

CHAPTER IV

Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant

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68. ... In accordance with modified rule 57 of the Committee's rules of procedure, the annual report should include the Committee's concluding observations relating to each State party's report. Accordingly, the following paragraphs, arranged on a country by country basis according to the sequence followed by the Committee in its consideration of the reports, contain the concluding observations adopted by the Committee with respect to the States parties' reports considered at its thirty sixth and thirty seventh sessions...

[...]

Thirty-seventh session

[...]

TAJIKISTAN

441. The Committee on Economic, Social and Cultural Rights considered the initial report of Tajikistan on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/TJK/1) at its 39th, 40th and 41st meetings, held on 10 and 13 November 2006, and adopted, at its 58th meeting, held on 23 November 2006, the following concluding observations.

A. Introduction

442. The Committee welcomes the submission, albeit late, of the initial report of Tajikistan, which was prepared in conformity with the Committee's guidelines. The Committee notes with appreciation the written replies to its list of issues. In particular, it welcomes the frank manner in which both documents address the problems encountered by the State party in implementing the rights recognized in the Covenant, and the participation of non-governmental organizations in the preparation of the report.

443. The Committee also welcomes the constructive dialogue with the high-level delegation of the State party, which included experts in the various fields covered by the Covenant.

B. Positive aspects

444. The Committee welcomes the adoption of the 2004 Act on Equal Rights and Opportunities for Men and Women and the National Plan of Action for the Advancement of Women and the Enhancement of Their Status and Role for the period 1998-2005. The

Committee also welcomes the establishment of the Government Committee for Women's and Family Affairs.

445. The Committee notes with satisfaction the adoption in 2002 of a Poverty Reduction Strategy Paper and the efforts made by the State party to alleviate poverty, ensure an equitable distribution of the benefits of the economic growth and improve the standard of living of the most vulnerable groups of the population.

446. The Committee takes note of the recent ratification of the United Nations Convention against Corruption, the approval of the Istanbul Anti-Corruption Action Plan and the participation of the State party in the Anti-Corruption Network for Transition Economies. In this regard, the Committee welcomes the adoption of the 2005 Anti-Corruption Act for the creation of a new anti-corruption department in the Procurator's office, as well as the organization of training, awareness-raising programmes, and quarterly press conferences of the ministries.

447. The Committee welcomes the adoption of the 2004 Act on Trafficking in Persons, as well as the various steps undertaken to implement it, including cooperation with the International Organization for Migration (IOM) and Tajik NGOs in facilitating the return to Tajikistan of women who have been victims of trafficking.

448. The Committee notes with satisfaction the efforts made by the State party in cooperation with international institutions and specialized agencies, as well as with other States, to solve the problem of anti-personnel landmines and other explosives left in the territory of the State party during and after the end of the civil war.

449. The Committee welcomes the State party's ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

C. Factors and difficulties impeding the implementation of the Covenant

450. The Committee, while recognizing that the State party is still suffering from effects of the civil war (1992-1997), notes that there are no significant factors and difficulties impeding its ability to meet its minimum obligations for the progressive realization of the rights enshrined in the Covenant.

D. Principal subjects of concern

451. The Committee is concerned at the low level of awareness of the State party's civil servants, including judges and law enforcement officials, about the domestic and international human rights commitments and the insufficient coordination between State authorities which are responsible for their implementation in the State party. The Committee also notes with concern that, although the Covenant forms part of the domestic law and is directly applicable in the courts of the State party, there are no court decisions which contain references to, or confirm the direct applicability of, the provisions of the Covenant.

452. The Committee is concerned at the lack of independence of the judiciary in the State party, as reflected inter alia in the process of appointment and dismissal of judges as well as in

their economic status. The Committee also notes with concern that public prosecutors have a predominant position in relation to judges.

453. The Committee notes with concern that despite the efforts made by the State party, corruption and nepotism continue to be widespread, preventing the equal enjoyment of economic, social and cultural rights.

454. The Committee is concerned that there is no systematic and comprehensive anti-discrimination legislation in the State party.

455. The Committee is concerned over the serious difficulties faced by refugees in finding employment, in many cases due to the lack of the necessary documents and to the restrictions introduced by governmental resolutions No. 325 and 328, according to which refugees and asylum-seekers are not allowed to reside in Dushanbe and Khujand. The Committee also expresses its serious concern about the fact that according to article 10 of the Tajik Refugee Law, asylum-seekers are not allowed to work.

456. The Committee is concerned over reports that several Afghan asylum-seekers were deported to Afghanistan without being given access to lawyers or the opportunity to appeal the decision, as provided by law. The Committee is also concerned that despite legislation allowing Afghan refugees to resettle in the country and to obtain citizenship, to date no Afghan refugee has been granted citizenship.

457. The Committee is deeply concerned that despite the conclusion of regional and bilateral agreements aimed at protecting the rights of migrant workers, Tajik citizens working in other countries - and in particular those without valid documents and work permits - continue to be subject to abusive practices and infringement of their rights, in particular with regard to the enjoyment of economic, social and cultural rights.

458. The Committee is concerned that traditional stereotypes in relation to the role of women in society are increasing in the State party, particularly in rural areas, and are manifested in practices such as polygamy, customary marriages and early marriages arranged by family members and acquaintances, often accompanied by physical threats.

459. The Committee is concerned at persistent gender inequalities in the State party, particularly in the fields of employment, equal remuneration, education and equal participation in the political and public life of the State party.

460. The Committee regrets the inadequacy of information about the unemployment rate and on the size of the informal sector.

461. The Committee is concerned at the wage gap between women and men for work of equal value, and the fact that 60-70 per cent of women work in sectors with the lowest wages in the State party.

462. The Committee notes with concern that the current minimum wage is insufficient to provide an adequate standard of living for workers and their families, in accordance with article 7 of the Covenant.

463. The Committee is concerned that sexual harassment in the workplace is not classified as a specific offence, thus denying adequate protection for the victims.

464. The Committee is concerned that the trade unions in the State party are not fully independent. The Committee is also concerned that the State party's laws do not provide for the right to strike as a last resort in the settlement of collective disputes.

465. The Committee is concerned that the low level of social pensions and unemployment benefits are not sufficient to guarantee an adequate standard of living.

466. The Committee notes with concern that more than half of children living in State institutions or under trusteeship or guardianship do not receive any pension, usually due to the fact that trustees and guardians are not aware of the right of orphans to receive a pension for the death of the breadwinner and of the procedures to exercise this right.

467. The Committee expresses its concern about the persistence of domestic violence - especially against women - in the State party, resulting in a high number of murders and suicides among women. The Committee is concerned that the State party provides no specific legal mechanisms to deal with domestic violence, particularly violence against women, and consequently victims of such violence may not be adequately protected by current legislation and practice.

468. The Committee is concerned that due to a lack of programmes to support single mothers, foster care or other forms of family-based alternative care, a large number of children live in boarding institutions and children's homes, which usually provide them with very low quality housing, food, clothing and care. The Committee is in particular disturbed by reports that children living in such institutions are deprived of the opportunity to attend school and to participate in social and cultural life outside the institutions.

469. The Committee notes with concern that notwithstanding the general prohibition stipulated in the Labour Code, a large number of children still drop out of school and take up work, especially in the informal sector. The Committee is particularly concerned that many of these children work in hazardous conditions harmful to their health, with little or no training on safety precautions, and are exposed to various forms of violence. The Committee is particularly concerned about forced labour of children, mostly in the cotton harvest on collective farms, which is generally tolerated by local authorities.

470. The Committee is deeply concerned that notwithstanding the adoption of the 2004 Act on Trafficking in Persons, a high number of women and children continue to be trafficked from or through the State party for purposes of sexual exploitation and forced labour. The Committee is also concerned about the lack of reliable information, including statistics, on the extent of the problem.

471. The Committee is deeply concerned that despite the efforts made by the State party to raise real income levels and improve living standards, 64 per cent of the population - older persons, pensioners, single parents and large families - live below the poverty line and are unable to meet their basic food needs.

472. The Committee is concerned at the lack of social housing units and the absence of a national housing strategy to address the housing needs of the population, with particular regard to the rapidly growing number of persons that are currently moving to Dushanbe.

473. The Committee regrets the lack of information about forced evictions in the State party. The Committee is concerned about reports that evicted persons generally do not obtain adequate compensation for lost housing or alternative accommodation.

474. The Committee is concerned at the lack of sufficient access to safe drinking water in many households in Dushanbe, and the insufficient monitoring of water quality.

475. The Committee is concerned that annual Government expenditure on public health has been in sharp decline in recent years, from 6 per cent of GDP in 1992 to 1 per cent in 2006. The Committee is in particular concerned that the lack of public health facilities and their poor quality may impact negatively on low-income groups and the rural population.

476. The Committee is deeply concerned at the high mortality rate of children and mothers, which is the highest among OSCE countries, and the decrease in life expectancy.

477. The Committee is concerned at the increased consumption of illicit drugs in the State party, which in addition to being a country of transit has also become a country of final destination for these drugs.

478. The Committee is concerned at the rapid spread of HIV in the State party, in particular among drug users, prisoners, sex workers and migrant workers returning to the country. The Committee notes that factors such as a lack of basic knowledge about the disease and its transmission (particularly among rural women), breaches of confidentiality relating to medical information, and lack of appropriate training for health-care workers contribute to the significant stigma and discrimination surrounding the disease and, ultimately, the spread of HIV.

479. The Committee is deeply concerned at the increase of tuberculosis infections and tuberculosis-related deaths, especially among prisoners, due to poor hygienic conditions, the lack of medical personnel and shortages of anti-tuberculosis diagnostic tools and medicines.

480. The Committee is concerned over the frequent use of confinement in psychiatric institutions in the State party, as a means of treatment of mental health problems, without periodic review processes and effective judicial control of psychiatric confinement.

481. The Committee is deeply concerned about the decline in the budget for education. The Committee notes that the quality of education has deteriorated in recent years, especially in rural areas, due to the lack of adequate school infrastructure, i.e. furniture and supplies, textbooks, heating and fresh drinking water. The Committee also notes with concern the shortage of teachers who are increasingly forced to look for jobs outside the school system, due to low salaries.

482. The Committee is seriously concerned at the sharp decline in attendance rates at primary and secondary schools, especially with regard to girls, children living in rural areas, children belonging to national minorities and children with disabilities.

E. Suggestions and recommendations

483. The Committee requests the State party to ensure that the provisions of the Covenant are given effect to by its domestic courts, that legal and judicial training takes full account of the justiciable elements of all Covenant rights, as defined in the Committee's general comments, and that it promotes the use of the Covenant as a domestic source of law. In this regard, the Committee draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant. The Committee invites the State party to include information concerning case law on the application of the Covenant in its next periodic report.

484. The Committee recommends that the State party consider the establishment of an independent national human rights institution, in accordance with the Paris Principles (General Assembly resolution 48/134 of 20 December 1993), and the adoption of a comprehensive national human rights action plan.

485. The Committee stresses the importance of an independent judiciary for the enjoyment of all human rights, including economic, social and cultural rights. The Committee urges the State party to take immediate steps to guarantee the full independence and impartiality of the judiciary, particularly through introducing a system of appointing judges for an indefinite period.

486. The Committee recommends that the State party prioritize developing and pursuing a comprehensive set of measures to combat corruption and nepotism as well as impunity for these phenomena. The Committee requests the State party to provide detailed information about progress made, and obstacles encountered, in combating corruption and nepotism in its next periodic report.

487. The Committee calls on the State party to adopt, in consultation with civil society, specific anti-discrimination legislation and a plan of action to combat discrimination. The Committee also urges the State party to increase awareness about international anti-discrimination standards among judges and other members of the legal profession.

488. The Committee calls on the State party to strengthen the protection afforded to refugees and asylum-seekers, inter alia by facilitating the procedures necessary to obtain personal documents, including birth certificates, identity cards and work booklets, to enable them to enjoy their economic, social and cultural rights. The Committee urges the State party to consider withdrawing governmental resolutions No. 325 and No. 328 and to revise its refugee law in order to grant asylum-seekers the right to work.

489. The Committee urges the State party to take effective measures to promote and protect the economic, social and cultural rights of Tajik citizens working abroad, inter alia by concluding bilateral agreements with relevant host countries and ensuring that migrant workers and members of their families receive sufficient information on their rights and obligations under international law and under the law and practice of the host country.

490. The Committee calls upon the State party to take effective measures, including implementation of existing laws and through the use of media and education, to overcome traditional stereotypes regarding the status of women in the public and private spheres and to ensure in practice equality between men and women in all fields of life, as provided for in article 2, paragraph 2, and article 3 of the Covenant. In this regard, 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 (art. 3). The Committee requests the State party to provide, in its next periodic report, detailed information, including disaggregated data, on the progress made in the field of gender equality.

491. The Committee urges the State party to promote targeted active employment policies to decrease unemployment. The Committee requests the State party to provide disaggregated data in its next periodic report on progress made in the field of employment stimulation. The Committee recommends that the State party consider ratifying ILO Convention No. 2 (1919) on unemployment.

492. The Committee urges the State party to implement the principle of equal treatment of men and women with regard to wages, working conditions, access to employment and promotion, and to intensify its efforts in the field of qualification programmes for women working in low-paid jobs and unemployed women. It invites the State party to include disaggregated data on the participation of women in the workforce.

493. The Committee calls upon the State party to adopt a minimum wage that would enable workers and their families to enjoy an adequate standard of living and to ensure that the minimum wage standard is thoroughly enforced. In this regard, the Committee encourages the State party to provide and regularly update statistical data regarding the basket of consumer goods as a basis for calculating what is required for a minimum standard of living.

494. The Committee urges the State party to undertake measures to combat sexual harassment in the workplace including by adopting specific legislation rendering it a criminal offence.

495. The Committee urges the State party to ensure the right of all workers to form trade unions, join trade unions of their choice, and exercise the right to strike in accordance with the provisions of article 8.

496. The Committee encourages the State party to strengthen the role of pensions as a safety net for pensioners living alone and for those who have no other source of income, by increasing minimum State social insurance pension amounts. The Committee also encourages the State party to increase personal coverage of unemployment benefits. The State party is also encouraged to undertake periodic reviews of the amounts of both pensions and unemployment benefits to bring them into line with the cost of living. The Committee recommends that the State party consider ratifying ILO Conventions No. 102 (1952) on minimum standards of social security and No. 118 (1962) on equality of treatment of nationals and non-nationals in social security.

497. The Committee recommends that the State party take appropriate steps to ensure the effective realization of the right of orphans to receive a pension, inter alia by ensuring that trustees and guardians receive appropriate information with regard to the right of the orphan to receive a pension for the death of the breadwinner and on the procedures to claim this right.

498. The Committee urges the State party to adopt - as a matter of priority - a law on domestic violence and to render it a criminal offence. The Committee encourages the State party to take all necessary measures to protect victims of domestic violence, inter alia by setting up prevention and early assistance centres, counselling services and temporary shelters, and to promote information campaigns and training of law enforcement and medical personnel on the criminal nature of such acts. The Committee requests the State party to include information on the results of these measures and on the number of victims, perpetrators, convictions, and the types of sanctions imposed, in its next periodic report.

499. The Committee recommends that the State party take effective measures, including the adoption of strategies and awareness-raising activities, to promote the family as providing the best environment for the child, through counselling, allocation of family allowances, and community-based programmes to assist parents to keep children at home. In cases where placement of children is necessary, it recommends that the State party provide, promote and strengthen, as much as possible, alternatives to institutionalization, such as foster care and family-type foster homes. Furthermore, the Committee recommends that sufficient funds be allocated to improve existing infrastructure, as well as the quality of food, clothing and care for children living in institutions.

500. The Committee urges the State party to take all the necessary measures, including undertaking information campaigns to inform and sensitize the general public, to ensure the protection of minors from economic and social exploitation and to enable them to fully enjoy their right to education and an adequate standard of living. The Committee recommends the State party to undertake a national survey on the nature and extent of child labour, and include information on progress made in combating child labour in its next periodic report.

501. The Committee recommends that the State party provide labour inspections with adequate human and financial resources, to enable them to effectively combat abuses of workers' rights.

502. The Committee recommends that the State party take all necessary measures to implement the 2004 Act on Trafficking in Persons, inter alia by sensitization of law enforcement officials and the judiciary to the rights and needs of victims, and the provision of medical, psychological and legal support for victims. The Committee further requests the State party to provide, in its next periodic report, disaggregated data on trafficking in persons.

503. The Committee urges the State party to intensify its efforts to integrate economic, social and cultural rights into its Poverty Reduction Strategy, and to allocate sufficient funds for its implementation. In this regard, the Committee draws the State party's attention to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10), and to continue to seek international technical assistance, as provided for in article 2, paragraph 1, and article 23, of the Covenant. In this connection, the Committee calls upon the State party to ensure that its international human rights obligations are fully observed when it enters into technical cooperation and other arrangements with international organizations.

504. The Committee recommends that the State party take all the necessary measures, including the adoption of a national housing strategy, to guarantee the right to adequate housing to all persons residing under its jurisdiction and to address the problem of the lack of adequate social housing units. In this connection, the Committee draws the State party's attention to its general comment No. 4 (1991) on the right to adequate housing (article 11 (1) of the Covenant). The Committee requests the State party to provide, in its next periodic report, disaggregated data on persons on waiting lists for social housing and information on progress made to improve this situation.

505. The Committee requests the State party to provide, in its next periodic report, detailed information on the number and nature of forced evictions and on the extent of homelessness in the State party. The Committee urges the State party to take effective measures to provide all evicted persons with adequate compensation for lost housing or with alternative accommodation, in accordance with the guidelines adopted by the Committee and its general comment No. 7 (1997) on the right to adequate housing (article 11 (1) of the Covenant): forced evictions.

506. The Committee recalls the State party's obligation to ensure access to safe drinking water within, or in the immediate vicinity, of each household. It invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to the right to water, in line with the Committee's general comment No. 15 (2002) on the right to water (articles 11

and 12 of the Covenant), and to include information on the process of identifying such indicators and benchmarks in its next report.

507. The Committee urges the State party to take all appropriate steps to improve its health services, inter alia by allocating increased resources and adopting measures to address the significant rural and urban disparities in health-care provision. The Committee also requests the State party to include in its next periodic report information on progress made in ensuring universal access to affordable primary health care, in particular in rural areas.

508. The Committee urges the State party to take all effective measures to combat the high mortality rate of children and mothers and improve child and maternal health, inter alia through measures aimed at introducing sexual and reproductive health-related education and information, including family planning. The Committee also recommends the State party to take steps to improve access to sexual and reproductive health services, including hygienic conditions in hospitals, prenatal and post-natal care, and emergency obstetric services.

509. The Committee urges the State party to take effective measures to combat the inflow and consumption of illicit drugs and to provide adequate treatment and rehabilitation for drug users.

510. The Committee recommends to the State party to conduct education campaigns on HIV/AIDS through the media, school curricula and other means, aimed at ensuring that individuals (particularly those belonging to high-risk groups) have the necessary information to protect themselves from the disease, and at reducing the stigma and discrimination surrounding the disease and the groups most affected by it, such as injection drug users, prisoners, commercial sex workers and returning migrants. The Committee also recommends that the State party establish time-bound targets for extending the provision of free testing services, free treatment for HIV and harm reduction services to all parts of the country.

511. The Committee calls upon the State party to take measures to improve hygienic conditions, especially in prison institutions, and to ensure that the right to health of all detainees in the State party is respected.

512. The Committee encourages the State party to provide alternative forms of mental health treatment, in particular outpatient treatment and community-based rehabilitation. In cases where confinement in a psychiatric institution is the only alternative, the Committee calls upon the State party to ensure full respect for human rights of those interned, through a periodic review process on a case-by-case basis, and effective judicial control of psychiatric confinement.

513. The Committee recommends that the State party take all the necessary measures to guarantee the right of everyone to participate in cultural life. In this regard, the Committee requests the State party to provide, in its next periodic report, detailed information on the implementation of the 1997 Culture Act, in particular with regard to measures taken to effectively implement the right of persons belonging to national and ethnic minorities to use their languages before the courts and other public authorities, as well as in schools, public television and radio broadcast, newspapers and magazines.

514. The Committee recommends that the State party take all necessary measures to allocate greater human and financial resources to implement effectively the equal right of everyone to

education, as set out in article 13 of the Covenant. The Committee encourages the State party to seek technical assistance from, inter alia, UNICEF, UNESCO and WHO.

515. The Committee recommends that the State party review existing policies and practice in relation to access to education for children with disabilities, taking due account of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of general comment No. 5 (1994) on persons with disabilities. The Committee further encourages the State party to take all appropriate measures to eliminate continuing discrimination on the grounds of gender in the field of access to education, taking due account of its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3).

516. The Committee encourages the State party to develop indicators and benchmarks on an annual basis, disaggregated by gender, age, urban-rural population and ethnic background for the purpose of specifically assessing the needs of disadvantaged and marginalized individuals and groups, and requests that this information be included in the next periodic report.

517. The Committee invites the State party to update its core document in accordance with the 2006 harmonized guidelines on reporting under the international human rights treaties.

518. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging 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.

519. Finally, the Committee requests the State party to submit its combined second and third periodic reports by 30 June 2011.