

## GAMBIA

### CESCR E/1995/22

186. The Committee considered the state of implementation by the Gambia of the economic, social and cultural rights contained in the Covenant at its 23rd meeting on 18 May 1994 and, at its 24th meeting on the same day, adopted the following concluding observations.

#### A. Review of the implementation of the Covenant in relation to States parties which have failed to report

187. At its seventh session, the Committee on Economic, Social and Cultural Rights decided to proceed to a consideration of the state of implementation of the Covenant on Economic, Social and Cultural Rights in a number of States parties which, despite many requests to do so, had not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

188. The purpose of the reporting system established by the Covenant is for the States parties to report to the competent monitoring body, the Committee on Economic, Social and Cultural Rights, and through it, to the Economic and Social Council, on the measures which they have adopted, the progress made, and the difficulties encountered in achieving the observance of the rights recognized in the Covenant. Non-performance by a State party of its reporting obligations, in addition to constituting a breach of the Covenant, creates a severe obstacle to the fulfilment of the Committee's functions. Nevertheless, the Committee has to perform its supervisory role in such cases, and must do so on the basis of all reliable information available to it.

189. In situations in which a Government has not supplied the Committee with any information as to how it evaluates its own compliance with its obligations under the Covenant, the Committee has to base its observations on a variety of materials stemming from both intergovernmental and non-governmental sources. While the former provide mainly statistical information and apply important economic and social indicators, the information gathered from the relevant academic literature, from non-governmental organizations and from the press tends by its very nature to be more critical of the political, economic and social conditions in the countries concerned. Under normal circumstances, the constructive dialogue between a State party reporting and the Committee will provide an opportunity for the Government concerned to voice its own view, and to seek to refute such criticism and convince the Committee of the conformity of its policies with what is required by the Covenant. Non-submission of reports and non-appearance before the Committee deprives a Government of this possibility to set the record straight.

#### B. Introduction

190. The Gambia has been a party to the Covenant since 29 March 1979, the date of its entry into force. Since then, it has not submitted a single report. The Committee strongly urges the Government of the Gambia to fulfil its reporting obligations as soon as possible, so that the International Covenant on Economic, Social and Cultural Rights can be given full effect for the

benefit of the people of the Gambia. The Committee considers that non-fulfilment of a State party's reporting obligations constitutes a grave impediment to effective and adequate implementation of the Covenant.

### C. Factors and difficulties impeding the implementation of the Covenant

191. The Committee takes note of the fact that the fulfilment by the Government of the Gambia of the obligations imposed by the International Covenant on Economic, Social and Cultural Rights cannot be evaluated without taking into consideration the political, economic and social conditions prevailing in the country at the present time. Although the Gambia has consistently held a prominent position in the promotion of human rights in Africa, within the framework of a political system of multiparty democracy, since the proclamation of its independence in 1965, its acknowledged political stability came under threat in the period before the general elections held in April 1992.

192. The Committee notes that the Gambia is one of the least developed countries in Africa and that poverty is widespread, especially in the rural areas where, according to UNDP figures, 200,000 people (25 per cent of the population) live below the poverty line. In terms of the human development index, the Gambia ranked 167th out of 173 in 1993.

193. The Committee notes in particular the socio-economic situation of women, whose disadvantage appears to be rooted in traditional practices and in lack of education, among other things.

194. The Committee also notes the absence until recently of a national population policy, the successful implementation of which could be a critical factor in translating optimistic growth projections into the improvement of living standards for all citizens of the Gambia.

195. The Committee further notes that, in spite of the widely acclaimed Economic Recovery Programme supported by the World Bank, benefits deriving from economic growth have not been equitably shared by all citizens. The rural population in particular continues to suffer deterioration in living standards.

### D. Positive aspects

196. The Committee notes that human rights are constitutionally protected in the Gambia and that the Government exerts efforts to promote observance of human rights. In particular, it notes the establishment of the African Centre for Democracy and Human Rights Studies, which aims at promoting greater respect for human rights in Africa. The Committee also notes that the Gambia is an active contributor to the work of the Organization of African Unity's Commission on Human and People's Rights.

197. The Committee welcomes the enactment of the Labor Act of 1990, which ensures the freedom to form associations including trade unions, protects the right to organize and bargain collectively, and sets minimum standards of contracts in the areas of hiring, training, terms of employment, wages and termination of employment.

#### E. Principal subjects of concern

198. In relation to the rights contained in articles 6 to 9 of the Covenant, the Committee notes with concern that income levels of females generally remain below the government minimum wage scale, particularly those of the female labour force working in contract farming production. The Committee takes particular note that only 20 per cent of the labour force are in effect covered by minimum wage legislation while the remainder are informally employed, chiefly in agriculture.

199. The Committee also notes with concern that, as of January 1994, the Gambia had not ratified any of the ILO Conventions.

200. With regard to article 10 of the Covenant, the Committee expresses its profound concern about the situation of those women in the Gambia whose marriages are arranged for them by parents or guardians without their full and free consent as provided for in the Covenant. The Committee notes that polygamy is allowed in the Gambia, and observes that in accordance with articles 2 and 3 of the Covenant, the legal status of women should not be prejudiced.

201. With regard to the right to an adequate standard of living recognized in article 11 of the Covenant, the Committee is concerned about the reported inadequacy of the food supply in the country. UNDP figures for 1992 show that 68.8 per cent of urban families did not have enough food and that the diet of 64 per cent of rural families was insufficient to withstand the rainy season. There are indications that chronic malnutrition among children could be as high as 40 per cent. The Committee regrets that it has no information on the right to housing in the Gambia.

202. Regarding the right to health in article 12 of the Covenant, the Committee expresses its deep concern over the extremely high maternal mortality rate of 1,050 per 100,000 live births. UNICEF identifies the main causes to be haemorrhage and infection related to the lack of access to and poor services. The Committee is equally concerned over the alarming UNDP figures of infant mortality and fertility rates of the Gambia, which are among the highest in Africa: 145.1 per 1,000 live births in 1986-1987 and a 6.5 fertility rate during the same period. The Committee deplores the practice of female genital mutilation which is still prevalent in the Gambia. Independent experts report that more than half the female population in the Gambia have undergone this procedure.

203. With regard to the right to education in article 13 of the Covenant, the Committee deeply regrets the absence of compulsory education in the Gambia and draws the attention of the Government to its obligation under the Covenant to ensure that "primary education shall be compulsory and available free for all". The Committee also draws the attention of the Government of the Gambia to the obligation, under article 14 of the Covenant, in cases where free compulsory education has not been assured, to "work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years," of the relevant right. The Committee expresses its concern not only about the high rates of illiteracy but also the gender disparities apparent in the figures. The latest UNICEF data reports that over 75 per cent of adults between the ages of 15 and 54 are functionally illiterate and that 90 per cent of the total are women. The same data source reports how women are disadvantaged educationally, females comprising only one third of primary school students and only one fourth of high school students. The Committee is also

concerned that, as a result of the absence of compulsory education legislation and because of the paucity of secondary school opportunities, most children complete their formal education by the age of 14 and informally enter the work force.

F. Suggestions and recommendations

204. The Committee reiterates its request that the Government of the Gambia should actively participate in a constructive dialogue with the Committee as to how the obligations arising from the International Covenant on Economic, Social and Cultural Rights can be fulfilled in a more adequate manner. It calls the Government's attention to the fact that the Covenant creates a legal obligation for all States parties to submit periodic reports and that the Gambia has been in breach of this obligation for many years.

205. The Committee recommends that the Government of the Gambia should avail itself of the advisory services of the United Nations Centre for Human Rights in order to enable it to submit as soon as possible a comprehensive report on the implementation of the Covenant in conformity with the Revised General Guidelines adopted by the Committee in 1990 (E/C.12/1991/1) and with particular emphasis on the issues raised and concerns expressed in the present concluding observations.