

## DEMOCRATIC REPUBLIC OF THE CONGO

### CESCR E/1988/14

(arts. 6-9, 10-12 and 13-15)

270. The Committee took up at the same time the initial reports of Zaire concerning rights covered by articles 6 to 9, 10 to 12 and 13 to 15 of the Covenant (E/1984/6/Add.18, E/1986/3/Add.7 and E/1982/3/Add.41) at its 16<sup>th</sup> to 19<sup>th</sup> meetings, held on 18 and 19 February 1988 (E/C.12/1988/SR.16-19).

271. The reports were introduced by the representative of the State party, who referred to the establishment, on 31 October 1986, of a Ministry in the Government of Zaire with special responsibility for citizens' rights and freedoms. He said that that new Ministry attested to his country's commitment to the promotion of and respect for human rights. He also said that, in adopting measures to implement economic, social and cultural rights, his Government had to take account of two major constraints, namely, safeguarding the peace, security, political stability and unity of the country and coping with an international economic situation that was not conducive to development.

272. Referring to articles 1 to 5 of the Covenant, the representative said that, in Zaire, the right of peoples to self-determination was a legal reality which was guaranteed by a number of provisions, beginning with article 10 of the Constitution, and that, in his country, there was no distinction based on race, colour, sex, language, religion or opinion, wealth or birth.

273. The representative then referred to the content of the reports submitted by his Government and, in particular, to the laws governing economic and social life in Zaire, such as the Investments Code, as amended in 1986, and the Labour Code. He also referred to various measures and programmes which had been adopted by the authorities to improve economic, social and cultural conditions in the country. He explained, *inter alia*, that his Government had opted for economic liberalism and that, quite recently, the President of the Republic had decided to set up a Ministry of Housing and Social Dwellings.

274. With regard to the right to education, he pointed out that, before his country had acceded to independence in 1960, it had had only 10 persons with university degrees, whereas, recently, 70,000 persons had held advanced education and university degrees and 80,000 candidates sat the baccalaureate examination every year. Primary school attendance was compulsory for children between the ages of 6 and 15. He explained that the Outline Law on National Education promulgated on 22 September 1986 was based on the philosophy that all those involved in the educational process, namely, the State, parents and religious faiths, had an obligation to share responsibility for national education. Many government institutions were, moreover, responsible for Zaire's cultural development in a political framework of authenticity, which meant a return to the country's true cultural identity.

## General observations

275. Members of the Committee were of the view that the reports had provided sufficient information with regard to legislation in Zaire, but did not give a clear understanding of the actual situation in the country with regard to the practical implementation of economic, social and cultural rights as required by the Covenant. They wished to receive, in particular, statistical information in various fields which would help the Committee in assessing the progress achieved by Zaire in fulfilling its obligations under the Covenant. They also observed that the reports reflected the problems which Zaire had to face as a developing country with a large territory and population and they wished to know whether programmes existed to solve the difficulties encountered. In this connection, it was recalled that many Zaireans were arriving in Europe as political or economic refugees and clarification was sought with regard to this phenomenon and its relationship with the current state of human rights in Zaire, which seemed to raise concern in the international community.

276. In addition, more information was requested on the implementation in Zaire of articles 1 to 5 of the Covenant and on the structure and goals of the People's Movement for the Revolution. It was also asked whether the Covenant had been incorporated into the domestic legal system or whether national legislation was being reviewed in order to enact further provisions to take account of the obligations under the Covenant.

277. With reference to article 2 of the Covenant, members of the Committee noted that foreigners present in Zaire enjoyed the same protection accorded to persons and properties as nationals, with exceptions determined by law, and they asked for clarification on those exceptions as well as on the regulations concerning religious sects in Zaire and their dissolution. It was also noted that recent statistics of the World Bank showed that the Zairean authorities had taken a decision to reduce expenditure on social rights and it was asked how the Government reconciled that decision with its obligations under article 2 of the Covenant and what were the repercussions of Zaire's economic situation on the enjoyment of social rights.

278. In addition, members of the Committee felt that clarification was needed in respect of the enjoyment of equal rights for men and women in Zaire which did not seem in conformity with the provisions of article 3 of the Covenant. They wished to know, in particular, why a married woman had to seek her husband's permission to work outside the home, what were the functions in employment which were primarily or exclusively reserved for men or for women, why the number of women enrolled in secondary schools was much lower than the number of men, whether women's associations existed in Zaire to assist in solving their problems, whether family planning facilities were available to both men and women, what was the women's role in politics and in the context of the family, whether women had access to university education and what measures were being taken to improve the situation of women in Zaire.

279. In replying to the questions asked by the members of the Committee, the representative provided detailed information on the People's Movement for the Revolution, which guided political life in Zaire, and on what it meant to be an activist in that Movement. In that connection, he described the way in which the country's system of political organization had changed since the achievement of independence in 1960 and explained that, after many internal struggles, the current

President of the Republic had succeeded in assuming power in 1966 and in promulgating a new Constitution, which had been accepted by referendum in 1967. The Constitution of Zaire provided that the State should be organized into a single movement, the People's Movement for the Revolution, which was not a political party, but, rather, a political institution to which all Zaireans belonged from birth and in which every citizen could freely express his views. In accordance with the Constitution, the head of State represented the country in international bodies and was responsible for guaranteeing the territorial integrity of the country, but power was exercised by the bodies which composed the People's Movement for the Revolution and which all had their own duties and functions.

280. The representative also stated that there was no mass exodus of Zaireans towards other countries. Those who left Zaire did not do so on account of human rights problems, but for economic betterment. They were not as many as 10,000, all categories together; 60 per cent of them were probably clandestine and those who were both clandestine and politically motivated were a mere handful.

281. The representative further explained that the Covenant was an integral part of municipal legislation. According to the Zairean Constitution, international treaties, when ratified, ranked as superior rules of law and the domestic legislation had to be modified to conform to them. It was the task of his Ministry and other government departments to see that the necessary changes in domestic legislation were made.

282. With regard to the situation of women in Zaire, the representative explained that, under article 3 (c) of the Zairean Labour Code, a married woman could not work if her husband objected to her doing so, but remedies were available to her if his refusal was unwarranted. In accordance with the Labour Code, moreover, women were entitled to the same wages as men for work of equal value; pregnant women were entitled to take 14 consecutive weeks of maternity leave without prior notice, merely by submitting a medical certificate attesting to their condition, and nursing mothers were entitled to two rest periods per day at work.

283. In education, there was no distinction between boys and girls. The fact that the literacy rate among girls was still low could be explained by the continuing existence of reactionary attitudes in some remote parts of the country, but that situation was improving.

284. The representative also noted that Zairean women were members of religious and occupational associations, in accordance with the Constitution, participated fully in the political life of the country and held posts in the People's Movement for the Revolution, in the Government and in the civil service.

285. Within the family, women and men had the same duties towards their children. Men were, however, still the heads of household and women had to obey them; that was why married women had to obtain their husbands' permission for any legal act and even in order to travel. The situation in that regard was nevertheless changing and, under the new Family Code promulgated on 1 August 1987, women could become heirs and also exercise parental authority. Marriage was monogamous and recorded before a registry official. Family planning services were available to Zairean families.

#### Article 6: Right to work

286. It was noted that work for every Zairean was not only a right but also a duty and some clarification was requested on the concept of work as a duty which seemed to be in contravention with article 6 of the Covenant. In this connection, it was asked whether a certain form of forced labour still existed in Zaire which, according to official sources of the ILO, particularly affected medical practitioners and graduates. It was also asked what was, in details, the Government's employment policy and the results obtained from it; what were the measures taken with regard to economic freedom and protection of the poorest sectors of society; what percentage of the population was employed, whether there was, in Zaire, legal protection against individual or mass lay-offs and how the system operated in practice.

287. The representative of zaire replied that the requisitioning of doctors and other graduates had been necessary in the past since Zaire, as other developing countries, was short of trained personnel; however, requisitioning had been discontinued in 1987.

#### Article 7: Right to just and favourable conditions of work

288. More information was requested about the labour inspection system, the number of inspectors and their activities. It was also asked what role case-law played in standard-setting for fixing equitable remuneration.

#### Article 8: Trade-union rights

289. Members of the Committee wished to receive information about the number and percentage of workers who belonged to trade-unions and the position of Zaire with regard to the pluralism of trade-unions. It was asked, in particular, how the State policy of economic freedom could be reconciled with the amalgamation of all trade-unions into a single body.

290. The representative of Zaire pointed out that, under his country's existing political system, it was quite normal that trade-union pluralism should no longer exist following experiences which had adversely affected social life and that there should now be a single national trade union that was capable of taking part in the country's development while defending the rights of workers.

#### Article 9: Right to social security

291. It was asked whether workers had to pay a contribution or whether social security benefits were provided by the National Social Security Institute through employers payments, what risks were covered, and whether there were in Zaire any special benefits provided for senior citizens apart from pensions.

#### Article 10: Protection of the family, mothers and children

292. More information was requested about the structure of the family in Zaire. It was asked, in particular, whether customary law and written law of the country conflicted on matters concerning marriage, to whom and by whom family allowances were paid, and whether the rights of natural or

illegitimate children were protected.

293. The representative of Zaire replied that the adoption of the new family Code on 1 August 1987 had brought about a unification of the two systems of written and customary laws and that written law now governed contracts, property and family relationships.

Article 11: Right to an adequate standard of living

294. Members of the Committee wished to know whether there were in Zaire any government programmes designed to increase agricultural production by teaching country dwellers agricultural techniques and improving the soil and in what fields international co-operation was most needed in Zaire, since it appeared from United Nations statistical sources that the calorie intake had decreased from 1970 to 1984. In this connection, more detailed information was requested on measures taken in Zaire to achieve food self-sufficiency, and on the actual situation with regard to malnutrition and starvation. Further information was also requested on the practical implementation of the right to housing.

Article 12: right to physical and mental health

295. Information was requested on measures taken in Zaire to reduce the mortality rate, on the number of doctors and hospitals per inhabitant, and on experiments reported by the Government which had been made in the context of the campaign against AIDS.

296. The representative of Zaire provided details concerning the development of medical research in his country leading to the preparation of a product able to produce remission of Aids in a number of patients.

Articles 13 and 14: Right to education

297. Members of the Committee were of the view that the fact that Zaire was not able to secure primary education free of charge was not in conformity with articles 13 and 14 of the Covenant. They asked therefore whether any plan had been prepared to implement fully the right to education in accordance with the relevant provisions of the Covenant. They also asked which were the criteria in deciding against the use of certain local languages and dialects in schools, what percentage of children could not receive primary education because they lived too far from schools and whether there were in Zaire plans to build more schools. In addition, they wished to know how the funding of education was shared between the states, parents and other relevant parties, whether the ultimate objective of national education in Zaire was only the training of activists in the People's Movement for the Revolution and how the provision concerning imprisonment of parents failing to send their children to school was implemented.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and the protection of the interests of authors

298. Members of the Committee wished to know whether there was a common cultural basis among the numerous ethnic groups existing in Zaire and what was being done to preserve the common

heritage as well as the specific features of each ethnic group. More information was also requested about the policy of “authenticity”, the commitment of Zaire to African culture and the work of the Musical Censorship Commission which had been established in the country in 1967.

299. In replying to the questions asked, the representative of Zaire described the origins and development of his country’s cultural philosophy of authenticity, which was being promoted by a number of institutions.

300. He explained that, in Zaire, where many languages and dialects were spoken, the decision to opt for four official languages had been taken by consensus and had not been an attempt to give the other languages in the country minority status.

301. In accordance with paragraph 9 of the decision 1981/158 adopted by the Economic and Social Council on 8 May 1981, the representative of the ILO provided information on ILO conventions ratified by Zaire which were relevant to the implementation of the provisions of the Covenant. He also informed the Committee about comments and observations of the ILO Committee of Experts on the Application of Conventions and Recommendations on the question of compulsory civic service in Zaire, including the requisitioning of medical practitioners and graduates, and on the question of the enjoyment by Zaireans employed in public enterprises of the right of free collective bargaining.

302. Upon completion of the consideration of the reports, the representative of Zaire stated that the comments and questions by the members of the Committee would enable his Government to improve the presentation of its future reports both in terms of form and in terms of substance. In that connection, he assured the Committee that the Government of Zaire would transmit detailed information and statistical data to fill gaps in the initial reports which had just been considered. Such information and data would be included in a complementary document which would be issued as an addendum and could be regarded as an integral part of Zaire’s initial reports.

#### Concluding observations

303. Members of the Committee thanked the representative of Zaire for his initiative in offering supplementary written information which would facilitate the dialogue between the Committee and the Zairean Government. That supplementary information such as relevant statistics would also assist the Committee in understanding better the difficulties of Zaire in implementing the provisions of the Covenant and would provide a clearer indication of measures taken by the Government in its effort to overcome those difficulties. It was recalled, in this connection, that the members of the Committee had expressed particular concern with regard to certain issues related to the implementation of the Covenant in Zaire such as the problem of Zairean refugees, the question of equality between men and women, the enjoyment of trade-union rights and the abolition of free primary education.

Chapter VI

**CONSIDERATION OF ADDITIONAL INFORMATION SUBMITTED BY STATES PARTIES  
PURSUANT TO THE COMMITTEE'S REQUEST**

323. At its fifth session, the Committee took note of the additional information submitted by Zaire, France, the Netherlands, Colombia and Jamaica as a follow up to the discussion of their respective reports, and decided to consider that information at its sixth session (E/1991/23, para. 276).

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328. At its 18<sup>th</sup> meeting, the Committee considered the additional information submitted by the Government of Zaire subsequent to the consideration by the Committee, at its second session, in 1988, of the initial reports of Zaire on articles 6 to 9 (E/1984/6/Add.18), 10 to 12 (E/1986/3/Add.7) and 13 to 15 (E/1982/3/Add.41) of the Covenant, as well as the relevant recommendations of its pre-session working group and adopted the following conclusions:

“(a) The Committee wishes to thank the Government of the Republic of Zaire for kindly cooperating in supplying the additional information, of which it has taken due note;

(b) The Committee is pleased to note that the additional information on:

- (i) The MPR Party-State,
- (ii) The family and equality between men and women in marriage,
- (iii) The status of women in Zairean society,
- (iv) The status of children,
- (v) The right to proper housing,
- (vi) The right to education,
- (vii) The right to work, and
- (viii) Freedom of association,

has materially assisted the exchange of views between the State party and the Committee, which is now better briefed on the subject;

(c) However, the Committee would like to draw the attention of the Government of Zaire to the content of some of the information submitted, which might give the impression that the measures

taken were likely to be detrimental to the implementation of the Covenant or, at any rate, to make it difficult to implement some of its provisions. For example, with regard to the “Party-State”, the People’s Movement for the Revolution (MPR), while it is indicated that the establishment of the MPR resulted from consultation of the people through a referendum, the Committee is somewhat concerned that automatic membership of this single party might mean that certain groups of the population which do not subscribe to its ideology or its programme could be excluded from the conduct of public affairs. The Committee trusts that citizens who are not MPR activists will benefit from the implementation of the provisions of the Covenant, in accordance with article 2 (2) which proclaims the principle of non-discrimination;

(d) As to access free of charge to education, the Committee has taken note of the fact that the Executive Council of the Republic of Zaire did not have a plan for the reintroduction of free education. The Committee trusts that this is only a temporary arrangement and that, in accordance with article 13 (2) (a) of the Covenant, primary education will be provided free of charge in the near future. In this connection, the Committee would like to recall the obligations of States parties under the provision concerned (art. 13 (2) (a)): ‘Primary education shall be compulsory and available free to all’;

(e) The Committee would like to draw the attention of the Government of the Republic of Zaire to the fact that the provisions of Zairean law concerning automatic membership of permanent staff of the State public services in the National Union of Zairean Workers (Ordinance No. 73-223 of 25 July 1973) seems to be inconsistent with the obligations under article 8 of the Covenant, which guarantees the freedom of the individual to join the trade union of his choice;

(f) From unofficial sources, however, the Committee has learned that Zairean society is moving towards a multi-party approach to politics and a diversity of trade union affiliations. In the circumstances, and in accordance with the obligation incumbent on Zaire under the Covenant, the Committee would be grateful if the Zairean Government could indicate, in its next periodic report, what measures it might envisage as part of an expression to freedom of choice in political and trade union matters. The Committee is convinced that such information would further improve the excellent cooperation and fruitful exchange of views it enjoys with the State party.”