2010.⁵

The reported incidence rates of breast cancer (firstly diagnosed) and cervical cancer increased from 6.6 in 2005 to 9.8 in 2010 and from 6.3 in 2005 to 9.7 in 2010, respectively⁶. Tajikistan has adopted a National program for the prevention, diagnosis and treatment of malignant neoplasms in the Republic of Tajikistan for 2010-2015, but no appropriate monitoring the progress made in its implementation is carried out. And many planned program activities are not timely accomplished.

Questions:

1. **Is a National program for the prevention, diagnosis and treatment of malignant neoplasms in the Republic of Tajikistan for 2010-2015 secured with adequate funding from the state budget? If "yes", what is the total budget for the program?**
2. **Please provide information on the measures undertaken for the systematic screening of common malignant diseases such as breast cancer and cervical cancer?**
3. **What is being done by the Government to improve the diagnosis of breast cancer? How many health facilities / medical institutions of Tajikistan are provided with mammography equipment and in what quantity?**

2. In recent years there has been a significant increase in the number of HIV-infected women. So, in 2005 the number of registered HIV positive women was 16, representing 9.2% of the total number of HIV contracted vs. 206 women (or 20.5%) in 2010. A six-fold increase in the number

⁵See Agency for Statistics under the President of Tajikistan. Health care in the Republic of Tajikistan. 2011, p.21

⁶See Agency for Statistics under the President of Tajikistan. Health care in the Republic of Tajikistan. 2011, p. 31

of pregnant women with HIV infection is of particular concern (11 cases in 2007 compared to 63 cases in 2010)⁷

Non-governmental organizations working with people living with HIV (PLHIV), fix the problem of access to free medical care. Although Article 12 of the Law "On Combating Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome" regulates free delivery of all types of qualified and specialized medical care, and provision of medicines, in practice, this article of the law has no mechanism for implementation, and people living with HIV, especially women are disadvantaged and have no access to free health services. None of the health facilities in the country, apart from AIDS centers and a specialist unit for people living with HIV infection in an urban communicable disease hospital provides free medical care.

Question:

What actions are being taken by the Government to ensure access for people living with HIV to free medical care?

ARTICLE 14. RURAL WOMEN

One of the barriers to achieving de facto equality for rural women is a lower level of education and thus their lower potential. Inequality is especially manifested in access to professional education. As the statistics show, rural women are less likely to receive vocational training not only in comparison with men, but also compared to their urban peers. According to the census of 2010, in Tajikistan 14% of the employed urban women have professional education vs. 8.7% of rural women with occupational education.

Question:

What steps are being taken to improve the access of rural women to vocational education? Please provide information on the number and proportion of rural girls and women among students of primary vocational and higher education?

ARTICLE 15. EQUAL RIGHTS

1. The results of monitoring the observance of the right to free legal aid, conducted in 2011 by the NGO "Bureau for Human Rights and Rule of Law", have shown that many women from vulnerable groups have no access to free legal aid. One major reason for this situation is the half-baked legislation, the absence of a legal act regulating the provision of free legal assistance to the population and the procedure of payment for such assistance.

Questions:

- 1. Do women from vulnerable groups have access to justice and legal aid of lawyers?**
- 2. What are the mechanisms for providing free legal aid? Is there the Law "On Legal Aid" or any legal act regulating the provision of free legal aid in Tajikistan?**

2. More and more wives and children of families abandoned by labor migrants can be related to vulnerable groups. Abandoned and left by male migrant workers women live in extreme poverty and in inadequate housing, being fed what they grow themselves and occasionally getting help from relatives⁸. To survive, these women have to send their young children to work. Some of

⁷See Agency for Statistics under the President of Tajikistan. Health care in the Republic of Tajikistan. 2011, p. 27

⁸IOM study "Abandoned wives of Tajik labor migrants", 2009

them are engaged in prostitution or enter into polygamous marriages to improve their economic situation⁹. The cases, when relatives of migrant workers without explanation banished women after their husbands went to Russia and ceased to maintain contact with the family, are quite common.¹⁰

Questions:

- 1. Please provide information, if the Government of Tajikistan conduct the study on the impact of migration on families left behind in the country by migrant workers. Were the results of such research taken into account in policy making in the field of labor migration?**
- 2. Please provide information on whether the records on families abandoned or left behind by labor migrants are kept. If such records on these families are maintained, please present the statistics on the number of such households in the last 3 years.**
- 3. Please present the information about the specific measures that are provided for in the National Strategy for External Migration of Citizens of Tajikistan for 2011-2015 to support families, abandoned or left behind by migrant workers.**

ARTICLE 16. MARRIGE AND FAMILY RELATIONS

1. In recent years bigamy tends to gaining. Under the Family Code in Tajikistan only a marriage registered in government registry office shall be recognized. The marriage made in a religious ceremony has no legal force. However, the legal reception rooms of human rights organizations are visited by a large number of women, who are informally married through "nikoh", being the second wives and having children born in these relationships. As the registration of the marriage based on a religious ceremony "nikoh" has no legal force, it is hard to defend the rights of women and children's rights related to economic security, housing, etc.

Question:

Are there mechanisms to protect and ensure realization of women's rights in religious marriages enabling women to enjoy equal rights and making decision-within the family? What does the State do to address the problems of second wives and children born in such marriages (religious marriages "nikoh")?

2. Since 2011, the age of marriage increased from 17 years to 18 years. However, in practice, early marriage (under 18 years) is getting more prevalent and common not only among the poor and less educated groups of population, but also among the non-poor.

Questions:

- 1. What are the mechanisms to detect early and forced marriages? Does the government have and maintain the statistics on early marriage and forced marriage?**
- 2. What measures are being taken by the Government to address such a phenomenon as early marriages?**

⁹From an interview with officers from the NGO Centre for Human Rights in Isfara town

¹⁰According to CSSC "Shahrvand" in Khatlon region of Tajikistan