



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

Forty-sixth session

Geneva, 2-20 May 2011

### 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

#### Yemen

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Yemen on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/YEM/2) at its 12th, 13th and 14th meetings, held on 9 and 10 May 2011 (E/C.12/2011/SR.12-14), and adopted, at its 29th meeting, held on 20 May 2011, the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the second periodic report of Yemen and the written replies to its list of issues. While these submissions provided important information on the steps taken by the State party to comply with its obligations under the Covenant, it notes with regret, however, that the report was not complete in its coverage of all the rights laid down in the Covenant, and that the State party's replies to the list of issues did not provide a systematic response. The Committee emphasizes the importance of the State party submitting in its next periodic report annually collected comparative statistical data on all Covenant rights, disaggregated by sex, age and urban/rural residence, paying particular attention to disadvantaged and marginalized groups of society.

3. The Committee notes with appreciation the high level of the State party delegation, and its constructive engagement with the Committee at a time of political and social conflict in the State party. The Committee notes with deep concern and regret reports that reached it during the dialogue with the State Party about the use of force against protesters, including teachers, claiming the full implementation of their economic, social and cultural rights that led to the loss of lives and a large number of wounded. The

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Committee urges the State party to seek solutions through dialogue and participation, and to ensure respect for the rights of all protesters to peacefully voice their concerns.

4. The Committee acknowledges the serious resource constraints of the State party, the impact of which is further aggravated by widespread corruption, and, in this light, draws the State party's attention to its general comment No. 3 (1990) on the nature of States parties' obligations. The Committee emphasizes that the State party should ensure the satisfaction of, at the very least, minimum essential levels of each of the rights. The Committee stresses that even where the resources available in the country are demonstrably inadequate, the obligation remains for the State party to strive to ensure the widest possible enjoyment of the relevant rights, including through international cooperation and assistance. In this context, the Committee underscores the importance of prompt and effective implementation and follow-up to its concluding observations as listed below.

## **B. Positive aspects**

5. 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 adoption in 2008 of the Domestic Violence Act;
- (b) The efforts of the State party aiming at immunization and the eradication of endemic and infectious diseases;
- (c) The initiatives undertaken by the State Party to improve the access to schools, including by children from disadvantaged and marginalized groups;
- (d) The large number of projects to address the shortcomings in the implementation of economic, social and cultural rights, and the development of cooperation in this regard with international and bilateral partners.

## **C. Principal subjects of concern and recommendations**

6. The Committee notes with regret that the State party has not yet established an independent national human rights institution.

**The Committee recommends that the State party establish an independent national human rights institution with a mandate that also covers economic, social and cultural rights, and is in compliance with the Paris Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights.**

7. The Committee is deeply concerned about the widespread manifestations of discrimination in Yemen against disadvantaged and marginalized individuals and groups, in particular women, which are often of a structural nature.

**The Committee recommends that the State party adopt a comprehensive anti-discrimination law addressing all disadvantaged and marginalized sectors of the society. The Committee invites the State party to draw guidance in these endeavours from its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

8. The Committee is concerned that the Al-Akhdam people continue to face social and economic marginalization and discrimination, especially concerning access to employment, conditions of work, the extensive level of child labour, the extremely high

levels of school drop-out, and the lack of adequate housing, water and sanitation, as well as electricity (art. 2).

**The Committee calls on the State party to combat the social discrimination and marginalization faced by the Al-Akhdam people, including through temporary special measures, in line with the Committee's general comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights, and to adopt a national action plan for this purpose, drawn up with the participation of Al-Akhdam people and equipped with an effective, participatory and transparent monitoring and implementation mechanism. The Committee also recommends that the planned measures focus on access to employment, adequate conditions of work, enrolment of children in education and prevention of school drop-outs, access to medical care, and reduction of child mortality, as well as access to adequate housing, water, sanitation and electricity.**

9. The Committee expresses deep concern about the extremely low level of representation of women in decision-making positions in all spheres, including in parliament, Government, the judiciary, public administration, the Foreign Service and academia (art. 3).

**The Committee urges the State party to adopt a comprehensive gender equality act, and introduce temporary special measures, including a quota system, to promote the representation of women in decision-making positions in all spheres.**

10. The Committee is deeply concerned that a woman continues to need permission from a male relative in order to seek employment in the public sector (art. 3).

**The Committee recommends that the State party take appropriate measures, legislative or otherwise, to abolish the requirement for the permission of a male relative for a woman's employment in the public sector.**

11. The Committee is concerned about the high level of unemployment in the State party, in particular among women in rural and remote areas and youth, as well as the discrimination against public sector employees and military personnel from the south of the State party (art. 6).

**The Committee recommends that the State party take steps, including in the framework of its newly developed National Employment Strategy, to reduce unemployment, in particular amongst the most disadvantaged and marginalized individuals and groups, including women in rural and remote areas and youth. The Committee also recommends that urgent and effective measures be taken to eliminate discrimination against persons from the south of Yemen within the public sector.**

12. The Committee is deeply concerned about continued discrimination and marginalization of persons with disabilities, in particular regarding the access of women and girls with disabilities to employment (art. 6).

**The Committee recommends that the State party take steps to eliminate discrimination and stigma attached to disabilities in all spheres of life. Urgent measures are recommended to counter the discrimination against women and girls with disabilities in accessing employment. The Committee recommends that the State party ensure that an appropriate percentage of Government jobs is made available to persons with disabilities.**

13. The Committee notes with particular concern that the State party has not yet established a national minimum wage.

**The Committee recommends that the State party establish a national minimum wage, subject to regular adjustments based on a system of indexation, with a view to guaranteeing a decent living for the affected employees and their families.**

14. The Committee also expresses its concern about the significant wage disparities, in particular negatively affecting women (art. 7).

**The Committee recommends that the State party ensure equal remuneration for men and women for work of equal value, including through expressly providing relevant guarantees in the Labour Code.**

15. The Committee expresses its concern that autonomous trade unions cannot be established outside the General Federation of Trade Unions of Yemen and that the holding of a strike by local-level unions requires prior authorization by the General Federation. The Committee also expresses its concern about reports of retaliatory action by private-sector employers against trade union members, as well as the general failure of the majority of employers to register their employees (art. 8).

**The Committee recommends that the State party amend the Trade Unions Act of 2002 in order to allow for the establishment of autonomous trade unions and their federations and to allow local-level trade unions to call a strike without authorization from the higher-level trade union bodies. The Committee furthermore recommends that the State party strengthen its efforts to prevent retaliatory action, such as transfers, demotions and dismissals, by private-sector employers against union members. The Committee also recommends that the State party ensure that all employers register their employees, to ensure compliance with social security and labour union regulations.**

16. The Committee notes with concern that the Social Welfare Fund benefit levels, in particular pension levels, are not sufficient to ensure an adequate standard of living for recipients and their families. The Committee is also concerned about the reported misappropriation of social insurance benefits by State officials or tribal leaders (art. 9).

**The Committee recommends that the State party strengthen efforts and use available resources to increase the budgetary allocations for the social security system, including social assistance benefits, with a view to ensuring an adequate standard of living for the recipients. The Committee also recommends that the State party step up its efforts to combat corruption and misappropriation of State funds in the area of social security, including social insurance benefits, and prosecute those responsible.**

17. The Committee continues to be concerned about the prevalence of domestic violence, including sexual harassment of women and children in the State party, and about the reported difficulties for victims in filing complaints and seeking redress following such abuse (art. 10).

**The Committee recommends that the State party immediately promulgate the Domestic Violence Act No. 6 of 2008 and thereby criminalize domestic violence and marital rape, prosecute offenders and provide protection for victims of domestic violence, including through expanding the number, coverage and capacity of shelters. The Committee also recommends that the State party make intensive efforts to raise awareness among police officers, prosecutors, judges, social workers and the general public of domestic violence. The Committee further recommends that the State party strengthen its research and data collection capacity on domestic violence and provide detailed information on this in its next periodic report, together with information on the**

**number of complaints filed by victims, remedies granted, and prosecutions and sentences imposed on perpetrators.**

18. The Committee remains concerned about the persistent inequality of women in matrimonial and family matters in law and in practice, including forced marriages, severe discrimination against women demanding divorce and the inferior position of women in relation to the inheritance of conjugal property.

**The Committee urges the State party, as a matter of priority, to amend its matrimonial and family law with a view to eliminating discrimination against women in marital matters and ensuring its consistency with the relevant human rights standards under the Covenant and other international instruments. In particular, it is recommended that urgent steps be taken with a view to (a) ensuring that all marriages are registered in line with article 14 of the Personal Status Code, (b) prohibiting forced marriages, (c) guaranteeing the right of women to enter into marriage without the consent of a guardian; (d) ensuring equal rights of women in divorce proceedings, (e) guaranteeing equal rights of women under the inheritance law.**

19. The Committee is deeply concerned that the amendment to the Personal Status Act No. 20 of 1992 by Law No. 24 of 1999, legalizing marriage for girls under 15 years of age with the consent of their guardians, remains in force and that in October 2010 the Parliamentary Sharia Committee prevented the entry into force of an amending act aimed at establishing a minimum age of marriage. The Committee is also concerned about the growing number of victims of child marriages (art. 10).

**The Committee recommends that the State party: (a) adopt and implement the Law on the minimum age of marriage and set it at 18 years of age in accordance with recommendations by relevant international bodies; (b) ensure access to effective remedies and other forms of necessary protection to victims of child marriages; and (c) undertake to raise awareness of the negative effects of child marriages.**

20. The Committee expresses its deep concern about the continued harmful practice of female genital mutilation in the State party, especially in the coastal and rural areas (art. 10).

**The Committee recommends that the State party urgently adopt legislation criminalizing female genital mutilation and ensure the prosecution and adequate punishment of those performing it or imposing it on girls or women. It also recommends that the State party strengthen its awareness-raising and education efforts with the aim of completely eliminating this practice and countering its underlying arguments.**

21. The Committee notes with concern that corporal punishment of children may be applied as a penalty in criminal proceedings, and that it is lawful and widely used in the home and alternative care settings as a disciplinary method (art. 10).

**The Committee recommends that the State party urgently adopt legislation explicitly prohibiting corporal punishment of children in all settings, including as a penalty in criminal proceedings, as well as at home and in alternative care settings.**

22. The Committee is concerned about the lack of effective implementation and enforcement of the legal prohibition of child labour, leading to the exploitation of children on a large scale (art. 10).

**The Committee recommends that the State party undertake effective measures to enforce the prohibition of child labour, including through sufficiently resourcing the Child Labour Unit at the Ministry of Social Affairs and Labour. The Committee also recommends that the State party more effectively monitor instances of child labour in order to ensure its gradual eradication, especially in the context of hazardous work, in accordance with International Labour Organization Convention No. 182 (1999) concerning the worst forms of child labour.**

23. The Committee expresses its deep concern about the large-scale trafficking in women and children, including to neighbouring countries, for sexual and other exploitative purposes. It is also concerned about the low rate of prosecutions against perpetrators of women and child trafficking (art. 10).

**The Committee recommends that the State party strengthen its efforts to prevent and combat trafficking in women and children, including in the framework of the implementation of the revised and developed National Plan to Combat Child Trafficking. In particular, the Committee recommends that the State Party promptly adopt the proposed amendments to the Code of Offences and Penalties, and swiftly prosecute perpetrators of the crime of trafficking. The Committee also recommends that the State party further strengthen its system for the rehabilitation and reintegration of victims of trafficking, including rehabilitation of victims of sexual exploitation.**

24. The Committee is concerned about the very high level of poverty prevailing in the State party, in particular in the Amran, Shabwah and Al-Bayda governorates (art. 11).

**The Committee recommends that the State party strengthen its efforts to combat poverty, paying special attention to the most disadvantaged and marginalized individuals and groups, including children and people living in rural areas. To that end, the Committee recommends that the State party adopt a new national development and poverty reduction plan, supported by an effective, participatory and transparent monitoring and implementation mechanism. The Committee draws the attention of the State party to its Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights.**

25. The Committee is concerned about the extent of malnutrition in the State party, the high rates of wasting, underweight and stunting, as well as rising household food insecurity, especially in rural areas. The Committee expresses its deep concern that this situation has been aggravated by the rise in food prices. The Committee is also concerned that a disproportionate portion of agricultural land is allocated to the cultivation of *qat* (art. 11).

**The Committee recommends that the State party adopt effective and urgent measures to combat hunger and malnutrition, especially child malnutrition, and take urgent measures to offset the negative impact of rising food prices on family budgets, especially in the case of disadvantaged and marginalized individuals and families. The Committee invites the State party to draw guidance in these endeavours from its general comment No. 12 (1999) on the right to adequate food.**

26. The Committee is concerned about the increasing lack of water, insufficient and unequal access to water, and the shortage of safe drinking water in the State party, in particular in rural and remote areas. The Committee is also concerned about the depletion of non-renewable groundwater reserves. In addition it is concerned that the public

sanitation network is confined only to urban centres and notes with concern the high prevalence of waterborne diseases and subsequent child deaths (art. 11).

**The Committee recommends that the State party increase its efforts to ensure universal access to adequate water and sanitation facilities, including in rural and remote areas. It also recommends that the State party strengthen its efforts, including through international cooperation, to address the shortage of water resources, improve water management, in particular in the agricultural sector, and rationalize the use of non-renewable groundwater reserves. The Committee draws the State party's attention to its general comment No. 15 (2002) on the right to water, as well as the Committee's statement on the right to sanitation (2010).**

27. The Committee is concerned about the limited access to basic health-care services and related family planning services, especially in rural and remote areas. The Committee is also concerned about the very high maternal and child mortality rates in the State party, which is related to the fact that only 36 per cent of all deliveries are attended by skilled medical personnel (art. 12).

**The Committee recommends that the State party take all necessary measures, including through its National Health Strategy 2010-2015, to: (a) ensure universal access to affordable primary health care and specialized reproductive health services; (b) increase skilled birth attendance, and antenatal and post-natal care, especially in rural and remote areas; and (c) increase the representation of women among health-care personnel, especially in the field of nursing.**

28. The Committee notes with concern that despite some improvements enrolment rates in basic and secondary education remain very low, particularly in the case of girls. It is also concerned about the increasing drop-out rates and decreasing attendance and completion rates in primary and secondary education (arts. 13 and 14).

**The Committee recommends that the State party take urgent steps to address the low enrolment rates in basic and secondary education, address gender disparities, and take all appropriate measures in order to address problems relating to high drop-out rates in the school system. The Committee recommends that such steps include ensuring respect for compulsory attendance, addressing the gender imbalance in teaching personnel, especially in rural areas, provision of sufficient financial support, and addressing parental attitudes and traditional household labour practices.**

29. The Committee is deeply concerned about the continued discrimination against persons with disabilities, in particular women and girls with disabilities, regarding their access to education (arts. 13 and 14).

**The Committee recommends that the State party take urgent measures to ensure the implementation of inclusive education of children with disabilities, including through (a) compulsory training of all teachers (beyond special education teachers); (b) individual education plans for all students; (c) availability of assistive devices and support in classrooms, and educational materials and curricula; (d) barrier-free physical access to schools and their facilities; (e) teaching of sign language; (f) allocation of sufficient financial resources; and (g) enforcement of the legally established exemption from payment of university tuition fees for persons with disabilities.**

30. The Committee expresses its concern about the continued high rate of illiteracy in the State party, especially among women and girls in rural areas (arts. 13 and 14).

**The Committee recommends that the State party continue its efforts to eradicate illiteracy and alleviate its causes, including through effective implementation, monitoring, assessment, and funding of its Illiteracy Eradication and Adult Education Strategy, and provide information on the results achieved year by year in its next periodic report.**

31. The Committee is deeply concerned about the insufficient attention by the State party to its obligation under the Covenant concerning cultural rights, as revealed by the total absence of information within the periodic report, as well as by the lack of answers to the list of issues related to article 15 of the Covenant (art. 15).

**The Committee requests the State party to provide in its next periodic report detailed information on concrete measures taken to guarantee the enjoyment of the rights recognized in article 15 of the Covenant, in particular by minorities and other disadvantaged and marginalized individuals and groups. The Committee recommends that the State party collect disaggregated data on the ethnic composition of the society, as well as on disadvantaged and marginalized individuals and groups, in order to enable it to adopt concrete and targeted measures to fully implement article 15 of the Covenant.**

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

33. The Committee encourages the State Party to submit an updated version of its common core document, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).

34. 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 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.

35. The Committee requests the State party to submit its third periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2013.