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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-fourth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 27 April 2005, at 10 a.m.

Chairperson: Mr. KERDOUN
(Vice-Chairperson)

later: Ms. BONOAN DANDAN

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Zambia (continued) (E/1990/5/Add.60; E/C.12/Q/ZMB/1; HR/CESCR/NONE/2004/8; HRI/CORE/1/Add.22/Rev.1)

1. At the invitation of the Chairperson, Mr. Chola and Ms. Imbwae (Zambia) took places at the Committee table.
2. The CHAIRPERSON invited the delegation to respond to all outstanding issues.
3. Ms. IMBWAE (Zambia) said that preparation of the initial report had taken a long time because the drafts had been prepared in accordance with the old reporting system, whereas the report now before the Committee had been prepared under the new guidelines with the assistance of Sweden and the Office of the United Nations High Commissioner for Human Rights, and with the participation of non-governmental organizations (NGOs).
4. The Government had not yet decided what position to adopt on the draft optional protocol to the Covenant.
5. While not all articles of the Covenant had been embodied in domestic law, several pieces of legislation, enumerated in the report (E/1990/5/Add.60), contained provisions that incorporated aspects of the Covenant. The Government did, however, acknowledge the need for the Constitution to enshrine economic, social and cultural rights as individual rights. Because certain social and economic rights protected by the Covenant were covered by national laws, they could be enforced in a court of law and a body of case law had developed. Despite the massive economic challenges with which it had to contend, the Government was trying to channel its resources towards the realization of socio-economic rights, which was also an issue being addressed in the constitutional review process.
6. The application of customary as well as English law gave rise to difficulties, because most customary laws placed women at a disadvantage, but when customary law conflicted with statutory law, the latter prevailed. Local courts could also review their own decisions in some circumstances. The Mwanakatwe Constitutional Review Commission was mandated, inter alia, to identify constitutional provisions which should be eliminated because they were discriminatory and to recommend to what extent gender equality should be protected under the Constitution. The process would offer an opportunity for the inclusion in the Constitution of clauses enhancing women's rights. She drew attention to paragraph 173 of the country's initial report, which listed measures taken to protect the family and the best interests of children. A family planning policy framework ensuring that family planning services were accessible to everyone without discrimination had also been established. Furthermore the Victim Support Unit helped to sort out domestic disputes and thereby protect the family.
7. Although insufficient progress had been made in implementing the national gender policy, a poverty reduction strategy paper and transitional national development plan had been

put into effect. The programmes focused on poverty reduction as a means of ensuring economic social and cultural rights. The Government was evaluating those programmes and was undertaking a living conditions monitoring survey in order to gain some insight into the impact of poverty reduction programmes. If her country were to fully implement the Covenant, its debt would have to be cancelled and further investments would have to be made in its social sectors and infrastructure.

8. Attainment of some of the rights protected by the Covenant could be measured by a variety of poverty reduction indicators. Safety nets had been put in place in an effort to offset the negative effects of privatization. All stakeholders had taken part in the consultative process. A participatory approach was also being used for the drafting of the country's fifth national development plan.

9. A number of measures had been taken to alleviate poverty. For example, under the Food for Work programme, and subsequent Food for Assets programme, food was provided to people who participated in the development of infrastructure in the drought-prone areas of the country. In addition, food security starter packs had been introduced to help households headed by women, children or terminally ill people.

10. A policy on the elderly was still being framed and consequently the national body referred to in the report was not yet operational. There was no institutionalized discrimination in the education system against persons with disabilities, but most schools were poorly equipped to cater for their needs. Despite that situation, the number of disabled children receiving basic and secondary level education was rising.

11. Equitable participation of women and men in decision-making was crucial to a development process that was gender responsive. While the Government's affirmative action to improve women's participation was resulting in a steady increase of women in influential positions, they still accounted for only 14.4 per cent of decision-makers.

12. The standard minimum wage in Zambia was not sufficient to meet an average person's needs; earnings in the informal sector and the minimum wage in the civil service were, however, much higher. Trade-union membership was prohibited for people in certain occupations for national security reasons. In all other cases, discrimination against a person because they belonged to a trade union, or were active union members, would constitute an offence. No one had ever been prosecuted or penalized for striking. The Government had passed the Employment of Young Persons and Children (Amendment) Act No. 10 in 2004 with a view to implementing the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization. Under the Apprenticeship Act, youngsters between the ages of 13 and 15 could, however, engage in light work that would not harm their health or development, or interfere with their attendance at school or their vocational training.

13. Between 2003 and 2004 social sector spending as a percentage of the national budget and gross domestic product (GDP) had increased, although less than 0.1 per cent of GDP was allocated to social security. Owing to the poor state of the economy, no social security programmes had been introduced in the informal sector.

14. Although, at present, pension funds were centralized, making it difficult for pensioners in rural areas to access their benefits, the Government was taking steps to decentralize pension funds, which would help to resolve that problem.

15. Trafficking in and sexual exploitation of children was punishable under the Zambian Penal Code.

16. There was no indication that forced marriages were a widespread phenomenon. Under the Marriage Act, the minimum age at which persons could enter into marriage was 16 years. Parental consent was required for persons between 16 and 21 years of age. However, under customary law, a person could enter into marriage at puberty. The Zambia Law Development Commission would address that issue when reviewing customary law.

17. The Government had taken steps to improve conditions in prisons and had allocated 8.9 billion Zambian kwacha (ZMK) to that end since 2002. Two open-air prisons had been established in Luangwa and Kaoma. The Prisons Act had been amended to provide for the establishment of a health-care service for inmates. A magistrates court complex had been built in Lusaka to speed up legal proceedings and ease congestion in prisons.

18. The Government was currently preparing legislation which defined and criminalized gender-based violence, and also set out sanctions. In 2003, a sex crimes unit had been established in the Zambia Police Service to deal with cases of sexual and domestic violence, and sexual abuse.

19. Measures to support the most vulnerable groups of the population included the establishment of the Micro Bankers Trust, which provided small loans to community-based groups engaged in business or income-generating activities, and the Public Welfare Assistance Scheme, designed to meet the needs of vulnerable groups with regard to health, education, food and shelter. District street children committees provided assistance to street children. Under a special programme, street children were taken to Zambia National Service camps and taught carpentry, farming and entrepreneurship skills.

20. With regard to school fees, she said that the fees referred to in the initial report (E/1990/5/Add.60, paras. 219 and 220) were not an obligatory but an optional contribution by parents to parent-teacher associations. In 2003, there had been more than 1,793 community schools in the country, which did not charge any fees and did not require children to wear uniform. Most private schools were profit-making.

21. In 2004, 11,561 students had been enrolled in the only two public universities in Zambia. The Government had given grants to 6,461 of those students. Other tertiary institutions, including the Zambia Center for Accountancy Studies, the Northrise University and the Zambia Open University, offered degree programmes. Overall, 46,883 students were enrolled in public higher education institutions. With regard to secondary education, she said that the Government was reviewing its education policy to ensure that more children had access to secondary education.

22. Although there were no restrictions in the field of research, advanced scientific research could not be conducted owing to a complete lack of modern laboratories and technology in the country.
23. The Government had taken measures to improve access to water in all the provinces and had allocated ZMK 51.5 billion in 2003 for the construction of water points. In 2004, ZMK 39.6 billion had been allocated to improve water supply and sanitation in rural areas. A total of 57 boreholes had been drilled and 220 water points constructed by June 2004.
24. With regard to contraception measures, a survey conducted in 2003 indicated that the use of condoms had increased in comparison with 2000.
25. Measures taken to reduce environmental pollution included the Community Environment Management programme, under which 14 projects, at a cost of ZMK 450 million, had been organized in 2004, and the Environmental Protection and Natural Resources Management project, to which the Government had allocated ZMK 252 million.
26. The Government needed to reconsider its position with regard to the reservation on article 13.2 of the Covenant. Legislation would have to be introduced to enforce compulsory school attendance. The Basic Education SubSector Investment Programme was currently being evaluated to determine whether its objectives had been achieved.
27. Significant resources were being allocated for the improvement of education. In 2004, ZMK 750 billion, or about 19 per cent of the budget, had been allocated to education. In 2005, the amount had increased to ZMK 860 billion. In 2006 and 2007, the Government intended to earmark ZMK 1,032 billion and ZMK 1,184 billion, respectively. In addition, most schools organized income-generating activities such as funfairs, small-scale farming and competitions.
28. With a view to promoting girls' education, the Government had introduced the Programme for the Advancement of Girls' Education. A number of campaigns had also been conducted to raise awareness among traditional rulers, parents and guardians with regard to the importance of educating girls. A special programme had been introduced to ensure that schoolgirls who became pregnant could later be readmitted to school.
29. In 2003, 350,292 orphans and 25,626 physically impaired children had been enrolled in basic education and 29,480 orphans and 2,657 physically impaired children had been enrolled in secondary education.
30. With regard to the teacher-to-student ratio, the Government was making efforts to recruit new teachers. The number of teachers had increased by 5.2 per cent between 2003 and 2004, but remained insufficient. The Government continued to pay rural hardship and housing allowances to teachers in rural areas to discourage them from leaving. Collective agreements on new employment conditions for teaching staff were currently being negotiated with teachers' unions. Finally, the Netherlands had allocated US\$ 10 million to help the Zambian Government settle outstanding retirement and repatriation allowances for teaching staff.

31. Statistics were not available on the dropout and repeat rates in the education sector, nor was information available on the measures referred to in paragraph 224 of the initial report. The Government's education system was not privatized.

32. Mr. KOLOSOV asked whether Zambia and its neighbouring countries were cooperating to combat trafficking in children.

33. Mr. KERDOUN wished to know when the Government planned to enact legislation in the area of education, since the practice of regulating the education sector solely through official circulars was unsustainable.

34. Mr. ATANGANA said he would be grateful for information on the current status of the projected constitutional reform.

35. Ms. BRAS GOMES said that she wished to know how the Government intended to prioritize the rights enshrined in the Covenant. She asked whether resources had been earmarked and whether benchmarks had been set for achieving the goals of the Government's National Strategy Plan by 2015.

36. Mr. SHEN Yongxiang wondered how the Government defined the formal and informal sectors of the economy.

37. Mr. TEXIER said that it was unclear why labour statistics had been compiled on children aged 12 to 14. He asked whether a legal retirement age had been set and whether retirement was compulsory. There were numerous difficulties involved in organizing trade unions and calling strikes, including a stringent requirement to give the police seven days' notice before a strike. He would appreciate more information on a one-day strike called by the Zambia Congress of Trade Unions in May 1998 that had resulted in the dismissal of certain workers who had participated in the strike.

38. Ms. IMBWAE (Zambia) said that the countries making up the Southern African Development Coordination Conference had developed measures to combat trafficking in children. She did not find the use of circulars in the context of regulating the education sector to be a problem, but the Government could consider the issue further. The constitutional review process would soon be completed, since the Human Rights Commission had recently concluded its consideration of the final draft report on the review.

39. Mr. CHOLA (Zambia) said that with regard to prioritizing the rights enshrined in the Covenant, the Government had prepared an annex that contained various social indicators and the targets set. The formal sector was differentiated from the informal sector on the basis of the size of enterprises. The informal sector consisted of small and medium-sized enterprises and microenterprises, which employed between 10 and 30 workers.

40. The latest official statistics on employment, derived from a 2002-2003 government survey, indicated that the labour force participation rate was 70 per cent for both male and female workers. Of the some 4 million persons in the labour force, 11 per cent were unemployed. Statistics had been collected on workers aged 12 to 14 in order to determine what kind of measures were needed in order to alleviate poverty and reduce child labour.

41. Ms. IMBWAE (Zambia) said that the legal retirement age in Zambia was 55. The rationale behind the requirement to give seven days' notice for strikes was to enable the police to assess the human resources needed to ensure security during the strike. She had no knowledge of employees who had been dismissed as a result of the one-day strike mentioned. The delegation would supply the Committee with information on any remaining unanswered questions before the end of the following week.

42. The CHAIRPERSON thanked the delegation for its cooperation. She hoped that it would find the Committee's concluding observations helpful in the State party's ongoing efforts to comply with the Covenant.

The meeting rose at 11.25 a.m.