

Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant (Economic and Social Council)

Unofficial translation

Concluding observations of the Committee on Economic, Social and Cultural Rights on 7 June 2010

Kazakhstan

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Kazakhstan on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/KAZ/1) at its 12th to 14th meetings, held on 10 and 11 May 2010 (E/C.12/2010/SR.12, 13 and 14), and adopted, at its 24th and 25th meetings held on 19 and 20 May 2010, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Kazakhstan and the written replies to its list of issues (E/C.12/KAZ/Q/1/Add.1) but regrets that some questions have remained unanswered.

3. The Committee appreciates the constructive dialogue with the delegation of the State party which included representatives from various ministries with expertise on the subjects covered by the Covenant.

B. Positive aspects

4. The Committee notes with appreciation the achievements by the State party in the implementation of economic, social and cultural rights, in particular:

- i) The adult literacy rate of 99.8 per cent and provision of compulsory secondary education free of charge;
- ii) The provision of free treatment of common diseases for children and adolescents registered in dispensaries; and
- iii) The eradication of poliomyelitis and the preventive vaccination of 98.6 per cent of children in the State party.

5. The Committee welcomes the recent ratification of:

- i) International Convention for the Protection of All Persons from Enforced Disappearance (2009);
- ii) First Optional Protocol to the International Covenant on Civil and Political Rights (2009); and

iii) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2008).

C. Factors and difficulties impeding the implementation of the Covenant

6. The Committee notes the absence of any significant factors or difficulties impeding the effective implementation of the Covenant in the State party.

D. Principal subjects of concern and recommendations

7. The Committee is concerned that the Covenant has not been invoked before the national courts despite constitutional guarantees of direct applicability of the provisions of the Covenant in the domestic legal order and its precedence, as an international treaty, over domestic legislation.

The Committee recommends that the State party take all appropriate measures to ensure effective applicability of the Covenant in national courts, including by raising awareness of this obligation and the provisions of the Covenant among those involved with law enforcement, such as judges, lawyers and public officials. The Committee draws the attention of the State party in this regard to its general comment No. 9 on the domestic application of the Covenant. The Committee requests that the State party include in its next periodic report information on progress made in this connection and on decisions of national courts, tribunals or administrative authorities giving effect to the rights contained in the Covenant.

8. The Committee notes with concern the low level of awareness of human rights in general, and of the Covenant in particular, among the population of the State party and regrets that awareness-raising efforts have been limited to legal literacy.

The Committee urges the State party to review the National Human Rights Action Plan with a view to adopting strategies for promoting and raising awareness of the public regarding human rights in general and economic, social and cultural rights in particular. In this connection, the Committee encourages the State party to make use of the varied languages of the population and appropriate media that are available and accessible to all.

9. The Committee is concerned that human rights education in schools and on training programmes for selected professions excludes economic, social and cultural rights.

The Committee recommends that the State party include economic, social and cultural rights in the curricula of schools and in the human rights training programmes for professionals who have a direct role in the promotion and protection of human rights, including civil servants and the military.

10. The Committee is concerned that the Office of the Ombudsman is not compliant with the Paris Principles relating to the status and functioning of national institutions for protection

and promotion of human rights. The Committee notes with regret that the Ombudsman cannot consider petitions about actions and decisions of the President, the Parliament, the executive branch of Government, the Constitutional Council, the Attorney General, the Central Election Commission and the courts that relate to economic, social and cultural rights.

The Committee urges the State party to expend all efforts to bring the Office of the Ombudsman into full compliance with the Paris Principles relating to the status and functioning of national institutions for protection and promotion of human rights (General Assembly resolution 48/134). The Committee draws the attention of the State party to its general comment No. 10 on the role of national human rights institutions in the protection of economic, social and cultural rights.

11. The Committee notes with concern that corruption is widespread in the State party, including in the judiciary. The Committee is also concerned about the lack of independence of the judicial system, which hinders the full enjoyment of human rights, including economic, social and cultural rights.

The Committee urges the State party to intensify its efforts to combat corruption, including through capacity-building of law enforcement officers, prosecutors and judges in this regard. The Committee calls on the State party to pursue its programme for the reform of the judicial system.

12. The Committee is concerned that constitutional provisions and other legislation in force in the State party do not provide comprehensive protection from the prohibited forms of discrimination in all areas relating to economic, social and cultural rights.

The Committee recommends that the State party undertake a legislative review aimed at ensuring that the laws prohibiting discrimination protect effectively from direct and indirect discrimination in each of the rights enshrined in the Covenant. The Committee draws the attention of the State party to the Committee's general comment No. 20 on non-discrimination in economic, social and cultural rights. The Committee further calls on the State party to ensure that any legislative measures in this regard provide for dissuasive sanctions against acts of discrimination (art. 2, para. 2).

13. The Committee notes with concern the difficulties that persons with disabilities experience in the exercise of their economic, social and cultural rights, especially with regard to equal opportunities for employment, education, health and reasonable accommodation based on disability. The Committee is also concerned about the lack of relevant statistics on the situation of persons with disabilities.

The Committee urges the State party to adopt a national strategy and plan to ensure that all persons with disabilities enjoy the same economic, social, and cultural rights as the rest of the population. The Committee calls on the State party to allocate resources for the full and effective implementation of the Disabled Persons (Protection) Act. The Committee draws the attention of the State party to its general comment No. 5 on persons with disabilities. The Committee requests that the State party include in its next periodic report detailed information

, including statistical data, on an annual basis, disaggregated by sex, age, urban/rural distribution, on persons with disabilities with regard to their enjoyment of economic, social and cultural rights (art. 2, para. 2).

14. The Committee is alarmed by the systemic discrimination against migrants, refugees and asylum-seekers with respect to their economic, social and cultural rights. The Committee is particularly concerned that these groups are not eligible for social assistance from the State party and that they face obstacles for securing legal means of subsistence.

The Committee urges the State party to remove all barriers to the effective exercise of economic, social and cultural rights by migrants, refugees and asylum-seekers, including in the field of social assistance, education, employment, health services and family protection (art. 2, para. 2).

15. The Committee is deeply concerned by the persistence of prejudices and customary practices that perpetuate negative stereotyped roles for women, despite the adoption by the State party of the Gender Equality Act and the 2006–2016 Gender Equality Strategy.

The Committee urges the State party to strengthen efforts to eliminate negative stereotypes and societal attitudes that discriminate against women, including through awareness-raising programmes and, in particular, the correction of discriminatory language and images in textbooks and the media. The Committee recommends that the State party adopt time-bound targets and allocate the necessary resources to ensure the proper functioning of the National Commission on Family and Gender and the effective implementation of the 2006–2016 Gender Equality Strategy. The Committee refers the State party in this regard to its general comment No. 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3).

16. The Committee is concerned that under the State party's Penal Code, the courts have the authority to hand down a sentence of forced labour.

The Committee urges the State party to abolish forced labour as a punitive measure for convicts and amend legislation to bring the concerned provisions of the Penal Code into conformity with article 6 of the Covenant. The Committee calls on the State party to ensure that work for convicted prisoners is conditional on consent, in conformity with International Labour Organization (ILO) Convention No. 29 concerning forced or compulsory labour (art. 6).

17. The Committee regrets the absence of information on the actual extent of the informal economy in the State party and the situation of workers and their families in this economy.

The Committee requests the State party, in the next periodic report, to provide detailed information, including statistics, on an annual basis, disaggregated by sex and by rural and urban distribution, on the extent of the informal economy and the State party's policies and protection measures, if any, that take this economy into account (art. 6).

18. The Committee regrets that information provided to it in the State party report, in the replies to the list of issues and during the dialogue has not enabled it to ascertain whether the

minimum wage in the State party affords workers and their families an adequate standard of living and whether the minimum wage standard is effectively enforced.

The Committee requests the State party in its next periodic report to provide detailed information on the minimum wage including how the level is established and whether it provides an adequate standard of living for workers and their families, and on the mechanisms in place to enforce the minimum wage, particularly in rural areas (art. 7).

19. The Committee notes with concern that women are employed predominantly in sectors and employment which carry lower wages, such as in agriculture, health and education. The Committee is also concerned about the disproportionate representation of women in the informal economy.

The Committee requests the State party to provide in its next periodic report detailed information on:

a) The measures it has undertaken to ensure equal opportunities for women to access higher paying employment and to improve their representation in decision-making positions in the labour force;

b) Protection measures for women working in the informal economy; and,

c) Any temporary special measures undertaken to close the wage gap of men and women in compliance with the principles of “equal pay for work of equal value” under article 7 of the Covenant (art. 7, 3).

20. The Committee is deeply concerned at the precarious situation of migrant workers who are employed without contracts in tobacco plantations and are, together with their families, vulnerable to exploitation and abuse.

The Committee urges the State party to assess the extent of the problem of migrant workers who are employed in plantations and agricultural farms and their conditions of work, with a view to establishing mechanisms that enforce the relevant Labour Code provisions on fair wages and favourable conditions of work (arts. 7, 2, para. 2).

21. The Committee is concerned about the increasing number of occupational injuries and the absence of comprehensive legislation regulating safety and health at work. The Committee is also concerned about restrictions on labour inspections both in law and in practice.

The Committee urges the State party to continue its efforts to bring its legislation on occupational safety and health in line with international standards, including the ILO Convention No. 167 concerning safety and health in construction, which the State party has ratified. The Committee also calls on the State party to revise its policy of restrictions on unscheduled labour inspections, including the requirement of written notification of 30 days prior to inspection, indicating the date and subject of the unscheduled inspection (art. 7).

22. The Committee notes with concern the restrictions imposed by the State party on the right to strike.

The Committee urges the State party to revise its legislation on the right to strike to bring

it in line with article 8 of the Covenant and the ILO conventions relating to the right to strike (art. 8).

23. The Committee is concerned that the social security system of the State party is not comprehensive, leaving part of the population, including self-employed workers, workers employed in the informal economy, non-nationals and other disadvantaged and marginalized groups without adequate protection.

The Committee urges the State party to extend the coverage provided by its social security system to self-employed workers, workers in the informal economy, non-nationals, and other disadvantaged and marginalized groups. In this regard, the Committee draws the State party's attention to its general comment No. 19 on the right to social security. The Committee also encourages the State party to consider ratifying ILO Convention No. 102 concerning minimum standards of social security (art. 9).

24. The Committee is concerned that the basic and minimum pensions may not ensure an adequate standard of living for pensioners and their families.

The Committee recommends that the State party take effective measures to increase the amounts of basic and minimum pensions so as to ensure an adequate standard of living for pensioners and their families. The Committee requests the State party to provide in its next periodic report comparative statistical data on recipients of basic and minimum pensions, disaggregated by sex, family size, income group and other relevant criteria, to enable the Committee to better assess the public pension system of the State party. The Committee also requests the State party to provide in its next periodic report detailed information on the ongoing privatization of the pension system, in particular its effects on the right to social security of the most disadvantaged and marginalized individuals (art. 9).

25. The Committee is alarmed at the high level of violence against women and children in the State party. The Committee is concerned about impunity related to domestic violence. Furthermore, the Committee is concerned that information provided during the dialogue indicates that the law does not sufficiently guarantee protection and rehabilitation of victims and that legal proceedings are initiated only upon formal complaints by victims.

The Committee urges that the State party take measures to ensure effective enforcement of the Domestic Violence Act and adopt necessary amendments to ensure the criminalization of domestic violence, the prosecution of offenders and the protection and rehabilitation of victims. The Committee also calls on the State party to conduct education and training programmes for judicial authorities and law enforcement officials on women's and children's rights, as well as awareness-raising campaigns to sensitize the general public about domestic violence as a human rights violation (art. 10, 3).

26. The Committee notes with deep concern that trafficking in women and children remains a serious problem despite efforts undertaken by the State party. The Committee regrets the absence of statistics on the extent of the problem.

The Committee urges the State party to intensify its efforts to combat trafficking in

persons for sexual exploitation and labour purposes and to vigorously implement its national action plan to combat trafficking. The Committee also urges the State party to provide protection and rehabilitation services to victims and to prosecute offenders. The Committee requests that the State party include in its next periodic report detailed information on the extent of trafficking in persons into, within and out of the State party's territory, as well as statistics (on an annual basis) and information on prosecution cases and assistance extended to victims. The Committee also requests that the State party provide information on the outcomes of measures undertaken to combat trafficking and on the difficulties encountered (a r t . 1 0) .

27. The Committee is concerned about the persistence of child labour in the State party, including by children of migrant workers in tobacco and cotton farms. The Committee is also concerned that these children do not attend school during farming periods.

The Committee calls on the State party to take urgent measures to ensure protection of all children against all forms of exploitation and undertake effective measures to enable them to fully enjoy their right to education. The Committee requests that the State party in its next periodic report include detailed information on the problem of child labour, measures undertaken to eradicate child labour, and progress achieved in this regard. The Committee also requests detailed information regarding street children, including statistical data, on an annual basis, disaggregated by age and gender (art. 10, para. 3).

28. The Committee is deeply concerned about the high level of poverty in rural areas and in some regions, despite the macroeconomic achievement of the State party. According to the most recent data available to the Committee (from 2006), poverty rates exceeded 38.2 per cent in the oil-rich oblast of Kyzylordinskaya and 25.1 per cent in Akmolinskaya and the oil-rich oblast of Mangistauskaya, where rural poverty stood at over 63.2 per cent.

The Committee recommends that the State party continue its fight against poverty, paying particular attention to the human rights of those still living in poverty. In this respect, the Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10). The Committee requests the State party to provide information in the next periodic report on income inequality, including details on income redistribution in the State party, as well as comparative data on the number of people living in poverty, disaggregated by sex, region, rural/urban and family size, and on progress achieved in reducing the incidence of poverty in the regions where it is most acute (a r t . 1 1) .

29. The Committee notes with grave concern the high rate of forced evictions and demolitions of houses conducted without court orders or sufficient notice, and without adequate compensation or alternative accommodation. The Committee is also concerned that the legal framework of the State party in this regard is not in line with international human r i g h t s s t a n d a r d s .

The Committee urges the State party to adopt the proper legal framework regulating the

conduct of urbanization projects to ensure that persons forcibly evicted are provided with adequate compensation and/or relocation taking into the guidelines adopted by the Committee in its general comment No. 7 on forced evictions. The Committee also draws the State party's attention to the guidelines on development-based evictions and displacements (see A/HRC/4/18) prepared by the Special Rapporteur on adequate housing. The Committee requests that the State party provide detailed information on progress made in this regard in its next periodic report (art. 11, para. 1).

30. The Committee is concerned at reports of long waiting periods, lack of transparency and corruption surrounding the provision of accommodation assistance and prohibitive rates applied by financial institutions on housing loans. The Committee is also concerned that disadvantaged and marginalized individuals and groups are not given priority access to the State housing construction programme.

The Committee recommends that the State party ensure that national housing policies accord priority attention to disadvantaged and vulnerable groups and to take account of the Committee's general comment No. 4 on the right to adequate housing in its policies. The Committee urges the State party to monitor the implementation of accommodation assistance in order to curb corrupt practices and to undertake measures to regulate interest rates on housing. The Committee requests the State party to provide, in its next periodic report, detailed statistics on homelessness and the extent of inadequate housing, disaggregated by, inter alia, urban/rural, family size, income groups and other relevant criteria (art. 11, para. 1).

31. The Committee is concerned about the lack of up-to-date information on adequate housing in the State party and about the high percentage of dwellings, particularly in rural areas, that do not have access to clean drinking water and proper sewage and sanitation systems.

The Committee recommends that the State party address disparities between urban and rural areas and among regions with regard to adequate housing, sanitation systems and water connections. The Committee requests the State party in its next periodic report to provide detailed information relating to the housing situation, including the number of urban slum-dwellers and the percentage of dwellings in rural areas that do not have access to clean drinking water and proper sewage and sanitation systems (art. 11, para. 1).

32. The Committee notes with grave concern the reported neglect of mental health patients and the low level of protection of mental health patients from abuse, including forced internment.

The Committee recommends that the State party undertake a comprehensive review of its mental health policy and legislation to bring them into line with international standards on the protection of persons with mental health problems. In this regard, the Committee draws the attention of the State party to its general comment No. 14 on the right to the highest attainable standard of health and the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care. The Committee requests that the State party include

in its next periodic report detailed information on progress made and difficulties encountered in this regard, as well as statistical data, on an annual basis, on mental health, disaggregated by sex and urban/rural distribution (art. 12).

33. The Committee notes with concern that sexual and reproductive health services, particularly for teenagers, are not available. The Committee further notes with concern the lack of comprehensive sexual and reproductive health education programmes for girls and boys in the national school curricula that provide them with objective information in accordance with medical and education standards.

The Committee recommends that the State party include sexual and reproductive health education programmes in schools and provide a broad range of sexual and reproductive health care services through its primary health-care system. The Committee also requests that the State party provide in its next periodic report information on sexual and reproductive health, including the practice of abortion (arts. 12, 10).

34. The Committee is concerned by the lack of information about illicit drug production and drug-trafficking, which are reportedly serious in the State party. The Committee also notes with concern that few drug users have access to methadone as a substitute drug dependence therapy, as this programme of treatment is still in a pilot phase.

The Committee requests that the State party include in its next periodic report detailed information, including statistical data, disaggregated by urban/rural distribution, on an annual basis, on drug consumption, illicit drug production and drug trafficking. The Committee also calls on the State party to ensure that methadone as substitute drug dependence therapy is made accessible to all drug dependents (art. 12).

35. The Committee is concerned about the regional environmental hazards that have a negative impact on the enjoyment of the right to health by the population in the State party, in particular the depletion and pollution of the Aral Sea and the environmental pollution of the former nuclear test site of Semipalatinsk. The Committee is also concerned about air pollution and accumulation of waste, as well as contamination of soil and water by industrial waste, agricultural pollutants and chemicals.

The Committee urges the State party to take immediate steps, including through regional cooperation as appropriate, to address environmental hazards that affect the health of the population and to strengthen its efforts to address environmental issues. The Committee further calls on the State party to allocate more resources in this regard and to strictly enforce its environmental legislation. The Committee requests that the State party provide in its next periodic report information on remedies available and redress afforded to those who have contracted illnesses due to environmental pollution (art. 12).

36. The Committee recommends that, in addition to expanding treatment services for cardiovascular diseases, the State party undertake prevention programmes, including public information campaigns on healthy lifestyle (art. 12).

37. The Committee recommends that the State party take measures to ensure availability

of, and equal access to, cultural goods and services, particularly for disadvantaged and marginalized groups and to ensure that privatization and corporate patronage in the areas of culture do not impede access. In this regard, the Committee draws the attention of the State party to its general comment No. 21 on the right to everyone to take part in cultural life (art. 15).

38. The Committee requests that the State party, in its next periodic report, provide detailed information on the implementation of rights and obligations under articles 13 and 14 of the Covenant (arts. 13 and 14).

39. The Committee calls on the State party to ensure that counter-terrorism measures and legislation do not have a discriminatory effect on the enjoyment of economic, social and cultural rights by certain groups in the State party, in particular ethnic minorities.

40. The Committee requests the State party in its next periodic report to provide disaggregated data gathered annually relating to the implementation of the provisions of the Covenant, as a tool for assessing the progressive realization of economic, social and cultural rights (art. 2, para. 1).

41. The Committee encourages the State party to consider ratifying the Optional Protocol to the Covenant.

42. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, to translate and publicize them as widely as possible, and to inform the Committee in its next periodic report on the steps taken to implement them. The Committee also encourages the State party to continue engaging national human rights institutions, non-governmental organizations and other members of civil society in the discussions at the national level prior to the submission of its next periodic report.

43. The Committee encourages the State party to consider ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol both of which the State party has signed. The Committee also encourages the State party to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

44. The Committee invites the State party to submit a common core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, recently approved by the international human rights treaty bodies.

45. The Committee requests the State party to submit its second periodic report, prepared in accordance with the treaty-specific reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2015.