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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Initial reports submitted by States parties under
articles 16 and 17 of the Covenant**

Addendum

ZAMBIA*

[29 July 2003]

* The information submitted by Zambia in accordance with the guidelines concerning the initial part of the reports of States parties is contained in the core document (HRI/CORE/1/Add.22/Rev.1).

CONTENTS

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
Foreword		3
Abbreviations		4
Executive summary		6
I. GENERAL PROVISIONS OF THE COVENANT	1 - 76	11
II. THE RIGHT TO WORK	77 - 117	30
III. THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK	118 - 134	39
IV. THE RIGHT TO FORM OR JOIN A TRADE UNION	135 - 146	42
V. THE RIGHT TO SOCIAL SECURITY AND SOCIAL INSURANCE	147 - 163	44
VI. PROTECTION OF AND ASSISTANCE FOR THE FAMILY	164 - 185	50
VII. THE RIGHT TO AN ADEQUATE STANDARD OF LIVING	186 - 203	55
VIII. THE RIGHT TO HEALTH	204 - 215	60
IX. THE RIGHT TO EDUCATION INCLUDING THE RIGHT TO FREE AND COMPULSORY PRIMARY EDUCATION	216 - 245	65
X. THE RIGHT TO LEISURE, ART AND CULTURE	246 - 260	71
XI. CONCLUSION	261 - 266	75

Foreword

Zambia places extreme importance on the promotion and protection of fundamental human rights as evidenced by her accession and ratification of numerous international human rights instruments. The Zambian Government acknowledges that no meaningful development can occur without the full protection of fundamental human rights; this includes both civil and political rights, and economic, social and cultural rights. It is in acknowledgement of this that Zambia acceded to the International Covenant on Economic, Social and Cultural Rights in 1984.

The preparation of Zambia's initial report for submission to the United Nations Committee on Economic, Social and Cultural Rights involved the participation of academia, civil society and all relevant line ministries. This exercise provided the Government with an opportunity to review relevant policies, legislation and administrative practices bringing to the fore the various challenges and difficulties that the Government faces in effecting the full realization of economic, social and cultural rights. The exercise further availed the Government of the opportunity of identifying new ways in which to overcome the various challenges that Zambia faces in the implementation of economic, social and cultural rights.

I would like to take this opportunity to thank all those who participated in this exercise, in particular the Inter-Ministerial Reporting Committee and the Swedish International Development Cooperation Agency (SIDA), our cooperating partner for financial and technical support.

(Signed): George Kunda, SC, MP
Minister of Legal Affairs
and Attorney-General

Abbreviations

ASIP	Agricultural Sector Investment Programme
BESSIP	Basic Education Subsector Investment Programme
CBO	community-based organization
CCA	Common Country Assessment
CIDA	Canadian International Development Agency
CRC	Convention on the Rights of the Child
DHS	Demographic and Health Survey
FAO	Food and Agricultural Organization of the United Nations
GNP	gross national product
HIPC	Heavily Indebted Poor Countries
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ILO	International Labour Organization
ILR	Industrial and Labour Relations
ILS	International Labour Standards
NAPSA	National Pensions Scheme Authority
NER	Net Enrolment Rates
NGO	non-governmental organization
OHS	Occupational Health and Safety
PAGE	Programme for the Advancement of Girls' Education
PHI	Presidential Housing Initiative
PRSP	Poverty Reduction Strategy Paper
PUSH	Project Urban Self-Help
PWAS	Public Welfare Assistance Scheme

SADC	Southern African Development Community
SAP	Structural Adjustment Programme
SIDA	Swedish International Development Cooperation Agency
SME	small- and medium-sized enterprise
TBA	Traditional Birth Attendant
TEVET	Technical Education, Vocational and Entrepreneurship Training Policy
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
VCT	Voluntary Counselling and Testing
WFP	World Food Programme
WHO	World Health Organization

Executive summary

The Republic of Zambia acceded to the International Covenant on Economic, Social and Cultural Rights on 10 April 1984. In accordance with Zambia's reporting obligations under the Covenant, this is Zambia's initial report to be presented to the United Nations Committee on Economic, Social and Cultural Rights.

The report outlines the administrative, legislative and policy measures the State party has put in place in order to bring her national laws and policies in line with the provisions of the Covenant, and outlines the various challenges and difficulties that the State party has experienced in implementing the Covenant.

The entire drafting process was made possible with assistance from the Swedish Government through a grant made available to the Zambian Government specifically to assist Zambia prepare her initial report under the Covenant. The Zambian Government, through the Ministry of Legal Affairs, constituted an Inter-Ministerial Reporting Committee tasked with the preparation of the report. The members of the Committee the list of whom can be consulted in the secretariat were drawn from civil society and relevant line ministries.

The reporting process began with a five-day induction seminar meant to acquaint the members of the Inter-Ministerial Reporting Committee with the drafting guidelines for the preparation of reports under the Covenant and to produce a draft framework report. The seminar was conducted by the Project Coordinator, Mr. Palan Mulonda (Governance Development Unit), Ministry of Legal Affairs, and Ms. Kitty Arambulo, a consultant hired by the Raoul Wallenberg Institute, currently working with the Committee on Economic, Social and Cultural Rights in Geneva, Switzerland.

The induction seminar was followed by nine provincial data-capturing workshops conducted by a facilitation team of Government and civil society experts led by the Project Coordinator. Information and data captured from all the provincial workshops were collated and incorporated into the draft framework report to produce a draft report which was considered at a two-day national symposium for stakeholders.

While the State party acknowledges that much remains to be done to ensure the full realization of economic, social and cultural rights, this exercise afforded the Government an opportunity to take stock of the administrative, legislative and policy measures in place with a view to identifying legislation and policy gaps that require to be filled in order to fully realize economic, social and cultural rights in Zambia.

The report which is divided into 11 chapters comprehensively captures the developments that have taken place in the field of economic, social and cultural rights since Zambia's accession to the Covenant.

Chapter I

Chapter I outlines the level of enjoyment of economic, social and cultural rights and the factors and difficulties undermining their full enjoyment within Zambia. This chapter highlights legislative and policy measures put in place that create the environment within which economic, social and cultural rights are enjoyed in Zambia.

It is worth noting that the Constitution of Zambia provides for the principle of non-discrimination in the enjoyment of economic, social and cultural rights. It is further worthy of note that discriminating against person with disabilities is prohibited within the jurisdiction of the State party. The population of elderly persons is relatively small and the State party has managed to exempt all those above the age of 65 from paying for social services such as health. The State party has further put in place a public welfare assistance scheme to cater for the elderly in society.

Insofar as the application of the law is concerned, the State party practises the principle of equality before the law and recognizes the equal worth of men and women to participate, freely determine and build a political, economic and social system of their own free choice.

Chapter II

The right to work

Zambia is committed to ensuring the right to work which is evidenced by the numerous international human rights instruments and International Labour Organization (ILO) Conventions that the State party has ratified. The Government has adopted various labour-related policies to secure the right to work such as the High Unemployment and Underemployment Policy, Low Productivity Policy, HIV/AIDS and the Labour Market Policy and the Technical Education, Vocational and Entrepreneurship Training (TEVET) Policy. These policies are structured in a fashion that will not only create more jobs but make the jobs created more accessible.

It is worth noting that the State party, though having come up with a number of interventions, has faced a number of difficulties as a result of inadequate resources to finance the implementation of policies. Poor economic performance resulting in the shrinking of the economy, massive job cuts as a result of pursuing a structural adjustment programme, inadequate access to credit facilities and the ineffectiveness of small-scale enterprise support agencies have all contributed to the difficulties the State party has encountered.

Chapter III

The right to just and favourable conditions of work

Zambia has ratified the ILO Minimum Wage Fixing Convention No. 131 and the Equal Remuneration Convention No. 100 and thus seeks to ensure just and favourable conditions of work. However these conditions currently only apply to those in the formal sector.

The Republican Constitution protects workers' rights to fair and equal remuneration, decent living standards, safe and healthy working conditions, equal employment opportunities for everyone, rest and limitation of working hours. The minimum wage is fixed by legislation prepared by the Ministry of Labour and Social Security. In addition to legislation, the State party has in place policies on conditions of work such as the Social Security Policy and the Occupational Health and Safety Policy.

Chapter IV

The right to form and join a trade union

The State party has ratified and acceded to a number of international human rights instruments that promote and protect the right to form and join trade unions. They include the International Covenant on Civil and Political Rights (ICCPR), the ILO Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise, ILO Convention (No. 98) concerning the Application of the Principles of the Right to Organise and to Bargain Collectively and ILO Convention (No. 151) on labour relations (public service).

The State party further has in place a constitutional provision that guarantees the right to assemble by any person and has domesticated the provisions of ILO Conventions Nos. 87, 98 and 151 through a 1997 legislative amendment to the Industrial and Labour Relations (ILR) Act. It is worth noting that the ILR Act preserves the right to form or join a trade union by placing no restrictions on local or international affiliations. However, it is important to note that the State party places restrictions on certain categories of workers from forming trade unions.

Chapter V

The right to social security and social insurance

Zambia recognizes the right of everyone to social security including social insurance. The State party has ratified ILO Convention No. 103 and has put in place national legislation on social security and protection against occupational hazards in order to secure the right to social security for everyone. In addition Zambia is in the process of implementing the Southern African Development Community (SADC) Code of Conduct on HIV/AIDS and the world of work.

The State party is facing difficulties in ensuring the right to everyone to social security. High levels of unemployment and poor economic performance have made it difficult for the State party to provide workers with protection against occupational hazards and working conditions that would ensure the workers well-being and dignity. Nonetheless the State party has put in place programmes aimed at implementing policy measures to ensure that the right of everyone to social security is realized.

Chapter VI

Protection and assistance for the family

Zambia recognizes the right to the protection of, and assistance for, the family. Poverty and HIV/AIDS have contributed to many families breaking up, with an increase in single and elderly-headed households. The State party has, however, put in place formal and informal measures through which the family can be protected.

Chapter VII

The right to an adequate standard of living

Zambia recognizes the right to an adequate standard of living. Part IX of the Republican Constitution provides that the State party shall endeavour to provide clean and safe water, adequate medical and health facilities and decent shelter for all persons, and to take measures to constantly improve such facilities and amenities as a means of realizing some of the provisions of the Covenant.

The State party acknowledges that the standard of living has deteriorated with over 70 per cent of the population living in abject poverty. As a way of addressing this situation, the State party has articulated a Poverty Reduction Strategy Paper (PRSP) which aims at reducing poverty and enhancing economic growth. It is hoped that through the PRSP the standard of living of most Zambians will be uplifted.

Chapter VIII

The right to health

While the State party recognizes its duty to provide health facilities, this depends to a large extent on the availability of resources. The State party further recognizes the fact that for the right to health to be realized, health facilities need to be accessible while services need to be of quality.

The health delivery system in the State party has deteriorated over the years as a result of poor economic performance resulting in lack of maintenance of facilities and equipment and increased pressure on the limited health infrastructure owing to an increase in population brought about by the high fertility rates experienced by the State party. The situation has further been compounded by the high incidence of HIV/AIDS. The State party has, however, adopted a National Health Policy which seeks to implement the concept of decentralization and community-based care. The State party is further committed to implementing the World Health Organization (WHO) Primary Health Care standards.

Chapter IX

The right to education

The State party, although it has entered a reservation regarding the provision of free education under the Covenant, has put in place a policy that ensures and secures free primary education. The State party's National Strategic Plan demonstrates its commitment to universal, free and compulsory education. The Ministry of Education of the Government of the Republic of Zambia has further abolished grade 7 examination fees and all statutory fees.

It is clear that the various legislative and policy measures the State party has put in place demonstrate Zambia's commitment to realizing the right to education.

Chapter X

The right to leisure, art and culture

Zambia has in place a legal and policy framework that guarantees the right to leisure, art and culture. The State party recognizes its obligation to take measures to promote the practice, enjoyment and development by any person of that person's culture, tradition, custom or language insofar as these are not inconsistent with the Constitution. The Constitution of Zambia itself recognizes these rights while the State party has in place pieces of legislation that realize these rights. The State party has in place the National Arts Council Act of 1995 dealing with performing and visual arts, the National Heritage Conservation Commission Act and the Copyright and Performance Rights Act which has created the Zambia Music Copyright Protection Society. Though the State party does not have a national cultural policy, steps are being taken to finalize the draft prepared.

CHAPTER I

GENERAL PROVISIONS OF THE COVENANT

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

1. Zambia attained political independence in 1964 and consequently attained her right to freely pursue her economic, social and cultural development.
2. Over the years, the country's economy has been in decline impacting negatively on people's economic, social, and cultural development. Today, Zambia is among countries in Southern Africa which are on the Heavily Indebted Poor Countries (HIPC) list.

Article 2

1. Each State party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Economic rights

3. The enjoyment of economic rights in Zambia has been greatly undermined by the country's poor economic performance. The State party had for a long time been a mining-based economy and all economic activity was in one way or the other linked to copper production. The fall in copper prices on the world market and the oil shocks experienced in the mid-1970s, left the economy struggling. The resulting structural adjustment programme embarked upon by the State party as a way of reviving the economy led to further economic decline thereby undermining the enjoyment of economic rights by most Zambians.

Social rights

4. The enjoyment of social rights in Zambia is linked to the level of enjoyment of economic rights. As stated above, the economic factors that have undermined economic rights have gone further to undermine social rights. This can be seen through the deteriorating standards experienced in the education and health sectors of the country. Social infrastructure has not expanded to match the ever-growing population experienced in Zambia as a result of high fertility rates.

Cultural rights

5. The enjoyment of cultural rights in Zambia can be described as satisfactory though the same factors that undermine the full realization of economic and social rights bedevil cultural rights. The lack of adequate institutional structures and resources has in a number of cases caused many a community not to fully participate in its cultural heritage.

Legislative implementation measures

6. In order to examine how Zambia's legal framework implements the rights contained in the International Covenant on Economic, Social and Cultural Rights, the Constitution, which is the supreme law of Zambia, will be considered. Part IX of the Constitution, which sets out the Directive Principles of State Policy, will be considered in relation to the implementation of economic, social and cultural rights in Zambia.

7. The Directive Principles of State Policy are a guide to the executive, legislature and the judiciary in the development and implementation of national policies, in the making and enactment of laws and in the application of the Constitution and any other law. The State party implements the rights contained in the Covenant mainly through the Directive Principles of State Policy, part IX of the Constitution, which:

(a) May be observed only insofar as State resources permit, or if the general welfare of the public so unavoidably demands as may be determined by the Cabinet;

(b) Are not justiciable and are not by themselves legally enforceable despite being referred to as rights in certain instances.

8. In the Directive Principles of State Policy the State is committed to:

(a) Endeavouring to create an economic environment which shall encourage individual initiative and self-reliance among the people and promote private investment;

(b) Endeavouring to create conditions under which all citizens shall be able to secure adequate means of livelihood and opportunity to obtain employment;

(c) Endeavouring to provide clean and safe water, adequate medical and health facilities and decent shelter for all persons and take measures to constantly improve such facilities and amenities;

(d) Endeavouring to provide equal and adequate educational opportunities in all fields and at all levels for all;

(e) Taking measures to promote the practice, enjoyment and development by any person of that person's cultural tradition, custom or language insofar as these are not inconsistent with the Constitution;

(f) Striving to provide a clean and healthy environment for all;

(g) Recognizing the right of every person to fair labour practices and safe and healthy working conditions.

9. The Constitution does provide some of these economic, social and cultural rights in other parts of the Constitution, which make these rights enforceable. The provisions of the Constitution worth noting in this regard are as follows:

(a) Article 14 provides that a person shall not be held in slavery or servitude and shall not be required to perform forced labour in compliance with the International Covenant provision on the right to work in a place a person freely chooses for fair wages and remuneration;

(b) Article 21 provides for the protection of a person's right to freedom of assembly and association including the right to form or belong to any political party, trade union or other association for the protection of his interest, in compliance with the International Covenant provision on the right to form or join trade unions;

(c) Article 23 provides for the protection from discrimination on grounds of race, tribe, and sex, place of origin, marital status, political opinions, colour or creed complying with the International Covenant provision, which discourages discrimination at places of work and at educational facilities.

- (d) Article 24 of the Constitution provides that a young person shall:
- (i) Not be employed, caused or permitted to be engaged in any occupation or employment which would prejudice the health or education of the young person or interfere with the physical, mental or moral development;
 - (ii) Be protected against physical or mental ill-treatment, all forms of neglect, cruelty or exploitation; and
 - (iii) Not be the subject of traffic in any form.

10. This article defines young person as a person under the age of 15 years. This article of the Constitution thus complies with the International Covenant provision on the protection of young persons from exploitation and working in places detrimental to their mental or physical health or detrimental to their moral upbringing.

11. The articles of the Constitution cited above are in part III entitled "Protection of the Fundamental Rights and Freedoms of the Individual". These provisions are entrenched provisions of the Constitution and are enforceable under the Constitution by application to the High Court. These provisions can only be altered by a referendum as well as a two-thirds majority and the 30-day publication period before consideration in Parliament required for the amendment of the Constitution.

12. These provisions thus provide the highest levels of protection of some economic, social and cultural rights as specified in the International Covenant on Economic, Social and Cultural Rights.

13. In addition there are other provisions contained in other pieces of legislation in Zambia, which also implement the Covenant, which are discussed below.

14. There is no express national legislation that recognizes the right to work, the right to equal opportunity to work, and fair conditions at workplaces as well as leisure times and working hours. However the Employment Act, chapter 268, provides as follows:

- (a) For the regulation of employment contracts; and
- (b) For holidays with pay.

15. With regard to the right to form trade unions and federations of trade unions under the Covenant, the Industrial and Labour Relations (ILR) Act, chapter 269, of the Laws of Zambia as amended in 1997 provides for:

- (a) The right to take part in the formation and activities of trade unions of one's choice;
- (b) The right of trade unions to form federations of trade unions of their choice.

16. The 1997 amendments to the ILR Act removed the prohibitions against forming trade unions in the same sector and also opened the door for the formation of federations of trade unions of choice. This removed the monopoly of the Zambia Congress of Trade Unions.

17. In respect of the Covenant provisions on safe and healthy working conditions, the Factories Act, chapter 441, of the Laws of Zambia (1967) provides:

(a) For the regulation of conditions of employment in factories and other places as regards safety, health and welfare of persons employed therein;

(b) For the safety, examination and inspection of certain plant machinery;

(c) For the health, cleanliness, ventilation, lighting and sanitary conveniences at factories and other places of work;

(d) For the safety of equipment and machinery, and the means of escape out of the premises.

18. The Technical Education, Vocational and Entrepreneurship Training Act No. 13 of 1998 makes provisions for technical, vocational guidance and training programmes addressed in the Covenant in relation to the recognition of the right to work. This Act provides for the establishment of government institutions of technical education, vocational and entrepreneurship training and to register and regulate private institutions providing technical and vocational training. The question of whether these institutions are targeted at furthering the education of the working class or are targeted at providing vocational, technical and entrepreneurship skills to school leavers or both will be looked at in the report.

19. The State party does not recognize the right to social security as required under the Covenant, however the National Pensions Scheme Authority (NAPSA) (Act No. 40 of 1998) provides for a compulsory pension scheme for all those in formal employment.

20. In relation to the importance of the family including marriage and the protection of working mothers under the Covenant:

(a) The Marriage Act, chapter 50, of the Laws of Zambia provides for the solemnization and validation of marriages; and recognizes customary law marriages contracted under African Customary Law;

(b) The Employment Act provides maternity leave for working mothers and prohibits the termination of employment of working mothers for reasons connected with pregnancy.

21. The protection of the family is further enhanced through the prohibition of employing children. The following Acts of Parliament are instructive:

(a) The employment Act prohibits the employment of a person under the age of 15 years and makes it an offence for any person who does this;

(b) The Employment of Young Persons Act, chapter 274, prohibits the employment of a child under the age of 14 years in any public or private industrial undertaking and makes it an offence for anyone to do so.

22. Furthermore, the National Food and Nutrition Commission Act, chapter 308, establishes the Nutrition Commission to address the issues of disseminating knowledge of the principles of nutrition in furtherance of affording the right to food and adequate standard of living covered under the Covenant. The Nutrition Commission is responsible for:

(a) Reducing the mortality rate directly or indirectly due to malnutrition in children by focusing public attention on the nutritional needs of children and youth;

(b) Improving the nutritional status of vulnerable groups;

(c) Creating community interest in better nutrition and arousing public awareness of the serious impact of malnutrition and instilling public confidence in solutions to the problems;

(d) Reducing the incidence of malnutrition and undernutrition by providing highly nourishing food during all seasons of the year to ensure a long healthy life and diets conducive to maximum intelligence and mental health;

(e) Providing food consumption and nutritional data on a representative national scale;

(f) Assisting in incorporating the concepts of improvement of nutrition in food and agricultural development planning.

23. The Food Reserve Agency Act, chapter 225, in addition assists in implementing the Covenant in relation to food security. In this regard the Food Reserve Agency was established for:

(a) Ensuring a reliable supply of designated commodities which are considered essential for the food security of the country;

(b) Meeting local shortfalls in the supply of designated commodities;

(c) Meeting such other food emergencies caused by drought or flood or by other natural disasters;

(d) Correcting problems relating to the supply of designated commodities, which result from the manipulation of prices or monopolistic trading practices.

24. Article 12 of the Covenant covering issues of mental and physical health is dealt with under the following pieces of legislation:

(a) The Public Health Act, chapter 295, provides for the prevention of diseases and regulates matters relating to public health in Zambia. This Act provides for the notification of infectious diseases, prevention and suppression of infectious diseases, prevention and destruction of mosquitoes, and inspection of infected premises and cleaning and disinfecting by local authorities;

(b) The Tropical Diseases Research Centre Act, chapter 30, provides for the conduct of research and training in tropical diseases, and the support of research programmes relating to disease control and primary health care;

(c) The National Health Services Act, chapter 315, provides for the establishment of the Central Board of Health and the establishment of Management Boards for hospitals and health services. The Management Boards are there to administer the affairs of hospitals and health centres for the provision of health services and care of patients;

(d) The Mental Disorders Act, chapter 305, provides for the care of persons suffering from mental disorders or mental defects and provides for the custody and detention of such persons under court order or police action;

(e) The Environmental Protection and Pollution Control Act, chapter 204, of the Laws of Zambia provides for improvement of all aspects of environmental and industrial hygiene under the Covenant and provides for the protection of the environment and the control of pollution in respect of water, air, pesticides and toxic substances, wastes including hazardous wastes, noise and ionizing radiation.

25. The legislation on health, however, does not provide for the right to the enjoyment of the highest standard of physical and mental health nor does it provide for the creation of conditions to assure all medical services and medical attention in the event of sickness. Nevertheless the Constitution in the Directive Principles of State Policy does commit the State to endeavour to provide adequate medical and health facilities and as such the legislation relating to health should be understood within the context of the constitutional provisions.

26. In relation to the right to education and the obligation of countries under the Covenant that primary education should be compulsory and available to all, and that secondary and higher education should be made available to all, the Education Act, chapter 134, merely provides for the promotion and development of schools and educational institutions. The Education Act thus provides for the promotion of education for the people of Zambia and the progressive development of institutions for the purpose of securing the provision of a varied and comprehensive educational service throughout the Republic.

27. There is no provision in the legislation which makes primary education compulsory or free. There is however a policy to make primary education available to all.

28. Further, under education, it is worth noting that the constitutional provisions under the Directive Principles of State Policy, only commit the State to provide equal and adequate educational opportunities in all fields and at all levels and does not refer to free education or compulsory primary education.

29. The Covenant standards on the right to participate in cultural life and to enjoy the benefits of scientific progress and its applications are contained in the constitutional provisions of the Directive Principles of State Policy. The State is committed to undertaking measures to promote the practice, enjoyment, and development of any person's culture, tradition, custom or language insofar as these are not inconsistent with the Constitution. In addition, the National Arts Council of Zambia Act, chapter 170, provides for the promotion of arts and culture through the Department of Cultural Services. The Act also provides for the appointment of cultural officers to provide information and research in arts and culture in all parts of Zambia.

30. It is important to note that economic, social and cultural rights under the International Covenant on Economic, Social and Cultural Rights are strongly supported under Zambian legislation under part III of the Constitution and in separate pieces of legislation. However, where these rights are only provided for under the Directive Principles of State Policy, part IX of the Constitution, their legal force and effect is watered down and would require further enactment under separate pieces of legislation in order to be legally enforceable.

31. Zambia maintains a dual legal system that comprises common law and customary law. Cultural rights are to an extent achieved through this legal regime which allows customary laws imbedded in culture to apply in instances where parties elect to use customary law if that customary law is not repugnant to natural justice and good conscience. The following legislation endeavours to promote Zambia's cultural heritage.

32. The Constitution of Zambia under part XIII recognizes the institution of Chiefs, and provides under article 132 for the House of Chiefs, which creates a forum for Zambian Chiefs to discuss issues of tradition and custom. It is worth noting that there is a Chiefs Act, chapter 287 of the Laws of Zambia, that allows Zambian Chiefs to perform functions according to custom so long as the same are not repugnant to the rules of natural justice or morality.

33. The National Arts Council Act, chapter 170, provides for the establishment of the National Arts Council whose functions include:

(a) The development, promotion and regulation of performing, literary and visual arts;

(b) The granting of licences to arts, promotion agencies and other show business enterprises;

(c) Funding and facilitating funding for affiliate associations at community and school levels; and

(d) Organizing competitions to enhance performance and production standards at national level in the arts.

34. The National Heritage Conservation Commission Act, chapter 173, provides for the conservation of ancient, cultural and natural heritage, relics and other objects of aesthetic, historical, prehistoric, archaeological or scientific interest with a view to protecting and promoting the cultural identity of Zambia.

Policy implementation measures

National Housing Policy

35. The National Housing Policy is a comprehensive assessment of the housing situation in Zambia and provides a vision for resolving the housing problem. The Policy spells out the roles of the various stakeholders for the housing matrix and their coordination for an effective housing system, stressing private initiative whilst strengthening the Government's role as a provider of the requisite enabling environment for sustainable housing delivery. The main goal of this housing policy is to provide adequate and affordable housing for all income groups in Zambia.

National health policies and strategies

36. The vision of the health policy is to enable the State party to achieve its commitment to the fundamental and humane principle in the development of the health-care system so as to provide Zambians with equity of access to effective and quality health care as close to the family as possible. Under the policy, in order to facilitate the attainment of this vision, the State party has adopted the Primary Health Care Strategy as the most appropriate vehicle to achieve this. It is recognized under the policy that achieving a healthy society is not primarily a medical problem but rather a political and socio-economic one. It is therefore important to note that the policy gives prominence to the rationale of intersectional collaboration with other line ministries of Government, non-governmental organizations (NGOs), and the private sector. The State party, however, recognizes that since health services play an important role in achieving health for all, the State party shall strive to promote preventive, promotive, curative and rehabilitative services as a major vehicle for achieving its vision with individuals taking responsibility for their own health.

37. This is a radical and reforming policy for the future direction of health services in Zambia. In order to achieve effectiveness and efficiency the approach adopted is that of decentralization which has seen extensive powers for operational management being delegated to the new autonomous health boards and boards of management in certain hospitals. This process will provide opportunities to eliminate waste, to achieve better value for money and above all improvements in quality and quantity of services. The State party wishes to see more initiative, more entrepreneurship and greater flexibility in the implementation of the policy. The State party further expects to achieve greater involvement of the Zambian people in the provision of medical services.

Poverty Reduction Strategy Paper

38. Zambia has articulated a Poverty Reduction Strategy Paper (PRSP) covering the period 2002 to 2004. The PRSP is as a result of the resurgence of putting poverty reduction at the centre stage of international development. The Strategy Paper, which endeavours to reverse Zambia's deteriorated socio-economic conditions, adopts a balanced and multisectoral approach based on three broad assumptions, namely:

(a) The PRSP is not a substitute to the much needed macroeconomic stability and structural reforms that are so pivotal to both growth and poverty reduction;

(b) The PRSP plans to carefully channel scarce national resources only to meet those goals and objectives that have been agreed upon through the consultative process that characterized the preparation of the PRSP;

(c) The PRSP primarily, though not exclusively, targets agricultural developments as the engine of income extension for the poor and is thus perceived to possess the best opportunities of enhancing poor people's livelihood.

39. The State party recognizes that the approach through growth stimulation should be complemented by measures that target the poor against the adverse impact of economic reforms and other internal and external factors. In this regard, the PRSP sees basic education and basic health as powerful instruments for assisting the poor and in this vein allocates substantial resources for the two sectors.

40. The PRSP further reinforces other existing measures targeting the poor and vulnerable such as the Public Welfare Assistance Scheme (PWAS); the Social Recovery Fund (SRF); Project Urban Self-Help (PUSH); the Food for Work programme and entrepreneurial development and training for retrenched employees. Above all, the PRSP has incorporated the fight against HIV/AIDS, which is a critical intervention against poverty.

National Poverty Reduction Action Plan

41. This is a deliberate strategy of the State party to reduce the levels of poverty. The long-term target is to reduce poverty from its current level of 73 per cent to 50 per cent by the year 2004. It will be implemented in three phases. Lessons learned in the course of implementing programmes under each phase will be used to adjust subsequent phases, and to set more feasible targets. The National Poverty Reduction Action Plan (NPRAP) has been formulated as an integral part of the Nation's development priorities, which takes into account the underlining, fundamental, and immediate causes of poverty as well as its manifestations.

National Agriculture Policy

42. In order to increase production and productivity of the agricultural sector, the State party has adopted the National Agricultural Policy. The long-term vision of this Policy is:

(a) To achieve food security for the majority of the Zambian population through increased yields;

(b) To develop commercial agriculture with most farmers (small and large) producing for the domestic and export markets;

(c) To promote competitive and efficient agriculture based on comparative advantage;

(d) To develop diversified agriculture linked to a well-developed agribusiness industry for value adding and exports;

(e) To have agriculture that utilizes natural resources on a sustainable basis for income, employment generation and economic growth.

Technical Education, Vocational and Entrepreneurship Training Policy

43. The State party in March 1996 adopted the Technical Education, Vocational and Entrepreneurship Training Policy (TEVET), which sets out the State party's objectives in technical education and vocational training. The Policy further recognizes the cardinal role played by entrepreneurship skills in the development process. The Policy is designed in a fashion that satisfies the labour market, social economic concerns and resource-based opportunities in the economy. More specifically the Policy aims at:

(a) Balancing the supply of skilled labour at all levels with the demands of the economy;

(b) Acting as a vehicle for improved productivity and income generation; and

(c) Being an instrument for the minimization of inequalities among the people.

44. The Policy defines its objectives in both the economic and social context. Within the economic context the objectives are:

(a) To improve the productivity of the labour force in both the formal and informal sector;

(b) To promote entrepreneurship and economic participation in both the formal and informal sectors with the aim of increasing efficiency of the national economy;

(c) To develop a society with people who will be versatile, creative, employable, entrepreneurial and productive;

(d) To provide qualitative training for imparting appropriate vocational skills relevant to the socio-economic development needs of Zambia;

(e) To promote rational use of local resources in training and post-training activities of entrepreneurs; and

(f) To promote the economic empowerment of women in society.

45. While within the social context the objectives are:

(a) To provide skills and opportunities that will respond to Zambia's needs such as poverty alleviation, improved housing and improved health care;

(b) To instil a culture of preventive maintenance and stimulate the development of quality assurance;

- (c) To provide access to training opportunities to all the people in the community;
- (d) To inculcate a culture of entrepreneurship and promote self-reliance in Zambian society; and
- (e) To ensure greater participation of women in the development process.

National Policy on Education

46. The Education Policy articulated by the State party in May 1966 informs the State through three major principles, namely:

- (a) That the State party is the custodian of all the human rights of individuals including their right to education;
- (b) That the demands of national development require paying special attention to the role education plays in human capital formation, particularly in developing the types of knowledge, skills, values and competencies that are necessary for economic development and social welfare; and
- (c) That decentralization of education management demands partnerships and the creation of an enabling environment that establishes rules and regulations that protect the rights of various educational agencies.

47. The Policy is further guided by the principles of liberalization, decentralization, equity, partnership and accountability. The Policy envisages a liberalized educational system where private organizations, individuals, religious bodies and local communities can establish and control their own schools and other educational institutions in accordance with their own principles but subject only to stipulated rules and regulations. Decentralization or devolution of power from the centre to the local level is another distinctive feature of the Policy. It promotes broad-based participation in the management of education with great emphasis placed on the creativity, innovation and imagination of local-level education managers.

48. Insofar as equality and equity are concerned, the Policy endeavours to develop an education system that promotes equality of access, participation and benefit for all in accordance with individual needs and abilities. Building on the principle of liberalization and on the creation of an enabling environment, the State party through the Policy encourages and strengthens partnerships in educational development. A cardinal principle is the acceptance by all parties that the various partners should participate by right and not sufferance in the provision of education services. In the area of accountability, the Policy, cognizant of the many competing demands for resources in the State party endeavours to ensure the best possible use of available resources. In this vein the State party advocates the putting in place of effective systems at national, provincial, district and local levels for evaluating the effectiveness and efficiency with which resources are used.

National Labour Market Policy

49. The National Labour Market Policy aims to reduce levels of unemployment and under-age employment in the country with the view of improving people's living standards. In order to achieve this goal, the Policy shall pursue objectives that:

- (a) Improve the productive capacity of the economy in order to create more employment opportunities;
- (b) Create an appropriate legal framework to guide operations of the labour market;
and
- (c) To create a suitable environment for both local and foreign investors.

50. The Policy adopts a number of strategies, which include:

- (a) Promoting labour-intensive projects especially in public works;
- (b) Promoting small and medium-sized enterprises (SMEs), to stimulate private sector-led growth in the country;
- (c) Offering fiscal incentives to areas which have the potential for employment generation such as agriculture, tourism, transport and communications, etc;
- (d) Facilitating skills training, credit, microfinance, counselling, market facilitation to both formal and informal sector small-scale entrepreneurs;
- (e) Putting in place labour legislation tailored towards promoting employment generation.

National Gender Policy

51. In March 2000 the State party adopted the National Gender Policy, which addresses the following gender issues and concerns:

- (a) The power relations between women and men in the domestic, community, and public domains which are impediments to the advancement of women;
- (b) The feminization of poverty as reflected in women's limited access to and control over productive resources, social services, remunerative employment opportunities and minimal participation in political and managerial decision-making processes;
- (c) Cultural and traditional practices that systematically subject females to male subordination;
- (d) Limited access by women and girls to, and use of, basic health services, inadequate reproductive health facilities, maternal and child health care;

- (e) Lack of access by women and girls to adequate food, safe water and sanitation;
- (f) Lack of access by women to credit, improved technology, land and extension which constrains agricultural productivity;
- (g) Disparities in access to and limited opportunities for education, science and technology, skills development and training;
- (h) Lack of appreciation by society that there is a structural linkage between gender and environment;
- (i) The dichotomy between domestic and industrial energy requirements which has left issues of domestic energy largely in the hands of women;
- (j) Statutory and customary laws and practices which hamper women's full participation in national development; and
- (k) The prevalence of gender violence.

Article 2 (2): Non-discrimination

52. The Zambian Constitution under article 23 (1) provides for the principle of non-discrimination. It provides in part that:

“... a law shall not make any provision that is discriminatory either of itself or in its effect.”

Furthermore, the article provides that a person shall not be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority. The term “discriminatory” means, “affording different treatment to different persons attributable, wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, marital status, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description”.

Persons with disabilities

53. It is worth noting that discriminating against persons with disabilities within the jurisdiction of the State party is prohibited. The State party is actively involved in the elimination of discrimination against persons with disabilities.

54. Under the Persons with Disabilities Act, chapter 65, of the Laws of Zambia, disability is defined as follows:

“Any restriction resulting from impairment or inability to perform any activity in a manner or within the range considered normal for a human being, and would or would not entail the use of supportive or therapeutic devices and auxiliary aids, interpreters, white cane, reading assistants, hearing aids, guide dogs or any other trained animals trained for that purpose.” (Act No. 33 of 1996.)

55. A person with disability is defined as:

“A person with physical, mental or sensory disability, including a visual, hearing or speech functional disability.”

56. The Persons with Disabilities Act prohibits discrimination of any kind and provides as follows:

- (a) Section 19 (1) for the purposes of this part, “discrimination” means:
 - (i) Treating a person with a disability less favourably than a person without a disability;
 - (ii) Treating a person with a disability less favourably than another person with a disability;
 - (iii) Requiring a person with a disability to comply with a requirement or condition which persons without a disability may have an advantage over; or
- (b) Not providing different services or conditions required for that disability.

57. An employer shall treat a person with a disability differently from a person without a disability when:

- (a) Advertising for employment;
- (b) Recruiting persons for employment;
- (c) Offering terms or conditions of employment;
- (d) Considering promotion, transferring or training such persons; or
- (e) Providing any other benefits related to employment.

58. A learning institution shall be guilty of discriminating against persons with a disability if that institution:

- (a) Refuses or fails to accept, to admit such a person on the ground of his disability;
- (b) Gives terms or conditions on which it is prepared to admit such a person because of his disability;
- (c) Denies or limits any person with a disability access to any benefit provided by that learning institution;
- (d) Expels that student or pupil on the grounds of his disability; or
- (e) Discriminates against the person in any other way on grounds of that person's disability.

59. In terms of the elimination of discriminatory attitudes, the State party has had challenges insofar as family attitudes towards children with disabilities are concerned. Family attitudes have not been favourable to children with disabilities. Some communities within the State party look upon a disabled child as a curse or a punishment from God. Others believe it is as a result of parents engaging in witchcraft. Therefore, from a false sense of shame or embarrassment, many parents do not divulge information on their disabled children, with the result that their children's problems remain unknown and untreated. This is compounded by the lack of a system of identifying disabled children.

60. Reliable statistical information on disabilities in the State party's territory is not readily available. There has not been a recent study or survey on the prevalence of disability within the territory. Furthermore the major causes of disabilities in the State party and the distribution of disability have not been formally documented. The physical environment presents difficulties for persons with disabilities. Many buildings have steps and narrow doors thus making them difficult to enter for many physically disabled people. Public transport is inaccessible for wheelchair users. Only a small percentage of physically or mentally impaired children are catered for in schools. Unfortunately, the State party does not have recent aggregated data to illustrate the enrolment ratios in schools and tertiary institutions.

61. The State party has created the Zambia Agency for Persons with Disabilities under the Persons with Disabilities Act that looks into the general welfare of persons with disabilities. Unfortunately, owing to the prevailing unfavourable financial situation in the country, funding to the Agency has been inadequate and sporadic thereby limiting its effectiveness. It has, therefore, not been possible to provide assistance to persons with disabilities free of charge in many cases.

Elderly persons

62. Unlike in Western countries, the number of people aged over 60 years is relatively small, amounting to only 4.3 per cent of the population and totalling about 300,000 people, with approximately 7,000 of them over 80 years of age. But while their numbers may be relatively small, their needs are great. The aged have been neglected; they are almost like an invisible group whose issues deserve to receive more attention. Demographically, there are more aged men than women. Also, there are more aged people in rural than urban areas, and an increasing

number are heads of households, for the reason explained below. This situation has implications on service delivery. In comparison to men, aged women are more likely to be single, they tend to have lower educational levels, have more health problems and are less likely to be in employment - with consequent effects on their likelihood of being fed, clothed and housed.

63. Elderly persons, on occasion, are subject to other forms of discrimination, including a tendency in some areas to be accused of witchcraft when problems occur in a community, a practice which has not yet died out and which can result in physical and psychological abuse.

64. There are very few hostels for the elderly in the country, with most of the aged living and dying in the home situation. Those that do exist are run by churches. A positive development in recent years has been the formation of a number of NGOs to advocate for the needs of the aged but they are yet to attract the resources required to adequately address the issues that beset this group.

65. Currently the elderly (above the age of 65 years) are eligible for free health services, but as described elsewhere, such services are far from adequate, and few workers have the time, training and resources to deal adequately with the chronic illnesses of old age. The Ministry of Community Development and Social Services has put in place a PWAS to cater for the elderly but the resources are insufficient to cater for all of those who would be eligible and many, especially in rural areas, find it difficult, if not impossible, to have access to the scheme.

Non-nationals

66. As indicated earlier, the rights contained in the Covenant accrue to every person in Zambia as declared and recognized in article 11 of the Constitution.

Article 3

The States parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Equality before the law

67. The Preamble to the Constitution of Zambia recognizes the equal worth of men and women in their rights to participate in, and freely determine and build, a political, economic and social system of their own free choice.

68. The glaring inequalities in status between women and men are as a result of cultural and traditional factors.

69. The State party recognizes the need for equal and full participation of women and men at all levels of national development. It is therefore committed to facilitating the process of removing gender imbalances. Its vision on gender is to achieve full participation of both women and men in the development and attainment of equality and equity between the sexes. To attain this vision, the State party has adopted and will fully implement the National Gender Policy.

70. In view of the cross-cutting nature of gender, implementation of the National Gender Policy requires that all socio-economic policies, programmes, plans, projects and the national budget should be gender responsive. The Policy sets the framework needed to repeal and amend legislation that hinders women's access to, and control over, productive resources such as land, credit facilities, information and technology.

71. The State party has endeavoured to sustain the provision of accessible, affordable and quality social welfare services in areas such as water, sanitation, health and housing. In addition, the State party has devised poverty alleviation and reduction strategies and programmes as well as simplified procedures for accessing benefits thereunder, especially by women.

72. The State party has embarked on the formulation of a strategic plan for the implementation of the National Gender Policy. The plan will employ a number of strategies to ensure effective implementation. Some of these strategies include:

(a) Reviewing and harmonizing existing legislation to make it gender responsive and incorporation of provisions of international and regional instruments to which Zambia is a signatory;

(b) Adoption of fiscal and monetary policies that enhance the productive capacities of women and men;

(c) Facilitating the translation and simplification of the National Gender Policy and ensure its dissemination throughout the country;

(d) Developing criteria to ensure that national resource allocation (national budget) is gender responsive, including facilitating the integration of persons with disabilities, especially women, in all socio-economic activities;

(e) Mainstreaming gender into all poverty reduction strategies including the PRSP;

(f) Adoption of affirmative action to enhance the participation of women in politics, decision-making and other areas. For instance, in the education sector, the State party has put in place a Programme for the Advancement of Girls' Education (PAGE) designed mainly to accelerate the education of the girl child and the reservation of 25 per cent of State party scholarships exclusively for girls and women at university level.

73. Affirmative action is necessary and will continue for as long as the burden of household chores in the home rests heavily on the girl child. However, affirmative action has achieved more in the area of education. There is need, therefore, to apply these measures to other sectors and areas of life to accelerate the de facto equality between women and men.

74. Limited capacity-building for gender mainstreaming has been identified as one of the priority areas and seen as the major factor hindering effective implementation of gender and development programmes particularly the National Gender Policy. Some of the limitations include:

- (a) Limited gender programming that does not reach the lowest levels of administration;
- (b) Lack of gender-responsive monitoring and evaluation instruments to gauge levels of achievement;
- (c) Limited gender analytical skills among stakeholders or sectoral ministries;
- (d) Insufficient productive resources to support the programmes;
- (e) Insufficient levels of gender awareness among members of the public and within the family unit itself; and
- (f) The prevalence of gender violence, which takes various forms, economic, physical, sexual and psychological. Its consequences have inhibited the effective participation of women in socio-economic affairs and thus non-realization of their full potential and contribution to national development.

Article 4

The States parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only insofar as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

75. Overall, the State party's legislation affects everybody and there is no specific derogation. However, in one or two cases, it might be argued that the law does provide for derogation. In the area of cultural rights, the practice of customary law is subjected to the provisions of statutory law as, for instance, in the Chiefs Act where there is provision that a chief in the performance of his functions must perform in such a way as not to be repugnant to natural justice or morality. This is seen in the areas of marriage, divorce, property ownership, inheritance and devolution.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.
2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

76. The State party reserves its right not to comment on this article.

CHAPTER II

THE RIGHT TO WORK

Article 6

1. The States parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

77. The State party is a party to the 1964 ILO Employment Policy Convention (No. 122). This Convention was ratified on 23 October 1979. On the same date the State party ratified the 1958 ILO Discrimination (Employment and Occupation) Convention (No. 111). The State party ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1972, and in 1985 it ratified the Convention on the Elimination of All Forms of Discrimination against Women.

78. The State party has submitted reports on both the ILO Employment Policy Convention (No. 122) and ILO Discrimination (Employment and Occupation) Convention (No. 111). Reports have also been submitted on ICERD and the Convention on the Elimination of All Forms of Discrimination against Women.

79. The Ministry of Labour through its National Labour Market Policy has adopted a number of policy measures to secure the right to work in Zambia.

High unemployment and underemployment policy

80. A major problem that has adversely affected the State party's labour market is people's declining access to formal sector employment. The informal sector on the other hand has been growing rapidly providing an alternative source of employment though hampered by inadequate skills, capital and support infrastructure leading to high incidences of unemployment.

81. The State party has embarked on a policy of enlarging productive employment, combating unemployment and underemployment thereby improving people's living standards. The policy aims to:

- (a) Improve the productive capacity of the economy in order to create more employment opportunities;
- (b) Create an appropriate framework to guide operations of the labour market;
- (c) Create a suitable environment for both local and foreign investors.

The following measures are in place to enforce the policy:

- (a) Promoting labour-intensive projects;
- (b) Promoting SMEs to stimulate economic growth in the private sector in the country;
- (c) Offering fiscal incentives to areas which have the potential for employment generation such as agriculture, tourism, transport and communications;
- (d) Providing skills training, credit, microfinance, counselling and market facilities to both formal and informal sector small-scale entrepreneurs; and
- (e) Putting in place labour legislation tailored towards promoting employment generation.

Social security policy

82. For many years there has been inadequate social security to cater for contingencies such as invalidity, retirement and unemployment. After independence, social security was based on the premise that the larger proportion of the labour force would be employed in the formal sector, particularly by the State party and its public enterprises. The assumption was that this proportion would increase with development. The assumption that was made concerning those in the informal sector, at the time mainly the agricultural sector, was that they would continue to rely on traditional support systems as their form of social security.

83. The State party has, however, realized that it has a responsibility to provide social security to all citizens. Consequently it has embarked on implementing reforms. The goal is to create an efficient and comprehensive social security system. The objective of this policy is to improve social security benefits, delivery and coverage.

Measures to enforce policy

- (a) Maintaining a comprehensive National Pension Scheme. This has been achieved through the repeal of the Zambia National Provident Fund Act and its replacement with the National Pension Scheme Act No. 40 of 2000;
- (b) Effectively regulating social security institutions to ensure that they operate within existing law. This has been achieved by strengthening monitoring regulations under the National Pensions Scheme Act;

(c) Undertaking regular reviews of social security laws to bring them in line with prevailing social security trends;

(d) Conducting awareness campaigns to educate the public on benefits of subscribing to a social security scheme and associated social security rights.

Occupational Health and Safety policy

84. The majority of workers in the State party have continued to face numerous occupational health and safety risks at working places. The industries associated with such risks are mainly mining, manufacturing, construction, electricity, forestry and agriculture. Although the magnitude of low occupational health and safety (OHS) in the formal sector is not known, it is likely that workers are exposed to a hazardous working environment. Legislation that deals with OHS and other related health concerns at the workplace includes the Factories Act, the Environmental Protection and Pollution Control Act, the Public Health Act and the Mines and Minerals Act.

Measures to enforce the policy

85. The State party has embarked on capacity-building in institutions involved in the promotion of OHS workers in the country. The goal is to reduce the level of occupational accidents and diseases to the barest minimum.

86. The measures that have been undertaken include:

(a) Increasing inspection coverage of workplaces;

(b) Carrying out thorough investigations of accidents in order to establish cases and prescribe remedial measures;

(c) Improving capacity in the Factories Inspectorate to enable effective operation;

(d) Reviewing existing legislation to make it more effective and comprehensive;

(e) Intensifying public awareness campaigns; and

(f) Education of workers and employers.

87. Difficulties in the implementation of the OHS policy are that parastatals had previously been the largest employers. These were funded by the State and compliance was assured. However, with privatization, compliance has not been easy for various reasons. The number of inspectors in the inspectorate department has continued to decline.

Low productivity policy

88. Low productivity has been identified as one of the issues affecting the economy. To address this trend the State party has put in place a policy of creating mechanisms that will facilitate attainment of improved productivity levels in the economy. The goal is to accelerate growth and consequently to improve national productivity levels.

Measures to enforce the policy

- (a) Putting in place an appropriate institutional framework for promoting productivity in the State party's territory;
- (b) Promoting worker productivity awareness programmes in various industries;
- (c) Undertaking needs assessments to determine areas of concern in industries; and
- (d) Developing tools for measuring and monitoring productivity in industries.

HIV/AIDS and the labour market policies

89. The HIV/AIDS problem is of special and growing concern in the State party as it affects the productivity of the worker in various ways. The State party subscribes to a number of international instruments aimed at addressing this problem, which include the Southern African Development Community (SADC) Code on HIV/AIDS in the workplace and World Health Organization (WHO)/ILO Guidelines on HIV/AIDS. Currently the draft HIV statutory instrument awaits the approval of Parliament.

Measures to enforce the HIV/AIDS policy

90. Promote programmes and activities aimed at reducing the HIV/AIDS scourge in the labour market: the goal is to reduce the prevalence of HIV/AIDS in the labour force. The objective is to maintain a healthy labour force. The following measures have been undertaken:

- (a) Promoting reproductive health campaign programmes;
- (b) Promoting awareness campaigns in schools and workplaces of the dangers of HIV/AIDS;
- (c) Application of WHO/ILO Guidelines, which prohibit discrimination against persons with HIV/AIDS in workplaces;
- (d) Articulation of an HIV/AIDS Code of Conduct in the workplace;
- (e) Strengthening worker education and family welfare programmes.

91. There is gender imbalance in both the formal and informal sectors of employment. Most men are employed in relatively high-paying jobs whilst women engage themselves in low-paying jobs, mostly in the informal sector.

92. Fifty-two per cent of the total population is composed of females and 47 per cent of the female population comprises females who are economically active. Women need to be fully integrated into the development process if maximum utilization of human resources is to be fully attained.

93. The State party has a wide range of labour laws that regulate operations at the workplace, impose statutory obligations on employers and afford protection and security to workers in a number of ways. To couple these national efforts at ensuring harmony and workers' protection against abuses and dangers that may emanate from a bad working environment, ILO has in place International Labour Standards (ILS) and guidelines, to which Zambia subscribes. These Conventions which seek to protect women workers' rights at the workplace include:

(a) Convention No. 100 ratified by the State party on 20 June 1972 and in respect of which reports have been made to ILO. This Convention seeks to promote the principle of equal remuneration for men and women for work of equal value;

(b) Convention No. 103 ratified on 23 October 1979 and in respect of which reports have been made to ILO. This Convention provides maternity protection to women, and includes granting of compulsory leave, medical benefits and a whole range of rights;

(c) Convention No. 111 ratified on 22 February 1965 and in respect of which reports have been made to ILO. The Convention obliges States parties to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination in respect thereof.

94. In addition to other efforts aimed at bringing about fair treatment of women, the State party has in place programmes aimed at empowering women. These include the Microfinance Trust through which women acquire small loans for entrepreneurial activities. The creation of a revolving fund by the State party has assisted women's groups to procure hammer mills for income generation.

Measures to enforce the labour market policy

95. The State party has embarked on the promotion of women's increased participation in employment. The goal is to increase women's participation in overall gainful employment. The objective is to reduce gender imbalance in the labour market. The strategies of implementation include:

(a) Embarking on educational awareness campaigns on women's rights and freedoms in employment;

(b) Removal of all legal provisions that discriminate against women in employment;

(c) Supporting programmes that increase girl-child access to education and skills training;

(d) Supporting programmes that are aimed at empowering women economically.

Child labour policy

96. The State party acknowledges the existence of child labour in the informal sector. This is attributed to a number of factors which include:

- (a) Education;
- (b) HIV/AIDS;
- (c) Poverty.

Measures to enforce the policy

97. The State party has undertaken to support all programmes, projects and activities aimed at reducing the prevalence of child labour in the country. The goal is the eradication of all forms of child labour. The objective is to safeguard the welfare of the child in the country. Measures include:

(a) Effective monitoring of child labour trends in the State party; the creation of a child labour unit to look into the plight of children. This policy of the Government and current labour legislation do not allow persons under the age of 15 to enter into formal employment. The prescribed age is in line with the ILO Convention on the minimum age;

(b) Reviewing and harmonizing existing pieces of legislation on the welfare of the child;

(c) Conducting a nationwide public awareness campaign to educate workers' organizations, employer organizations, NGOs, the child and the community at large on the dangers of child labour;

(d) Facilitating the provisions of education and skills training to children and young persons in order to prepare them for decent work.

Other non-policy measures adopted

98. Apart from the policies outlined above, the State party has ratified a number of ILO Conventions. They include:

(a) Forced Labour Convention (No. 29) ratified on 2 December 1964. The Convention prohibits forced labour of workers. The provisions of the Convention have been fully domesticated in the Constitution through article 14, the Penal Code and the Prison Rules contained in the Prisons Act;

(b) Similarly, the State party has fully domesticated the Abolition of Forced Labour Convention (No. 105) which the State ratified on 22 February 1965.

Legislative measures

99. The Constitution has given effect to the provisions of article 6 of the Covenant in the following ways:

- (a) Article 14 provides for the abolition of slavery;
- (b) Article 23 prohibits all forms of discrimination;
- (c) Article 24 provides for the protection of young persons from exploitation.

100. The Employment Act provides for powers for labour officers, protection of wages, holidays with pay and contracts of employment.

101. The ILR Act outlines the manner of cooperation between the employer and employees in the employment relationship. The Industrial Relations Court arbitrates in the management of labour conflicts and the Tripartite Consultative Labour Council acts as adviser on matters relating to labour and employment.

102. The Employment of Young Persons and Children Act provides for protection of young persons and children.

103. The Minimum Wage and Conditions of Employment Act provides the minimum wages and conditions of employment that may be prescribed for employees who are not adequately covered by collective agreements.

104. The Employment (Special Provisions) Act is used in times of state of emergency to secure security of employment for employees.

105. The Factories Act provides for the prevention of accidents and diseases at places of work.

106. The National Pensions Scheme Act provides for social security to employees in the event of termination of employment, death, old age and disability.

107. The Workers' Compensation Act provides for the compensation of victims of occupational accidents that lead to disabilities or death of a worker while in formal employment.

108. The Pneumoconiosis Act provides for compensation of miners who contract tuberculosis and/or pneumoconiosis because of the nature of their work.

Vocational education and training

109. In 1996, the State party adopted TEVET with the following aims:

- (a) To balance the supply of skilled labour at all levels with the demands of the economy;
- (b) To act as a vehicle for improved productivity and income generation; and
- (c) To be an instrument for the minimization of inequalities among the people.

110. To ensure effective implementation of the policy, the following measures have been taken:

(a) Enacting a TEVET Act (No. 13 of 1998) which provides for the creation of structures allowing for the participation of stakeholders (NGOs, workers, employers and Government) in the governance of the TEVET system;

(b) Designing an investment programme (the TEVET Development Programme) supported by the State party and external donors. Its objective is to: “develop a TEVET system that will improve the skills for both the formal and informal sectors of the economy through creating a high-quality, sustainable, demand-driven and equitable training system”;

(c) Introduction of the cost-sharing principle in TEVET. However, this measure has led to the decline in enrolment of vulnerable target groups such as the poor and the disabled.

111. Providers of vocational education and training in the State party include NGOs, churches, private companies and Government ministries; these include the Ministries of Science, Technology and Vocational Training; Education; Community Development and Social Services; Sport, Youth and Child Development.

112. In order to ensure that training standards are maintained in all training institutions, the State party has established an autonomous TEVET Authority whose Board comprises representatives of employees, employers, the Zambia Association of Chambers of Commerce and Industry, the Church, Government and other key stakeholders. The TEVET Authority regulates training and supports institutions on matters of curriculum development, examinations and the popularization of entrepreneurship development.

113. Provision of vocational education and training is constrained by the following factors:

(a) Inadequate infrastructure and equipment: the existing physical infrastructure and associated support services are characterized by extreme levels of dilapidation and resource inadequacy;

(b) Poor information system: currently, there is no reliable TEVET information system within the sector. This inhibits effective planning for sectoral development;

(c) Outdated training systems: the current application of TEVET is based on curriculum and certification schemes developed in the 1960s. This constrains the provision of training which is relevant to the needs of the economy;

(d) Poor financing system: as a result of inadequate funds, training standards of public and private institutions (particularly those run by churches and NGOs) have fallen far below requirements. Institutions have in the past relied heavily on Government funding. The new policy provides for contributions from students and employers to supplement Government funding. However, employers have been reluctant to contribute to TEVET financing, and the introduction of user fees has reduced access to training because of the high poverty levels in the country; and

(e) Inadequate interventions for informal sector training: the training system has so far ignored entrepreneurial skills since the system was designed to meet the needs of the formal sector. With a population of about 80 per cent of the labour force engaged in informal sector activities, it would be important for the TEVET system to address the training needs of the informal sector, which are enormous. However, neither the TEVET staff nor the training systems have been prepared for the challenges of training for the informal sector, which has largely relied on informal apprenticeship training.

Factors and difficulties in implementing the right to work in the State party

114. Although the State party has put in place a number of policies and legislative measures, it has faced a number of difficulties caused by a number of factors:

- (a) Lack of funds to implement the policies;
- (b) Poor performance of the economy resulting in the shrinkage of the formal labour market;
- (c) The Structural Adjustment Programme (SAP) has put in place programmes that have led to massive job cuts through privatization and the Public Sector Reform Programme;
- (d) Inadequate access to credit facilities; and
- (e) Ineffectiveness of small-scale enterprise support agencies.

Review of national legislation, court decisions and administrative rules, procedures and practices

115. Legislative amendments were effected to the Employment Act, the ILR Act and the Minimum Wages Act. The current minimum wage is K400,000. The revision of the minimum wage was due to the high cost of living. Ideally this instrument should be revised every two years.

116. There have been a number of judicial decisions handed out by courts. These refer to cases where people have been unfairly dismissed and there has been non-payment of salaries and benefits.

117. There has been little international assistance through programmes such as PUSH, food for work tailored towards job creation.

CHAPTER III

THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

Article 7

The States parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

118. The State party ratified the Minimum Wage Fixing Convention (No. 131) and the Equal Remuneration Convention (No. 100) on 20 June 1972 and has since submitted initial and periodic reports. These are the only ILO Conventions that the State party has ratified under this article.

Policy measures

119. There is no written policy on the system of the minimum wage. However, the minimum wage is fixed by the Ministry of Labour. In practice the Minister constitutes a tripartite council to fix the minimum wage.

Legislative measures

120. The Constitution protects workers' rights to fair and equal remuneration, decent living, safe and healthy working conditions, equal employment opportunities for everyone, rest and limitation of working hours.

121. Article 14 provides for protection from slavery and forced labour. Article 15 provides for prohibition of inhuman and degrading treatment. Article 23 provides for protection from discrimination based on sex, race, creed or religion. Article 24 provides for protection of young persons from exploitation.

122. Article 112 (b), (c), (d), (e), (f) and (j) provides Directive Principles of State Policy on Employment which are meant to direct the legislature, judiciary and executive, although these provisions are not enforceable.

123. The Employment Act contains a number of provisions, which implement article 7. Most importantly the Minimum Wage and Employment Act has give power to the Minister to determine through a statutory instrument the minimum wage. The current statutory instruments in force are the Minimum Wage and Conditions of Employment one (No. 2 of 2002) which relates to general orders and the Minimum Wage and Conditions of Employment instrument (No. 3 of 2002) that relates to shop worker orders.

124. Other pieces of legislation include the ILR Act, the Employment of Young Persons Act, Apprenticeship Act and the Factories Act.

Measures taken to implement article 7

125. Determination of the minimum wage is made in two ways:

(a) Collective bargaining - this is achieved at two levels, individual and industrial level;

(b) Minimum Wage and Conditions of Employment Statutory Instruments Nos. 2 and 3 of 2002. The Principal Minimum Wage and Conditions of Employment Act solely vests power in the Minister to determine the minimum wage. In practice the Minister consults through a tripartite meeting between the Government, the unions and employers.

126. The extent of application of the Minimum Wage Statutory Instrument is as follows. Statutory Instrument No. 2 applies generally. Statutory Instrument No. 3 applies specifically to shops. Domestic servants are not covered by any minimum wage legislation.

Factors and difficulties

127. The minimum wage is protected de jure. However there is no de facto protection against inflation. There is no regular adjustment by the Minister. The last changes were made in 1997.

128. The tripartite consultation is not provided for by law but only by practice. Legally, therefore, there is no wide consultative process to determine the minimum wage.

129. There is no adequate monitoring system of the minimum wage. However, the bargaining process in an indirect way achieves this by self-monitoring. The ILR Act provides for compulsory collective bargaining for a maximum of 24 months. Three months before the expiry of collective agreements fresh negotiations are to commence. Failure to commence negotiations is a crime under the ILR Act.

Policy measures

130. See the gender and employment policy referred to earlier under article 6.

Legislation

131. Article 23 of the Constitution provides protection against discrimination.

Factors and difficulties of equal pay for equal work

132. These have been very difficult to establish and require further research on the part of the State party. However the expatriate syndrome and a need for inducement allowances were identified as contributing to the failure to effect equal pay for equal work.

133. Pieces of legislation provide for inspectorates that enforce the various standards provided in the Acts.

Equal opportunity for promotion

134. There is no written policy or legislation on equal opportunity for promotion. In practice this is exercised by all industries.

Rest, leisure, reasonable limitation of working hours and periodic holidays with pay

(a) This is achieved through collective agreements which provide for limitation of working hours;

(b) The Minimum Wage and Conditions of Employment Statutory Instruments Nos. 119 and 120 of 1997 provide for hours of work and paid public holidays respectively.

CHAPTER IV

THE RIGHT TO FORM OR JOIN A TRADE UNION

Article 8

1. The States parties to the present Covenant undertake to ensure:
 - (a) The right to everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
 - (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.
2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

135. The State party acceded to ICCPR on 10 April 1984, the ILO Freedom of Association and Protection of the Right to Organise Convention (No. 87) on 2 September 1996, the ILO Right to Organise and Collective Bargaining Convention (No. 98) on 2 September 1996 and the ILO Labour Relations (Public Service) Convention (No. 151) on 19 August 1980.

Legislation

136. Article 21 of the Constitution provides for a general right to assemble by any citizen in the State party.

137. The provisions of ILO Conventions Nos. 87, 98 and 151 have been domesticated by the State party through 1997 legislative amendments to the ILR Act.

138. Under the ILR Act membership is by application to the General Secretary of the particular union. With respect to formation there are a number of requirements. Among them, there must be at least 50 members and a written constitution.

139. The ILR Act restricts membership of certain categories of workers from forming trade unions. For example, members of the armed forces are not allowed to belong to any union.

140. There are no restrictions on local or international affiliations. The ILR Act preserves this right.

141. The only condition placed on a trade union is the submission of financial returns. With regard to limitations, the ILR Act provides that the unions shall not receive financial assistance from their employers.

142. During the reporting period no union was affected adversely.

Measures of free bargaining

143. The State party has domesticated ILO Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise and Convention (No. 98) concerning the Application of the Principles of the Right to Organise and to bargain collectively through an amendment to the ILR Act in 1997.

144. A constraint to these provisions, however, is that they are only effective with respect to the private sector and not to State party agents.

145. With regard to the right to strike, the ILR Act provides for a procedure on a legal strike. A constraint, however, is that in practice it is difficult to have a legal strike because of the following restrictions:

(a) The procedure in the ILR Act states that you have to inform the other party. This makes it difficult to have a legal strike;

(b) Essential workers' right to strike is further restricted as the ILR Act provides that they have to go to court for adjudication without going through the conciliation procedures.

146. In practice, however, workers go on illegal strikes, including essential workers, for example medical personnel. The legal restrictions are therefore generally not effective and allow workers to exercise their right to strike.

CHAPTER V

THE RIGHT TO SOCIAL SECURITY AND SOCIAL INSURANCE

Article 9

The States parties to the present Covenant recognize the right of everyone to social security, including social insurance.

147. The States parties to the present Covenant recognize the right of everyone to social security, including social insurance.

148. The following branches of social security exist in the State party: medical care:

(a) Free medical care is provided for children under the age of 5 years, pregnant women and adults over 60 years of age;

(b) Vulnerable groups are also assisted through PWAS;

(c) The providers include the Government, 65 per cent, churches, 30 per cent, private companies and individuals, 5 per cent.

Constraints

(a) Although medical services are provided free of charge to the above-mentioned groups of persons, these services are constrained by the lack of drugs, poor quality of services and lack of access to health centres;

(b) Services provided through PWAS are inadequate owing to low and erratic funding from the State party;

(c) Staffing in public institutions where the groups identified above are supposed to obtain free medical attention is poor owing to unattractive working conditions.

Cash sickness benefits

(a) These exist to the extent that a salary is still payable if a person is on sick leave and has evidence of a sick report. This is given until the person is retired on health grounds;

(b) In private companies the employee and his/her family are entitled to 70 per cent of the cost of medical services.

Constraints

The enjoyment of this benefit is limited to persons in formal employment only.

Maternity benefits

149. According to the Government General Orders, an officer having served at least two years is entitled to paid maternity leave for 90 days. However, subsequent maternity leave by the same officer is only granted after another two years from the previous one.

150. Reference should be made to the Labour Policy and to ILO Convention No. 103 ratified by Zambia on 23 October 1979.

Constraints

- (a) Benefits only exist for officers who have served for at least two years;
- (b) Only people in formal employment benefit.

Old age benefits

151. Reference is made to page 63 of the 2002 common country assessment (CCA) report for Zambia.

152. The following pension schemes exist:

- (a) The Local Government's Superannuation Fund which is under the public service and the private sector;
- (b) The Public Services Pensions Act No. 35 of 1986 established the Public Service Pensions Scheme for officers working in the public service and includes defence forces, civil servants and teachers;
- (c) The Zambia National Provident Fund has been replaced with NAPSA. NAPSA is intended to provide better services and wider coverage to include the informal sector;
- (d) Mukuba Pension Scheme;
- (e) The Non-Nationals Pension Contribution.

Reference should be made to pages 53-54 of the 2000 CCA report for Zambia.

153. In addition, some support for poor and unsupported old people is provided through old people's homes and the PWAS. The State party also provides grants to churches to run old people's homes.

Constraints

- (a) There is inefficiency in the processing of pension benefits;
- (b) The HIV/AIDS pandemic has reduced life expectancy. This has disadvantaged the majority of the population as the retirement age is set at 55 years. However, the majority is dying before the retirement age and is thus not entitled to the State party contributions to pension benefits. In addition, the sums paid out cannot allow people to meet the most basic needs;

- (c) Centralization makes it cumbersome for the beneficiaries to access their dues;
- (d) Resources allocated to the PWAS are insufficient;
- (e) Grants given to churches etc. are also insufficient;
- (f) Service delivery is insufficient in that most aged are in rural areas where access is difficult;
- (g) The HIV/AIDS problem has turned the old into heads of orphaned households, thus making life harder for them.

Invalidity benefits do exist in Zambia

154. Survivor's benefits do exist and take the following forms:

- (a) PWAS;
- (b) Legislation passed to curb issues of property grabbing and equitable sharing of property, for example the Interstate Succession Act;
- (c) Grants for foster care, children's homes and drop-in centres.

Constraints

- (i) Access is limited only to those who know about the scheme or the law;
- (ii) Poverty and HIV/AIDS puts the State party under pressure to meet fast-growing needs.

Employment injury benefits

155. Employment injury benefits exist both in the public and private sectors. These are provided for under the:

- (a) Workmen's Compensation Fund;
- (b) Pneumoconiosis Board;
- (c) Factories Act.

Constraints

- (i) For the State party, the Medical Board's procedures are complicated and lengthy, making them ineffective;
- (ii) The compensation given is insufficient.

Unemployment benefits

156. The State party provides various types of safety nets, including:

(a) Food for work, targeting poor unemployed persons, especially women, in collaboration with the World Food Programme (WFP) and NGOs. This programme, apart from providing food security also serves to improve and upgrade community infrastructure such as roads;

(b) Mechanisms to provide microcredit have been put in place by the State party, the private sector and NGOs such as the Microbankers Trust and the National Trust for the Disabled, and other vulnerable groups including those with disabilities.

Constraints

- (i) The food for work programme only targets 14 urban districts out of 73;
- (ii) Coverage for the microcredit scheme is limited;
- (iii) Funding for the above programmes is inadequate.

Family benefits

(a) The State party provides some assistance for vulnerable groups through PWAS;

(b) Before the privatization of the mines, families were entitled to subsidized electricity, mealie meal, education. The situation changed after the privatization of the mines.

Constraints

- (i) Only a small percentage of the population has access to this provision;
- (ii) There is no exact figure as to what percentage of gross national product (GNP) is spent on social security. However, the amount is very minimal and has declined over the years owing to debt servicing;
- (iii) PWAS may not be accessible to everyone because of insufficient resources.

Supplementary informal support systems

157. The extended family support system to some extent provides some form of security to family members who are disadvantaged. However, the extended family has been considerably weakened by poverty and HIV/AIDS. Resources which were previously spent on supporting elderly people and other dependants are being stretched by having to meet increasing medical bills and other daily requirements for the family.

158. In addition, other organizations such as NGOs, community-based organizations (CBOs) and religious groups are providing support to families, especially those in distress.

Constraints

(a) This extended family support system has broken down because of the deteriorating economic situation, poverty and HIV/AIDS;

(b) The State party has been working in collaboration with organizations involved in providing support to vulnerable groups. For example, the State party has relinquished some old people's homes to some church organizations and continues to provide grants to support their operation;

(c) The majority of the population is not entitled to social security except for those in formal employment and vulnerable groups. Where social security schemes exist, women are in worse-off situations as most of them are in the informal sector. There is an absence of social security schemes in the informal sector where the majority of the population, especially women, are found.

Measures regarded as necessary support by the State party

159. The State party will continue promoting the PRSP in order to ensure that in the long term, the range of benefits is extended to cover other contingencies such as medical care, maternity and suitable forms of social protection designed to meet the needs of groups currently excluded from coverage.

(a) Transformation of the Zambia National Provident Fund (ZNPF) into NAPSA has made contributions compulsory for all formal sector employees;

(b) Formulation of the Workers Compensation Act. No. 10 of 1999 to facilitate the merger of the Workers' Compensation Fund Control Board with the Pneumoconiosis Compensation Board;

(c) Establishment of a regulatory framework for private occupational pension schemes;

(d) The State party is in the process of decentralizing PWAS to community level to make it more accessible to vulnerable groups;

(e) Expansion of NAPSA to include the informal sector.

The benefits of the measures being put in place are yet to be seen.

Legislation in place

The NAPSA Act of 1999;

The Pensions Act No. 35 of 1996;

Workers Compensation Act No. 10 of 1999.

The role of international assistance

160. Its role has mainly been to supplement Government efforts such as the review of PWAS and its redefinition to improve service delivery.

161. The State party is embarking on a review of legislation and international assistance.

162. In order to increase access and improve the health delivery system there is extensive assistance from the United Nations Development Programme (UNDP), the World Bank, WHO, Irish Aid, the Canadian International Development Agency (CIDA), etc.

163. NAPSA is intended to provide better social security by allowing the informal sector to contribute.

Constraints

- (a) The tedious process involved makes access a lengthy, cumbersome exercise;
- (b) HIV/AIDS has reduced life expectancy;
- (c) Pension sums paid to pensioners are far below the affordable amount for basic needs;
- (d) Centralization makes access to monies a cumbersome task for pensioners.

CHAPTER VI

PROTECTION OF AND ASSISTANCE FOR THE FAMILY

Article 10

The States parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

164. The State party is a party to the following: ICCPR; Convention on the Rights of the Child (CRC); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); ILO Maternity Protection Convention (No. 103), 1952.

Definition of the family

165. In the Zambian context there are two main family structures, namely the nuclear and the extended family systems.

166. The nuclear family generally refers to mother, father and children. The extended family includes other relations such as uncles, aunts, cousins, nieces, nephews, grandparents and other relations.

167. The nuclear family is more pronounced in urban areas than the extended family which tends to be stronger in rural areas.

168. However, in recent years, there has been an emergence of single-headed families. These include child-headed families and elderly persons heading families. The emergence of this problem is mainly due to the HIV/AIDS pandemic.

169. Poverty is another factor contributing to the break-up of the family system. Levels of unemployment are high. In most families only one person is in gainful employment.

170. Age of maturity:

- (a) Constitutional citizenship at the age of 21 years;
- (b) National Registration Act above the age of 16 years;
- (c) Franchise above the age of 18 years; and
- (d) A child below the age of 14 years is prohibited from entering into employment as provided under the Young Persons and Children's Act;
- (e) Consent to marry above the age of 21 years.

Formal and informal means of protection of the family

171. The Marriage Act provides for the minimum age at which persons can enter into a marriage without restriction and of their own choice. A person above the age of 21 years is free to enter into a marriage.

172. However customary law, which is recognized as one of Zambia's sources of law, provides that a person can enter into marriage at puberty providing there is parental consent.

173. The State party has put in place other legislative measures and other mechanisms for the protection of the family. These include: the Adoption Act; the Matrimonial Causes Act; the Affiliation and Maintenance Act; the Intestate and Succession Act; the Children's Act; and the Juvenile Act.

174. The local courts, the Ministry of Community Development and Social Security, and the Victim Support Unit of the Police offer further protection to the family. Informally, traditional marriage counsellors and the church also offer protection to the family.

175. In addition, measures are being put into place to harmonize customary laws with statutory laws. Various awareness campaigns are being conducted by NGOs with a view to revising the laws relating to the rights of the child.

Constraints

(a) The majority of the population is not aware of the legal provisions and mechanisms in place for the protection of the family;

(b) Most of the pieces of legislation do not recognize the extended family except for the Intestate and Succession Act.

Maternity protection

176. The State party has put in place a policy on maternity protection which provides for the protection of pregnant women during a reasonable period before and after childbirth (compulsory paid leave of 180 days). According to the General Orders of the State party, a woman is entitled to be paid leave after two years of service and two years after the previous paid maternity leave.

177. The State party through the Ministry of Health provides free training to Traditional Birth Attendants (TBAs) in peri-urban and rural areas in order to supplement the State party's efforts in protecting pregnant women. Regarding special protection to mothers during a reasonable period before and after childbirth, there are arrangements such as seclusion of the mother and child for a period of approximately six months until both are physically fine.

Constraint

(a) Paid maternity leave is only limited to those women in formal employment. However, they do not receive any other form of assistance apart from their salaries. On the other hand those women in the informal sector and those who are unemployed only receive free antenatal and post-natal care.

(b) In the past TBAs were only given a token of appreciation for services rendered. However, owing to the harsh economic environment, TBAs are now demanding a fee for their services;

(c) With the break-up of the extended family system, young mothers are often deprived of the assistance rendered by members of the extended family.

Measures of protection on behalf of children and young persons

178. At national level protection is provided for under:

- (a) The Refugee Act;
- (b) The Juvenile Act;
- (c) The Persons with Disabilities Act;
- (d) The Probation of Young Offenders Act.

At an international level, express protection is provided for under the CRC and the African Convention on the Rights of the Child.

179. Detailed information can be obtained from part IX of the initial report of Zambia under the CRC.

180. Details on the inclusion of children with disabilities are reflected in part VI, article 23, of the initial report of Zambia on the implementation of the CRC.

181. Measures of assistance to children and young people include:

- (a) The Commissioner on Juvenile Welfare who supervises the adoption process when a child is below the age of 16;
- (b) Parental counselling services on the responsibilities, rights and duties of parents by the Ministry of Health (MOH), the Victim Support Unit (VSU), the Young Women's Christian Association (YWCA), the Ministry of Community Development and Social Services, churches, NGOs, etc.;
- (c) Public welfare assistance is available to vulnerable groups such as single-parent families and those living in extreme poverty who are usually orphans.

Extent to which children are exposed to employment

182. Children are increasingly being exposed to employment owing to poverty and the impact of HIV/AIDS.

183. Groups of children and young persons who do not enjoy measures of protection include children of chronically ill parents; refugee children; orphans; street children; and disabled children.

Dissemination of information

184. Information on children's rights is disseminated in the following ways:

- (a) Seminars and workshops on human rights and democratic governance;
- (b) Children and youth international exchange programmes;
- (c) Child to child programme in primary schools (Ministry of Education);
- (d) Electronic and print media (Trendsetters, Orbit, Speak-out, Chengelo);
- (e) Peer education by NGOs.

Other measures being put in place to protect children and young persons

- (i) Policy on children and their development (Ministry of Sport, Youth and Child Development);
- (ii) Legal reform through the revision of laws relating to the rights of the child and young persons;
- (iii) National policy on social welfare.

Difficulties and shortcomings

(a) Lack of institutional capacity resulting in young offenders often being remanded together with adult offenders, resulting in their exposure to risk of sexual and other forms of abuse;

(b) While national provisions exist to ensure that a child who comes into conflict with the law must have his or her parent or guardian notified and present in court, in the absence of which a social welfare officer will normally fill this role, these are affected by inadequate and ineffective enforcement strategies;

(c) Some cultural beliefs and traditional practices often conflict with human rights norms and practices especially in cases of early marriage, incest, cleansing, spouse and child abuse.

Role of international assistance

185. Efforts aimed at the full realization of the rights enshrined in article 10 through international assistance include the following:

(a) ILO has observed, advised and financed the State's adherence to ILS. ILO has further fostered the participation of NGOs in employment creation and promotion of labour welfare;

(b) International assistance has also been rendered to the State in promoting the welfare of the family and the child through the Food and Agriculture Organization of the United Nations (FAO), UNDP, the United Nations Population Fund (UNFPA), the United Nations Children's Fund (UNICEF), the United Nations Industrial Development Organization (UNIDO), WFP and WHO. Other organizations are CIDA, the Department for International Development United Kingdom (DFID), the European Union, Irish Aid, the Japan International Cooperation Agency (JICA), the Norwegian Agency for International Development (NORAD), the Swedish International Development Authority (SIDA), the United States Agency for International Development (USAID) and the World Bank.

CHAPTER VII

THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

Article 11

1. The States parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

2. The States parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries; to ensure an equitable distribution of world food supplies in relation to need.

186. The State party acknowledges that the standard of living has deteriorated with over 70 per cent of the population living in abject poverty. This has led to the articulation of the PRSP which places agriculture as number one on its priority list of interventions. The State party is convinced that agriculture has the potential to enhance economic growth and reduce poverty. The sector is viewed as one of the driving engines for the anticipated economic growth that is required to reduce poverty and achieve an adequate standard of living for all citizens.

187. It is worth noting that most people in the State party's territory live below the recommended 2,000 kcal per capita. It is further worth noting that:

(a) 42 per cent of children under age 5 were stunted (Demographic and Health Survey (DHS) 1996);

(b) 56 per cent of children under age 5 were stunted (Living Conditions Monitoring Survey);

(c) 24 per cent of children under age 5 were underweight (DHS 1996);

(d) 4 per cent of children under age 5 were wasted (DHS 1996).

188. According to the 1997/98 Baseline Survey on vitamin A deficiency, the following was established: Baseline and iron deficiency anaemia

- (a) 66 per cent of children under age 5 were vitamin A-deficient;
- (b) 22 per cent of lactating women were vitamin A-deficient;
- (c) 65 per cent of women of childbearing age were anaemic;
- (d) 45 per cent or less of children under age 5 were anaemic.

Agriculture

189. The State party is endowed with vast natural resources which include land, water, forest, wildlife and fisheries. Though the State party was predominantly a mining-based economy, food production has always been the responsibility of indigenous Zambians. However, the right to adequate food has these last years been adversely affected by a number of factors which have in certain instances made food production and ultimately food security a near impossibility. The State party has endeavoured to secure food security through a variety of interventions with the support of cooperating partners.

190. The long-term vision for the agricultural sector encompasses the following:

- (a) To achieve food security for the majority of the Zambian population through increased yields;
- (b) To develop commercial agriculture with most farmers (small and large) producing for the domestic and export markets;
- (c) To promote a competitive and efficient agriculture sector based on comparative advantage;
- (d) To develop diversified agriculture linked to a well-developed agribusiness industry for value adding and exports; and
- (e) To have agriculture that utilizes natural resources on a sustainable basis for income and employment generation and economic growth.

191. The right to adequate food is described in the 2000 CCA report for Zambia as constituting three key food security elements, namely:

- (a) Adequate availability of food (national production, commercial imports, food aid and stocks);
- (b) Adequate physical and economic access to food (ability to purchase or produce food, largely at the household level);
- (c) Appropriate utilization of food and adequate nutritional status (adequate diet, health and caring practices).

192. The State party has put in place measures through programmes such as the Agricultural Sector Investment Programme (ASIP) as a means of achieving the right to adequate food. The State party has benefited from the support of the international community and lending agencies. The measures put in place include:

(a) The Rural Investment Fund under ASIP tailored to provide financing for infrastructure development such as access to feeder roads, storage facilities and dam construction;

(b) Provision of extension services to different categories of farmers with a view to increasing their capacities in crop and livestock production;

(c) Creation of cooperatives and recapitalizing the Cooperative Bank for purposes of providing credit to small-scale farmers. The State party has further come up with Food Security Starter Packs with a target of 200,000 peasant farmers;

(d) The State party has further embarked on a crop diversification exercise and promotion of traditional foods to act as shock absorbers to the drought that has been experienced in recent years.

193. Realization of the right to adequate food by the State party has not been without problems. The liberalization of crop marketing by the State party in the early 1990s has impacted negatively on small-scale farmers who have failed to obtain timely delivery of farm inputs and credible markets for their produce. The delay in the delivery of farm inputs has resulted in their speculation.

194. The State party has further experienced setbacks in most regions which were due to lack of effective extension services, poor storage and preservation. Agricultural inputs have been either unaffordable or unavailable. In addition, the slow pace in attitude change towards crop diversification from a traditional emphasis on maize to other drought-resistant crops has had its toll on food security and nutritional status at household level.

195. In order to correct this negative trend, the State party is in the process of establishing a Crop Marketing Authority that will act as buyer of last resort. It is hoped that the Authority which will replace the Food Reserve Agency will deliver inputs in the right quantities and at the right times to small-scale farmers and provide a sure market for their crops. It is hoped this will improve food security at household level and reduce poverty in general.

196. The State party has set up the National Food and Nutrition Commission with the mandate of implementing programmes related to nutrition. Among the functions of the Commission are:

(a) Incorporation and updating of nutritional aspects in primary and secondary curricula;

(b) Conducting nutrition education programmes at all levels (national to community level);

(c) Conducting in-service training programmes for health personnel;

(d) Conducting campaigns and community mobilization in connection with child survival promotion activities; and

(e) Disseminating improved food preservation methods and promoting dietary diversification.

197. The State party has set the following benchmarks which include:

(a) Eliminating iodine deficiency disorders and vitamin A deficiency from the list of public health problems;

(b) Reduction by one third of iron deficiency and anaemia by half of 1990 levels;

(c) Reduction of protein-energy malnutrition (PEM) by half of 1990 levels.

Housing

198. The State party has experienced high levels of urban migration. This has impacted heavily on the housing sector, resulting in unplanned settlements which are in most cases unserviced and pose a risk to public health.

199. Statistical information on the housing situation in the country suggests the need to review the status of all categories of housing, i.e. rural, urban, low cost, medium cost and high cost.

200. The State party does, however, maintain on its statute book a legal regime designed to regulate all housing-related matters. The following are some of the laws in place:

(a) Statutory Improvements Acts which try to upgrade shanty compounds or illegal settlements;

(b) Local Government Act 1991, chapter 281;

(c) Lands Act 1996, chapter 184 (CCA, p. 36, 3.2.1.3.);

(d) Town and Country Planning Act, chapter 283;

(e) National Housing Authority Act, chapter 195;

(f) Rent Act 1972, chapter 206, protects both tenants and landlords;

(g) Public Health Building Regulations, chapter 295;

(h) Rent Act 1977, chapter 206, prohibits any form of eviction and protects illegal settlements from eviction for demolition purposes;

(i) Public Health Act, chapter 295;

(j) Environment Protecting and Pollution Control Act, chapter 204.

201. The State party has put in place a number of programmes tailored towards achieving adequate housing for all citizens. Notable among the interventions are the National Housing Policy and the National Housing Development Programme which provide for:

(a) The establishment of provincial offices from where CBOs can access affordable and quality building materials;

(b) NGOs like Habitat for Humanity International to participate and promote housing development at community level. However, much more remains to be done particularly in areas of public/private partnership. These organizations operate freely and some of them receive funding from the State party.

202. It is worth noting that the State party has through the Presidential Housing Initiative (PHI), Shelter Afrique and the National Housing Authority (NHA) built housing units in newly created districts. Further in this regard, the National Housing Policy provides that 5 per cent of the national budget should go towards housing. In reality this does not occur owing to budgetary constraints. However, international organizations like Habitat for Humanity International and Shelter Afrique have been raising funds for housing. The African Housing Fund has helped the rural poor to construct cheap but quality houses.

203. The Housing Empowerment Scheme embarked upon by the State party, while empowering citizens mostly from the public and formal sectors, has equally created a shortage of housing stock for new Government employees as the replenishing rate is slow while the few housing units built under PHI are out of reach of most citizens.

CHAPTER VIII

THE RIGHT TO HEALTH

Article 12

1. The States parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

204. The State party wishes to acknowledge the fact that the health situation has deteriorated as indicated by its low life expectancy which currently stands at 37 years. This is attributable to various factors which include the deteriorating state of the economy, resulting in widespread poverty, lack of maintenance of facilities and equipment and a health structure that is unable to meet the demands of the population. This is compounded by the high incidence of malaria, HIV/AIDS and other diseases.

205. The State party has in place a National Health Policy adopted in December 1991. The State party is committed to the implementation of the WHO Primary Health Care standards and has through its Policy implemented the concepts of decentralization and community-based care.

206. The State party spends 13-15 per cent of its GNP on health as compared to 7 per cent 10 years ago. The interventions made by the State party in the health sector are many and varied. They include:

- (a) Immunization of infants against well-known prevalent diseases;
- (b) Training of medical personnel and provision of health facilities as close to the people as possible.

207. The State party has placed a lot of emphasis on the concept of decentralization within the health sector, a scenario which has seen a pyramid referral structure put in place with as many health centres close to the people as possible. The State party has set for itself a 12 km radius catchment area for each health facility. It has further devised a drug kit system for all health centres, each kit packed with all the essential drugs for 1,000 people.

Province	No. of health facilities		Ratio of doctor to patient	Ratio of nurse to patient	No. of population with access to health facilities
	Hospitals	Health centres			
Central	9	104	1:38 785	1:1 555	1 006 776
Copperbelt	-	-	-	-	1 657 646
Eastern	10	141	1:64 605	1:2 175	1 300 973
Luapula	6	105	1:56 043	1:2 081	784 613
Lusaka	-	-	-	-	1 432 401
North-Western	9	120	1:50 914	1:1 996	610 975
Northern	9	134	1:76 094	-	1 407 088
Southern	14	185	-	-	1 302 660
Western	11	117	1:31 857	1:882	782 509

208. Insofar as environmental health is concerned, a number of interventions have been made meant to forestall health problems within communities. These include:

- (a) Ensuring access to safe water;
- (b) Ensuring population access to adequate excreta disposal facilities;
- (c) Ensuring access to trained personnel for pregnant women, children and the population in general.

209. The State party has enacted the National Health Services Act, which set up the Central Board of Health (CBOH) whose functions are, inter alia:

- (a) To supervise, advise and monitor the technical performance of management boards;
- (b) To set financial objectives and the framework for management boards;
- (c) To provide technical consultancy to management boards and assist non-governmental health providers;
- (d) To coordinate the technical capacity of management boards.

210. The State party refers to Zambia's initial and first periodic report under the CRC in relation to the provision of health services to children, in particular pages 50-60.

211. The State party has put in place a legal framework that ensures environmental and industrial hygiene and related improvements. The Public Health Act, chapter 295, provides for the prevention and suppression of infectious diseases and empowers local authorities and health inspectors to inspect any premises to establish any health hazards. Further, the Environmental Protection and Pollution Control Act provides for the protection of the environment and the

control of pollution. It has further established an Environmental Council whose functions are to do all that is necessary to protect the environment and control pollution, so as to provide for the health and welfare of persons, animals, plants and the environment.

212. The State party has endeavoured to create conditions which would make health services available to most people. In this regard, the State party has established health facilities in almost all communities with a view to bringing health services as close to the people as possible. The pyramid structure of the health delivery system is a deliberate move to keep treatment as close to the people as possible allowing only serious cases to be attended to through the referral system.

213. The State party, however, wishes to state that the provision of health services as close to people as possible is yet to be fully realized as the health sector still requires institutional capacity-building. This can be seen through the inadequate number of trained medical personnel and inadequate medical equipment.

214. The State party, however, has sought to make use of traditional modes of health service delivery in certain aspects of medicine and in particular in the area of birth attendants. The State party acknowledges that TBAs play a critical role for expectant mothers especially in the remote areas of the country.

215. The State party acknowledges the presence of vulnerable groups in society and in this regard has put in place social safety nets for these groups. For instance, elderly people over 65 years and children under 5 years are exempted from paying any medical fees in Government health facilities while other vulnerable groups of people are taken care of through PWAS run by the Social Welfare Department in collaboration with health institutions.

National HIV/AIDS activities in the State party

HIV/AIDS overview in the State party

(a) The first AIDS case was diagnosed in 1984. Today the State party is one of the countries worst affected by HIV/AIDS in sub-Saharan Africa;

(b) HIV prevalence is between 5-15 per cent in rural areas and between 20-30 per cent in urban areas among the sexually active population;

(c) It is interesting to note that HIV prevalence is highest in the 29-30 age group for women, and in the 30-40 age group for men;

(d) However, HIV prevalence has declined by a large margin in women aged between 15-19 years (from 28 per cent from the early 1990s to 15 per cent in 1998);

(e) Furthermore, the prevalence rate of HIV has stabilized in most rural and urban areas. Regrettably, it has been observed that isolated rural areas are still having rising prevalence rates (2 out of 10 areas);

(f) The highest number of new infections occurs in adolescent girls, with a ratio of 7 girls to 1 boy;

(g) In industry the death rate that is due to AIDS is around 3-5 per cent per year. This has a great impact on families and socio-economic development;

(h) Projections indicate that the mortality rate is still increasing and will peak by the year 2005.

(i) The number of orphans is increasing rapidly. Currently there are over 500,000 orphans as a direct result of AIDS. In most communities 20 per cent of children have already lost one or both parents;

(j) In the State party, the HIV/AIDS epidemic has not only caused great suffering and death; it is also diverting resources that were meant to deal with other health problems;

(k) Fifty per cent of hospitals are occupied by patients suffering from HIV/AIDS-related illnesses.

HIV/AIDS activities under the AIDS Council and the Ministry of Health

- (i) Voluntary counselling and testing (VCT) services are being provided in 22 centres spread throughout the country. There is a need to scale up this service, which is hindered by lack of resources;
- (ii) Provision of youth-friendly reproductive health services in order to encourage health-seeking behaviour and provide access to care by the young - creating youth-friendly corners in the health centres;
- (iii) Provision of technical and financial support to projects run by either government departments or NGOs;
- (iv) Assisting communities to create district multisectoral HIV/AIDS taskforce committees to address issues pertaining to the smooth running of HIV/AIDS activities;
- (v) The home-based care concept, which was moulded by the State party in 1986 at Chikankata Mission Hospital, has now been widely accepted by most communities in the State party. This programme is managed and supported by the community and has managed to reduce the demand for hospital beds by chronically ill patients;
- (vi) A prevention of mother-to-child transmission (MTCT) programme is being tested in 3 out of 72 districts. The major limitation of expansion will be the high price of drugs;
- (vii) Working with traditional healers to break myths and misconceptions;
- (viii) Validation of the efficacy of traditional herbs claimed by traditional healers.

Major constraints in programme management

- (a) Although political support is quite evident, not enough funds are allocated for specific HIV/AIDS programmes;
- (b) Programmes which need to be scaled up after pilot phases are usually not expanded;
- (c) Resources which need to be channelled to other health programmes are now being diverted to HIV/AIDS;
- (d) Provider burn-out is quite evident, given the chronic illnesses AIDS patients have to bear;
- (e) Access to drugs, especially to antiviral therapy is out of reach for the majority of Zambians;
- (f) Although a demand for VCT has been created, HIV reagents are not readily available in most centres.

CHAPTER IX
THE RIGHT TO EDUCATION, INCLUDING THE RIGHT TO FREE AND
COMPULSORY PRIMARY EDUCATION

Article 13

1. The States parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - (a) Primary education shall be compulsory and available free to all;
 - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
 - (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
 - (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
 - (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.
3. The States parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.
4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

216. The State party's legislation does not provide for free and compulsory primary education. However, it demonstrated commitment towards the introduction of free and compulsory primary education through the National Strategy Plan aimed at among other things, the realization of seven years of primary education by 2005 and nine years of basic education by 2015. Details on the law and policy of primary education can be referred to in Zambia's initial report under the CRC, specifically pages 69-73. In particular, reference is made to paragraph 404 which outlines the Ministry of Education's policy goals for the provision of universal education for all children.

217. The State party's commitment to universal, free and compulsory primary education is further demonstrated in the Ministry of Education Circular No. 1 for the year 2001 issued to all provincial education officers, district education officers, heads of schools, education boards and heads of community schools, to the effect that grade 7 examination fees and all statutory fees have been abolished.

218. Acknowledging the World Declaration on Education for All of 1990, the Dakar Framework for Action of 2000 and Government policy, the Ministry of Education had supported and implemented programmes and projects aimed at achieving Education for All by the year 2015. The Circular cited the launching of PAGE (1997), Breakthrough to Literacy (1998), the Basic Education Subsector Investment Programme (BESSIP) (1999) and the Interactive Radio Instruction Project (2000) as efforts towards achieving this goal.

219. In spite of the programmes and the construction of new classrooms, statistics for the period 1996 to 1999 indicate that enrolment rates at the grades 1-7 levels stagnated at 1.5 million (1,547,389 in 1996 and 1,555,709 in 1999). This stagnation was attributed mainly to dropping out owing to failure to meet school-related costs. The decision to abolish grade 7 examination fees and all statutory fees, with effect from January 2001, was taken in order to reduce the high dropout rates and increase school retention.

220. The Ministry further requested parent-teacher associations (PTAs) and education boards to refrain from imposing high levies and user fees on children. Any levies or fees are to be minimal and for specific school projects and should have the consent of the majority of parents. Schools were encouraged to engage in other legitimate ventures that would generate income.

221. Access to primary school education is limited by the following factors:

- (a) Gender discrimination and general inequalities;
- (b) Geographical location;
- (c) Socio-economic restraints.

222. Access to the right of education is further hampered by inadequate school facilities and learning and human resources. The curriculum and language of tuition also impact negatively on the quality of education. Poverty and the HIV/AIDS pandemic have increased demands on school-going children resulting in disruptions in learning.

223. The CCA report indicates, however, that overall, primary school enrolment has risen slightly during the past nine years (as at November 2000), but the dropout and repetition rates remain high, as do the numbers of those who complete the primary cycle without becoming literate.

224. For persons who have not been able to complete primary school education or have simply never had the opportunity to pursue such education, State party policy is to promote open learning, lifelong education and a wide variety of mechanisms for continued learning and distance education.

225. Measures in place include the introduction of community schools, Interactive Radio Instruction and the Ministry of Education's Department of Continuing Education to provide basic and secondary education for children who have been bypassed by the formal school system. The number of pupils on these programmes has increased steadily over the years.

226. With regard to secondary school education, the State party wishes to report that education at this level is not free. Under a cost-sharing policy, parents/guardians are expected to meet part of the cost of educating a child at secondary school level. There are no measures currently in place for implementing free secondary education.

227. Accessibility to secondary education in the State party is quite low, current demand far outstripping supply. The 2000 report on Zambia indicates that 32 per cent of grade 7 pupils graduate to grade 8 which is the beginning of secondary school, and only 17 per cent of the 14-18 year-olds are enrolled at secondary schools. Female pupils account for only 38 per cent of these. In order to increase access to high school education academic production units have been introduced for grades 8-12. Pupils pay a fee for the use of school facilities in the afternoon.

228. There are various types of higher education in Zambia; these include two universities, one in Lusaka and the second in the Copperbelt. There are 12 primary and 2 secondary schoolteacher training colleges and about 150 public vocational training institutes. The demand for higher education in Zambia is very high compared to available places. More than 20,000 pupils complete secondary school each year and of these approximately 13,000 obtain a full certificate making them eligible for admission into a tertiary educational programme. Higher education institutions have an annual intake of 5,000 students some of whom are mature students. This has resulted in only a quarter of the applicants for higher learning institutions being admitted each year.

229. The State party's cost-sharing policy is even more pronounced at this level of education. For example, government-sponsored university students must contribute 25 per cent of the required fees. Currently, 75 per cent of university students are self-sponsored. There are no measures to introduce free higher education.

230. The State party has put measures in place for the education of persons with physical, mental, hearing or visual impairments. Zambia's education policy "Educating Our Future (1996)" upholds the principle that every individual has an equal right to education. Therefore,

every individual, regardless of personal circumstances or capacity, has the right of access to, and participation in, the education system. The Ministry of Education has established the Zambia Institute of Special Education which trains specialized teachers in visual, intellectual and physical impairments.

231. The State party wishes to report that statistical information on literacy rates by sex in 1999 indicated that 77 per cent of the male population is literate as compared to 63 per cent of the female population. Reference can also be made to page 67 of the CRC report.

Equal access to different levels of education

232. The State party believes in the right of everyone to education. However, access to education at the various levels is dictated by a number of factors which have resulted in inequalities. With regard to primary education, the factors that have had a bearing on education at this level include:

- Sex;
- Geographical location;
- Socio-economic status.

233. The male literacy rate is 76.4 per cent, much higher than for females which stands at 56.5 per cent (as at 1995). In recent years the discrepancies have decreased sharply, equality being masked by the fact that girls tend to enrol earlier, but also drop out earlier, largely because they marry earlier and become mothers/managers of the home, rather than income earners. Also, when households are forced to choose, they tend to prefer to keep boys at school.

234. Geographical location is a major determinant of access to primary education. Net enrolment rates (NERs) were lower in rural areas (61 per cent) than in urban areas (80 per cent), reflecting deeper poverty and greater distances to schools. There is also a wide range in NERs between provinces - from 74 per cent in the Copperbelt to 47 per cent in the Eastern Province.

235. School attendance rates are also affected by socio-economic status as follows:

(a) Small, medium and large-scale farms have 58 per cent, 74 and 76 per cent NERs respectively;

(b) Low, medium and high-cost housing areas have 74, 85 and 87 per cent NERs respectively.

236. Further, access to primary education is also limited during periods when household labour is required, such as farming, fishing or even caring for sick members of the household.

237. The Ministry of Education recognizes the right of refugee children to education by placing them in schools.

238. Governmental action to guarantee equal access to education includes bursary schemes (see paragraphs 509-510 of the CRC report), PAGE and BESSIP (see paragraphs 544-554 of the CRC report).

Linguistic facilities

239. The main language of instruction in the Zambian education system is English. However, measures have been introduced in the Ministry of Education to deliver lessons in local languages at a lower basic level, i.e. grades 1-4 and also for initial literacy learners under the Primary Reading Programme, which is still at the pilot stage.

Teaching staff conditions

240. The general conditions of teaching staff remain low. However in August 2002 unionized primary and secondary schoolteachers were awarded salary increases that reflect the Government's commitment towards improving the plight of schoolteachers. Unionized primary schoolteachers were awarded a salary increase of 80 per cent with further improvements made to some of the existing conditions of service. Unionized secondary teachers were awarded an increase of 40 per cent and the rate of special education allowance was revised from 20 to 30 per cent. Previously the highest paid primary schoolteacher was paid Z266,505 equivalent to US\$ 60 per month.

241. The State party measures to improve conditions of teaching staff is done through the Public Service Reform Programme and negotiations between the State party and labour unions.

Private educational institutions

242. The education policy has liberalized the education sector. Private individuals can, therefore, set up schools and other educational institutions provided legal and administrative requirements are fulfilled.

243. The State party wishes to report that access to private schools and other educational institutions is very limited. These institutions are unaffordable for the majority and the fees they charge are independent of the Ministry of Education's regulations. Only Zambians who are economically comfortable and the expatriate community are able to benefit from education offered by private institutions.

Factors and difficulties

244. Other than those already referred to, the factors and difficulties affecting the effective realization of the right to education as guaranteed under article 13 are outlined as follows:

Institutional growth: the expansion of existing structures has been slow owing to the following:

(a) Inadequate qualified human resources. This includes teachers, lecturers and administrators. The number of qualified personnel is not adequate to meet the learning needs of pupils with special educational needs;

(b) Inadequate provision of learning and teaching equipment: this includes laboratories, textbooks, etc., and lack of sufficient educational provisions for the profoundly impaired;

(c) Poor economic performance has also hampered the effective realization of the right to education. Since early 1980 the education sector has suffered from severe underfunding. This had led to provisions of insufficient resources for essential educational inputs;

Rapid population growth in relation to places available in educational institutions;

The HIV/AIDS pandemic has had adverse effects on the enjoyment of the right to education as this has resulted in the increased death of teachers as well as parents or guardians. HIV/AIDS places an extremely heavy burden on those tasked with nursing the sick, who are usually school-going children;

Foreign debt.

245. For a further indication of the constraints and challenges to the realization of the right to education, reference is made to paragraph 566 of Zambia's initial report under the CRC.

CHAPTER X

THE RIGHT TO LEISURE, ART AND CULTURE

Article 15

1. The States parties to the present Covenant recognize the right of everyone:
 - (a) To take part in cultural life;
 - (b) To enjoy the benefits of scientific progress and its applications;
 - (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and cooperation in the scientific and cultural fields.

Legislation

246. The Constitution of Zambia in article 112 (g) under part IX recognizes the right of a person to participate freely in cultural life. Article 112 (g) states that the State shall take measures to promote the practice, enjoyment and development by any person of that person's culture, tradition, custom or language insofar as these are not inconsistent with the Constitution.

247. Other laws that impact on the enjoyment of cultural rights include:

- (a) The National Arts Council Act of 1995 (performing and visual arts);
- (b) The National Heritage Conservation Commission Act of 1989;
- (c) Copyright and Performance Rights Act of 1994 (Zambia Music Copyright Protection Society).

248. Zambia subscribes to the definition of culture adopted at the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Conference on Cultural Policies, held in Mexico in July-August 1982.

National policy

249. Currently Zambia does not have a national cultural policy. However, measures have been taken by the State to initiate a draft national cultural policy through the Ministry of Community Development and Social Services. At the moment cultural administration is managed through State party policy statements.

Management of culture

250. The ministries and institutions responsible for the management of culture in Zambia are listed below:

- Ministry of Community Development and Social Services;
- Department of Cultural Services;
- National Arts Council of Zambia;
- Ministry of Tourism;
- Museum of National Heritage;
- Ministry of Information and Broadcasting;
- Services Management of Copyright Act;
- Ministry of Home Affairs;
- National Archives;
- Ministry of Science, Technology and Vocational Training;
- Professional training;
- Ministry of Education: provision of education in art. University of Zambia: literature and languages.

Grants to cultural associations

251. The Ministry of Community Development and Social Services gives grants to the following:

- (a) National Arts Council of Zambia, which in turn distributes funds to its affiliate cultural associations;
- (b) Traditional Health Practitioners of Zambia;
- (c) Traditional ceremonies (e.g. C'Wala, Mutomboko, Likumbi Lyamize, Kuomboka, etc.) There are over 50 traditional ceremonies throughout Zambia.

252. In addition, each ministry or institution gives a grant to the cultural organization for which it is responsible, e.g. Ministry of Tourism gives grants to museums.

Cultural exchange among local ethnic groups

253. Cultural exchange is done through the following:

- (a) Traditional ceremonies;
- (b) Local publications;
- (c) Traditional medicine;
- (d) Handicrafts, masks, dances and songs.

International cultural exchange

254. Zambia is a signatory to a number of bilateral and multilateral cultural exchange agreements, e.g. Malawi-Zambia, China-Zambia, Japan-Zambia. Participation of community-based cultural associations is encouraged. In particular, Zambia has benefited through the International Centre for Bantu Civilization (CICIBA), based in Libreville, Gabon, from the establishment of the Microstation Data Bank for Culture at the University of Zambia's Institute for Economic and Social Research.

International conventions

255. Zambia has acceded to the following international conventions on copyright and related rights:

- Berne Convention for the Protection of Literary and Artistic Works Universal Copyright Convention;
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

256. Sensitization workshops on copyright have been held under the auspices of the World Intellectual Property Organization (WIPO) for various groups of people, including journalists, artists, the police, musicians and others.

Constraints

257. The following are the constraints that impact on the right to cultural life in Zambia:

- (a) Inadequate investment in the promotion of local culture and art;
- (b) Inadequate research programmes in local cultures;
- (c) Capacity for diffusion of Zambian culture has become increasingly difficult because of the challenges brought about by globalization.

Science and technology

Legislation

258. There is no specific legislation on science and technology in Zambia. However, the Constitution of Zambia provides in article 112 (e) that the State shall endeavour to provide equal and adequate educational opportunities in all fields and at all levels for all. It could be argued that access to scientific and technological education is implied in that provision. Another relevant piece of legislation is the Science and Technology Act No. 26 of 1997.

National policy

259. The broad national policy objective for science and technology is to include these as part of key sectors for promoting competitiveness in the production of a wider range of quality goods and services (Revised National Policy on Science and Technology, May 1996, part III).

260. The measures that have been taken to promote science and technology include:

- (a) Setting up of the National Industrial and Scientific Research programme;
- (b) The National Heritage Conservation Commission Act of 1999;
- (c) National Science and Technology Council; and Environmental Council of Zambia.

CHAPTER XI

CONCLUSION

261. Zambia's initial report was drafted in the context of the specifications and the requirements of article 2 of the International Covenant on Economic, Social and Cultural Rights.

262. The State party has diligently recognized its obligations in ensuring that the substantive guarantees of the Covenant are fully realized. The State party has also acknowledged that, while it has the obligation of ensuring the enjoyment of economic, social and cultural rights by its citizens, there are several constraints which hinder the satisfactory dispensation of these provisions.

263. The major constraints impacting negatively on the people's economic, social and cultural rights include:

- (a) HIV/AIDS pandemic whose negative effects permeate human resource distribution, create the orphanage syndrome, and diminish the ever-inadequate health resources;
- (b) High rates of unemployment have contributed to many families being deprived of essential economic and social services;
- (c) Economic decline, that is mainly due to the diminishing mining industry, has contributed to the unsatisfactory enjoyment of economic and cultural rights;
- (d) Rapid population growth has contributed to inadequate resources in housing, education, health and other social services which include water and sanitation.

264. In its effort to ease the harsh impact of growing economic and social hardships, the State party has embarked on a SAP reform programme. This, however, has yielded very little result and the State party has had to be included on the donors' relief programme for HIPC's.

265. In this report too, the State party has clearly stressed the measures it intends to embark on as a step to fully realize economic, social and cultural rights. Some of the measures recognized in this report are:

- (a) **POLICIES:** Child Labour Policy; Gender Policy; National Housing Policy; National Health Policy; National Agricultural Policy; National Policy on Education; National Labour Market Policy; TEVET; National Labour Policy; Social Security Policy; OHS Policy; Low Productivity Policy; HIV/AIDS and Labour Market Policy;
- (b) **ACTS:** Employment Act, Employment of Young Person's and Children's Act; The Minimum Wage and Conditions of Employment Act; Factories Act; National Pensions Scheme Act; Worker's Compensation Act; ILR Act;

(c) PROGRAMMES: Promoting reproductive health campaigns programmes; awareness of human rights in schools and workplaces; application of ILO/WHO guidelines, which prohibit discrimination against persons with HIV/AIDS in workplaces: SADC code on HIV/AIDS in workplaces; WHO/ILO guidelines on HIV/AIDS;

(d) TREATIES: The State party has wished to emphasize its commitment to fulfilling economic, social and cultural rights by ratifying, inter alia, ILO conventions and the major United Nations human rights conventions.

266. Having all these measures in place would be just one step towards the better enjoyment of economic, social and cultural rights. The State party is therefore called upon to ensure that most of the measures elaborated in this document are properly domesticated if there is to be satisfactory enjoyment of these rights.
