



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the combined second and third periodic reports of Kyrgyzstan*

1. The Committee on Economic, Social and Cultural Rights considered the combined second and third periodic reports of Kyrgyzstan on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/KGZ/2-3) at its twenty-second and twenty-third meetings (see E/C.12/2015/SR.22 and 23), held on 1 and 2 June 2015, and adopted the following concluding observations at its fiftieth meeting, held on 19 June 2015.

A. Introduction

2. The Committee welcomes the submission by Kyrgyzstan of the periodic report, the supplementary information provided in the replies to the list of issues (E/C.12/KGZ/Q/2-3/Add.1) and the State party's common core document (HRI/CORE/KGZ/2008), as well as the oral replies provided by the delegation. The Committee also welcomes the constructive dialogue held with the State party's high-level delegation. It regrets, however, the delay in the submission of the periodic report.

B. Positive aspects

3. The Committee welcomes the State party's ratification of the following international instruments:

(a) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in September 2003;

(b) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in December 2010;

(c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in December 2008;

4. The Committee welcomes the State party's efforts to promote the implementation of economic, social and cultural rights, which have included the adoption of:

(a) The new Constitution, in June 2010;

* Adopted by the Committee at its fifty-fifth session (1–19 June 2015).



- (b) Act No. 318 on State benefits, in December 2009;
- (c) Act No. 210 on the minimum wage, in October 2008;
- (d) Act No. 184 on State guarantees of equal rights and equality of opportunity for men and women, in August 2008;
- (e) Act No. 183 on food security, in August 2008.

C. Principal subjects of concern and recommendations

Non-discrimination

5. The Committee is concerned about the lack of comprehensive anti-discrimination legislation, and the persistent discrimination on the basis of ethnicity, sex, religion, economic status, age or other status, including sexual orientation or disability, inter alia in accessing employment and health care. In this context, the Committee is also concerned about the introduction to parliament of bill No. 6-11804/14, which would impose administrative sanctions for persons who foster positive attitudes towards non-traditional sexual relations. The Committee is also concerned about:

- (a) Access to services, including education and health care, given that access is conditional upon residence registration;
- (b) The discrimination and marginalization of the Lyuli community, the Uzbeks and other minorities (arts. 2 (2) and 15).

The Committee recommends that the State party adopt a comprehensive anti-discrimination law that provides a definition of direct and indirect discrimination, and withdraw bill No. 6-11804/14. The Committee also recommends that the State party:

- (a) Carry out public education campaigns to eradicate common misperceptions and stereotypes;**
- (b) Make access to services independent from residence registration;**
- (c) Ensure that all persons, irrespective of their sexual orientation, can fully enjoy economic, social and cultural rights without discrimination;**
- (d) Accelerate efforts to ratify the Convention on the Rights of Persons with Disabilities.**

In this regard, the Committee draws the attention of the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

Enabling environment for civil society

6. The Committee is concerned about the introduction to parliament of the bill on foreign agents, which would require non-governmental organizations that receive foreign funding to register as foreign agents.

The Committee recommends that the State party discard the draft bill on foreign agents and instead support the work of non-governmental organizations that are active in the field of economic, social and cultural rights.

Corruption

7. The Committee notes with concern that corruption remains pervasive and systemic in the State party (art. 2 (1)).

The Committee recommends that the State party increase its efforts to combat corruption and, as a matter of priority, address the root causes of corruption. It should adopt all the legislative and policy measures necessary to combat corruption and related impunity effectively, with particular emphasis on the areas in which corruption hampers the full enjoyment of economic, social and cultural rights.

Equality between men and women

8. The Committee is concerned that women are not enjoying equal rights in the areas of economic, social and cultural rights. In particular, it notes with concern that:

- (a) Women are predominantly employed in lower-paid sectors and positions;
- (b) A significant number of marriages, particularly those under religious law, are not formally registered, meaning that many women cannot benefit from all the rights in the Family Code or from alimony and other forms of support in the event of marriage dissolution;
- (c) Women in non-registered marriages cannot prove guardianship of their children without their husband's confirmation, which, inter alia hinders the children's residence registration, thus obstructing their access to basic services;
- (d) Women have unequal access to property and inheritance;
- (e) Women's applications for land plots are frequently denied and the allocation of land plots is often made dependent upon their marital status (art. 3).

The Committee recommends that the State party increase its efforts to promote gender equality, inter alia by adopting a comprehensive strategy that includes time-bound goals and quotas and temporary special measures, with a view to achieving full equality between women and men, particularly in the areas in which women are underrepresented and disadvantaged. The Committee urges the State party to:

- (a) **Ensure that women in non-registered marriages can prove guardianship of their children without their husband's confirmation, and ensure that those women are fully protected should their non-registered marriages be dissolved;**
- (b) **Adopt the amendment to the law on religious belief and practice ensuring that religious marriages are administered only after the conclusion of a formal marriage;**
- (c) **Ensure women's equal access in law and in practice to property and inheritance rights, and ensure that women's access to rights and services is not made dependent upon their marital status;**
- (d) **Carry out awareness-raising campaigns to eliminate patriarchal attitudes and gender stereotypes and to inform women about their rights.**

In this context, the Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.

Unemployment

9. The Committee expresses its concern at the scale of unemployment, which is mainly affecting women, young people under the age of 30 and persons with disabilities (art. 6).

The Committee recommends that the State party take effective measures to address the root causes of unemployment and to adopt targeted measures, including

programmes aimed at reducing unemployment among women, young people, persons with disabilities and disadvantaged and marginalized individuals and groups.

Minimum wage

10. The Committee notes with concern that the minimum wage does not enable workers on the minimum wage and their families to enjoy a decent standard of living (art. 7).

The Committee recommends that the State party strengthen its efforts to increase the minimum wage in order to ensure that all workers and their families enjoy a decent standard of living, and to ensure that the minimum wage is enforced.

Informal economy

11. The Committee is concerned about the high number of people, in particular women, who are working in the informal economy, as this deprives them of the rights enshrined in the Covenant, as well as frequently subjecting them to hazardous working conditions and degrading treatment (art. 7).

The Committee recommends that the State party ensure that labour and trade union rights fully apply in the informal economy, and that the informal economy be subject to labour inspection on a regular basis. Furthermore, the Committee recommends that the State party gradually regularize the situation of persons employed in the informal economy.

Health and safety conditions in the workplace

12. The Committee is concerned about the prevalence of occupational diseases and injuries, including cases of fatalities, particularly in mining, construction and the production and distribution of electricity, gas and water (art. 7).

The Committee recommends that the State party ensure that labour legislation on occupational health and safety is properly implemented, including through regular inspections and training of employers and employees, and that employees and their families have access to adequate compensation for injury and work-related diseases.

Kyrgyz migrant workers

13. The Committee is concerned about the insufficient protection of Kyrgyz migrant workers, many of whom are subjected to labour exploitation, abuse and intimidation by employers and public officials in the countries in which they are employed. The Committee is also concerned that children of Kyrgyz migrant workers who are in the care of other people while their parents work abroad are frequently subjected to sexual abuse (arts. 6, 7 and 10).

The Committee recommends that the State party step up its efforts to conclude bilateral and multilateral agreements with a view to extending protection to Kyrgyz migrant workers abroad, and provide counselling and legal advice to potential migrant workers. The Committee also recommends that the State party make all efforts necessary to ensure that the spouses and children of Kyrgyz migrant workers obtain adequate residence permits in the country of employment. Furthermore, the Committee recommends that the State party increase its efforts to protect children without parental care from sexual exploitation and abuse, to ensure that perpetrators are prosecuted and punished and to provide access to recovery and reintegration to child victims of sexual abuse.

Economic exploitation

14. The Committee is concerned about the significant number of child victims of labour exploitation, including the worst forms of child labour in tobacco cultivation. The Committee is also concerned that children in boarding schools are reportedly subjected to forced labour. The Committee is further concerned that child labour is insufficiently prohibited and criminalized, and that enforcement and coordination to implement the existing legislation is weak (arts. 7, 10 (3) and 13).

The Committee recommends that the State party intensify its efforts to combat the labour exploitation of children, with a particular focus on forced labour. The Committee also recommends that the State party ensure that child labour and the recruitment of children into labour is explicitly prohibited and criminalized, in accordance with international standards. Furthermore, the Committee recommends that the State party, inter alia, increase labour inspections in the agricultural and informal sectors, ensure that employers are held accountable for violations of employment legislation and carry out awareness-raising campaigns to eradicate child labour.

Access to social security

15. The Committee is concerned about the lack of universal social security coverage in the State party. The Committee is also concerned that the amounts of old-age pensions are particularly low. Furthermore, the Committee is concerned that refugees and asylum seekers do not have access to adequate social assistance or basic health care (arts. 9 and 11).

The Committee recommends that the State party step up its efforts to establish a social protection floor as an initial step towards a universal comprehensive social security system. In this regard, the Committee draws the attention of the State party to its general comment No. 19 (2007) on the right to social security, and its 2015 statement on social protection floors (E/C.12/2015/1). The Committee also recommends that the State party progressively increase the amounts of old-age pensions so as to ensure that pensioners and their families enjoy a decent standard of living. The Committee further recommends that adequate social assistance and basic health care are extended to refugees and asylum seekers.

Domestic violence

16. The Committee is concerned that domestic violence against women and children is prevalent and underreported, frequently leads to life-threatening physical injuries, and includes food deprivation or being locked out in the cold. The Committee is also concerned that domestic violence that causes slight physical harm to health or physical or psychological suffering is addressed under the administrative liability code, rather than being subject to criminal sanctions, which would allow for reparation to victims. The Committee is further concerned that inaction on the part of law enforcement officials and the courts is common in cases of domestic violence, that many cases are referred to community elders' (*aksakals*) courts and that there is a lack of shelters for victims (art. 10).

The Committee recommends that the State party make the necessary legal amendments to ensure that all forms of domestic violence are criminalized, that victims have access to effective remedies, adequate shelter and support, that judges, prosecutors and law enforcement officials receive mandatory training on handling domestic violence cases, and that these cases are always referred to criminal courts. The Committee also recommends that the State party take steps to encourage the reporting of domestic violence, including by raising awareness among health-care

providers and other relevant professionals about domestic violence and ensuring that victims are adequately protected against retaliation.

Bride kidnapping

17. The Committee is concerned that, despite its criminalization, bride kidnapping is prevalent, affecting both women and underage girls, and that kidnapped women and girls are often left with the kidnapper by their families for economic reasons or because the bride is considered to be tainted. Furthermore, the Committee is concerned that upon marriage, the bride is considered to belong to her husband's family, which has the power to hamper her access to education and employment (art. 10).

The Committee urges the State party to increase its efforts to enforce the criminalization of bride kidnapping and to carry out awareness-raising campaigns on the illegality of bride kidnapping. The Committee recommends that the State party provide shelters and support for kidnapped girls and women who have been rejected by their families.

Detention conditions

18. The Committee is concerned about the particularly poor conditions in detention facilities, including overcrowding and insufficient access to food and drinking water. The Committee is also concerned about the lack of assistance provided to former detainees to reintegrate into society (art. 10).

The Committee recommends that the State party improve living conditions in prisons, including by allocating the necessary funds to ensure that detainees receive sufficient food and safe drinking water. The Committee also recommends that the State party set up a specialized system for the reintegration of former detainees that provides them with assistance, including vocational training, to reintegrate into the labour market.

Homelessness and the right to adequate housing

19. The Committee is concerned about the high number of homeless people in the State party and the lack of a comprehensive housing policy that adequately responds to the housing needs of all the State party's residents. Of particular concern are disadvantaged and marginalized individuals and groups who face an acute risk of homelessness, especially persons living in poverty, women single heads of households, persons with disabilities, migrants, children who are leaving institutions and former detainees. The Committee is also concerned about the lack of social housing units for low-income and marginalized and disadvantaged individuals and groups. The Committee furthermore notes with concern:

(a) The significant number of persons, particular internal migrants, living in both formal and informal settlements, who lack access to safe drinking water and sanitation, electricity or garbage disposal and who are vulnerable to forced evictions;

(b) The lack of adequate consultation and compensation in cases of forced evictions (art. 11).

The Committee recommends that the State party implement a national strategy for the reduction of homelessness that includes measurable goals and timetables. The Committee also recommends that the State party:

(a) **Ensure that, in cases in which eviction or relocation is considered to be justified, it is carried out in strict compliance with the relevant provisions of international human rights law;**

(b) **Invest more resources for the improvement of basic infrastructure and ensure access for everyone to safe drinking water and sanitation, electricity, gas, heating and sewage and garbage disposal.**

In this regard, the Committee draws the attention of the State party to its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on the right to adequate housing (art. 11 (1) of the Covenant): Forced evictions.

Poverty

20. The Committee is concerned that poverty is widespread and increasing in the State party, affecting nearly 40 per cent of the population, including a growing number of women and children. The Committee is also concerned that families place their children, including many children with disabilities, in childcare institutions and boarding schools owing to economic hardship, and that the living conditions in those institutions are poor, particularly with regard to nutrition and access to adequate health care (arts. 10 and 11).

The Committee recommends that the State party implement a poverty reduction strategy that integrates economic, social and cultural rights, in line with the Committee's statement on poverty adopted on 4 May 2001 (see E/2002/22-E/C.12/2001/17, annex VII), paying particular attention to disadvantaged and marginalized individuals and groups and to women, as well as to regions that are particularly affected by poverty. Furthermore, the Committee recommends that the State party provide adequate child benefits for families living in poverty, and ensure that families do not place their children in institutions owing to insufficient economic resources.

Malnutrition and the right to food

21. The Committee is concerned about the prevalence of food insecurity and malnutrition which, inter alia, is leading to high rates of anaemia and other malnutrition-related diseases. The Committee also notes with concern that, despite rising food prices, food allowances for persons and families who are experiencing poverty and food insecurity have been insufficient (art. 11).

The Committee recommends that the State party expeditiously address chronic food insecurity and malnutrition, including the critical nutritional needs of children and pregnant women. The Committee also recommends that the State party set up a public food distribution system for disadvantaged and marginalized individuals and groups and those living in remote regions, significantly strengthen the school feeding programmes in the country through increased funding, and effectively tackle structural problems related to food insecurity. In this regard, the Committee draws the State party's attention to its general comment No. 12 (1999) on the right to adequate food and to the voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security, adopted by the Council of the Food and Agriculture Organization of the United Nations in 2004.

Access to health care

22. The Committee notes with concern that access to health care is frequently limited, that health-care facilities are of poor quality and inadequately equipped, that the number of staff is insufficient and that they are poorly qualified. The Committee also notes with concern that:

(a) Discrimination in access to health care persists against lesbian, gay, bisexual, transgender and intersex persons, women involved in prostitution, persons with disabilities, and persons living with HIV/AIDS;

(b) While abortion is legal, it is not covered by public health insurance, leading many women to resort to unsafe abortions;

(c) Legislation on the rights of patients concerning, inter alia, professional ethics and redress for medical errors is insufficiently implemented (art. 12).

The Committee recommends that the State party increase human, technical and financial resources allocated to the health sector, and:

(a) **Monitor discrimination in access to health services and ensure that health professionals who hamper anyone's access are duly sanctioned;**

(b) **Provide confidential access for everyone, including adolescents, to contraceptives and safe abortion services, and ensure that these services are fully covered by health insurance;**

(c) **Disseminate information on patients' rights and ensure the availability of adequate implementation mechanisms, with particular focus on access to appropriate compensation in the event of medical errors.**

Drug policy and the right to health

23. The Committee, while appreciating the provision of drug replacement therapies by the State party, notes with concern that drug users and those providing harm reduction services are frequently harassed by law enforcement officials, and methadone programme participants have been victims of arbitrary detention. The Committee also notes with concern that persons with a drug addiction are frequently subjected to discrimination in their access to health services, including by being asked for informal payments.

The Committee recommends that the State party adequately monitor and sanction discrimination in access to health services for persons with a drug addiction. The Committee also recommends that the State party increase full access to free and adequate drug substitution therapies that respect the dignity of patients. The Committee further recommends that the State party ensure that persons with a drug addiction and providers of harm reduction services are not subjected to any harassment or arbitrary detention by the authorities.

Maternal mortality

24. The Committee is concerned about the very high maternal mortality rate, which is still rising, and notes with concern that trained medical personnel and obstetric health services are insufficient or lacking (art. 12).

The Committee recommends that the State party step up its efforts and address as a matter of priority the problem of maternal mortality, including by significantly increasing access to maternal health services, in particular in remote and rural areas, and establishing community-based maternal health-care systems and referral systems for obstetric emergencies. The Committee also recommends that the State party expeditiously address the underlying causes of maternal mortality, which may be connected to women's low social status, poverty, lack of independence or the remoteness of their homes. In this regard, the Committee recommends that the State party take into account the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality in the report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/21/22 and Corr.1 and 2).

Pollution and ground contamination

25. The Committee is concerned about the adverse effects on health and the environment caused by the high level of industrial pollution in the State party, and by:

- (a) Ground contamination resulting from uranium tailings, toxic waste dumps and burial sites for pesticides that are persistent organic pollutants;
- (b) Continuing import of obsolete, prohibited or poor-quality pesticides;
- (c) The location of the Ala-Too residential area near a burial ground for cattle with anthrax;
- (d) Mining, including the operation of the world's last-known mercury mine in Khaidarkan.

The Committee is also concerned that awareness among the population about the presence of radioactive and toxic substances and the risks they pose to health and the environment is particularly low (arts. 11 and 12).

The Committee recommends that the State party:

- (a) **Relocate uranium tailings, pesticides that are persistent organic pollutants and radioactive and hazardous waste;**
- (b) **Close the mine in Khaidarkan and take measures to provide access to other economic activities in the region;**
- (c) **Ensure that residential areas are not located on or close to contaminated ground;**
- (d) **Reduce industrial pollution and enforce the prohibition of certain pesticides;**
- (e) **Establish normative frameworks on radiation and nuclear safety, as well as on pollution and chemicals management, that are in line with international standards;**
- (f) **Carry out awareness-raising campaigns on the presence and risks of radioactive and toxic substances, as well as on safety measures to minimize risks.**

Access to education

26. The Committee is concerned that a high number of children have never been to school or drop out of school, including many children with disabilities. The Committee is also concerned about the hidden costs of education and that many schools require administrative fees, as they receive insufficient State support (arts. 13 and 14).

The Committee draws attention to its general comment No. 13 (1999) on the right to education and recommends that the State party increase budgetary allocations to education to ensure free access to quality education, including to inclusive education, and provide families who live in poverty with adequate support to cover the hidden costs of education.

Cultural rights

27. The Committee is concerned about the limited and decreasing use of minority languages, particularly Uzbek, in education, the media and cultural life (art. 15).

The Committee recommends that the State party allocate specific budgetary resources to promoting the cultural diversity of ethnic minorities, allow mother tongue

education and minority language press, and enable all groups to express and develop their culture, language, traditions and customs.

D. Other recommendations

28. The Committee encourages the State party to consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

29. The Committee encourages the State party to consider ratifying, as soon as possible, the Convention on the Rights of Persons with Disabilities.

30. The Committee encourages the State party to extend standing invitations to special rapporteurs with mandates relevant to economic, social and cultural rights.

31. The Committee requests that the State party disseminate the present concluding observations widely among all levels of society, particularly government officials, members of parliament, judicial authorities and civil society organizations, and inform the Committee, in its next periodic report, on all steps taken to implement them. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report and in the consultation on follow-up measures to the present concluding observations.

32. The Committee encourages the State party to engage civil society organizations in constructive cooperation in order to implement the present concluding observations at the national level, as well as for the preparation and submission of its next periodic report.

33. The Committee requests the State party to submit its fourth periodic report by 30 June 2020, and invites the State party to update its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. I). The Committee also invites the State party to make efforts to update its data on all issues of relevance to the Covenant.
