



**United Nations Country Team in Tajikistan**

**Joint UNCT<sup>1</sup> submission for the  
2016 Universal Periodic Review (UPR)  
Of Tajikistan**

**Second cycle**

September 2015

---

<sup>1</sup> The following agencies have contributed: OHCHR, UNHCR, UNDP, UNICEF, UNODC, IOM, UN Women, UNAIDS, UNFPA.

## Introduction

1. Recent shifts in geopolitics have had a significant influence on political developments in Tajikistan. Continuing fighting of anti-governmental groups in the border areas of IRA along with newly emerging ISIL threat from Afghanistan and hard to escape ideological influence and internal subversion triggered by the Government's clumsily repressive approaches to Islamist groups, lack of significant progress in negotiations on delimitation and demarcation of some border lines and the fragility of the State, make it an important contested arena in terms of security. Shadow economy is flourishing on corruption and drug traffic from Afghanistan. The recent economic downturn and the worsening employment prospects coupled with the decline in remittances and the depreciation of the national currency have further aggravated already vulnerable economy and weak social fabric in the country.

2. In Tajikistan, few improvements in the human rights situation were observed since the first cycle of the UPR. The crux of the problem remains the lack of separation of powers, with the Executive branch exercising considerable influence over the Parliament and Judiciary. Having secured the ruling majority in the March 2015 parliamentary elections with a couple of nominal opposition parties; the Government gradually increased the pressure on the opposition and sidelined the Islamic Renaissance Party of Tajikistan (IRPT), ultimately banning the party and launching criminal inquiries into its leadership. The situation in Gorno-Badakhshan Autonomous Region remains unstable after intensive clashes between authorities and civilians in July 2012 and 2014 resulting in the death of both civilians and police officers. Both the parliamentary and presidential elections process was not administered in an impartial way, as also evidenced by the allegations of widespread electoral fraud in 6 November 2013 presidential elections.<sup>2</sup>

3. The Government has undertaken several positive steps following the first UPR cycle, including the adoption of legal-judicial reform for 2015-2017; the law on prevention of domestic violence in 2013; criminalization of torture in 2012; several decisions of the Supreme Court related to implementation of international human rights standards (in 2012 and 2013); the adoption of national action plans on implementation of recommendations of UN human rights mechanisms. Despite these encouraging developments the period under consideration was marked by vaguely worded regressive legislative initiatives targeting fundamental freedoms; arbitrary and indiscriminate blocking of websites; wave of inspections of well-known human rights NGOs; continued harassment and persecution of political opponents.

4. The Government made considerable efforts to improve the interagency mechanism for implementation, monitoring and reporting on human rights obligations. Under a project supported by the UPR Trust Fund, the Regulation of the Commission on Implementation of International Obligations in the Field of Human Rights (Commission) is being revised to strengthen the role and involvement of civil society. The Department for Human Rights Guarantees under the Presidential Administration that acts as a secretariat has been expanded to become a Division and has a Child Rights Department. In the run up to the second cycle of the UPR, the Secretariat of the Commission in cooperation with UN agencies has organized six consultative meetings to discuss the implementation of recommendations from the 1st UPR cycle. On 30 March 2014, the Government of Tajikistan submitted an interim report to the Human Rights Council (HRC) on implementation of its UPR commitments undertaken in 2012.

---

<sup>2</sup> Republic of Tajikistan. Parliamentary Elections, 1 March 2015 OSCE/ODIHR Election Observation Mission Final Report, p. 3. Republic of Tajikistan. Presidential Election, 6 November 2013 OSCE/ODIHR Election Observation Mission Final Report, p.3.

5. Although the Government has approved several stand-alone action plans aimed at the implementation of its human rights commitments, including the National Action Plan (NAP) on implementation of the UPR Recommendations for 2013-2015, it lacks a holistic plan of action on human rights. The UN agencies have reiterated on numerous occasions the importance of strengthening national coordination mechanism and developing a more strategic document such as a comprehensive National Human Rights Action Plan (NHRAP), as also recommended by the UN Secretary-General during his visit to Tajikistan in June 2015.

6. The Government should adopt a comprehensive NHRAP following a process of involving civil society and should continue reinforcing the mandate of the Commission. It is also important to introduce a mechanism to implement the decisions of the UN Treaty Bodies on individual complaints. None of the 23 decisions of the UN Human Rights Committee have yet been implemented.

### **Specific human rights**

#### **EQUALITY AND NON-DISCRIMINATION**

7. During the first UPR cycle, Tajikistan received several recommendations on gender equality and non-discrimination in relation to women, children with disabilities and religious minorities. There is currently no comprehensive anti-discrimination legislation in Tajikistan, and despite the fact that Article 17 of the Constitution and various laws stipulate that the state should guarantee the rights and liberties irrespective of several grounds of discrimination, the existing grounds are not exhaustive and do not explicitly refer to the definition of discrimination under international human rights law, including on the grounds of disability, age, sexual orientation, gender identity, health status or other grounds.

8. The Government should monitor and disseminate information on the extent to which this constitutional provision is applied in practice and adjudicated on by national courts and should consider developing a comprehensive law on non-discrimination. The development of such a law would mark an important addition to the legal landscape and a clear advance in national efforts to combat discrimination, serving both a dissuasive and an educational role.

#### **Discrimination against persons with disabilities**

9. On 9 April 2015, the Presidential Assistant issued an order instructing the Director of the State Agency on Social Security and Pensions to lay off all pensioners, former military personnel and persons with disabilities who are already receiving pensions on the basis of their status. Civil society organisations received numerous complaints from individuals eligible for disability pensions who were reportedly pressured to resign or were dismissed. On 15 April, a group of NGOs issued a public appeal, stating that this practice runs counter to the Constitution and several human rights treaties.

10. Although in 2013 a Working Group (WG) was set up under the Government to discuss accession to CRPD,<sup>3</sup> the process has so far been going slowly. The ratification of the CRPD is subject to the availability of funds, as shown by the Government-conducted June 2015 cost-effectiveness analysis.

---

<sup>3</sup> Convention on the Rights of Persons with Disabilities (CRPD).

11. The Government should tackle discrimination in employment against persons with disabilities by enforcing existing quotas and sanctioning employers who do not comply with the legally foreseen quota. The Government should expedite its efforts to ratify the CRPD.

#### **Discrimination based on gender identity and sexual orientation**

12. Between 6 and 10 June 2014, as a result of police raids, 505 people were detained under the pretext of combating prostitution and sexual exploitation. The TV and newspapers disseminated messages portraying sex workers in a negative light. The local media reported that individuals arrested would have their photographs stored in an electronic database of the Ministry of Internal Affairs (MIA) and would be subjected to mandatory medical examination. On 18 June 2014, about 30 national and international NGOs called upon the MIA to stop these discriminatory raids. On 23 July 2014, based on UNCT analysis the RC discussed this problem with Minister of Foreign Affairs and raised concerns about these incidents. The UN agencies continue to receive allegations of detention, threatening, and blackmailing of these individuals by law enforcements bodies.

#### **Discrimination against women and gender equality**

13. Although Tajikistan has undertaken commendable steps to strengthen its legislative framework, it has major difficulties in implementing its policy framework for gender equality due to a lack of capacity, uneven commitment of public and private stakeholders, and considerable under-financing of action plans. While formal equality is guaranteed in law, patriarchal discourses and practices perpetuating women's subordinate position in the family and society have resurfaced, leading to girls' and women's increased vulnerability to violence and exploitation.

14. In 2013, the Government approved the *Law on the prevention of violence in the family*, which recognized the scale of the domestic violence in the country and demonstrated the Government's commitment to end violence against women. The law and its associated *State Programme for 2014-2023* are the most recent milestones in the legislative framework to promote gender equality and fight discrimination against women. Another significant milestone is the adoption of the NAP on implementation of CEDAW<sup>4</sup> recommendations for the period of 2014/17.

15. Although the State Programme sets a firm policy and legislative ground towards combatting domestic violence, it lacks solid implementation mechanisms. With the support of the donor community and civil society organisations (CSOs), the government is making significant efforts to bring the law into practice by developing guidance, referral mechanisms and practical instructions. There are about 25 crisis centers, mainly run by local NGOs, five specialized police units and eight hospital-based temporary rooms serving as shelters. Along with these positive developments, the "culture of silence" that usually surrounds domestic violence continues to prevail and leads to significant under-reporting of domestic violence. According to the 2012 Demographic and Health Survey (DHS),<sup>5</sup> the percentage of women who have experienced violence tends to increase with the age.

16. Although the Family Code states that in exceptional cases, subject to court decision, the marriageable age (18) can be decreased for one year, it does not establish a list of exhaustive grounds upon which the court may rule. The number of underage marriage cases has been

---

<sup>4</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

<sup>5</sup> DHS 2012 results were released in November 2013; the survey is nationally representative and covered 6.674 households in 356 clusters throughout Tajikistan.

increasing every year.<sup>6</sup> In addition, marriages in Tajikistan are contracted following religious ceremony “nikoh” which allows contracting a marriage regardless of the spouses’ age. Several reasons are behind early marriages, including poverty, male labor migration and the resurgence of patriarchal and religious values.

17. The Government should take measures to introduce further changes in the Criminal Code to make violence against women a criminal offence. It should also carry out broad awareness raising campaign and provide adequate support to victims of domestic violence.

#### **Discrimination of people living with HIV/AIDS**

18. Although under the law “On Combating the human immunodeficiency virus and acquired immune deficiency syndrome”, HIV prevention, treatment, care and support services are based on human rights principles, in reality, HIV-positive adults and children face various forms of discrimination and stigmatization not only by law enforcement and healthcare workers, but also by their family members. Through the UNAIDS’s support, the Law on HIV/AIDS was updated to remove mandatory HIV testing for all foreigners. With these changes, all HIV-related restrictions on entry, stay and residence are eliminated in Tajikistan.

19. UNODC conducted a series of trainings on the principles of harm reduction with the aim of facilitating collaboration between law enforcement agencies and service providers. Throughout 2013, 43 trust points (TP) or syringe exchange points (SEP), including 20 friendly cabinets (FC) for sex workers and 45 FC for migrant workers continued functioning. Although there are 5 Opioid Substitution Therapy (OST) sites in the community, OST is unavailable in prison settings. An Action Plan for 2012-2015 on Introduction of OST in prisons of Tajikistan was developed and signed by relevant agencies. In line with the approved plan, a clinical guideline on medically assisted therapy in prison settings has been developed and trainings for penitentiary system staff were organized.

20. The Government should avoid adopting any regulations that may potentially infringe privacy rights of individuals and result in discriminatory treatment of HIV-positive individuals. The Government should promote universal and free access to HIV treatment regardless of the migrant’s status in the country of destination, to mobilize decision makers and civil society and discuss the need to cancel deportation based on the health status of the foreign citizens.

### **RIGHT TO LIFE, LIBERTY AND SECURITY**

#### **Arbitrary detention, torture and ill-treatment**

21. During the first UPR cycle, Tajikistan has committed itself to, *inter alia*, harmonize the domestic legislation and adopt laws and administrative measures to combat torture.

22. There have been very few prompt, thorough and impartial investigations into allegations of torture. Torture and ill-treatment have reportedly been often applied as means of extracting evidence in preliminary detention as well as in penitentiary system as a disciplinary measure. The Government failed to investigate and provide adequate compensation to victims of military action in July 2012 and May 2014 clashes in Khorog. CSOs noted that reprisals and intimidation of those who bring complaints and demand accountability are on the raise.

---

<sup>6</sup> For instance, in the Sugd Oblast (north of Tajikistan) in 2010 there were 10 cases when court permitted marriage before 18 years of age. For the 2012 this number reached 185 cases. In Dushanbe, out of 4350 marriages registered in 2011, 65 were where at least one spouse was under 18. By July 2012, 2220 marriages were registered, of which 50 marriages involved people who were under 18 years of age.

23. The Government continues to explore the possibility of ratifying the OPCAT.<sup>7</sup> In its 2014 report on detention monitoring visits, the Monitoring Group established under the auspices of the Ombudsman on 6 August 2013, reported that the access provided to NGOs by virtue of the Ombudsman's mandate and procedures for monitoring are not yet compliant with the provisions of the OPCAT.

24. The Government should ratify the OPCAT and establish a fully-fledged national preventive mechanism (NPM) and a national mechanism for investigating torture complaints. Criminal law should be amended to ensure that punishment for torture is commensurate with the gravity of the crime and sufficient resources should be allocated to pay compensation to victims of torture. The ICRC and other monitoring entities should have access to places of detention.

### **Human trafficking**

25. During the first UPR cycle, Tajikistan supported numerous recommendations related to combating human trafficking. Tajikistan is a source and, to a lesser extent, destination country for men, women, and children subjected to forced labor and sex trafficking. In March 2014, the Government adopted a bill to amend the relevant provisions of the Criminal Code pertaining to trafficking in persons. Despite the 2014 law on Counteracting Trafficking in Persons and Providing Support to Victims of Trafficking in Persons, procedures and budgetary allocations to proactively identify victims of trafficking and provide adequate services remain largely unavailable.

26. The Government did not directly provide services to victims; rather it relied on civil society organizations for medical and psycho-social care, legal and vocational training and assistance in family reunification. It continued to fund the utilities for two shelters in Dushanbe and one shelter in Khujand. According to IOM, in 2014 there was significant decrease in the occurrence of drugs related human trafficking and kidnapping cases across the Tajik-Afghan border in comparison to previous years.

27. The Government should increase its anti-trafficking efforts, including the number of investigations and prosecutions brought against alleged perpetrators.

## **ADMINISTRATION OF JUSTICE, IMPUNITY AND RULE OF LAW**

### **Independence of judges**

28. Tajikistan supported the recommendations to strengthen the effectiveness and independence of the judiciary including by undertaking changes in legislation and administrative procedures. Tajikistan undertook several stages of judicial and legal reform (2007-2010, 2011-2013 and 2015-2017). However, the legal and judicial reforms have so far been largely ineffective and serious gaps remain in the national legal framework and practice. The Council of Justice remained under the executive branch; judges do not receive adequate salary, and lack security of tenure and other guarantees of independence from the executive. The Prosecutor office's excessive power also infringes the independence of judges. Corruption is widespread among the judiciary. The new Judicial and Legal Reform Programme for 2015-2017 (JLRP) which was approved on 5 January 2015, does not mention the revision of the status of the Council of Justice. The UPR recommendations from the first cycle in this area remain to be implemented.

---

<sup>7</sup> Optional Protocol to the Convention against Torture (OPCAT).

29. The Government should take steps to ensure a fully independent Council of Justice; develop a mechanism for regular monitoring of the implementation of judicial and legal reforms; ensure a broad discussion of further judicial reform initiatives with civil society, including timely access to draft laws related to the justice system; and finally envisage developing non-judicial dispute resolution procedures.

30. The Government should take steps to improve the procedure for the qualifying examination; to review the procedure for the appointment and dismissal of judges, as well as the rotation of judges of general jurisdiction.<sup>8</sup> The Government should also introduce a well-functioning and high quality free legal aid system that is accessible to vulnerable adults and children alike. Further steps should be taken to ensure a fair, clear and rapid execution and completion of the trial procedures.

### **Independence of lawyers**

31. A Law on Advocacy and the Bar adopted in 2015 provides for a retrospective qualification exam, forcing current lawyers to re-qualify and appoints the Ministry of Justice to preside over the examination procedure. These measures run counter to international standards of independence of the lawyers' profession.

### **Juvenile justice**

32. Although a National Plan of Action on Juvenile Justice System Reform for the period of 2010-2015 was developed and approved by the Commission on Child Rights under the Government, a lot remains to be done. An important development in monitoring juvenile closed facilities has been the introduction of periodic monitoring by the Ombudsman's Child Rights Department. A small number of complaints of abuse have been investigated and some other changes have been made on recommendation of the Ombudsman. Some positive developments have also occurred in the juvenile prison-colony, including the introduction of vocational courses and a wide range of sports and recreational activities.

33. Although the Special Vocational School under the Ministry of Education and Science (MOES) was renovated in 2013, the conditions remain substandard in other respects. Juveniles outside of Dushanbe are detained in facilities designed for adults. The regime of special schools has not changed. The practice of examining girls taken into custody to determine whether they are virgins, continues to be practiced.

34. Training packages were developed for police, prosecutors and judges to lay the foundation for mandatory training on juvenile justice in national training institutes.<sup>9</sup> Specialised courses are already introduced at the Tajik National University and the Police Academy on child rights and juvenile justice. Initial planning is underway to mainstream Justice for Children issues in the pre-service training curriculum of judges and prosecutors. Seven child-friendly investigation and courtrooms were established in 2014-2015 in selected districts to hear children's cases, and guidelines and protocol were drafted for police and judges for child-friendly procedures. The main advance in the justice system has been the appointment of specific judges to handle cases involving accused juveniles. However, there are no prosecutors specifically designated to handle cases involving juveniles. Although the Criminal Code, the

---

<sup>8</sup> Detailed recommendations are available at *The Judicial And Legal Reform Programme: Preliminary Results And Further Steps* prepared by NGO Bureau of Human Rights and Rule of Law with support of UNDP Access to Justice Project in 2013.

<sup>9</sup> Between 2010 and 2014, some 250 judges, 185 police officers, 50 prosecutors, 22 defence lawyers and the staff of the Child Rights Units in selected districts were trained on international and national standards on child rights and justice for children.

Criminal Procedure Code (CPC) and the Code on Execution of Sentences contain relevant norms on juveniles, there is no juvenile justice law as such.

35. It is recommended to amend the CPC in order to provide the police and prosecutors with the discretion to apply diversionary measures in all juvenile cases, rather than only in cases involving minor offences.<sup>10</sup>

## **FUNDAMENTAL FREEDOMS**

### **Freedom of expression**

36. During the reporting period freedom of expression continued to be restricted and mass media outlets came under greater governmental scrutiny. Several social networks, including Facebook and YouTube and independent information websites were regularly blocked, especially on the eve of political events. Intimidation of journalists continued by bringing law suits for moral damages and libel. On 25 September 2014, the Council of Ulama of Tajikistan's Islamic Center issued a religious edict (fatwa) against the anti-government agitation according to which cooperation with media aiming at destabilizing society would be judged as a great sin.

37. According to the governmental regulation issued on 30 June 2015, news outlets in the country are not allowed to report official news without citing the state-run news agency. The country's legislation provides equal rights to media outlets for getting information irrespective of their forms of property.

38. It is recommended to take further measures to protect and encourage the freedom of expression and to counter the trend of repressing free speech, including restrictions on media outlets by revoking or amending the restrictive laws.

### **Freedom of association and peaceful assembly**

39. The new 2014 Law on Assemblies requires the organizers of assemblies to obtain permission in advance and contains broadly worded provisions on the grounds for prohibiting assemblies and the venues in which their conduct is limited. The law also does not provide for spontaneous assemblies and is more restrictive than the previous law.

40. On 12 August 2015, changes to the law "On Public associations" came into force. The law introduced a new inspection procedure for civil society organizations, without spelling out the nature or frequency of such inspections. It also requires all public associations receiving foreign funding to notify to the Ministry of Justice as a registering authority. Some of these amendments were drafted in such broad terms that they do not provide sufficient safeguards against arbitrary or discriminatory enforcement.

41. At the same time that the above mentioned laws were being introduced, inspections of human rights NGOs took place and court suits were brought for insignificant irregularities. At least two human rights NGOs, Amparo and Civil Society Centre, were closed by judicial decisions without convincing grounds of violations of the law regarding their activity on 14 October 2012 and 9 January 2013, respectively. On 24 June 2014, the Constitutional Court admitted in relation to the Association of Young Lawyers, Amparo which was closed down in October 2012, that the law does not provide clear grounds for liquidation and recommended

---

<sup>10</sup> Children should not be kept in pre-trial detention for up to 6 months. Accused girls given a detention order and convicted girls given a prison sentence should not be confined in women's facilities. Government budget resources should be allocated to sustain the few achievements made in the juvenile justice area and to make the justice system child-friendly.

that the Parliament make the law provisions more clear. In July 2014, a group of international and national human rights NGOs issued a joint statement, noting that they were increasingly working in an insecure environment, particularly prevalent for those working on torture issues.

42. Opposition crackdown on the IRPT has intensified during the reporting period. The March 2015 elections left the IRPT with no seats in the Parliament for the first time in 15 years. On 16 September, at least 13 activists of the IRPT, among whom prominent members of the party's leadership, were arbitrarily detained. This wave of arrests came days after a government's long-running campaign and crackdown on dissent and the party itself, which led to the suspension of the IRPT on spurious grounds.

43. At least two opposition activists living abroad were detained on the basis of extradition requests issued by Tajikistan that appear politically motivated and in retaliation for their political opposition activity. They are both believed to be associated with *Group 24*, which was declared as an extremist organization by the Supreme Court in October 2014 after it called for anti-government street protests in Dushanbe. Another activist, leader of the opposition movement, was sentenced to 17 years in prison on extremism charges in June 2015.

44. The Government should create an enabling environment for the exercise of fundamental freedoms and to recognize in law and in practice that fundamental freedoms play a decisive role to foster pluralism and tolerance, where opposition, minority or dissenting views are respected and protected. The Government should also ensure that any limitations of fundamental freedoms have a legitimate aim, are defined by law, are proportionate to the aim pursued and are necessary in a democratic society.

### **Freedom of religion**

45. During the reporting period, the Government continued to suppress freedom of religion and expression under the pretext of fighting extremism and terrorism. Based on the 2011 Parental Responsibility Law, minors under 18 are not allowed to get religious schooling and are banned from attending mosques. Followers of Islam face restrictions related to Islamic studies abroad. In addition, based on the religious edict of the Council of Ulema (Religious Scholars) from 2014, women are prohibited to pray in mosques. The Law on Religion and Religious Organizations from 2009 restricts praying to mosques, cemeteries and private houses. The law also imposes limitations in the registration of confessions based on number of followers. Authorities refused to register Jehovah's Witnesses as a religious organisation. In November 2014, the lower house of the Parliament rejected amendments to legislative acts.<sup>11</sup>

46. During the reporting period, numerous allegations were received about arbitrary detentions and other measures such as forcible shaving of men with beards and forcible removal of hijabs carried out by police as a way to prevent radicalization. In some regions authorities demanded to suspend the sale of "Iranian and Afghan" clothes, leading to inspections of shops by police and tax officials. Texts of the sermons for Friday prayers are reportedly prepared by the Committee on Religious Affairs and "recommended" to Imams. During a press conference on 31 July 2015, the General Prosecutor stated that 1,032 illegally functioning mosques were shut down in Tajikistan over the first six months of 2015.

47. In April 2015, the Committee on Religious Affairs and Regulation of National Traditions and Rituals under the Government (CRA) proposed to introduce new age restrictions

---

<sup>11</sup> Tajikistan rejected the UPR recommendation to revise its Law on the Responsibility of Parents for the Upbringing and Education of Children of 2 August 2011, which contains provisions highly endangering the freedom of religion and the aims of the CRC.

for those who want to perform the Hajj. According to the CRA, the decision aims at giving older people an opportunity to achieve their dream to perform the Hajj. This restriction, however, is believed to be part of a Government's strategy to prevent extremism/radicalization of the youth.

48. The State-led policy to prevent radicalization not only restricts right to freedom of religion or belief and association but also poses threat to peace and stability of the country. By harassing men with beards and women wearing Islamic clothing, the authorities may be fuelling resentments about inequality, poverty and injustice paving the way for more radicalization

49. Tajikistan should reform several existing laws that limit legitimate exercise of freedom of religion and belief, including the Law on Freedom of Conscience and Religious Associations, the Law on Responsibility of Parents for Upbringing of Children, and the Administrative Code. The Government should proactively protect and promote freedom of religion or belief of the various Muslim communities and the various other religious minorities.

## **REFUGEES, ASYLUM-SEEKERS, STATELESS PERSONS**

### **Refugees and asylum-seekers**

50. Tajikistan hosts the largest number of refugees in Central Asia, primarily from neighbouring Afghanistan. As of December 2014, Tajikistan hosted 2,149 refugees and 123 asylum-seekers. Refugees and asylum-seekers reside in areas outside the main cities, being legally precluded from residing in the main urban centres,<sup>12</sup> which has negative implications on their ability to access employment, healthcare, education and other services. Refugees and asylum-seekers<sup>13</sup> have the right to work. UNHCR mandate refugees however remain in precarious situation in Tajikistan, particularly during the on-going raids conducted by law enforcement bodies in Tajikistan.<sup>14</sup>

51. The Government should ensure lifting restrictions on the freedom of movement and associated penalties, including rejection/revocation/cancellation of refugee status and subsequent deportation, through inter alia, lifting the restrictions imposed under *Resolutions 325 and 328*, and repeal Article 499 (3) of the *Administrative Code* in order to ensure respect for the principle of non-penalisation and *non-refoulement*. The Government should ensure that asylum-seekers detained as a result of 'illegal border crossing' can exercise their right to seek asylum by contacting the refugee authorities and UNHCR and develop a Referral Mechanism Standard Operating Procedures at the border.<sup>15</sup>

### **Stateless persons**

52. In 2014, UNHCR launched in conjunction with the Government a pilot project to better understand the extent of statelessness.<sup>16</sup> Main protection concerns for stateless persons relate to

---

<sup>12</sup> *Resolution 325 of 26 July 2000* prohibits refugees and asylum-seekers who arrived after year 2000 from residing in the main urban centres.

<sup>13</sup> Asylum-seekers are now granted work permits as a result of the 2014 amendments to the *Law on Refugees*.

<sup>14</sup> In some instances, they face obstacles particularly in accessing safe and sustainable employment.

<sup>15</sup> For detailed recommendations please refer to UNHCR's individual submission.

<sup>16</sup> As of 30 June 2015, 9,414 with undetermined nationality were registered under a national pilot project to address statelessness. While it is expected that well over 15,000 individuals in total will be registered by the end of 2015.

challenges in accessing essential services, due to lack of identity documents and the risk of being penalised for irregular stay in the country.<sup>17</sup>

53. While it is welcomed that the newly-amended *Constitutional Law on Nationality* includes the provision that aims to facilitate naturalization for certain categories of stateless persons under a simplified procedure, it is still recommended that the Government adopt a Legalization Agreement waiving the administrative penalties and deportation for illegal stay in the country in order to conduct countrywide registration to identify the number of stateless persons in Tajikistan and achieve solutions for them. It is also recommended that the Government accede to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness. Moreover, the Government should ensure access to birth registration to all children regardless of their parents' possession of identity documents.

#### **Deportation issues, collective expulsion**

54. As of 2015, the number of Tajik citizens with re-entry bans to the Russian Federation (RF) makes up more than 300,000, according to the border service of the Russian Federal Security Service. Despite the Committee on Migrant Workers' recommendation, the National strategy for the international labour migration of the Tajik citizens for the period of 2011–2015 does not have a reintegration system of the returned migrants.

55. It is recommended to develop an accurate reintegration mechanism of the returned/deported migrants, including through creation of job placements, concessional loans and micro-credits and stimulation of their entrepreneurial activity. The Government should also take measures to accelerate the adoption of the law "About private agencies of employment" and also ratify the convention of the ILO No. 181.

### **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

#### **Health**

56. During the first UPR cycle, Tajikistan was recommended to increase its efforts in the area of health, education, and promote overall social and economic development. Commendable progress has been made in the implementation of the National AIDS Programme for 2011-2015, including a rapid scale-up of Prevention of Mother to Child Transmission of HIV (PMTCT) programme at national level, introduction of Early Infant Diagnosis (EID) with Dry Blood Spot Method, successful scale-up and institutionalization of Youth Friendly Health Services (YFHS) within the extensive network of reproductive health and dermato-venerology centres across Tajikistan.

57. Despite these positive developments, the share of new HIV infections amongst women and children in Tajikistan is rising alarmingly over the past years. Although vulnerable populations have access to free HIV test and ARVT in Tajikistan, they do not approach state-run health facilities due to fear of stigma and discrimination. The UNGASS<sup>18</sup> 2014 Report highlighted an increase in vertical transmission and for most cases, mothers had not attended ANC services and were not tested for HIV during the pregnancy and after childbirth. The programme monitoring conducted in 2014 also revealed significant disparities across the

---

<sup>17</sup> During the first UPR cycle, Tajikistan received a recommendation on birth registration as Tajikistan has the lowest birth registration rate among Commonwealth of Independent States (CIS) countries. This is an issue particularly for parents who are stateless or of undetermined nationality and have no valid proof of nationality.

<sup>18</sup> UN General Assembly Special Session on HIV/AIDS.

districts in implementation of the PMTCT programme. Another concern is the high number of registered HIV positive children with unknown source of infection, some of which may be attributable to medical interventions.

58. While the future round of Global Fund activity may focus exclusively on at-risk population, it is important for the Government to allocate sufficient budget to sustain the gains made so far for children and women.<sup>19</sup> More awareness raising activities and regular trainings on confidentiality and ethics as well as monitoring of the quality of health services need to be conducted among health professionals and religious leaders.

59. While Tajikistan has seen a sharp reduction in infant and under-five mortality rates over the past decade, there are significant disparities by wealth and geographic area, and the rates remain amongst the highest in the CEE/CIS region. Neonatal mortality has shown virtually no decline in the last decade and accounts for about 70% of infant mortality. Many deaths could be prevented through simple and cost-effective measures.<sup>20</sup>

60. The low proportion of health spending provided by public funds (1.9 – 2.0% of GDP) is compensated by the high proportion of out-of-pocket health spending. This, along with uneven geographical distribution of public health resources, raises concerns about equity. While the Government seems committed to health financing reform, including the phased scale-up of basic benefit package (BBP) and introduction of health insurance in 2017 to address this bottleneck, progress is slow and many of the cost-effective evidence-based child survival and development interventions are largely dependent on external funds. Serious efforts are required to strengthen equity-focused planning, budgeting and public financial management in favour of essential maternal and child health interventions.

### **The right to adequate housing**

61. Although the general legal framework regarding the right to housing in Tajikistan already exists, and will continue to evolve with the drafting of a new Housing Code, it has no specific laws and regulations that include provisions on social housing or affordable housing. Forced evictions are a growing issue in Tajikistan. Remedies through courts are lengthy, cumbersome and expensive. The number of home demolitions due to expropriation of land for State and public needs is increasing.

62. The Government should enact a new Housing Code that provides for the full realization of the right to adequate housing. The Government should also ensure meaningful consultation with and participation of all relevant stakeholders in drafting relevant laws and policies.

### **Education**

63. During the first UPR cycle, Tajikistan received a recommendation to expand the educational activities in the field of human rights with the focus on law enforcement, civil service and vulnerable groups; adopt measures to guarantee inclusive education, among others. On 3 December 2012, the Government adopted a Programme on education in the field of human rights. Individual Education Plans and Guidance manuals have been developed to ensure adaptive curriculum for children with special needs.<sup>21</sup> Girls' Education programming,

---

<sup>19</sup> It is also important to improve the trust between State and NGO-run health/HIV-diagnostic services that can reach out to the most vulnerable population.

<sup>20</sup> The nutritional status of children is also a concern with stunting at 26% and global acute malnutrition at 10% (DHS 2012).

<sup>21</sup> With UNICEF's support, the MOES has established a Working Group for Inclusive Education.

including gender audit of the revised curriculum and promotion of girls' transition to secondary education, is underway with UNICEF's support from 2013.<sup>22</sup>

64. Over the last years, the number of classes and students with Uzbek, Kyrgyz and Turkmen languages of instruction tends to reduce. This is caused by the transition to per capita financing of schools and the limited opportunities to pursue higher education in their mother tongue. Schools with non-Tajik language learning also face such problems as lack of teachers, lack of training courses in the language of instruction for teachers of non-Tajik classes, the discrepancy of curricula and textbooks.

65. The Government should adopt a State program of minority support and development, incorporating in the program a section on the minority rights to education; increase the budget funding for education of national minorities and conduct regular monitoring of the quality of education.

### **Social and child protection**

66. There is no consistent social policy to protect women and children, left behind by migrant workers in Tajikistan. Currently the government is not able to provide social benefits to this category of people.<sup>23</sup> Experts' estimation regarding the number of women left behind from migrants families ranges between 230,880 and 288,600, and 78% of them are families with children.

67. The Government should consider developing a concept of "abandoned family of the labor migrant" at the legislative level, amending regulations concerning the available free social service, and establish a mechanism of social support through the system of grants and privileges. The Government should take measures to ensure that there are vulnerability assessment and social protection and economic development support systems in place, and that the current poverty reduction efforts are coordinated among different stakeholders.

---

<sup>22</sup> Currently, one third of girls do not transition to secondary schools.

<sup>23</sup> "Abandoned wives of Tajik labor migrants" IOM Study on the socio-economic characteristics of abandoned wives of Tajik labor migrants and their survival capabilities, august 2009, p. 64.