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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Thirty-fourth session
25 April - 13 May 2005

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

Zambia

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Zambia on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.60) at its 3rd, 4th and 5th meetings, held on 26 and 27 April 2005 (E/C.12/2005/SR.3-5), and adopted, at its 27th meeting held on 13 May 2005, the following concluding observations.

A. INTRODUCTION

2. The Committee welcomes the submission of the initial report of the State party, which was generally prepared in conformity with the Committee's revised guidelines as well as the written replies to its List of Issues E/C.12/Q/ZMB/1. However, the information provided was not sufficient for the Committee to fully assess developments in the status of implementation of most of the Covenant's provisions.
3. The Committee welcomes the frank nature of the dialogue with the delegation and some written replies to oral questions asked by the members. Nevertheless, it regrets that there were not enough experts in the delegation in the field of all economic, social and cultural

rights who could provide more information to the Committee on the concrete measures taken by the State party to implement its obligations under the Covenant.

4. The Committee notes the delegation's commitment that more specific information on a variety of economic, social and cultural indicators will be given in the State party's next periodic report.

B. POSITIVE ASPECTS

5. The Committee notes the establishment of a Constitutional Review Commission in August 2003 which would enhance a better implementation of economic, social and cultural rights.
6. The Committee notes the adoption of the Employment of Young Persons and Children' (Amendment) Act No. 10 in 2004.
7. The Committee welcomes the establishment of the Sex Crimes Unit in the Zambia Police Services in 2003 which deals with cases of sexual violence, spouse battery and sexual abuse.
8. The Committee welcomes the existence of the Pilot Project of Cash Transfers resourced by international assistance to promote a safety net to move poor households, which are not able to engage in labour-based projects or programmes, out of extreme poverty.
9. The Committee notes with appreciation the State's policy of allowing pregnant girls to continue in the mainstream education.

C. FACTORS AND DIFFICULTIES IMPEDING THE IMPLEMENTATION OF THE COVENANT

10. The Committee, while noting the persistence of customs and traditions harmful to women, children and older persons, is of the view that the State party has within its power the ability to immediately implement the rights in Part II of the ICESCR as required by the Covenant, and to meet its minimum obligations for the progressive realization of the rights in Part III of the Covenant.

D. PRINCIPAL SUBJECTS OF CONCERN

11. The Committee regrets that, although the State party has adopted a certain number of laws in the area of economic, social and cultural rights, the Covenant has not yet been fully incorporated in the domestic legal order.
12. The Committee notes with concern that the Permanent Human Rights Commission lacks adequate human resources and budget allocation.
13. The Committee notes with regret that the lack of disaggregated data on a comparable time-frame about the measures undertaken by the State party does not allow a clear assessment of the implementation of economic, social and cultural rights enshrined in the Covenant.

14. The Committee notes that the prevalence of Customary Law, certain traditions, customs and cultural practices, leads to substantial discrimination against girls and women, in particular widows, thereby preventing them from fully exercising their rights under the Covenant.
15. The Committee is concerned that article 23(4) of the current Constitution of the State party provides for exclusions and exceptions to the prohibition against discrimination, including with respect to adoption, marriage, divorce, burial, devolution of property on death, and other matters of personal law and to the application of customary law.
16. While welcoming the efforts made by the State party to promote shared responsibilities between men and women and the fact that it regards equitable access to decision-making positions and processes as crucial to the enjoyment of economic, social and cultural rights of women, the Committee remains, however, concerned about the persistent inadequate representation of women at all levels of decision-making bodies of the State party.
17. The Committee is concerned about the high level of unemployment and the absence of details concerning national and local employment programmes or other clear strategies to address this problem. It also notes that a large proportion of unemployed persons are forced to find employment in the informal sector.
18. The Committee is concerned that the current minimum wage is not sufficient to provide an adequate standard of living for workers and their families and that it is available to few workers, given the large number of the population who work in the informal sector.
19. The Committee is also concerned at the restriction of the right to form trade unions, particularly the prohibition to form more than one trade union per industry.
20. The Committee is concerned about the limits on the right to strike and, in particular, the procedural requirements which make it difficult to effectively exercise the legal right to strike in the State party. The Committee is equally concerned about the broad definition of the concept of “essential services”, which exceeds the ILO definition by including fire fighting, sewerage and certain mining operations.
21. The Committee regrets that there is no exact figure as to what percentage of GDP is spent on social security. The Committee also takes note of the acknowledgement by the State party that the amount is very minimal and that it has declined over the years. The Committee is further concerned that comprehensive social protection is not available to the vast majority of the population, in particular low-income workers, workers over 55 years of age and workers employed in the informal sector.
22. The Committee is concerned about the fact that privatized social security schemes in the State party have not been financially sustainable, therefore leaving its beneficiaries without social protection or adequate protection.

23. The Committee is concerned about the large number of widows and orphans, a situation further exacerbated by the HIV/AIDS pandemic. It is also concerned about the harsh living conditions of widows and girl orphans due to, among other things, harmful traditional practices such as widow cleansing, early marriages as well as denial of inheritance.
24. The Committee is concerned about the large number of street children, especially in the capital Lusaka, who are particularly exposed to physical, sexual abuse, prostitution and to a high risk of being infected with HIV/AIDS.
25. The Committee expresses its deep concern regarding the persistent and widespread problem of child labour, in particular, children working in hazardous occupations such as small scale mining operations and stone crushing.
26. The Committee is deeply concerned that the extent of extreme poverty in the State party has negatively affected the enjoyment of economic, social and cultural rights as enshrined in the Covenant, especially by the most disadvantaged and marginalized groups, including girl children and those afflicted by HIV/AIDS.
27. The Committee is concerned that customary land, which represents over 80 % of all land, is traditionally inherited by the man's family in accordance with rules of male primogeniture, and to the detriment of widows and especially girl children.
28. The Committee is concerned about the living conditions of prisoners and detainees, especially with regard to access to health care facilities, adequate food and safe drinking water.
29. The Committee is concerned about the low coverage, quality and insufficient financial resources available to the health care system. It is also concerned about the brain drain of health professionals due to poor conditions of services in the health sector.
30. The Committee is alarmed about the devastating impact of the pandemic of HIV/AIDS on the enjoyment of economic, social and cultural rights by the people of Zambia. The Committee is also concerned that people afflicted with HIV/AIDS seldom have adequate access to the necessary health care services, including antiretroviral drugs, facilities and food.
31. The Committee is deeply concerned about the high incidence of child-headed households, a phenomenon that it is linked to the pandemic of HIV/AIDS and which negatively impacts on children's access to education.
32. While noting the activities undertaken by the State party such as the Programme for the Advancement of Girl-Child Education (PAGE) aimed at encouraging girls to stay in the schooling system, especially in the rural areas, the Committee remains concerned that traditional attitudes continue to prevail and that discrimination against girl children is prevalent in the State party.

E. SUGGESTIONS AND RECOMMENDATIONS

33. Reaffirming the principle of the interdependence and indivisibility of all human rights, and that all economic, social and cultural rights are justiciable, the Committee strongly recommends that the State party incorporate the International Covenant on Economic, Social and Cultural Rights in its domestic law. The Committee points out that, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 on the domestic application of the Covenant.
34. The Committee recommends that the State party ensures that adequate human and financial resources be allocated to the Permanent Human Rights Commission in line with the Paris Principles (General Assembly resolution 48/134, annex).
35. The Committee recommends that the State party submit in its next periodic report periodically collected data on an annual basis, disaggregated by sex, age, urban/rural areas, paying particular attention to the most disadvantaged and marginalized groups of society.
36. The Committee recommends that Zambia's obligations under the Covenant be taken into account in all aspects of its negotiations with international financial institutions, such as the International Monetary Fund and the World Bank, so as to ensure that the rights enshrined in the Covenant of Zambians and, in particular, of the most disadvantaged and marginalized groups of society, are duly protected. The Committee refers the State party to its statement to the Third Ministerial Conference of the Trade Organization adopted at its 21st session in 1999.
37. The Committee welcomes the establishment of the Zambian Law Development Commission and recommends that it codify and review Customary Law so as to ensure its full compliance with articles 2(2) and 3 of the Covenant.
38. The Committee recommends that the State party facilitate the Constitutional review process and, in particular, consider amending article 23(4) of the current Constitution.
39. The Committee strongly recommends that the State party adopt effective measures to ensure equality between men women in all fields of life as provided for in articles 2.2 and 3 of the Covenant, and to provide, in its second periodic report, detailed information on government policies, programmes and measures adopted and progress made in the field of gender equality, including figures on the representation of women at various levels of the Government and public administration.
40. The Committee urges the State party to undertake and implement employment action plans which could gradually reduce the employment in the informal sector.
41. The Committee recommends that the State party take effective actions and measures to

ensure that the minimum wage enables workers and their families to enjoy an adequate standard of living and that the minimum wage standard is effectively enforced. The Committee further recommends that the State party establish an effective system of indexation by regularly reviewing minimum wage levels in order to enable workers to attain an adequate standard of living for themselves and their families.

42. The Committee recommends that the State party take appropriate legislative measures to enable workers to form trade unions, ensure the effective exercise of the right to strike and limit the scope of its definition of “essential services”.
43. The Committee urges the State party to extend the protection under the National Pension Scheme Authority to cover low-income workers, workers over 55 years of age and workers employed in the informal sector, especially in rural areas.
44. The Committee recommends that the State party exercise a stronger monitoring function in relation to private social security schemes and funds so as to ensure that those schemes provide adequate social protection to their beneficiaries.
45. The Committee recommends that the State party take adequate measures to address the difficulties faced by widows and orphans, and in particular to eliminate harmful traditional practices.
46. The Committee reiterates the recommendation made by the Committee on the Rights of the Child (CRC/C/15/Add.206, para, 69) and, in particular, that street children be provided with preventive, rehabilitative services for physical and sexual abuse, as well as adequate food, clothing, housing, health care and educational opportunities. In this regard, the Committee requests the State party to provide further information about the District Street Children Committees and the programme for rehabilitation of street children under the Zambian National Services in its next periodic report.
47. The Committee strongly urges the State party to strengthen its legislative and other measures, and to improve its monitoring mechanisms so as to address effectively the persistent problem of child labour, particularly in small-scale mining operations and stone crushing.
48. The Committee recommends that the State party undertake all necessary measures to guarantee an adequate standard of living, including through the provision of social safety nets to the most disadvantaged and marginalized groups, in particular those women and children who have been the hardest hit by structural adjustment programmes, privatization and debt servicing. In this context, the Committee recommends that the State party provide, in its next periodic report, detailed information and disaggregated statistical data on the impact of the measures undertaken to reduce the level of extreme poverty and to ensure an adequate standard of living for the disadvantaged and marginalized groups. The Committee also refers the State party to its statement adopted on 4 May 2001 on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

49. The Committee recommends that the State party continue to examine ways and means to support the Project of Cash Transfers even after the end of the present international assistance. It also recommends that the project be used as a tool for the implementation of the Voluntary Guidelines on the Right to Food.
50. The Committee recommends that the State party ensure that the draft land policy with regard to the allocation of land to women should not contradict articles 3 and 11 of the Covenant.
51. The Committee urges the State party to strengthen its measures, including policies, programmes and specific legislation aimed at improving the living conditions of prisoners and detainees.
52. The Committee requests the State party to allocate a higher percentage of GDP to the health sector and to improve the working conditions of health professionals.
53. The Committee recommends that the State party intensify its efforts to control the spread of HIV/AIDS, among other things, by strengthening the policy of both providing and encouraging the use of condoms. The Committee also recommends that the State party continue with its prevention and care efforts in the field of health by providing sexual and reproductive health services, particularly to women and young people. The Committee further requests the State party to provide detailed statistical data, disaggregated on a yearly basis, on the incidence of HIV/AIDS and on the measures taken to combat this pandemic, including public information programmes, in its next periodic report. The Committee, in line with its general comment No. 14 (2000) on the right to the highest attainable standard of health, recommends that the State party provide adequate health care for people suffering from HIV/AIDS, taking into account the particular needs of widows and orphaned children.
54. The Committee recommends that the State party strengthen its National Strategic Plan to ensure that its objective of providing 9 years of free and compulsory basic education by 2015 would be reached. The Committee urges the State party to set up both intermediate goals and concrete and measurable benchmarks in this regard.
55. The Committee recommends that the State party take steps to provide assistance to child-headed households, including financial and other means of assistance to enable the child at the head of the household to exercise his or her basic right to education.
56. The Committee recommends that the State party strengthen its efforts and continue to undertake educational campaigns for all sectors of society, including traditional rulers, parents and guardians, on the value of educating girl children.
57. The Committee requests detailed information on the progress made in the implementation of National Cultural Policy adopted in October 2003 in its next periodic report.

58. The Committee looks forward to the implementation of the decisions to be taken at the end of the constitutional review process that, at present, is in the final stage through the circulation of the report of the Constitutional Review Commission to the various stakeholders. In this regard, the Committee recommends that the State party submit, in its next periodic report, concrete information on the legislative changes brought about by the new constitution in the field of enjoyment of economic, social and cultural rights.
59. The Committee requests the State party to widely disseminate the present concluding observations among all levels of society and, in particular, among State officials and the judiciary, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage 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 second periodic report.
60. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2010.
