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Committee on Economic, Social and Cultural Rights

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

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

Turkmenistan

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Turkmenistan on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/TKM/1), at its 28th and 30th meetings, held on 18 and 21 November 2011, and adopted, at its 59th meeting, held on 2 December 2011, the following concluding observations.
2. The Committee appreciates the presence of a high-level delegation and welcomes the initiation of a dialogue with the State party.

A. Introduction

3. The Committee welcomes the submission of the initial report of Turkmenistan (E/C.12/TKM/1) while noting that it has been presented well behind the date. The Committee also welcomes the written replies to its list of issues (E/C.12/TKM/Q/1/Add.1), but regrets that some key questions have remained unanswered.

B. Positive aspects

4. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the ratification of the International Labour Organization's Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the World Health Organization Framework Convention on Tobacco Control, and the United Nations Convention on the Status of Stateless Persons.

C. Principal subjects of concern and recommendations

5. The Committee notes that the country is currently undertaking large-scale reforms but regrets not having received sufficient information on the integration of the Covenant in relevant domestic laws and policies. The Committee also regrets that no information was provided on decisions of domestic courts in which the provisions of the Covenant have been invoked.

The Committee recommends that obligations under the Covenant be fully and thoroughly taken into account while planning and conducting reforms as well as while evaluating their results. The Committee furthermore draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant and requests the State party to include information concerning domestic case law on the application of the Covenant in its next periodic report.

6. The Committee notes with concern the lack of comparable and disaggregated data, also by sex, relating to the enjoyment of the various rights contained in the Covenant, including by members of national or ethnic minorities and by stateless persons.

The Committee encourages the State party to ensure that the population and housing census, planned for December 2012, provides precise data about the demographic composition of the population and that the results of this census are used in the formulation of laws, policies and programmes for the effective implementation of the Covenant. The Committee also calls upon the State party to put in place a comprehensive system of data collection in all areas covered by the Covenant and requests that the State party include in its next report statistical data and analysis with respect to the implementation of the provisions of the Covenant, indicating the impact of measures taken and of results achieved.

7. The Committee is concerned at the fact that the State party does not have an independent National Human Rights Institution since its National Institute of Democracy and Human Rights, established in the Office of the President, does not conform to the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

The Committee urges the State party to consider establishing an independent national human rights institution, in accordance with the Paris Principles, mandated to monitor compliance with the rights under the Covenant.

8. The Committee is concerned about information regarding the negative consequences of the policy of “Turkmenization” which sets out preference for persons of Turkmen origin and results in discrimination against national and ethnic minorities, especially in the field of education and employment. The Committee is in particular concerned about reports that “third generation tests” are imposed on persons wishing to access higher education and public sector employment.

The Committee recommends that the State party take all necessary measures to address discrimination against national and ethnic minorities resulting from the State party’s policy of “Turkmenization”. The Committee also recommends that the State party undertake an assessment of the implementation of relevant legislative provisions with respect to non-discrimination and collect comparative and disaggregated data on the enjoyment of economic, social and cultural rights by national and ethnic minorities. The Committee furthermore urges the State party ensure that “third-generation tests”, particularly in employment or education sectors are not applied.

9. The Committee is concerned that the existing residence registration system (propiska) creates obstacles in accessing employment and a number of social services for those who live in another place than where they are registered.

The Committee urges the State party to take all necessary measures to ensure that its system of residence registration does not impede the enjoyment of economic, social and cultural rights by all citizens without discrimination, irrespective of the place of registration.

10. The Committee is concerned about strong negative traditional attitudes or practices and deep-rooted stereotypes which discriminate against women and are root causes for the disadvantaged position of women in a number of areas affecting their enjoyment of economic, social and cultural rights, including in the labour market, in public life, and in higher education as well.

The Committee recommends that the State party continue and expand its awareness-raising activities targeting direct and indirect discrimination against women with a view to countering negative traditional attitudes and stereotypes about the roles of women. The Committee furthermore urges the State party to adopt all necessary measures, including temporary special measures, in a number of areas affecting the enjoyment of economic, social and cultural rights of women, including in the labour market and higher education.

11. The Committee is concerned at the high level of unemployment in the State party. The Committee also notes with concern that members of ethnic or national minorities face restrictions with respect to training and employment in both the private and public sectors for reasons of their “non-Turkmen background”.

The Committee urges the State party to take all appropriate measures to enhance the access to employment and to address the high rate of unemployment. The Committee calls upon the State party to ensure protection against direct and indirect discrimination in employment and occupation, including with regard to social services such as unemployment benefits and pensions. The Committee furthermore recommends that the State party collect data, disaggregated by national or ethnic origin, with respect to the situation of unemployment in the country.

12. The Committee is concerned that certain professions are not accessible to women on the ground of protecting their physical well-being. The Committee is also concerned that relevant statistics provided by the State party were not disaggregated by sex. The Committee is furthermore concerned about the lack of equality of opportunity and about the treatment of women and men with respect to their participation in employment and occupation.

The Committee recommends that the State party review all current obstacles for women in employment and that it adopt temporary special measures to promote the access of women to all types of employment and occupation. The Committee requests that the State include, in its next periodic report, statistics, disaggregated by sex, on participation in the labour market and on the average actual earnings broken down by occupation, branch of activity, and level of qualifications, with respect to both the public and private sector. The Committee furthermore urges the State party to ensure that criteria used to determine the rates of remuneration, including those established in collective agreements and in minimum wage agreements, are determined in accordance with the principle of equal remuneration for men and women for work of equal value. The Committee also recommends that the State party collect adequate data in order to ensure that the minimum wage allows for the provision of all basic services.

13. The Committee is concerned that the National Trade Union Centre is the only trade union in the State party, that it is controlled by the Government of Turkmenistan, and that the absence of independent trade unions may lead to various violations of workers' rights. The Committee is furthermore concerned at the absence of specific legislation with regard to the right to strike.

The Committee recommends that the State party remove all impediments for creating trade union organizations outside of the National Trade Union Centre and consider adopting a specific law outlining the modalities of the right to organize strike action.

14. The Committee is concerned about the absence of comparable and disaggregated data with respect to the enjoyment of social security benefits such as unemployment benefits, as well as disability and retirement pensions. In this regard, the Committee is particularly concerned about the situation of individuals working in the informal sector.

The Committee recommends that the State party periodically review the amounts of both pensions and unemployment benefits to bring them in line with the cost of living. The Committee furthermore recommends that the State party take all necessary measures to ensure that the social security system offers workers adequate coverage and minimum pensions, including for those working in the informal sector.

15. The Committee is concerned that the provision of social assistance and welfare benefits for persons with disabilities is inadequate. The Committee is also concerned at the absence of adequate data with regard to children and adults with disabilities.

The Committee recommends that the State party enhance the provision of social assistance and of welfare benefits to persons with disabilities and in this regard refers the State party to its general comment No. 5 (1994) on persons with disabilities. The Committee also recommends that the State party collect disaggregated data on the enjoyment, by children and adults with disabilities, of the rights set out in the Covenant, that the State party use such data to develop laws, programmes and policies to promote equal opportunities for children and adults with disabilities, and that the State party include such information in its next periodic report.

16. The Committee is concerned about the absence of specific legislation on all forms of violence against women, including on criminalizing domestic violence and marital rape. The Committee is also concerned about the incidence of violence against women, including domestic violence and marital rape, in the State party.

The Committee urges the State party to adopt specific legislation criminalizing domestic violence and marital rape, to ensure that women and girls who are victims of violence have access to immediate means of redress and protection, and to prosecute and punish perpetrators. The Committee furthermore recommends that the State party put in place prevention and awareness-raising programmes about violence against women, including in the domestic setting. The Committee also recommends that the State party conduct research on the prevalence, causes and consequences of all forms of violence against women, including domestic violence and marital rape in order to serve as basis for comprehensive and targeted action.

17. The Committee is concerned about the lack of information provided by the State party about the extent of exploitation in prostitution of, and trafficking in women and girls. The Committee is furthermore concerned about reports that the State party has not taken sufficient prevention initiatives as well as measures to support victims, including medical, social and legal assistance.

The Committee recommends that the State party collect disaggregated data on the situation of trafficking in Turkmenistan. The Committee urges the State party to increase the provision of programmes aimed at providing counselling, shelter, legal

assistance, and other rehabilitative services to victims of trafficking, and suggests that the State party consider enhancing its cooperation with civil society organizations in this regard. The Committee also urges the State party to ensure formal victim identification procedures, victim referral or victim sensitivity training for border guards and police officers.

18. The Committee is concerned that, in spite of the fact that polygamy is illegal in the State party, it remains widely practiced. The Committee is also concerned that no measures are taken to protect women in polygamous relations.

The Committee calls upon the State party to effectively enforce its laws penalizing polygamy and to take comprehensive and effective measures aimed at eliminating this phenomenon as well as to address the negative consequences women involved in such situations may suffer.

19. The Committee is concerned that child marriages still occur in the State party despite the existence of legislation against them.

The Committee also calls upon the State party to take all necessary measures in order to prevent child marriages from occurring.

20. The Committee is concerned that, partly due to an unequal distribution of wealth, a considerable number of families live at risk of poverty and that a considerable proportion of the population does not have access to safe drinking water and adequate water sanitation, in particular in rural areas, which allegedly have been the direct and indirect cause for a number of diseases, including diarrhea, Hepatitis A, dysentery, methemoglobinemia by bottle-fed babies, poliomyelitis, and enteric fever.

The Committee recommends that the State party develop an effective policy for the reduction of poverty, including by reducing inequalities in the distribution of wealth. In addition, the Committee urges the State party to fully implement its legislation guaranteeing the provision of safe drinking water and adequate water sanitation in Turkmenistan and also urges the State party pay particular attention to rural areas in any policies or programmes adopted in this regard.

21. The Committee is concerned at reports that the State party has forcibly relocated human rights activists, members of ethnic minorities and their family members to inhospitable parts of Turkmenistan. The Committee is also concerned at reports that a large number of forced evictions have been carried out in the context of the urban renewal project commonly known as “National Programme of Improvement of Social Conditions for the Population of Villages, Settlements, Towns, Districts, and Rural Centers through 2020”.

The Committee urges the State party to refrain from forcibly relocating or evicting individuals. The Committee recalls that in cases where eviction or relocation is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law. In this regard, the Committee draws the attention to its general comment No. 7 (1997) on forced evictions which includes guidance on, inter alia, adequate legal remedies, adequate compensation, and consultation.

22. The Committee is concerned that, despite the efforts of the State party to improve services with regard to sexual and reproductive health, the abortion rate in the State party, especially among young people, remains high. The Committee also regrets that the State party did not provide sufficient information about its efforts in the field of education and prevention with respect to sexual and reproductive health, and that the State party did not provide statistical data, disaggregated by sex and age, on health issues.

The Committee urges the State party to increase its efforts with a view to providing women and young persons with effective access to services in the area of sexual and reproductive health, with specific attention to education, prevention and treatment. The Committee also requests that the State party provide statistical data on health related matters, disaggregated by sex and age, in its next periodic report.

23. The Committee is concerned about the inaccuracy of data relating to the prevalence HIV/AIDS, tuberculosis, and sexually transmitted infections. In particular, the Committee is concerned about the existence of a State controlled quota system, for instance with regard to reporting on maternal and infant mortality rates, and of pressure exercised on health workers to meet such quotas.

The Committee urges the State party to review the collection of statistical information with regard to health issues and to remove all forms of pressure on health care workers to meet real or perceived quotas in the delivery of health services. In addition, the Committee requests the State party to intensify its efforts with a view to further reducing its maternal, child and infant mortality rates, including through educational programmes on sexual and reproductive health and by focusing on prevention and treatment. The Committee also suggests that the State party develop and sustain a national HIV/AIDS policy focusing on stigma reduction, treatment and support, as well as prevention, and suggests that the State party avail itself of technical assistance from relevant international organizations such as the United Nations Joint Programme on HIV/AIDS (UNAIDS) in this regard.

24. The Committee is also concerned about widespread hospital closures, in 2004, outside of the capital as well as about the dismissal of thousands of health-care workers in connection with a reform of the health-care sector. The Committee is also concerned about reports that all medical institutions in Turkmenistan have been made reliant on self-financing resulting in a lack of professional health-care workers and basic medical supplies in hospitals.

The Committee requests the State party to make sure that a sufficient number of hospitals outside of the capital remain in operation. The Committee also urges the State party to allocate sufficient resources for the health sector, and in particular, to ensure that hospitals have the necessary supplies and emergency medicines at their disposal. The Committee furthermore recommends that the State party avail itself of the possibility of receiving technical assistance from, inter alia UNICEF, WHO, UNODC, UNFPA and UNDP.

25. The Committee is concerned about the acute lack of qualified teaching personnel and of appropriate teaching materials creating obstacles for secondary school graduates wishing to enter higher educational establishments in Turkmenistan and abroad. The Committee is furthermore concerned with the reported widespread practice of charging high unofficial fees for access to higher educational institutions.

The Committee recommends that the State party take all necessary measures to improve the quality of education, including by improving school curricula with a view to meeting international standards of education, by improving school facilities, textbooks and other supplies, and by investing in the training of teachers. The Committee also recommends that the State party eliminate the practice of collecting unofficial fees for access to higher educational institutions.

26. The Committee is concerned that, in spite of specific legislative provisions in this regard, the possibilities for ethnic minorities, notably Kazakh, Uzbek, Armenian and Russian, to study in their mother tongue are limited. The Committee is also concerned that a number of Turkmen students enrolled in universities abroad have been prevented from leaving the country to pursue their studies.

The Committee recommends that the State party take the necessary action to facilitate access to Kazakh, Uzbek, Armenian and Russian language classes and schools for children of ethnic minorities. The Committee also recommends that the State party take all appropriate measures to ensure that Turkmen students enrolled at universities abroad are allowed to leave the country and pursue their studies.

27. The Committee is concerned about the low percentage of female students in higher education and about strong gender stereotypes in the choice of students' field of study.

The Committee recommends that the State party take the necessary measures, including temporary special measures, to promote an increase of the number of women in higher education and provide incentives for young women and men to enter the field of study of their choice.

28. The Committee is concerned that national and ethnic minorities as well as persons belonging to those minorities face serious impediments with regard to the right to enjoy their culture. The Committee is also concerned that sources of information – including the media – are subject to Government control and do not allow for diversity.

The Committee recommends that the State party take the necessary measures to protect cultural diversity, promote awareness of the cultural heritage of national and ethnic minorities, and ensure favourable conditions for members of those minorities to preserve, develop, express and disseminate their identity, history, culture, language, traditions and customs in line with the Committee's general comment No. 21 (2009) on the right of everyone to take part in cultural life.

29. The Committee regrets that access to various sources of culture is very limited and is also concerned about reports of censorship of electronic communication and blocking of Internet sites.

The Committee urges the State party to ensure free access to divers sources of information and to cease the practice of censorship of electronic communication and blocking of Internet sites thereby making the Internet available to all that desire it.

30. The Committee is concerned that members some religious groups do not fully enjoy the right to cultural expression in the field of religion and that some religious confessions remain unregistered on account of undue registration criteria. The Committee is also concerned about the ban on worship in private homes and on the public wearing of religious garb, except by religious leaders, as contained in the 2003 Religion Law.

The Committee urges the State party to uphold the freedom of religion enshrined in the State party's Constitution and respect the right of members of registered and unregistered religious groups to freely exercise their religion and culture. The Committee also calls upon the State party to amend the 2003 Religion Law in order to remove undue registration criteria pertaining to certain religious groups as well as various restrictions impacting negatively on the freedom of religion.

31. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Covenant.

32. The Committee 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, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

33. 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 far as

possible, and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging national human rights institutions, 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.

34. The Committee requests the State party to submit its second periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 2 December 2016.
