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Committee on Economic, Social and Cultural Rights**Concluding observations on the third periodic report of Azerbaijan, adopted by the Committee at its fiftieth session (29 April-17 May 2013)**

1. The Committee on Economic, Social and Cultural Rights considered the third periodic report of Azerbaijan on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/AZE/CO/3) at its 9th and 10th meetings (E/C.12/2013/SR.9-10) held on 3 May 2013, and adopted, at its 28th meeting held on 17 May 2013, the following concluding observations.

A. Introduction

2. The Committee takes note with satisfaction of the submission by Azerbaijan of the third periodic report, which is in conformity with the Committee's reporting guidelines. The Committee also takes note with satisfaction of the detailed written replies which it received to its list of issues (E/C.12/AZE/Q/3/Add.1), and welcomes the constructive dialogue held with the State party's high level inter-ministerial delegation.

B. Positive aspects

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

- (a) Convention on the Rights of Persons with Disabilities, on 28 January 2009;
- (b) Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on 28 January 2009.

4. The Committee takes note with appreciation of the State party's efforts to promote economic, social and cultural rights, which included:

- (a) Adoption of the Gender Equality Act in 2006 and the Law on Domestic Violence in 2010;
- (b) Adoption of the Employment Pensions Act and the Social Benefits Act, in 2006;
- (c) Amendment of the Family Code and the Code of Civil Procedure in 2006 to strengthen the procedure for international adoptions and the control thereof, as well as adoption of the "Regulation of government control on implementation of children's rights", on 8 May 2012;

(d) Adoption of the Human Trafficking Suppression Act in 2005, as well as a national action plan to combat trafficking.

C. Principal subjects of concern and recommendations

5. **The Committee recommends that the State party improve its human rights training programmes so as to promote better knowledge, awareness and application of the International Covenant on Economic, Social and Cultural Rights, in particular among the judiciary, law enforcement officials and other actors responsible for the implementation of the Covenant, as well as among the rights holders. The Committee also draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.**

6. **The Committee recommends that the State party ensure that the State Program on Development of Official Statistics in 2013-2017 includes all the data necessary to monitor the enjoyment of economic, social and cultural rights under the Covenant disaggregated by sex, disability, ethnicity, urban and rural area and other relevant criteria.**

7. The Committee notes with concern that due to one-year time limitations, the Human Rights Commissioner (Ombudsman) had to reject more than half of the individual complaints received. The Committee also remains concerned about the capacity of the Ombudsman to deal with complaints related to the private sector.

The Committee recommends that the State party take positive steps so that the one year limitation does not constitute a barrier to filing complaints, and ensure that all economic, social and cultural rights are fully covered and protected by its mandate.

8. The Committee is concerned that minorities, particularly the Lezghin and the Talysh populations, continue to be the victims of widespread discrimination, in particular in employment, housing, health and education (art.2).

The Committee recommends that the State party pursue its efforts to eliminate any forms of discrimination against minorities, particularly the Lezghin and the Talysh populations, stating clearly that it does not tolerate any form of discrimination or violence against persons based on their national or ethnic origin, and promoting the involvement of the population at large in this process. In this regard, the Committee draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

9. While appreciating the State party's efforts to improve the situation of the large number of refugees, internally displaced persons (IDPs), asylum seekers and stateless persons, the Committee is concerned that many of them are still living in sub-standard conditions and that they are not fully enjoying their economic, social and cultural rights, in particular access to health care, adequate housing and legal employment. (art. 2)

The Committee recommends that the State party further strengthen its efforts to ensure that all the economic social and cultural rights of refugees, IDPs, and asylum seekers, including public health care, adequate housing and legal employment, are guaranteed.

The Committee also recommends that the State party implement a status determination procedure to identify stateless persons in the country and to grant them a legal status which would improve their enjoyment of economic social and cultural rights. Furthermore, the Committee recommends that the State party ensure the right of refugees and asylum seekers to register their marriages by lifting the administrative requirements or by granting a special measure to facilitate their right to marry.

10. While recognizing the Gender Equality Act adopted in 2006, the Committee expresses its concern at the still prevailing strong gender role stereotypes in the family and society and their negative impact on the enjoyment by women of their economic, social and cultural rights. In particular, the Committee is concerned at the gender disparity in the field of education, the lack of equal employment opportunities for women and the lack of measures to protect them from discrimination in employment based on their marital status and pregnancy (art.3).

The Committee recommends that the State party intensify its efforts to eliminate the gender role stereotypes and prejudices through awareness-raising campaigns. The Committee also calls on the State party to adopt specific legislation on equal employment between men and women and to include measures to enforce it through the proper mechanisms, including temporary special measures, such as the establishment of employment quotas in the public sector. It also requests the State party to include, in its next periodic report, statistics on the participation in the labour market and on the average actual earnings disaggregated by sex, occupation, branch of activity, and level of qualifications, with respect to the public and private sector and by geographic area.

11. The Committee is concerned about the rising unemployment among young persons under the age of 35 years as well as the unemployment situation of persons with disabilities, immigrants and other social minorities (arts. 6 and 7).

The Committee recommends that the State party strengthen its programmes and adopt effective strategies to reduce unemployment rates, with special attention to young persons and minorities, and move progressively towards the full realization of their right to work, avoiding any retrogressive step with regard to the protection of workers' labour rights. The Committee recommends that the State party enforce the quotas for employment for persons with disabilities both in public and private sector organizations and enterprises. The Committee recommends that high-quality vocational training, especially for the long-term unemployed, continue be prioritized taking into account the needs of disadvantaged and marginalized individuals and groups.

The Committee further recommends the adoption of employment strategies and plans of action targeting regions where unemployment is most severe. It also requests that the State party submit updated tables of annual statistics on the general employment situation, disaggregated by sex, age, nationality, disability, and by urban and rural region in its next periodic report.

12. The Committee is concerned about the use of forced labour as a corrective measure or as a penal sanction against persons found guilty of a crime, as provided for in the Penal Code and Labour Code, in particular article 35 of the Constitution and article 95.6 of the Penalty Execution Code in which prisoners are prohibited to stop their labour activity and go on strike (arts. 6 and 7).

The Committee recommends that the State party abolish the use of forced labour either as a corrective measure or as a penal sentence against persons found guilty of a crime and amend or repeal the relevant provision of the Penal Code and the Labour Code, in accordance with article 6 of the Covenant.

13. The Committee is concerned about the number of terminations of employment of workers reaching the pension age, in particular in the State Oil Company. The Committee is also concerned about the amendments to the law preventing the employment of retirees. The Committee is further concerned at the different retirement age set for men and women (arts. 6 and 7).

The Committee urges the State party to take appropriate steps to safeguard the right of everyone to gain a living by work which is freely chosen or accepted, in particular the older workers who have not reached retirement age. The Committee also recommends making the proper amendments to the existing discriminatory legislation with a view to allowing the retirees to freely seek employment.

The Committee recommends that the State party take measures to prevent arbitrary termination of employment of workers, particularly before they reach the pension age. The Committee also recommends that the State party study the impact of the different retirement ages set for men and women on women's equal enjoyment of rights. In that regard, the Committee draws the State party's attention to its general comment No. 6 (1995) on the economic, social and cultural rights of older persons.

14. The Committee is concerned that the levels of minimum wage, the unemployment benefits and pensions set in the State party are not sufficient to ensure a decent standard of living to the recipients and members of their families (arts. 6 and 7).

The Committee recommends that the State party establish an effective system of indexation and regular adjustment of the minimum wage, unemployment benefits and other social assistance for persons in need, to the cost of living, providing the recipients and members of their families with a decent standard of living.

15. The Committee is concerned about the restrictions on the right to strike of workers, especially in the air and railway transport sectors. The Committee is also concerned about the reports received on the practice followed by international companies, in particular national and transnational oil companies, of repressing collective agreements and trade unions and reprimanding of trade union activities (art. 8).

The Committee recommends that the State party consider amending the Labour Code and the Criminal Code so as to ensure that all workers can exercise their right to strike, in particular those working in the air and railway transport sectors, as well as those in the oil industry. It also requests that the State party submit updated statistics on the number of trade unions per industry, disaggregated by number of workers affiliated, sex, age, nationality, disability, by urban or rural regions in its next periodic report.

16. The Committee remains concerned about the inequalities in the enjoyment of the right to health in rural and urban areas and the absence of guaranteed medical coverage for all. The Committee is also concerned about the reports received on corruption in the health sector system and the practice of payments of non-official fees. The Committee notes with concern the limited access to sexual and reproductive health services, in particular in rural and remote areas and the lack of monitoring in the provision of mental health services (art. 12).

The Committee calls on the State party to intensify its efforts to guarantee health services to all. The Committee recommends that the State party take measures to guarantee access to sexual and reproductive health services, in particular in rural and remote areas, including to refugees, asylum seekers, IDPs and stateless persons. The Committee recommends that the State party take necessary measures to fight against corruption in the health sector so that non-official fees are not collected from patients. The Committee also recommends that the State party monitor mental health centres and services to ensure compliance with the established international standards.

17. The Committee remains concerned about the right to education for children with disabilities, in particular the lack of services to facilitate the inclusion into schools, lack of trained teachers, physical barriers and obstacles resulting in high dropout rates of children with disabilities (arts. 2 and 13).

The Committee recommends that the State party ensure the full enjoyment of the right to education to children with disabilities and that all measures are taken in this regard. The Committee requests that the State party include in its next periodic report statistics on the number of schools that enrolled students with disabilities disaggregated by academic year, sex and disability by urban and rural regions.

18. While recognizing the Law on Domestic Violence of 2010, the Committee remains concerned about the persistence of domestic violence and expresses its concerns about inadequate application of the law, including the failure of law enforcement officials to intervene in violence against refugee women and girls (arts. 2 and 10).

The Committee recommends that the State party carry out focused awareness-raising campaigns to sensitize the population on the severe effects of domestic violence, and ensure the systematic training of local authorities, law enforcement and police officials, social workers and medical personnel on how to detect and adequately advise women victims of domestic violence, including refugee women and girls.

The Committee requests that the State party provide further information on the sanctions and punishment imposed on the perpetrators in its next report.

19. While the Committee welcomes the efforts of the State party to raise the legal age for marriage to 18 years for girls and boys and the strong sanctions on violations of this legal prohibition of underage marriage, it is concerned at the possible continued practice of early marriages, especially among IDPs and in rural areas.

The Committee recommends that the State party monitor the implementation of the revised family code and provide in its next periodic report information on the prevalence of underage marriage in the country, disaggregated by different ethnic and religious groups, IDPs and by urban and rural areas.

20. The Committee is concerned about the trafficking of persons in the State party, in particular for the purpose of forced labour predominantly in the construction sector (arts. 6, 7 and 10).

The Committee recommends that the State party continue its efforts to combat trafficking in persons through the development of effective programs, combating all aspects of trafficking in particular for the purpose of forced labour, especially to undertake supervisory visits to construction companies. The State party should ensure that all individuals responsible for trafficking in persons are prosecuted and punished in a way that is commensurate with the gravity of the crimes committed.

21. The Committee remains concerned that migrant workers without valid visa do not have access to effective legal remedies in case of exploitation. (arts. 6 and 7)

The Committee recommends that the State party ensure that migrant workers can fully exercise their rights, including equal opportunities to obtain effective redress in the courts when their rights under the Covenant have been violated.

22. The Committee is concerned about the information received on the thousands of forced evictions, unlawful expropriations and demolitions with little or no notice carried out in the capital Baku primarily in respect of apartments and homes in middle-class neighbourhoods for the purpose of building parks, highways and luxury apartments. The Committee is also concerned about the lack of consultation, adequate compensation and effective legal remedies (art. 11).

The Committee urges the State party to halt all expropriations that do not fully comply with the established international human rights standards. The Committee urges the State party to guarantee the right to appeal in domestic courts to these

households and to provide effective legal remedies, adequate compensation and guarantees of adequate alternative housing.

The Committee also urges the State party to ensure that any relocation of homes necessary for city renewal is carried out with prior consultations among affected households, with their informed consent and with full respect to the safety and dignity of people following an adequate and transparent procedure.

The Committee further draws the State party's attention to its general comment No. 7 (1997) on forced evictions.

23. The Committee is concerned that, while the State party succeeded to drastically lower the level of poverty from almost 50 per cent in 2002 to 7.6 per cent in 2012, a considerable part of the population still live below the poverty line, especially the most disadvantaged and marginalized groups. The Committee is also concerned that the level of poverty is especially acute in rural areas (arts. 10 and 11).

The Committee strongly urges the State party to intensify its efforts to combat poverty, especially among the most disadvantaged and marginalized members of the population, including persons with disabilities, IDPs, refugees, asylum seekers, stateless persons, and migrant workers and to reduce disparities between the capital and the rural areas, and provide information on the progress made in its next report, including sex-disaggregated data per year for the groups listed above. In that respect, the Committee draws the State party's attention to its statement concerning poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

The Committee notes with concern that article 5 of the new Education Law and article 42 of the Constitution state the right to education of every citizen of the State party, which might result on exclusion of non-citizens. The Committee also remains concerned about the lack of efforts to increase the net enrolment ratio in primary education, the number of out-of-school children and the dropout rates (art. 13).

The Committee recommends that the State party ensure that all children of school age have the right to education, including non-citizen children. The Committee recommends that the State party make efforts to improve the net enrolment ratio in primary education, and to reduce the number of out-of-school children and the dropout rates. The Committee, in this regard, draws the State party's attention to its general comment No. 13 (1999) on the right to education.

24. The Committee is concerned about the persecution and lack of protection for several artists and writers in exercising their right to fully take part in cultural activities. The Committee is also concerned about the use of hate speech and behaviours against them (art. 15).

The Committee urges the State party to fulfil its commitment to guarantee the security of artists and writers and to cease detention and to take the necessary measures to prevent their social persecution in connection with their creative work, to guarantee adequate protection from threats and to prohibit the use of hate propaganda.

25. The Committee remains concerned about the information received on the measures taken by the State party to prevent civil society organizations dealing with human right issues from registering with the relevant State authorities. The Committee is also concerned about the new amendments to the Code of Administrative Offences that increase the procedural burden and fines for organizations in receiving external grants.

The Committee recommends that the State party take steps to ensure that all civil society organizations addressing economic, social and cultural rights enjoy the right to register and function freely and without restrictions. The Committee also recommends that the State party lift the financial sanctions and administrative procedures established under the Code of Administrative Offences regarding the reporting and registering of external sources of funding.

26. The Committee stresses the importance to preserve and protect the cultural, natural and archaeological heritage in its jurisdiction, including the medieval cemetery in Julfa (art. 15).

The committee recommends that the State party ensure the protection and preservation of all cultural, natural and archaeological heritage in its jurisdiction.

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

28. The Committee requests the State party to disseminate these concluding observations widely at all levels of society, and particularly among public officials, judicial authorities and civil society organizations, and to inform the Committee in its next periodic report on the steps taken to implement them. It also encourages the State party to continue to engage civil society organizations in the discussions to be held at the national level prior to the submission of its next periodic report.

29. The Committee invites the State party to update its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6).

30. The Committee requests the State party to submit its next periodic report in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 31 May 2018.
