



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the initial to third reports of the United Republic of Tanzania, adopted by the Committee at its forty-ninth session (12–30 November 2012)

1. The Committee on Economic, Social and Cultural Rights considered the initial to third periodic reports of the United Republic of Tanzania on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/TZA/1-3) at its 31st, 32nd and 33rd meetings, held on 13 and 14 November 2012 (E/C.12/2012/SR.31–33), and adopted, at its 58th meeting held on 30 November 2012, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial to third periodic reports of the United Republic of Tanzania (E/C.12/TZA/1-3), albeit with a considerable delay, the replies (E/C.12/TZA/Q/1-3/Add.1) to the list of issues (E/C.12/TZA/Q/1-3), as well as the common core document (HRI/CORE/TZA/2012). It regrets, however, that during the dialogue many questions posed by the Committee remained unanswered.

B. Positive aspects

3. The Committee notes with appreciation efforts made by the State party in promoting the implementation of economic, social and cultural rights. The Committee welcomes in particular:

- (a) The establishment of the Prevention and Combating of Corruption Bureau under the Prevention and Combating of Corruption Act No.11 of 2007;
- (b) The adoption in 2008 of the Anti-Trafficking in Persons Act;
- (c) The adoption in 2010 of the Persons with Disabilities Act;
- (d) The significant improvement in primary school enrolment rates.

C. Principal subjects of concern and recommendations

4. The Committee is concerned that the provisions of the Covenant have not been fully incorporated into the domestic legal order. It is also concerned that the State party invokes traditional values to explain practices that are not in line with obligations flowing from

international human rights law, such as polygamy, female genital mutilation (FGM), as well as corporal punishment of children in schools (art. 2, para. 1).

The Committee urges the State party to take the necessary measures to give the Covenant full effect in its domestic legal order, throughout its territory, including through the planned constitutional review prior to 2015. The Committee also calls on the State party to ensure that redress for violations of the Covenant rights can be sought, and that the curriculum of training centres for judges includes all economic, social and cultural rights, as contained in the Covenant.

5. The Committee is concerned that the State party has not yet adopted a comprehensive anti-discrimination bill. It is also concerned that persons living with or affected by HIV/AIDS, persons with disabilities and persons with albinism face social stigma and discrimination, despite policy and legislative measures taken by the State party (art. 2).

The Committee recommends that the State party adopt a comprehensive anti-discrimination bill. The Committee recommends that the State party take steps to combat and prevent discrimination and societal stigma, in particular against persons with disabilities, persons with albinism, persons living with or affected by HIV/AIDS, lesbian, gay, bisexual and transgender (LGBT) individuals and persons belonging to disadvantaged and marginalized groups, and ensure their enjoyment of the rights enshrined in the Covenant, in particular access to employment, social services, health care and education. 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.

6. The Committee is concerned that the Penal Code criminalizes homosexuality (art. 2).

The Committee recommends that the State party take urgent steps to amend the Penal Code to decriminalize homosexuality.

7. The Committee is concerned that corruption is widespread, despite sustained efforts undertaken by the State party to combat it, and that the Prevention and Combating of Corruption Act No. 11 of 2007 providing for criminal penalties for official corruption is not implemented effectively. It is concerned that a significant portion of the national budget is lost due to corruption, including theft and fraud, fake purchasing transactions, and so-called “ghost workers” (art. 2).

The Committee recommends that the State party intensify its effort to combat corruption and impunity associated with it and ensure the transparency of the conduct of public authorities, in law and in practice. It recommends that the State party take steps to raise the awareness among politicians, parliamentarians and national and local civil servants of the economic and social costs of corruption, as well as among judges, prosecutors, and law enforcement officers of the strict application of anti-corruption legislation.

8. The Committee is concerned that women in rural and remote areas face particular hardship and challenges in the realization of their economic, social and cultural rights, and that their situation is aggravated by poverty, illiteracy, difficulties in accessing health and social services and non-participation in decision-making processes. It is also concerned that despite the Land Act No. 4 (1999, amended 2004) and the Village Lands Act No. 5 (1999), rural women still face discrimination regarding ownership of land (art. 3).

The Committee recommends that the State party take steps to ensure that women in rural areas, and in particular those who are heads of household, participate in

decision-making processes and have improved access to health, education, clean water and sanitation services, income-generating projects and actual ownership of land.

9. The Committee is concerned that the unemployment rate remains high, despite a decrease in the past decade, and that the informal economy is estimated to represent more than 90 per cent of the overall economy. It is also concerned that the proportion of women among wage earners is low, constituting only about 30 per cent of paid employees (art. 6).

The Committee recommends that the State party increase its efforts to combat unemployment through specifically targeted measures. It recommends that the State party take measures to regularize the situation of informal sector workers by progressively improving their working conditions and including them in social security schemes. The Committee also recommends that the State party take measures to increase the access of women to employment in the formal sector, in particular those living in rural areas.

10. The Committee is concerned that internationally recognized labour standards are not effectively enforced, particularly in the informal sector. It is concerned about extremely dangerous working conditions, especially in the construction and mining industries. It is also concerned that the inspection system managed by the Ministry of Labour lacks the necessary financial and human resources (art. 7).

The Committee recommends that the State party take measures to ensure safe and healthy conditions of work and their enforcement in practice, especially in construction and in mining, as well as in the informal sector. It recommends that the State party ensure that the inspection system of the Ministry of Labour is adequately resourced, including with a sufficient number of labour inspection officers. The Committee also recommends that the State party ensure that workers receive adequate compensation for work-related accidents or sickness, in line with the 2008 Workman's Compensation Law.

11. The Committee is concerned that the list of public services where strikes are prohibited is extensive and that strikes in other sectors may be temporarily or permanently banned after an investigation process by the Essential Services Committee. It is also concerned that some employers, in particular in the services, tourism, mining and manufacturing sectors, have threatened dismissal as a reaction to trade union involvement of employees (art. 8).

The Committee recommends that the State party take steps to limit the scope of the definition of "essential services" for which strikes are prohibited, so that only the most essential services are subject to this prohibition. It recommends that the State party take measures to ensure that employees who engage in trade union activities are protected from any retaliatory actions and that they are able to exercise freely their rights under article 8 of the Covenant.

12. The Committee is concerned that social security coverage is very low in the State party and insufficient to provide for a decent living, and that the State party has not yet established a universal social security system that is periodically reviewed to keep in line with the cost of living (art. 9).

The Committee recommends that the State party take steps to establish a universal social security system, taking into account the Committee's general comment No. 19 (2007) on the right to social security, and is periodically reviewed to ensure it keeps step with the cost of living and at a level sufficient to ensure a decent living.

13. The Committee is concerned that domestic violence and sexual abuse of women and children is widespread, that women are often prevented from reporting domestic violence

and that the prosecution rate of perpetrators is low. It is also concerned that domestic violence and spousal rape are not specifically criminalized (art. 10).

The Committee urges the State party to take steps to prohibit and criminalize domestic violence and spousal rape and ensure that all perpetrators of such crimes are prosecuted. It recommends that the State party ensure that victims of domestic violence have access to justice, by encouraging the reporting of crimes, and that perpetrators are prosecuted and punished. The Committee also recommends that the State party ensure that victims have access to adequate services for recovery, counselling and other forms of rehabilitation, and take steps to raise public awareness of domestic violence and spousal rape. It also urges the State party to intensify its efforts to combat the sexual abuse of children.

14. The Committee is concerned that corporal punishment of children is lawful as a sentence of the courts, as well as a form of discipline in schools, alternative-care institutions and the home (art. 10).

The Committee urges the State party to take legislative and other measures to prohibit and prevent corporal punishment of children in all settings, in particular as a sentence of the courts, as well as in schools, alternative-care institutions and the home.

15. The Committee is concerned that, despite the Employment and Labour Relations Act, 2004, and the Law of the Child Act, 2009, child labour is widespread and that many children are engaged in economic activities that are hazardous and dangerous (art. 10).

The Committee recommends that the State party intensify its efforts to combat child labour and particularly strive to eliminate the worst forms of child labour, including through effective enforcement of legislative provisions prohibiting child labour.

16. The Committee, while recognizing progress made by the State party, is concerned that, in spite of the measures taken by the State party about the high number of children living and/or working in the street, in particular in Dar es Salaam, Mwanza and Arusha. It is also concerned that these children are exposed to various forms of violence, including sexual abuse and exploitation, and have limited access to health services and education (art. 10).

The Committee recommends that the State party continue to take steps to address the high number of children living and/or working in the street, in particular in Dar es Salaam, Mwanza and Arusha, address the root causes of the phenomenon and improve the access of all street children to health services and education.

17. The Committee is concerned that the State party is a source, transit and destination country for trafficking in persons. It is also concerned about the high level of internal trafficking from rural to urban areas affecting children, which is carried out for the purposes of exploitation in domestic servitude, petty trade and prostitution (art. 10).

The Committee recommends that the State party take steps to combat and prevent trafficking in persons and internal trafficking of children, including through the effective implementation and enforcement of the Anti-Trafficking in Persons Act 2008, and effective and sufficient costing of the National Anti-Trafficking Action Plan 2011–2015.

18. The Committee is concerned that, in spite of the criminalization of the practice of female genital mutilation (FGM), it remains highly prevalent in rural areas, and that knowledge among women of the related risks is very low (art. 10).

The Committee recommends that the State party ensure effective enforcement of the Criminal Code provisions criminalizing FGM, expand programmes against FGM –

prioritizing those regions with a high prevalence – and organize media campaigns and other outreach activities on FGM.

19. Despite the adoption by the State party of the National Strategy for Growth and Reduction of Poverty, the Committee is concerned that poverty remains widespread, with 34 per cent of the population living below the basic needs poverty line. It is also concerned that older people caring for children because of HIV/AIDS or labour migration issues are particularly disadvantaged (art. 11).

The Committee recommends that the State party intensify steps taken to reduce poverty and eradicate extreme poverty, in particular in rural areas and among older people caring for children because of HIV/AIDS or labour migration issues. The Committee requests that the State party include in its next periodic report disaggregated and comparative data, by year and by rural and urban regions, on the extent of poverty and progress made in its efforts to combat it. The Committee draws the State party's attention to the Committee's statement on Poverty and the International Covenant on Economic, Social and Cultural Rights adopted on 4 May 2001.

20. The Committee is concerned about the housing shortage in the State party, overcrowding, the poor quality of accommodation, the lack of basic services and the high percentage of the urban population living in slums (art. 11).

The Committee recommends that the State party take urgent measures to ensure access to adequate and affordable housing with legal security of tenure for everyone, introduce a public housing scheme, build more low-cost housing for disadvantaged and marginalized individuals and groups and take priority measures for homeless persons and persons living in substandard housing in shanty towns. It requests the State party to include in its next periodic report information on the extent and the root causes of homelessness in the State party and measures taken to address this problem. The Committee draws the State party's attention to its general comment No. 4 (1991) on the right to adequate housing.

21. The Committee notes with concern that many people living in the State party, particularly in central, south east and north east Tanzania, are prone to food insecurity. It is also concerned about the high rates of malnutrition and chronic hunger of children in rural areas (art. 11).

The Committee recommends that the State party take steps to address chronic food insecurity, chronic malnutrition and the critical nutritional needs of children, in particular in central, south-eastern and north-eastern regions. The Committee draws the State party's attention to its general comment No. 12 (1999) on the right to adequate food.

22. The Committee is concerned that several vulnerable communities, including pastoralist and hunter-gatherer communities, have been forcibly evicted from their traditional lands for the purposes of large-scale farming, creation of game reserves and expansion of national parks, mining, construction of military barracks, tourism and commercial game-hunting. The Committee is concerned that these practices have resulted in a critical reduction in their access to land and natural resources, particularly threatening their livelihoods and their right to food (art. 11).

The Committee recommends that the establishment of game reserves, the granting of licences for hunting and other projects on ancestral lands are preceded by free, prior and informed consent of the people affected. It recommends that the State party ensure that vulnerable communities, including pastoralist and hunter-gatherer communities, are effectively protected from forced evictions from traditional lands. It

also recommends that past forced evictions and violations that have taken place during those evictions are properly investigated, the perpetrators brought to justice, the findings made public and those evicted offered adequate compensation. The Committee draws the attention of the State party to its general comment No. 7 (1997) on forced evictions.

23. The Committee is concerned that there is no universal health-care coverage. It is also concerned about the shortage of qualified health-care professionals, shortages in medical supplies, in particular in rural clinics, and difficulties in access to health-care centres owing to how far they are from villages (art. 12).

The Committee recommends that the State party intensify steps to ensure universal health-care coverage, including through allocation of increased resources, adequate provision of medical equipment and staff at health centres, and ensuring coverage of health-care services for rural villages.

24. The Committee notes with concern the high infant, under-5 and maternal mortality, and the low number of births that are assisted by a skilled birth attendant, especially in rural areas. The Committee is also concerned about the high rate of teenage pregnancies (art. 12).

The Committee recommends that the State party take urgent steps to reduce the high infant and under-5 mortality and to ensure that births are assisted by skilled birth attendants. It recommends that the State party intensify its efforts to improve women's access to basic obstetric and neonatal care, reproductive health services and to basic health-care centres, in particular in rural areas. The Committee recommends that the State party take measures to address the high rate of teenage pregnancies, including through family-planning information and services, ensuring access to contraceptives regardless of marital status or age and promoting sexual and reproductive health as part of the education curriculum targeted at adolescent girls and boys.

25. The Committee is concerned about the exposure to highly toxic substances, such as mercury and other dangerous chemicals, of people, especially women and children, who engage in artisanal mining activities. It is also concerned about the impact of artisanal mining and the chemicals used on the environment and livelihoods of local communities, including contamination of such water sources as rivers, lakes and other bodies of water (art. 12).

The Committee recommends that the State party take urgent steps to ensure that no persons, especially women and children, are exposed to highly toxic substances such as mercury and other dangerous chemicals while engaging in artisanal mining activities, including by raising the awareness of the local population, inspecting artisanal mining areas and monitoring the impact of such activities, including on water sources.

26. Despite progress achieved in primary education enrolment following the abolition of school fees in 2011, the Committee is concerned about indirect costs in primary education, such as for textbooks, uniforms and school lunches. It is also concerned about inadequacies in the educational infrastructure, with schools often lacking water and sanitation, and shortages of text books and the limited number of qualified teachers (arts. 13).

The Committee recommends that the State party take steps to raise the overall quality of education, further increase the number of teachers and improve the availability of textbooks and other educational materials. The Committee recommends that the State party take steps to improve the physical environment of schools, including ensuring appropriate water and sanitation facilities, in particular in rural areas.

27. The Committee is concerned that approximately one third of all children at primary level do not complete school. The Committee is furthermore concerned about the high

dropout rate from secondary education, in particular owing to child labour, expulsions following positive mandatory pregnancy test results and early marriage (art. 13).

The Committee recommends that the State party take steps to ensure free primary education and urgently address the high dropout rate from both primary and secondary education, including by abolishing mandatory pregnancy testing and prohibiting expulsions due to pregnancy.

28. The Committee is concerned about the lack of access to education of children with disabilities, children of pastoralist communities and refugee children living in the Mtabila camp (art. 13).

The Committee recommends that the State party take steps to guarantee an inclusive education for all children with disabilities, in line with its 2012 Strategic Plan of Inclusive Education, and to ensure that all children of pastoralist communities and refugee children have access to primary education, including through the establishment of mobile and boarding schools.

29. The Committee is concerned that restrictions to land and resources, threats to livelihoods and reduced access to decision-making processes by vulnerable communities, such as pastoralist and hunter-gatherer communities, pose a threat to the realization of their right to cultural life (art. 15).

The Committee recommends that the State party take legislative and other measures to protect, preserve and promote the cultural heritage and traditional ways of life of vulnerable communities, such as hunter-gatherer and pastoralist communities. It recommends that it ensure their meaningful participation in the debates related to nature conservation, commercial hunting, tourism and other uses of the land, based on free, prior and informed consent.

30. The Committee requests that the State party in its next report provide information on the work of the Commission for Human Rights and Good Governance, including the number of complaints received related to economic social and cultural rights and actions taken, disaggregated by sex, ethnic, religious or linguistic minority, urban or rural region and disability.

31. The Committee recommends that the State party take the necessary steps to put in place an effective system of annual economic surveys covering the major areas of implementation of economic, social and cultural rights, as a necessary basis for meaningful Government policies and action to protect the enjoyment of such rights in the State party.

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

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, translate and publicize them as far as possible and inform the Committee of the steps taken to implement them in its next periodic report. It also encourages the State party to engage all the relevant actors, including 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 fourth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 November 2017.

