

## **II. Education**

### **A. Reform of the education sector**

The MMD Government did inherit an educational system which was already in decline because of lack of investment during the 1985-90 economic slump. A reduction in the construction of new schools and classrooms meant double and even treble shifts in existing facilities in order to accommodate additional pupils. This led to overcrowding, low teacher morale and fatigue. The Government ceased to pay for normal teaching resources such as chalk, desks, blackboards and textbooks. No maintenance was carried out on school buildings. All of these factors resulted in a further decrease in the morale of teachers and the overall quality of education, undermining its value in the eyes of parents at the time when the poorest were faced with hard economic decisions over whether to leave their children in school.

#### ***1. The National Policy on Education***

In 1992, the Government published its *Focus on Learning: Strategies for the Development of School Education in Zambia*. The initial stress was upon the identification of priorities, the development of realistic policies and the mobilisation of available resources. In 1996, building upon this original strategy document, the Government published a comprehensive new national policy on education, *Educating Our Future*.

The goal of educational reform is to deliver quality education with equity of access for all.<sup>1</sup> In common with health sector reform, the overarching plan is to maximise the use of available resources and to decentralise decision-making and the management of education to the local level. Several key strategies are to be pursued.<sup>2</sup> The status of lower primary schools (Grades 1 - 4) will be upgraded to provide full primary education (Grades 1 - 7).<sup>3</sup> The existing infrastructure is to be rehabilitated and added to where necessary. The management of local education and the running of schools will be decentralised to education boards. Local communities and voluntary organisations are to be supported in the creation, financing and running of schools. The principle of cost-sharing is therefore given prominence while the Government aims to provide technical assistance, some material support, and a number of state-funded teachers. The education sector as a whole is to undergo liberalisation. By the removal of controls over the entry of education providers, the aim is to increase private investment and to encourage the participation of non-government actors, including missionaries and church groups who have provided education in the past. Finally, ways will be explored by which education can be delivered to those unable to attend conventional schools, for example, children in remote rural areas, the disabled and those who have been orphaned.

#### ***2. The integrated use of resources under the Education Sector Investment Programme and the Basic Education Sub-Sector Programme***

An Education Sector Investment Programme (ESIP), akin to its counterpart in health, has been developed to implement policy by improving the coordinated use of resources across the sector.<sup>4</sup> It provides a common framework for the actions of the four relevant government ministries involved in education and training, as well as donors, NGOs and the private sector.<sup>5</sup> The Government has identified three main priorities: to deliver universal basic education (Grades 1 -9) in the shortest realistic time-frame; to urgently address the needs of those outside of formal education who have either never been to school or else have been forced, by economic or other circumstances, to drop out; and to provide youth skills training for employment in the formal or informal sectors. An overarching concern of ESIP is to promote greater equity in education by promoting the interests of the poor, girls and women, those with special needs and other vulnerable groups.<sup>6</sup> The achievement of gender balance in education is sought with the equal participation of girls by the elimination of factors that hinder their access, progression and accomplishment.<sup>7</sup>

Within the overall ESIP framework, it is the Basic Education Subsector Investment Programme (BESSIP) which is the focus of current action.<sup>8</sup> The programme, developed jointly between Government, donors and other stakeholders, aims to increase enrolment at the primary and lower secondary levels and improve the quality of education as measured by learning achievements.<sup>9</sup> Planned action focuses upon raising the number of teachers; improving classroom learning by providing books, targeting disadvantaged groups and addressing the problem of pupil malnutrition and ill-health; providing better pre- and in-service teacher training; the continued refurbishment and building of classrooms, and revision of the curriculum; and advancing decentralisation and education management.<sup>10</sup>

BESSIP is split into two stages. Over the period 1999 - 2001, the program will cost about \$340 million.<sup>11</sup> Of this amount, \$167 million is to be financed by the Government of Zambia. The balance of \$173 million is to be met by donors, of which the World Bank is to provide \$40 million.<sup>12</sup> In a second phase running from 2001 - 2006, the plan is to consolidate the achievements of the first phase and then extend the program, in particular by expanding provision for disadvantaged groups and by paying special attention to remote rural areas.<sup>13</sup> Projected costs for the second phase total \$500 million.<sup>14</sup> Once more, the Zambian Government is expected to meet half of the financing or \$250 million while donors will provide the rest. The Bank's share in phase two is costed at \$60 million; however, it must be noted that both the Bank and other donors will only proceed if a number of key benchmarks have been met by the end of phase one.<sup>15</sup>

There are many positive aspects to BESSIP which, if realised, will further realise the right to education. At the same time, its full implementation is by no means assured. The World Bank, while providing instrumental support for the program, is candid in conceding that there is a 'substantial risk' that BESSIP will not deliver upon its first phase objectives.<sup>16</sup> The Government has outlined how it plans to implement the first phase of BESSIP.<sup>17</sup> The need to switch further resources to the education sector and to maintain expenditure at the primary level is recognised.<sup>18</sup> However, the failure of the Government to increase budget allocations for education in general and the primary subsector in particular is rated a moderate risk and the Bank has noted 'the lack of a financially sustainable policy framework for the sector.'<sup>19</sup> The further deterioration of the macroeconomic situation in Zambia is deemed a substantial risk, despite the approval by the Bank of the new PSREPC adjustment credit in January 1999. In such a circumstance, it is therefore difficult to see how domestic expenditure on education could keep being maintained in line with BESSIP commitments. Commentators have already noted that the domestic education budget is not being adjusted in accordance with the plan of action required under BESSIP: it is neither increasing in any substantial way nor is there an increase in the necessary capital allocation.<sup>20</sup> Instead, donors are being looked to for the necessary support.

Furthermore, despite continued restructuring of the Ministry of Education under both the Public Sector Reform Programme and through internal measures, its institutional performance is deemed to be weak and to pose a significant risk to implementation of BESSIP.<sup>21</sup>

Finally, the danger that enrolment will continue to be adversely affected by wider problems of out-of-school household factors, such as poverty and the debilitating effects of HIV/AIDS has been deemed a moderate risk. This rating appears complacent in the face of evidence which suggests that, by the end of 1997, a fifth of the adult population in Zambia was infected with HIV/AIDS and that 360,000 children under fifteen had lost one or both parents to the disease;<sup>22</sup> and in the face of evidence from many agencies which confirms that many parents believe that the benefits of primary education are outweighed not only by its direct cost, but also by the loss of income to an impoverished household when a child is sent to school rather than set to work around the home. Parents in Zambia meet half the national cost of primary education in direct fees. Beyond limited targeting measures, BESSIP does little to change this situation. Indeed, the provision of primary education in Zambia is predicated on the principle of cost-sharing which runs contrary to the progressive implementation of the right to compulsory primary education free to all.

### ***3. Restructuring and decentralisation***

In order to achieve the decentralisation of responsibility, resources and authority, the education sector is being restructured.<sup>23</sup> District Education Boards are to administer and manage the provision of education in primary and integrated schools. Secondary schools and teacher colleges are each to have their own Education Boards. At both the district and institutional levels, Education Boards are expected to relieve the Ministry of Education of the day-to-day running of educational establishments; to improve the autonomy and democratic decision-making in management; and to allow for greater responsiveness to local needs<sup>24</sup>. The central Ministry of Education itself will be streamlined and restructured. Its main tasks, in parallel with those of its counterpart in the health sector, are to formulate policy, to establish a core curriculum, to develop training, to set appropriate benchmarks and goals, to monitor standards and to undertake supervision of the system.<sup>25</sup> An intermediate tier of Provincial Education Officers act as a link between the Ministry and the Educational Boards.

Decentralisation in the education sector started in 1994, in advance of formal restructuring, when funds were released directly to Provincial Education Officers. A pilot project in the Copperbelt to establish District Education Boards to run primary schools commenced in 1995 with a view to its countrywide extension by the end of 1996. This commitment, alongside others to introduce boards in training and secondary schools, was specified in the Government's *Letter of Development Policy* under ESAC II, although its fulfilment was not a specific loan condition.<sup>26</sup> However, by the end of 1996, the planned expansion had not been realised and the program remained confined to the Copperbelt in 1997.<sup>27</sup> Education Boards to run secondary schools were to have been operational by the end of 1997, but this aim has not been achieved. More realistic targets have now been set; in the period 1999 - 2001, Education Boards will be established in at least 60 per cent of Zambia's districts and training will be provided for staff in all districts.<sup>28</sup>

## B. Evidence of the increased denial of the right to education

The analysis of the denial of the right to education in Zambia is structured around five subsections. First, evidence is presented of prima facie non-compliance with article 13 on the right to education. This necessitates an immediate focus upon the right to primary education. The analysis is framed in respect of some of the key elements of the right to primary education as codified in the Covenant: universal access and compulsion; adequacy and quality. Second, given that resource constraints must be taken into consideration in assessing compliance, the extent to which this is a credible basis for a defence of the Zambian Government's poor record on meeting its minimum core obligations is tested. The advisability of international assistance measures *vis-à-vis* realisation of the right to education is reviewed in this context.

Consideration of the requirement that primary education is to be free to all is therefore postponed until the issue of resource availability has been broached. However, a third subsection deals explicitly with the controversial subject of fees and the Zambian Government's policy of cost-sharing in the context of liberalisation of the education sector. A fourth subsection examines the extent to which the Zambian government meets its obligation under the Covenant to target educational resources at vulnerable and disadvantaged groups. Finally, attention is paid to the gender dimension within the principle of non-discrimination and the extent to which girls and women in Zambia fully realise their right to education.

### 1. *Prima facie non-compliance with the right to primary education*

Zambia has a core obligation to ensure, at the very least, minimum essential levels of the right to education. If any significant number of individuals is deprived of the most basic forms of education, then the Government is prima facie failing to discharge its obligations under the Covenant.<sup>29</sup> What constitutes 'the most basic forms of education' is not elaborated upon within the general comment. Determination of prima facie violation in respect of this benchmark is made by the Committee in its review of State reports. However, it also follows, given the universality of a minimum essential level, that the Committee has a benchmark in mind. The basis for this must be the right to education as codified in the Covenant and the Committee's interpretation of the nature of this right and a State party's obligations. Minimally, the argument is advanced here that the widespread denial of elements of the right to primary education in Zambia constitutes a deprivation of the most basic forms of education.

Within the Covenant, specific attention is given to the right to primary education. Article 13, in recognising the right of *everyone* to education, requires that, for its full realisation, 'primary education shall be *compulsory* and available free *to all*.'<sup>30</sup> The first and last italicised clauses reinforce the right of universal access to education. Furthermore, the element of compulsion in the right to primary education has been determined by the Committee to mean that 'neither parents, nor guardians, nor the State are entitled to treat as optional as to whether the child should have access to primary education.'<sup>31</sup> Article 14 requires the adoption of a time-tabled plan for progressive implementation of the right. In other words, this action constitutes one of the steps which a State party is required to take for the progressive achievement of the right to education.

One issue is in need of clarification. If article 14 obliges a State party to fix a target date - for example, five years hence - for the implementation of universal primary education, then the implication is that article 13 need not be realised in the interim. It would therefore be difficult to record prima facie non-compliance with the Covenant. However, such an interpretation fails to take into consideration that while universal primary education may not be achievable immediately, that is not to say that the denial of basic education to significant numbers of children is acceptable; nor does it free a State party from the obligation of progressive achievement; nor from its obligation to use maximum available resources. The fact that Zambia has adopted an action plan for universal primary education does not preclude scrutiny of the current realisation or denial of the right nor consideration of the appropriateness of the plan itself.

Enrolment, attendance and completion rates all indicate the degree to which universal access to primary education is realised. Given the element of compulsion, it is also necessary to consider the reasons for any failure to deliver universal primary education. If there is a sheer lack of capacity to teach pupils, then it is *de facto* impossible to deliver compulsory primary education. Furthermore, when parents or guardians feel compelled to withhold or withdraw their children from attending school, then access to primary education is being treated as optional. However, the reasons for keeping a child from school in Zambia often reflect the perceived or actual value of low-quality education when set against its cost. Full realisation of the right to primary education depends not only upon universal access, but also on whether the education received is of adequate quality and is free to all. The Zambian Government has an obligation to formulate effective policy in both areas.

### **a. Enrolment, attendance, drop-out**

Significant numbers of children in Zambia are deprived of primary schooling as the most basic form of education. Economic uncertainty and increasing poverty, coupled with a decline in access to good schools, is reflected in falling enrolments and attendance. The net enrolment ratio (NER) for children of primary school age in Zambia is falling.<sup>32</sup> In 1985, 96 per cent of Zambians of primary school age were enrolled. By 1994, this figure had dropped to 83 per cent.<sup>33</sup> Figures for 1996 record a further decline in the NER to 72 per cent.<sup>34</sup> Put another way, three out of ten children of primary school age in Zambia who ought to be in school are not even enrolled. Net attendance ratios for 1996 reflect this situation: 69 per cent of primary age pupils were being taught in schools at Grades 1 - 7.<sup>35</sup> Almost a third of those who should have been in school were not present. Attendance is higher in urban areas than in rural areas. In the countryside, only six out of ten children of the appropriate age were attending primary school in comparison to eight of ten of their urban counterparts.<sup>36</sup>

As a State party to the Convention on the Rights of the Child, the Zambian Government is required to 'take measures to encourage regular attendance at schools and the reduction of drop-out rates.'<sup>37</sup> Yet not only are fewer children attending primary school in the first place, but estimates also suggest that a lower proportion are then completing their primary education. Primary school completion rates have fallen from 83 per cent in 1990 to 78 per cent in 1996.<sup>38</sup> Recent survey data suggests an even worse scenario:<sup>39</sup> as many as 35 per cent of those who enrolled in Grade 1 will no longer be enrolled in primary school at Grade 7.<sup>40</sup> The average figures mask geographic and gender inequalities. In rural areas, one girl in every two who starts school fails to complete her primary education.

The enrolment, attendance and completion figures confirm that a significant number of Zambian children do not enjoy access to primary education. In the light of this situation, it must be recalled that the right to primary education is compulsory. Furthermore, the statistics constitute strong evidence of regression, contrary to the principle of progressive realisation. There are two underlying reasons for the decline in primary school enrolment and attendance rates. The first is the lack of capacity. This is a long-standing problem. The second reason is a fall in demand for primary education and an unwillingness to send children to school. This explanation has come to the fore only in recent years and is a cause for concern.

### **b. The growing deficit in appropriate capacity**

There is a chronic shortage of school places. This situation is a legacy of the sharp decline in investment in the education sector which began during the economic slump of 1985 - 1990. In this period, class sizes increased considerably, double and treble shifts were introduced, and teaching hours per student declined.<sup>41</sup> Under the national education policy, the aim is to ensure that 'every child will have access to a minimum of seven years good quality education in a school of parental choice.'<sup>42</sup> Hence the plan is to upgrade all schools that end at Grade 4 to full primary status to teach all Grades 1 - 7; to rehabilitate the existing infrastructure; and to provide new facilities where necessary, for example in peri-urban areas.

Between 1993 - 1996, the stock of existing schools was targeted for refurbishment.<sup>43</sup> This work continues under the BESSIP. Both initiatives have attracted considerable donor support. In addition, a few new schools have been built, mainly in urban areas. Overall, however, the total number of primary schools has increased only marginally since 1990 and the distribution of capacity fails to address the needs of the multitude of children living in urban squatter settlements.<sup>44</sup>

One measure of capacity is class size. In 1996, there were approximately 1.84 million children of primary school age in Zambia.<sup>45</sup> In addition, a significant number of over-age children, in the region of 180,000, were enrolled in primary schools. Fulfilment of the requirement of compulsory primary education for all is therefore predicated on a capacity of at least 2.02 million places. In 1996, there were about 43,000 primary classes, giving an average class size of 35 children based on actual enrolments of 1.51 million. It is therefore apparent that, if all potential pupils were to be catered for, average class size would increase to 47. In other words, in order to maintain class size at current levels, current capacity would have to expand by a third. However, it is pertinent to note that, first, current capacity is not evenly distributed and there is a severe deficit in poor urban areas; and, second, that declining demand also contributes to low enrolment figures.

Notwithstanding the decline in demand for primary education, many parents would send a child to school if the capacity existed locally. The problem differs somewhat between urban and rural areas. In urban areas, especially in high density and shanty settlements, there is a severe shortage of places in primary schools. In Lusaka, in 1996, there were 37,835 seven-year-old applicants for 17,082 Grade 1 places. The remaining 20,753 children were rejected.<sup>46</sup> A mean class size of 44 pupils in Lusaka in 1996 was already much higher than the national average.<sup>47</sup>

Children in squatter settlements must either walk to over-crowded schools in approved areas or else do without. If they are fortunate, they will have access to a community school. However, there are very few of these in comparison to the number of poor children in urban compounds who require an education.<sup>48</sup> In rural areas, there is over-capacity in that many schools are far from full. The reason for low enrolment reflects the fact that many rural children live a considerable distance from a school: around 16 per cent must travel over six kilometres each way if they are to attend classes.<sup>49</sup> The journey to school is not only time-consuming, but may be hazardous and will certainly leave children exhausted and unable to concentrate fully on their lessons which itself contributes to a high drop-out rate.<sup>50</sup> The aggregate survey figures mask the fact that the nearest primary school is likely to teach only Grades 1 - 4 and is therefore unsuitable for pupils ready to progress to higher grades. As 300 of Zambia's rural primary schools cover only the lower grades, then many children must either board in the locale of an upper primary school or else walk exceptionally long distances, in excess of ten kilometres each way, if they are to complete their primary education.<sup>51</sup> This is seldom feasible.

As has been noted, the Committee recognises the importance of national benchmarks and specific targets in the pursuit of progressive realisation of the rights in the Covenant.<sup>52</sup> In respect of the progressive implementation of primary education, as framed in article 14, the requirement is for compulsory primary education free of charge for all. National goals must accord with this requirement. Any leeway that exists, does so in relation to the time-frame within which the right to primary education must be delivered. However, this is itself strictly defined:

'...article 14 specifies that the target date must be "within a reasonable number of years" and moreover, that the time-frame must "be fixed in the plan". In other words, the plan must specifically set out a series of targeted implementation dates for each stage of the progressive implementation of the plan. This underscores both the importance and the relative inflexibility of the obligation in question.'<sup>53</sup>

Postponing the question of its compatibility with all elements of the right to primary education - especially on the issue of charges - the Zambian Governments national policy on education does specify targets for the achievement of universal primary education:<sup>54</sup> 100 per cent of 7 year-olds are to be in Grade 1 by 2000 and 100 per cent of 7 - 13 year-olds are to be in Grades 1 - 7 by 2005. In addition, the Government has set a target for the achievement of universal basic education (Grades 1 - 9) for all 7 - 15 year-olds by 2015. Increasing school enrolment is one of the two main objectives of BESSIP, although the second goal of improving learning achievement, if realised, will encourage attendance at school.

Over the period 1994-6, the Ministry of Education projected an increase in primary school enrolment of 110,000. In actual fact, it decreased by 33,000 over the period. Based on population projections of the number of children of primary school age, to reach the target of universal primary education by 2005 would require a growth in enrolment of, on average, 96,000 pupils each year. A corresponding increase in school capacity would be needed to cope with these numbers. In the post-independence period, school capacity surged and the resources devoted to education were relatively high. Even so, the number of enrolments was some 45,000 per year, under half the numbers required if Zambia is to meet its target of universal primary education by 2005. There is therefore little likelihood that the target will be met.

The Government's other target of universal basic education requires that 100 per cent of pupils should make the transition to secondary education and thereby receive at least nine years schooling. While the immediate focus is upon the right to primary education, it is pertinent to note that low completion rates in higher primary grades are undoubtedly linked to incapacity in secondary schools. By 1990, only one in every four primary students could go on to secondary education.<sup>55</sup> This bottle-neck remains a barrier. For example, a 1996 study of urban poverty on the Copperbelt reported that only one student in five was progressing to secondary school in Kitwe.<sup>56</sup> The Government's practical policy response - largely as a result of community demand and participation in how schools are run - has been to upgrade schools from primary to basic status which teach Grades 1 - 9. As a result, the progression rate at the national level had improved to just over 37 per cent by the end of 1997, although the total number of pupils sitting the exam at Grade 7 had itself fallen.<sup>57</sup> Considered opinion suggests that the capacity exists to cope with little more than one third of the eligible school population at Grade 8.<sup>58</sup> Furthermore, the upgrading programme has had an adverse impact upon primary education. Some schools have found the extra capacity by cutting their intake at Grade 1. The best teachers have been switched to teaching the higher grades.

### c. The quality of education and decline in demand

The second reason for declining enrolment and attendance is a decline in demand. It manifests itself in half-empty lower primary schools in rural areas; and, while the problem is partly concealed by the deficit in capacity in urban areas, it manifests itself in high drop-out rates and the increasing numbers of children on the streets.<sup>59</sup> An expert on education in Zambia has highlighted the growing seriousness of this problem: 'In the past people saw education as their great hope and promise for the future. Many no longer do so. Disillusion and disappointment characterize their attitudes towards schools.'<sup>60</sup> At the root of this disaffection is not only the concern that education is unaffordable, but also grievances relating to its quality and relevancy. The standard of education is low and deteriorating, children learn little, and schooling, especially at the primary level, does little to increase the prospect of waged employment.

The element of compulsion in the right to primary education cannot be interpreted solely in terms of reinforcing the requirement of universal access to primary education. The right is not fully realised if the education on offer is of an inferior standard, irrespective of whether it is free and accessible to all. The Committee has determined that the education offered 'must be adequate in quality, relevant to the child and must promote the realization of the child's other rights' if the right to education is to be fully realised.<sup>61</sup> Quality in education is therefore associated with real learning achievement. The Covenant is also explicit in recognising that full realisation of the right to education requires that 'the material conditions of teaching staff shall be continuously improved.'<sup>62</sup> This is taken to encompass both the teaching environment and conditions of service *per se*.

#### i. Real learning achievement

An overriding consequence of poor quality education is low learning achievement. Learning outcomes in Zambia have not been measured in a systematic way to date. While the Ministry of Education is in the process of developing a national assessment scheme, certain facts can be established.<sup>63</sup> On leaving primary education, too many Zambian pupils have very low levels of numeracy and literacy. In 1995, almost 98 per cent of Grade 6 pupils - the penultimate grade in primary school - did not reach the desired level of reading ability set by the Ministry of Education's own experts. Three-quarters of pupils at this grade could only be judged to be illiterate. Low learning achievement is associated with the use of English as the teaching language.<sup>64</sup> The Government's revision of this policy to allow initial literacy to be taught in local languages is therefore a welcome development. However, implementation of this is at present limited to a pilot project of 25 rural schools in Northern Province because teachers often do not speak the appropriate local language, in urban schools children may speak a diversity of local languages, and because of the cost implications of translating textbooks.<sup>65</sup> Overall, illiteracy rates in 1996 were a little over 35 per cent for both young men and women aged 14-20. Furthermore, the illiteracy rate among young men have risen above that experienced by their fathers.<sup>66</sup>

It must be recalled that, for the right to primary education to be realised, what is taught must be relevant to the child and must promote the realization of their other rights.<sup>67</sup> The style of teaching in Zambian schools has been characterised as 'authoritarian and didactic.' It fails to engage pupils: 'The classroom is all too often a place of mechanical, rote learning and much of this is of little relevance or use to the children's lives.'<sup>68</sup> Girl pupils fare particularly badly as little attention is paid to their particular needs. These failings reflect the curriculum; they also reflect problems with the supply of trained teachers - please refer to subsection (iii) below. The existing curriculum is to be reviewed under BESSIP and redrafted to focus on acquiring literacy and numeracy skills in the first four years of schools, and life skills in later years.<sup>69</sup>

In principle, children in the lower primary Grades 1 - 4 receive three and a half hours teaching each day. This represents only two-thirds of the time allotted in comparable developing countries. The global norm for the first four grades of school is 900 contact hours each year whereas in Zambia it is 500 hours.<sup>70</sup> In practice, the situation is considerably worse. It has been estimated that, once time for assembly, physical education, and school cleaning and gardening chores is subtracted, actual teaching time is reduced to between two and two and half hours. Upper primary Grades receive, in theory, about five and half hours of teaching each day. This is broadly equivalent to that recorded in other developing countries. In rural areas, contact time is lost as teachers must travel to collect their salaries.<sup>71</sup> Pupils are used by teachers as labour around their own homes and gardens. Recent reports suggest that this long-standing practice has extended to the hiring out of child labour to local farms to raise school revenue. The conclusion reached in the report on education in Zambia commissioned by Oxfam is that 'involvement in such labour could fritter away the already short instructional day to an inadmissably low level.'<sup>72</sup> The Ministry of Education target to extend the instructional time for lower Grades 1 - 4 to five hours is unrealistic in present circumstances. Already, many teachers take two three and half hour sessions each day. In many urban schools, three shifts are taught. Extending working hours to such an extent when many teachers are utterly demoralised is untenable: indeed, there are hardly sufficient hours of daylight. At the same time, sufficient resources to train and employ additional staff do not exist.

## *ii. Continuous improvement in the teaching environment*

The Government is required to actively pursue the development of a system of schools within which the material conditions of teaching are to improve. The implication is that the Government must seek the improvement of school facilities - from the fabric of classrooms to a safe water supply and adequate sanitation. The adequacy of material conditions is determined, in part, by aspects of other rights within the Covenant: the supply of safe water and the improvement of sanitary conditions is encompassed by the right to health;<sup>73</sup> and the right to an adequate standard of living, including the right to housing and the requirement for a continuous improvement in living conditions, must extend to the conditions in, and the fabric of, the classroom.<sup>74</sup> In parallel to the concept of adequacy defined in relation to housing, schools must have access to essential services and be habitable over the course of the day.<sup>75</sup> The final element of material conditions relates to essential teaching supplies, in particular writing materials and textbooks.

### *1) School infrastructure*

The deficit in the quality of school infrastructure remains high. At the same time, there have been significant achievements in the improvement of facilities, furnishings, water and sanitation as a result of donor support under the Zambia Education Rehabilitation Programme and the wider Social Sector Rehabilitation and Development Programme. While 1,100 schools have been rehabilitated, 1,400 more warrant the same attention and a further 1,000 require rebuilding.<sup>76</sup> Under BESSIP, the aim is to rehabilitate 1,600 classrooms and build 3,000 new ones by 2001.<sup>77</sup> A significant proportion of this work is expected to be carried out by local communities with support from the Micro-Projects Unit which operates with donor funding under the Ministry of Finance and Economic Development.<sup>78</sup> In 1996, 46,000 desks were supplied to 4,000 schools but shortfall is still in the range 40-70 per cent depending on the province in question.<sup>79</sup> One third of schools are without any proper source of safe water. A third more are connected to piped water, but the service is erratic due to the inadequacy of the dilapidated infrastructure or even because councils cut-off supplies when bills are not paid. In Lusaka in 1995, for every 114 pupils there was one toilet; in the urbanised Copperbelt, the ratio was 89 to 1. Sanitation in rural schools consists mainly of unimproved pit latrines or the bush. Averaged across Luapula, Central and Southern Provinces, the mean number of pupils to each latrine was eighty.<sup>80</sup>

### *2) Essential teaching supplies*

The supply of educational materials to schools has been described as 'completely inadequate' despite the use of donor resources to supply 1.4 million books in 1996.<sup>81</sup> In rural areas, it is typical for five pupils to share one textbook at the core of the curriculum. In order to improve learning readiness, one aim of BESSIP in its first phase is to supply 5 million textbooks by 2001.<sup>82</sup> At present, it has been calculated that provincial education authorities received K15 or less than two US cents per pupils for spending on teaching requisites. With such an abysmally low level of Government funding, schools have little choice but to look to parents to provide essential materials. It is clear that many either cannot afford these items or do not judge the expenditure as warranted. In late 1995, over a quarter of primary school classrooms were without chalk or a useable blackboard; 87 per cent of pupils were without a reader/textbook; almost 60 per cent of the teacher's were without a desk; and a third of pupils were without either a ballpoint pen or a pencil.<sup>83</sup> One positive development has been the construction, with donor backing, of sixty-three provincial and district resource centres throughout the country by the end of 1997.<sup>84</sup> These function as in-service training centres. They allow teachers to seek advice, and to consult or produce their own teaching materials. In addition, 611 more modestly resourced zonal centres are being designated. Under BESSIP, the intention is to turn these centres into model schools to disseminate ideas and training to other local schools. These zonal centre are to receive priority in the rehabilitation of infrastructure, the supply of materials, the provision of water and sanitation, targeted health interventions and teacher development.<sup>85</sup> This must present the inherent danger that such schools will improve at the expense of others.

## *iii. Continuous improvement in the conditions of teachers' employment*

The requirement of continuous improvement in the material conditions of teaching staff must warrant consideration of conditions of employment to include sufficient training, reasonable hours and fair wages. This is in accordance with both the provision of training and vocational guidance under the right to work within the Covenant<sup>86</sup> and with the relevant requirements under the right to just and favourable conditions of work.<sup>87</sup> However, according to a recent World Bank appraisal, '[t]eachers are underpaid, poorly prepared and deployed, trained in insufficient numbers and provided with little support in schools.'<sup>88</sup>

### 1) *Teacher training*

Almost one in four primary school teachers in 1996 were untrained.<sup>89</sup> A little over three quarters had received two years of teacher training. Rural schools, especially those in remote areas, have the highest concentration of untrained staff. In North West Province, 42 per cent of teachers had received no training whereas in Lusaka all but 6 per cent of staff were untrained.

Specific policy initiatives have been aimed at managing the deployment of trained teachers and controlling the numbers of untrained staff.<sup>90</sup> The teachers' payroll register has been examined in order to remove in the region of 1000 'ghost' teachers from the system. At the same time, during 1996, the Government sought to develop a system for allocating teaching posts at primary schools based upon enrolment figures and agreed teacher to pupil ratios. Ceilings for the hiring of untrained teachers were to be calculated accordingly. One concern must be that low enrolment figures and poor attendance in rural areas produce ostensibly better teacher to pupil ratios. Hence the allocation of trained teachers to these areas is unlikely to be judged a priority. In 1998, the Government announced its intention to increase the number of trained teachers with a view to eliminating the need for untrained staff in the medium-term.<sup>91</sup>

A project, supported by the Danish development agency, is currently underway to improve the infrastructure of teacher training colleges. A trial is underway to assess the feasibility of doubling their output by adopting a two year course which will combine teacher training with actual work in schools.<sup>92</sup> The follow-on BESSIP aims to continue support for this approach. The caveat is that implementation of this goal will require the availability of the necessary finance: it has already been noted that the scheme 'requires a huge investment of resources, particularly scarce expertise, to make it work.'<sup>93</sup> Furthermore, funds are required not only to sustain the training program, but also to improve the working condition of teachers so that they do not leave the profession. Indeed, success relies most heavily on reducing attrition, especially given the high toll which AIDS is having on the teaching profession.<sup>94</sup> In terms of in-service training, this will be limited under BESSIP to teachers in earmarked zonal schools who will then be expected to disseminate their knowledge to other teachers in the locale.<sup>95</sup> However, while the emphasis in these schools will be upon developing the careers of teachers, those in other schools may feel less well motivated.

The emphasis of the World Bank has been upon backing training appropriate to the decentralisation of managerial responsibility, not upon educational training *per se*. All primary school heads and over a third of education officers, primary school inspectors and those in management positions received managerial training over the period 1993 - 1997. These programmes ceased when the Education Rehabilitation Project ended in 1998, although the Bank is now providing finance for training through BESSIP.

### 2) *Wages, working conditions and teacher welfare*

Teacher morale is at a low ebb. In qualitative terms, many believe that their status in the community is declining. The pressures of the job are reflected in an apparent increased incidence of drunkenness and absenteeism, as evidenced by beneficiary assessments.<sup>96</sup> Teachers are a high risk group to contract the AIDS virus. The statistics are shocking. The HIV/AIDS infection rate is around 19 per cent among Zambian adults. A similar rate of infection might be expected among the teaching profession, although an urban sample survey for 1991 found that 42 per cent of teachers were HIV positive. Partial data suggests that two teachers die as a result of AIDS each day. This is equivalent to annual output of four out of Zambia's ten pre-service teacher training colleges.<sup>97</sup> Even if the planned doubling of the output of teachers from training colleges is achieved, this will not keep pace with attrition when, in all likelihood, a fifth of teachers will die as the result of AIDS over the next ten years.<sup>98</sup>

In quantitative terms, the starting salary for teachers has fallen in real terms from the equivalent of \$310 per month in 1980, to \$100 in 1990, to less than \$65 in 1998.<sup>99</sup> Put another way, '[a]t a starting salary of \$660 annually teachers are paid less than university students get for their meals and almost 25% below the CSO [Central Statistical Office] estimate of the poverty line for a household with two adults and two children.'<sup>100</sup> This is despite the fact that a massive nine-tenths of the primary sector education budget is spent on salaries and allowances. The result has been an exodus of trained teachers to countries such as Botswana and South Africa.<sup>101</sup> The motivation among those who remain in Zambia is often reduced. Under the rubric of improving primary teaching/learning readiness, BESSIP aims to increase teacher salaries.

To add to the problems teachers face - as evidenced in Section 2(III) on land and housing in this submission - a significant number have suffered inequitable treatment in the allocation of government and parastatal houses, including threatened and actual evictions. Although the profession shows great collective resilience, there is an inevitable effect on the quality of teaching in Zambian schools.

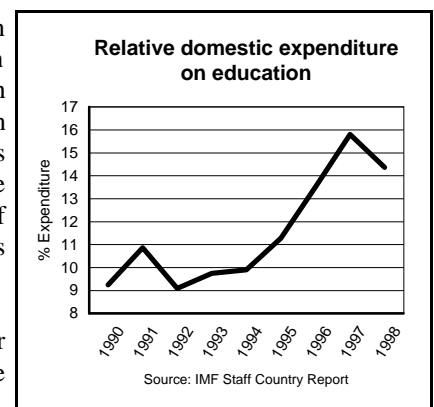
## 2. Expenditure on education and the use of maximum available resources

A State party to the Covenant is obliged to use maximum available resources in taking steps towards progressive realisation of the right to education.<sup>102</sup> Due consideration must therefore be given to the Zambian Government's record on relative and real expenditure on education. However, two other aspects of resource use are important. Firstly, and arising from the obligation to satisfy an essential minimum level of each right, every effort must be made to use resources, as a matter of priority, to satisfy the right to primary education.<sup>103</sup> Secondly, measures adopted by the international community impinge upon both the availability and allocation of resources. Their advisability, as this effects realisation of the right to education in Zambia, is therefore a legitimate area of concern. Loan agreements have been used to foster the protection of essential spending on education while adjustment conditionality has simultaneously required the decimation of public expenditure. While bilateral and multilateral donor funds are injected into the rehabilitation of the education infrastructure, the servicing of Zambia's debts, in the absence of sufficient balance of payments support, forces a transfer of resources from the domestic budget.

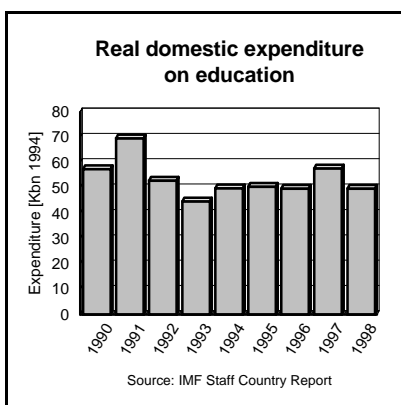
### a. Relative and real expenditure

The MMD has a mixed record over the protection of relative expenditure on education. Over the period 1992 - 1994, spending on education failed to exceed ten per cent of domestic expenditure.<sup>104</sup> In 1995 and 1996, and corresponding with Bank conditionality under ERIP and ESAC II, relative allocations increased. In 1996, education accounted for over 13 per cent of domestic expenditure. This percentage increased significantly in 1997, although there is some doubt over the official figure.<sup>105</sup> More representative of recent years is the 14.3 per cent of domestic expenditure spent on the education sector in 1998. However, the figures on relative expenditure are misleading unless placed in perspective.

First, education fares less well relative to total public spending (including donor funds) because other sectors have been favoured by donors of late.<sup>106</sup> This balance should tip towards education with the commencement of BESSIP.



Second, because public expenditure has itself been decimated, it is instructive to relate public spending on education directly to total resources measured in terms of GDP. From 1992-1996, on average, about 2.5 per cent of GDP per year was spent on education compared with double this level or 5-6 per cent a decade earlier.<sup>107</sup> Third, Zambia does not fare well in comparison with neighbouring countries where, over the same reference period, the amount spent on education accounted for 6-9 per cent of GDP.<sup>108</sup> Finally, and notwithstanding improved efficiency, the reform program cannot be implemented unless it is adequately resourced in real terms.



Domestic spending on education has fallen significantly in real terms since the early 1980s. Adjusting for the value of the Kwacha, spending in 1993 was less than half the level of ten years earlier.<sup>109</sup> It has since stabilised at a level somewhat above this low-point, although less is spent in real terms than at the start of the decade. The same was spent in real terms in 1998 as it had been in 1996. The figure for 1997 is anomalous and has been questioned. The expert view is that the Zambian Government is spending only half of what it should on education in relation to national production and the size of its population.<sup>110</sup> In 1996, average real spending per student was \$50 compared to \$118 in 1983.<sup>111</sup> During 1996, this was the equivalent of 16 per cent of per capita GDP. In comparison, the equivalent of 27 per cent per capita GDP was spent on education in 1983.

## b. Spending on primary education

Significant numbers are denied the right to primary education in Zambia. This must represent a prima facie failure by the Zambian Government to discharge its core obligations under the Covenant. To reverse this conclusion, the Zambian Government must demonstrate that 'every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.'<sup>112</sup> At the very least, the funding requirements of the primary sector must be considered first and foremost when educational resources are allocated.

Averaged out over the period 1980 - 1984, primary education accounted for 39 per cent of education expenditure compared with 33 per cent a decade later over the period 1990 -1994.<sup>113</sup> During corresponding periods, university education attracted, respectively, 16 per cent and 19 per cent of education spending. As commentators have noted, 'primary schools received a smaller share of a shrinking budget, the universities a larger share.'<sup>114</sup> The situation in the early 1990s therefore continued to reflect a longstanding bias in the Zambian education system towards expensive and elitist university education.

The low point in terms of equity over the decade was 1992, the MMD's first year in power, when the share of the education budget spent on the primary subsector stood at just 20 per cent or half the level of the 40 per cent plus relative expenditure of the first half of the 1980s.<sup>115</sup> Considerable progress has since been made in protecting and, more recently in increasing, relative expenditure on primary education. During 1996, it received 43 per cent of actual expenditures.<sup>116</sup> This brings Zambia's relative expenditure on the subsector in line with other countries in sub-Saharan Africa.<sup>117</sup>

Despite this relative improvement, two major problems are apparent. First, education spending remains skewed away from the poor. The top two socio-economic quintiles benefit from 60 per cent of education spending at the secondary level compared with the lowest two quintiles who receive 25 per cent.<sup>118</sup> The tertiary sector consistently receives over a fifth of total funds when less than 1.5 per cent of the population go on to higher education, including the 0.2 per cent who take a degree or higher degree.<sup>119</sup> While seven out of every ten Zambians in 1991 were living below the poverty line, only one out of every ten university students came from a poor background.<sup>120</sup> The latest figures do not indicate any change in these proportions. Survey data for 1996 shows that zero per cent of subsistence farmers, the majority socio-economic group in the country, had received any post-secondary education compared with 15 per cent of Government employees, even though there was a fifth the number of people in the latter group.<sup>121</sup>

A major imbalance persists between per capita domestic expenditure at primary, secondary and tertiary levels. In 1996, the amount spent per secondary school pupil was 2.3 times that spent on each primary school pupil.<sup>122</sup> Domestic spending per university student was 138 times higher in 1994 than per capita domestic spending at the primary level. The gap narrowed marginally during 1995 and 1996 to a factor of 120, but grew again in 1997 to a factor of 135. Put another way, the Zambian government was spending the equivalent of \$3688 on each university student in 1997 compared with \$27 on each primary pupil. It is the degree of disparity which is a cause for concern, even accounting for the fact that university education is more costly.

However, the picture of allocations by level of education does become more complicated when donor support for education is factored in. The gap between spending per pupil at the primary and per student at the university levels narrows to a factor of 94 in 1996. Furthermore, whereas total public spending (domestic and donor) per primary pupil went up each year on average by 5 per cent from 1991 - 1998, public spending per university student increased by only 0.4 per cent over the same period. The reason for this favourable relative shift is because the vast majority of donor funds are earmarked to be spent at the primary level.

The second major problem is that the amount spent on primary education is patently not enough in real terms. Real domestic expenditure on primary education has declined by 4 per cent a year over the period 1986 - 1996.<sup>123</sup> Adjusting to constant prices, real domestic spending on primary education over the period 1992 - 1997 was, on average, only 54 per cent of the level of 1986.<sup>124</sup> In the latter three years of this period, real domestic expenditures on a per capita basis have at least stabilised.<sup>125</sup> This is to be welcomed, although a number of caveats apply: the number of primary school enrolments has declined since 1994;<sup>126</sup> and a massive 90 -95 per cent of domestic spending on the primary subsector is absorbed by teacher salaries. It is only when donor resources are included, that the situation can be seen to improve significantly. Real public spending on primary education (domestic and donor funds) has increased by 14 per cent per year on average over the period 1990 - 1998. However, one final factor is of crucial importance in any discussion of real allocations to the education sector: the parameters agreed with the international community, in particular the multilateral agencies, concerning austerity measures and social conditionality. This must be clarified to determine whether a dependency relationship exists wherein donor funds are simply replacing domestic expenditure which has itself been curtailed in order to pay multilateral and bilateral debts.

### c. External resources and multilateral conditionality

Some have expressed the view that donor and NGO support for the education sector, while crucial, nevertheless allows the Zambian Government to reduce its own allocations from the domestic budget. State parties to the Covenant have an obligation to seek international assistance which the international community has a degree of responsibility to provide. When considered in relation to the right to education, it is apparent that donor support is warranted. This provision in no way diminishes the obligation of the Zambian Government to use its maximum available resources to achieve full realisation of the right to education. External resources ought to supplement maximum domestic expenditure on education, and not be used as a substitute by allowing Government commitments to be reduced. However, while the Zambian Government bears responsibility for its own record on the relative protection of the education budget, it is not exclusively responsible for the catastrophic decline in real domestic expenditure since the mid-1980s. The international community requires, firstly, that Zambia accord priority to debt servicing in order to benefit from continued assistance. In Zambia's case, net transfers have been insufficient and the Government has found it necessary to draw upon domestic resources to meet its obligations. Secondly, multilateral adjustment lending has been conditional on the strict implementation of stabilisation measures. Swingeing cuts in public expenditure, including spending on education, have been required from the Government to bring its domestic account into balance. It is of paramount importance to view the limited conditionality on the protection of relative education expenditure in the context of this austerity which brings into the question the advisability of international assistance measures under article 22 of the Covenant. Thirdly, because of the high level of dependency on external assistance, funding of primary education is placed in considerable jeopardy when donor support wanes. This circumstance threatens implementation of BESSIP. Finally, consideration must be given to article 14 and the obligations on the international community which arise from its unique formulation.

#### i. Debt servicing, balance of payments support, and external assistance for education

Taken as a whole, donor support for education in Zambia is vital. The Government's *Economic Report 1997* suggests that external assistance for education during the year was worth \$40 million, the equivalent of just over 40 per cent of the Zambian Government's own domestic resources of \$95 million which it budgeted for the sector in 1997.<sup>127</sup> Approximately half of these donor funds were officially included in the Government's total budget for expenditure on education of \$115 million.<sup>128</sup> The other half was spent directly on projects without passing through the domestic accounts. Donor finance is provided mainly for investment in school buildings, materials, and training rather than being spent on recurrent costs, such as meeting teacher's salaries. Over recent years, donor funds have been used to rehabilitate primary schools, to build new schools in a few major towns, to pay for extensions and teacher housing, to provide many schools with safer water and better sanitation, to equip schools with desks and books, and to finance teacher and managerial training.<sup>129</sup> Donor support for the integrated BESSIP is considerable, although by early 1999 actual donor commitments fell short of the amount required for implementation of the first phase of the program by some \$60 million.<sup>130</sup> However, the claim that new funds will be forthcoming is increasingly open to challenge - see subsection (iii) below.

The argument has been made in this submission that such a positive transfer of resources to Zambia must be set against the outflow of resources to donor countries and the multilaterals to cover debt servicing in the absence of sufficient balance of payments support. Overall, the Government spent four times as much servicing overseas debt than it did on the education sector over the period 1993 - 1996.<sup>131</sup> The amount given by donors in balance of payment support fell short of the amount needed to service debt repayments by some \$176 million in 1996 and by \$96 million in 1997. The equivalent of \$166 million was transferred from the domestic budget to help pay the interest on foreign debt in 1996.<sup>132</sup> After offsetting this amount against assistance grants worth the equivalent of \$106 million paid into the domestic budget, then it is apparent that \$60 million was transferred to multilateral banks and donor Governments.<sup>133</sup> In comparison, officially recorded donor resources for education - that is, those channelled through the domestic budget - were worth \$16.2 million in 1996, although probably about the same amount again was spent directly on projects. Overall, this \$60 million transfer represents just under 70 per cent of the total amount of \$88.4 million which the Government spent on education in 1996 and one and a half times the \$38 million which it spent on the primary education subsector during the same year.<sup>134</sup> Put another way, if half of these resources had been channelled to the education budget, then this would eliminate all direct costs presently met by parents or guardians for primary education.<sup>135</sup>

#### ii. The influence of adjustment conditionality on education expenditure

It is impossible in the context of this submission to further breakdown and review bilateral and regional multilateral assistance. The focus will be upon the advisability of the measures pursued by the World Bank in the education sector. On the one hand, the Bank has provided welcome project assistance. A \$32 million Education Rehabilitation Project ran from late 1992 until its closure in mid 1998. This has financed the repair and expansion of primary schools, the provision of basic learning materials, and the strengthening of administrative and managerial support, including training.

In addition, the Bank's Social Recovery Projects have part-financed micro-projects chosen by local communities, the majority of which have focused on refurbishing 221 primary schools. To follow-on, the Bank has approved a \$40 million loan for BESSIP. As has been noted, successful completion of the first phase will trigger a second Bank loan of \$60 million for the period 2001 - 2006.

On the other hand, the question remains as to whether this level of assistance is enough given that it is Bank/IMF stabilisation and adjustment measures which have required the decimation of public expenditure. The case against the Bank/IMF has already been made within this submission - please see Section 1. It will not be repeated here in detail. It is sufficient to note that agreements on fiscal and monetary performance have figured in all six of the Bank's adjustment credits between 1991 and 1997. These have required the reduction of the domestic budget deficit, the control of unplanned spending, the introduction of strict cash budgeting and the prohibition of public sector borrowing. Government public expenditure fell in real terms by 35 per cent between 1991 and 1997. To recap, real spending on education during the MMD's time in office, adjusted to constant prices, has ranged between 46 per cent - 55 per cent of the levels recorded in 1986.<sup>136</sup>

It must also be reiterated in the strongest possible terms that, while the Committee recognises that adjustment is often unavoidable and encompasses austerity measures, under such circumstances action to protect the most basic rights become more, rather than less, urgent.<sup>137</sup> Both State parties to the Covenant and the World Bank and IMF have an obligation 'to make a particular effort to ensure that such protection is, to the maximum extent possible, built-in to such programmes and policies designed to promote adjustment.' In the context of the advisability of international assistance, the Committee has recommended that, *inter alia*, 'every effort should be made, at each phase of a development project to ensure that the rights contained in the Covenants are duly taken into account.'<sup>138</sup> The right to education and other rights within the Covenant were not given this consideration in the design and implementation of adjustment operations in Zambia. The view of Oxfam International is unequivocal:<sup>139</sup>

'The experience of Zambia between 1991 and 1996 powerfully demonstrates the need for education and social-policy planning to be integrated into the design of structural adjustment policies from the outset. Bluntly stated, the government's declared objectives for education...were inconsistent with the fiscal targets negotiated....'

#### **Bank adjustment conditionality on the protection of expenditure on education**

Specific agreements within the Bank's last four adjustment credits have afforded, to varying degrees of success, relative budget protection. This includes stipulations on allocations to the education sector. ESAC I required the Government to improve budget allocations to and within the social sectors during 1994. The education sector was to receive 15 per cent of the domestic budget.<sup>140</sup> Ostensibly, this target was met although the Bank concedes a decline in real terms and admits that it was the difficult to differentiate between spending on the delivery of services as opposed to paying civil service salaries.<sup>141</sup> Furthermore, the Bank's own poverty monitoring at the time recorded 'poor access to and quality of education'.<sup>142</sup> Legal covenants in the ERIP and ESAC II required the Government to maintain levels of social sector spending in 1995 and 1996 respectively.<sup>143</sup> The latter sought protection of relative spending on education at just under 17 per cent of the discretionary domestic budget.<sup>144</sup> The Government also stated in its *Letter of Development Policy* that allocations to the primary subsector as a whole would be maintained at 1995 levels, that is 36 per cent - 40 per cent of expenditure on education.<sup>145</sup> Furthermore, subsectoral expenditure totalling K7.08 billion on primary school recurrent costs, student requisites, grants to the newly established Copperbelt Education Boards, and the supply of school desks were made the subject of protection in absolute terms.<sup>146</sup> The Bank's latest adjustment loan, the Public Sector Reform and Export Promotion Credit, specifies slightly increased relative social expenditure during 1999.<sup>147</sup> Relative expenditure on education and training is set at just under 19 per cent of the discretionary domestic budget. However, the further protection of key subsectoral components, such as allocations to primary schools, is no longer specified.<sup>148</sup>

The significance of protecting social spending in relative terms is diminished when placed in this context of the decimation of domestic expenditure. Adjustment conditionality has achieved some success in protecting relative allocations to the education sector and in altering the balance towards primary education. However, this modest gain is overshadowed the sheer and overriding lack of real resources bought about by unrelenting, mistimed structural adjustment and stabilisation. The link between economic adjustment conditionality and the ultimate denial of the right to education is clear and unequivocal: it must, at the very least, bring into question the advisability of international assistance measures under article 22 of the Covenant.

iii. *Dependency as a threat to the realisation of the right to primary education: the undermining of BESSIP*

It has been established that donors provide considerable financial support to the education sector in Zambia. It has also been established that domestic resources flow out of Zambia to service debt and that this constitutes a considerable net transfer from the Zambian Government to its creditors when balance of payments support is withheld. This circumstance is of considerable concern; however the harm done to realisation of the right to primary education is compounded when not only balance of payments support, but even programme assistance is jeopardised by loan conditionality. This appears to be the case with BESSIP which encompasses the whole primary education subsector.

The funding of BESSIP has been carefully costed, but is subject to two major provisos.<sup>149</sup> First, domestic finance will be sufficient, but only if assumptions about projected real economic growth of 4 per cent in 1999 are realised. Second, it is essential that donor funds are made available. Unfortunately, there have been considerable blows to the Zambian economy.<sup>150</sup> As of mid-1999, the sale of Konkola Deep and Nkana/Nchanga, the core assets of ZCCM, had not been finalised, leading to shortfalls of more than 15 per cent in the collection of revenue. A previous public sector pay freeze has been deemed illegal by the Industrial Relations Court, requiring the Government to pay a salary increase of 40 per cent unless the ruling is overturned. On top of this, domestic debt continues to climb. The mid-term financial framework drawn up by the Ministry of Finance, which determines the domestic allocation to education and BESSIP, is formulated on the assumption that balance of payments support will cover debt servicing without the need for domestic transfers.<sup>151</sup> A suspension in BOP support - for example, because of the failure to conclude the sale of ZCCM - would almost certainly result in the restriction of actual spending on BESSIP as there is no in-built contingency. Furthermore, as less than half the donor finance for BESSIP had been committed by March 1999, and as commitments are themselves predicated on biannual joint appraisals, it is altogether possible that a decline in Government counterpart spending would prompt donors to withhold funds.<sup>152</sup> A vicious circle is thereby threatened wherein a failure to meet economic conditionality precipitates a crisis in social support. Ultimately, it is Zambian children who will suffer as a consequence.

iv. *Article 14 and the obligations of the international community to provide technical assistance*

The unique requirement contained in article 14 for the adoption of a plan of action to implement compulsory primary education free to all 'applies, almost by definition, to situations characterized by inadequate financial resources'.<sup>153</sup> In determining the obligations which arise from article 14, the General Comment continues:

'By the same token, and for the same reason, the reference to "international assistance and cooperation" in articles 2.1 and 23 of the Covenant are of particular relevance in this situation. Where a State party is clearly lacking in the financial resources and/or expertise required to "work out and adopt" a detailed plan, the international community has a clear obligation to assist.'<sup>154</sup>

State parties are encouraged 'to seek the assistance of relevant international agencies...in relation both to the preparation of plans of action under article 14 and their subsequent implementation'.<sup>155</sup> The World Bank and IMF, *inter alia*, are named by the Committee in this capacity. It is apparent that the Zambian Government has sought the assistance of the World Bank in developing its national education policy. The World Bank is therefore under a clear obligation to assist Zambia to meet its own obligations on an urgent basis; it must do so 'to the greatest extent possible';<sup>156</sup> and the assistance it offers must be in accordance with all other elements of article 14.

The Bank's Education Rehabilitation Project financed the Education Policy Studies Program 'aimed at providing inputs for the Zambian leadership to develop the proposed Integrated Education Sector Program'.<sup>157</sup> At the same time, the Bank supported restructuring of the education sector by instigating an assessment and audit of the Ministry of Education and other sector ministries.<sup>158</sup> The resulting action plan fed directly into the Government's formulation of crucial policy and investment decisions on education, to be implemented through what was to become its Education Sector Integrated Programme.<sup>159</sup> In early 1995, the Bank 'intensified discussions' with the Government over the nature of this programme with a view to providing the assistance necessary to carry it through.<sup>160</sup>

The Bank has played a key role in the development of education policy and implementation strategies under the resulting BESSIP.<sup>161</sup> Furthermore, aspects of education policy have been the subject of certain of the Bank's adjustment loans. One objective of ESAC I was to improve the delivery of social services. It sought reform based upon the decentralisation of budgetary powers and decision-making; the shifting of some activities to community groups; and the restructuring of, *inter alia*, the education budget.<sup>162</sup> Conditionality on education centred not only on the maintenance of budget allocations but also on the revision of sector policies.<sup>163</sup> Implementation of ESAC saw the beginning of the devolution of responsibilities to the District Education Boards.<sup>164</sup> ESAC II fostered continued decentralisation.<sup>165</sup> It is pertinent to note that the implementation of education policy was not the subject of a specific loan agreement setting

conditions for the release of funds. Nevertheless, in its accompanying *Letter of Development Policy*, the Zambian Government set out its programme of action on education under the credit. Its commitment to the national education policy and the Education Sector Investment Programme - to include the plan for universal basic and primary education - was reiterated.<sup>166</sup>

The Bank's project and adjustment measures appear, ostensibly at least, to accord with the Bank's obligation to assist in the development of a plan of action for the implementation of primary education. However, this perception does not stand up to close scrutiny. The Bank fails to meet its obligations by omission. When the plan adopted by the Zambian Government is manifestly inconsistent with elements of the action plan required under article 14 - in particular, the element 'free of charge to all' - then the Bank has failed to use the measures at its disposal to promote compliance with the Covenant. On the contrary, the Bank has actively promoted the adoption of educational policies which are incompatible with the realisation of the right.

In its *Letter of Development Policy* appended to ESAC II, the Government is clear in its intention to encourage the creation of community schools, which are designed to be part-funded by parents and others, as part of its strategy to realise universal basic education.<sup>167</sup> Elsewhere, it is unequivocally stated that '[m]easures will be taken to step up cost-sharing to augment the total quantity and quality of services' although the intention is 'not to preclude access of those with few resources.'<sup>168</sup> The aim is to expand the private share of expenditure by instituting cost-sharing schemes for higher income groups, not to reduce or eliminate cost-sharing by low income groups.

The Bank's BESSIP loan supports a program of action which, though praiseworthy in certain respects, is predicated on the majority of poor Zambians meeting half the direct cost of primary education. The piloting of a limited bursary scheme does not mitigate against this conclusion. Furthermore, primary education in some of the most impoverished communities is to be provided through community schools. The Bank actively endorses this arrangement under the rubric of equity: 'A particular focus will be the development of frameworks to promote and support the provision of education by non-government suppliers. MoE [Ministry of Education] will provide instructional materials and on-the-job training and upgrading for teachers and assist [in] the provision of water and sanitation services to community schools.'<sup>169</sup> The extent of State support is strictly demarcated and such schools must rely upon community funding. This creates a sometimes fragile dependency relationship with donor agencies and NGOs and represents an abnegation of both the State's core obligation to realise the right to compulsory primary education free to all and the Bank's obligation to provide technical assistance on an appropriate action plan.

The Bank's own position on the issue of cost in primary education is characterised by contradiction and inherent ambiguity.<sup>170</sup> This is epitomised by the statement in its 1995 policy document *Priorities and Strategies for Education* that 'A policy package of fees and efficient expenditure in the public sector might consist of: Free basic education, including cost-sharing with communities and targeted stipends for children from poor households...'<sup>171</sup> The Bank's 1999 *Education Sector Strategy* makes one fleeting reference to education as a human right.<sup>172</sup> However, those international instruments which codify the right - *inter alia*, the Universal Declaration of Human Rights, the Covenant on Economic and Social Rights and the Convention on the Rights of the Child - are not cited.<sup>173</sup> The Strategy does not articulate the Bank's own or a State's obligations in respect of the right to education. Neither is it stated that, according to international human rights law, primary education should be compulsory and free of charge to all. The Bank recognises that issues of public/private finance 'remain crucial as a foundation for practically every other improvement needed in education.'<sup>174</sup> It is of the view that 'competing claims on the public purse, make it difficult for most governments - even those whose philosophies might push them in this direction - to be the sole provider of "free" education to all who seek it at every level.'<sup>175</sup> Yet it offers no clear policy line on the critical issue of fees for primary education. For guidance, it merely cites *Priorities and Strategies for Education*.

To add to the confusion, one recommendation of the 1994 *Poverty Assessment* on education in Zambia was to 'eliminate the regressive cost-sharing currently in place.' Yet none of the Bank's last four adjustment loans since publication of the *Poverty Assessment* include detailed agreements with the Zambian Government to implement this or any other of the key policy recommendations.<sup>176</sup> In its 1999 appraisal of the BESSIP, the Bank recognises that 'There is growing evidence that widespread poverty is reducing parental ability to pay school-related costs, is inducing parents to withdraw children from school to participate in income-generating activities, and is reducing community ability to participate in self-help development activities.'<sup>177</sup> However, it proceeds to endorse all aspects of BESSIP, including cost-sharing and community funding. An expert on education in Zambia is of the view that:

'The World Bank and the IMF would give telling expression to their development alliance as the international champions of poverty reduction if they came out into the open and intimated to the government that it should withdraw user fees and cost recovery schemes for primary education and essential health care, at least for those who are classified as extremely poor.'<sup>178</sup>

Not only would a human rights-based approach to the provision of primary education clarify these issues for the Bank, the adoption of such an approach follows on as a requirement under the Covenant. In its interpretation of article 22 on the advisability of international measures, the Committee recognises that agencies should act as advocates of approaches which contribute to the enhanced enjoyment of all human rights.<sup>179</sup> Furthermore, to reiterate, the rights contained in the Covenants should be taken into consideration at each phase of a development project.<sup>180</sup> The UN specialised agencies, to include the World Bank, must ensure that the protection of the most basic economic and social rights is built-in to programmes and policies designed to promote adjustment.<sup>181</sup> Furthermore, the Bank's obligation to assist a State party to work out and adopt a plan for primary education arising from article 14 would be meaningless if the policy it fosters is itself inconsistent with elements of the right to compulsory primary education free to all. In contravention of these principles, both ESAC II and the BESSIP loan foster aspects of an educational policy which are incompatible with the right to primary education while the latest adjustment credit contains no agreements on education policy and offers less explicit budget protection for priority allocations.<sup>182</sup>

### ***3. Pricing primary education beyond the reach of the poor: the element 'free of charge'***

The requirement in the Covenant that primary education must be free of charge is unequivocal: 'The right is expressly formulated so as to ensure the availability of primary education without charge to the child, parents or guardians.'<sup>183</sup> The fact that primary education in Zambia is not free is easily demonstrated. Furthermore, the cost borne by parents and guardians is high and rising. However, it should be noted that, on ratification of the Covenant in 1984, the then Zambian Government filed a reservation postponing 'the application of article 13 (2) (a) of the Covenant, in so far as it relates to primary education; since, while the Government of the Republic of Zambia fully accepts the principles embodied in the same article and undertakes to take the necessary steps to apply them in their entirety, the problems of implementation, and particularly the financial implications, are such that full application of the principles in question cannot be guaranteed at this stage.'<sup>184</sup> Before the Zambian Government can be said to contravene the Covenant on this issue of cost, it is necessary to explore the degree to which the principles of progressive realisation and resource constraints are grounds for mitigation given that the same clauses simultaneously define specific obligations. One step which the Zambian Government must take, in accordance with article 14, is the adoption of a plan of action to achieve the progressive implementation of the right to compulsory primary education free to all. Instead, the Zambian Government is deliberate in its strategies of cost-sharing and community funding at the same time as goals for universal primary education are defined within its national policy on education

#### **a. The increasing cost of education borne by parents and guardians**

Since the mid-1980s in Zambia, there has been an ever increasing reliance on contributions from parents or guardians as State funding for education has fallen in both relative and real terms. During 1993/94, average annual household expenditure on education was \$30 per child compared with domestic Government spending of \$38 per child.<sup>185</sup> Parents and guardians were therefore contributing 45 per cent of the total national cost of education.<sup>186</sup> Country-wide Government survey data gathered for 1996 confirms this pattern. Average household expenditure on education during the year was K38,796 or \$37.<sup>187</sup> Scaling this figure up for the number of households in Zambia results in estimated private spending on education of \$70.5 million compared with domestic government expenditure of \$88.4 million.<sup>188</sup> In relative terms, the State was meeting 56 per cent of domestic educational costs and households the remaining 44 per cent. The World Bank has estimated that private - that is parental or family - spending on education accounts for 50 - 70 per cent of the total cost rising to as high as 78 per cent for primary education.

The Committee determines that 'fees imposed by the Government, local authorities or the school, and other direct costs, constitute disincentives to the enjoyment of the right and may jeopardize its realization.' PTAs and the newly established Education Boards set levies in many schools to supplement dwindling government funding. Families are now called upon to contribute to the cost of almost all aspects of education. In the past, parents took care of indirect costs such as uniforms and transport, but, in the 1990s, they have taken over the direct costs of many consumables.<sup>189</sup> The Government has estimated that the public direct cost for primary school attendance per pupil was \$22 in 1996 whereas the private direct cost to parents or guardians was \$17.<sup>190</sup> Other figures suggest a significantly higher contribution from parents.<sup>191</sup> On balance, households spend at least the equivalent of the State in meeting direct costs for primary education. However, there is significant regional variation. At primary level, direct school-related payments per child range from \$5 a year in remote rural areas to over \$50 a year in urban areas.<sup>192</sup>

The cost of uniforms, stationary and final exams completes the burden. Yet, the Committee has recognised that certain indirect costs - *de facto* compulsory levies on parents, the stipulation of expensive school uniforms - may be similarly

categorised as disincentives to enjoyment of the right to primary education.<sup>193</sup> Buying school uniforms remains a significant cost for poor families. Prices charged by official outlets are at a premium. In 1994 it cost K31,200 or \$47 to kit out six children.<sup>194</sup> This represented more than a month's income for more than three quarters of all households in Zambia.

In mid-1995, the Government removed the requirement that primary school pupils wear uniforms. However, at the local level, school dress codes - down to the wearing of black leather shoes - are often strictly enforced.<sup>195</sup> The cost of sitting the terminal exam for secondary level selection is the equivalent of \$3. This sum appears to be relatively insignificant, but the fact that 17 per cent of eligible girls and 7 per cent of eligible boys who have made it through to Grade 7 do not sit the exam in rural areas is cited as evidence that cost is a factor.<sup>196</sup> In the case of one Lusaka school during 1998, the causal link between this fee and exam entry is clear. Eighty-three out of three-hundred Grade 7 pupils were unable to pay and negotiations were undertaken to allow them to sit the selection exam in the hope that the required fees could be collected by the end of the year.<sup>197</sup>

## **b. Progressive achievement and the plan of action: mitigation or obligation?**

In mitigation of the fact that significant numbers of children in Zambia are denied access to free primary education, the Zambian Government might cite the principle of progressive achievement which lies behind its reservation. However, while recognising that certain rights cannot be fully realised in a short space of time, this nevertheless obliges a State Party to move expeditiously and effectively towards the goal of full realisation of the right to free primary education. Stasis in respect of its realisation is untenable; yet the Zambian Government has failed to reduce the burden of cost for primary education falling upon parents and guardians, non-poor and poor alike. This failure stems, in part, from the dereliction of its undertaking to take deliberate, concrete, and targeted steps in the policy sphere.

It must be reiterated that to move away from the goal of compulsory primary education free to all by the adoption of deliberately retrogressive measures can only be justified when there is a severe shortage of resources or when the totality of protection across all other rights in the Covenant improves as a result. As has been noted, the burden of debt servicing and stringent adjustment conditionality has deprived Zambia of essential resources. At the same time, it is apparent that the Government, despite recent improvements, is still not spending as much as it ought: to reiterate, spending on education in Zambia was the equivalent of 2.5 per cent of GDP over the period 1992 - 1996, compared to 5 - 6 per cent a decade earlier, and to 3.9 per cent in Sub-Saharan Africa as a whole.<sup>198</sup> Given that the right to education is multifaceted - simultaneously, an economic, social, cultural, civil and political right - and epitomises the indivisibility and interdependence of all human rights, it is difficult to envisage a circumstance in which its neglect would increase the totality of protection across all other rights. Indeed, the Committee recognises that a lack of education reinforces the susceptibility of children to various other human rights violations, while primary schooling for girls correlates with major reductions in child marriages, informed choice about family planning in later life, and better child health care among educated mothers.<sup>199</sup>

While the steps to be taken are not further specified in respect of a number of rights within the Covenant, this is not the case for implementation of the right to primary education.<sup>200</sup> Article 14 requires each State party which has not been able to secure the right to undertake '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 primary education free of charge for all.'<sup>201</sup> The obligation of every State party to draw up and present a plan of action, as specified, is clear and must be 'scrupulously observed' in view of the widespread denial of access to primary education in developing countries.<sup>202</sup>

'A State party cannot escape the unequivocal obligation to adopt a plan of action on the grounds that the necessary resources are not available. If the obligation could be avoided in this way, there would be no justification for the unique requirement contained in article 14 which applies, almost by definition, to situations characterized by inadequate financial resources.'<sup>203</sup>

The highly regressive effect of fees is recognised by the Committee and the action plan on the progressive implementation of primary education must address their elimination.<sup>204</sup> The Zambian Government's national policy on education does not seek to fulfil this requirement. On the contrary,

'[t]he cost of providing UPE [universal primary education] will not fall exclusively on government and donors. There will also be additional costs and other burdens for communities. These are expected to participate in the development or rehabilitation of their schools and subsequently to take responsibility for maintenance.'<sup>205</sup>

In order to pinpoint any areas of non-compliance, it is not only necessary to differentiate between liberalisation and cost sharing within Zambian educational policy, but also to relate each tenet to two distinct elements within the right to education: the obligation upon State parties to respect parental choice in selecting a school for their children and the aforementioned right of children to compulsory primary education free to all.

*i. The strategies of liberalisation and cost-sharing within the education sector*

Liberalisation refers to the removal of barriers preventing other education providers outside of the State - be they voluntary organisations, missionaries, or the private sector - from operating in the sector on an equitable basis. Under the Covenant, State parties must respect the liberty of parents or guardians to choose for their children schools other than those established by the public authorities. The Zambian strategy of encouraging other education providers furthers fulfilment of this requirement. Furthermore, drawing a parallel with the Committee's interpretation of the right to housing, measures designed to satisfy a State party's obligations may reflect whatever mix of public and private sector measures is considered appropriate.<sup>206</sup> At the same time, in respect of primary education, specific elements of the right require that it is compulsory and free of charge to all. It therefore must follow that while there is a place for fee-paying schools in the provision of education, in accordance with the principle of parental choice, this in no way diminishes the obligation of a State party to take steps to achieve the realisation of free primary education available to all.

While liberalisation remains a strategy to widen choice by encouraging schools as a supplement to existing State provision, then it furthers the right to education. However, it can be used to implement measures which are deliberately retrogressive in respect of the right to education. This is the case when liberalisation is coupled to a policy of cost-sharing - the principle that people should make a payment towards the services they use - and community financed schools are viewed as a substitute or replacement for State primary provision. A Government adopting such a policy purposefully moves away from its obligation to provide compulsory primary education free to all. It is also the case when private provision in State schools, at whatever level, impinges upon the teaching of those unable to pay for extra tuition. Both situations occur in Zambia. The former is a matter for particular concern.

*ii. Private schools, Academic Production Units and Community Schools*

There are three principal types of arrangements outside of the regular State system in Zambia: private schools; Academic Production Units within State secondary schools; and community schools. Most private schools cater for the demand for secondary education. Encouraged by the official policy of partnership in education, the number of private schools tripled over the period 1990 - 1996.<sup>207</sup> Since 1992, secondary school teachers, in a move to boost their meagre salaries, have organised themselves to offer fee-paying after school classes - known as Academic Production Units - for those not in regular education.<sup>208</sup> Community schools are established, owned, financed and operated by local people, typically with donor support. There are over 120 such schools teaching 14,000 children.<sup>209</sup> They serve mainly urban areas - for example, shanty compounds without government schools - and are often responsive to the educational needs of the poor.

The expert view that APUs and private school offer no real solution to the education deficit in Zambia because they rely on payment which poor parents cannot afford is strongly endorsed. Private schools account for only 7 per cent of enrolment at the secondary level and 2 per cent at the primary level and neither enhance, nor do they actively diminish, the realisation of the right to education for the vast majority of Zambians. They do, however, further respect for parental choice in the selection of a school for the small minority who can afford the fees. While the APU venture is legitimate, and accords with the Government's principle of rewarding enterprise, there is concern within the Ministry of Education that the units may be detrimental to a teacher's regular school work in classes attended by poorer children. The national policy on education is silent on the role of APUs; yet the right of everyone to education, including secondary education, coupled with the obligation to refrain from action which is detrimental to the enjoyment of a right, are grounds for challenging the Government's absence of a policy on APUs.

A degree of ambiguity is associated with the role of community schools in realising the right to primary education. On the one hand, the concept of community schools accords with the development principles of participation, self-help and ownership. The Committee itself, in respect of other rights within the Covenant, encourages State parties to promote enabling strategies and recognises the need for Government commitment to facilitate self-help by communities.<sup>210</sup> The national policy on education confirms the Zambian Government's role in providing technical assistance, advice on mobilising funds, certain educational materials and an agreed number of state-funded teachers.<sup>211</sup> In August 1998, a memorandum of understanding was drawn-up between the Ministry of Education and the Zambia Community Schools Secretariat to formalise these arrangements and commit the Government to paying the salaries of a designated number of teachers.<sup>212</sup>

On the other hand, there is considerable concern that community schools are underpinned by the cost-sharing principle, thereby shifting responsibility for financing the provision of education from the State to community organisations and, ultimately, to impoverished parents and guardians. Community-based education initiatives do not negate the responsibility of the Zambian Government to provide compulsory primary education free to all. There is a contradiction in that while community schools are often located in some of the poorest communities - that is, squatter settlements in urban and peri-urban areas - at the same time they lack full state support and are reliant on non-government funding for their continued existence. Formalisation of the Government element of support for such schools simultaneously fixes the cost to be borne by the community. Minimally, as with State schools, cost-sharing must be wedded to a system of assistance for those unable to pay school fees if it is to constitute a temporary and interim step towards the realisation of primary education free to all. However, Zambia's current national policy on education is actively predicated on cost-sharing. The elimination of primary school fees is not an objective.

#### ***4. Inequality in education and the obligation to target the vulnerable and disadvantaged***

Information is sought from State parties by the Committee on the extent to which equal access to different levels of education is enjoyed by vulnerable and disadvantaged groups, *inter alia*, young girls, children of low-income groups, children in rural areas, children who are physically or mentally disabled.<sup>213</sup> The questions asked of State parties are shown to be highly pertinent:

‘In Zambia, as in so many other countries, the most underprivileged are frequently unable to exercise their right to education. Those in the greatest need of education receive the fewest of its benefits....Moreover, their vulnerability is frequently multifaceted, many being in jeopardy on several counts - they are rural, poor, orphaned, a girl, have special educational needs.’<sup>214</sup>

Everyone has the right to education. This most certainly includes the poor and other vulnerable groups. A State party is obliged under article 14 to act to progressively implement compulsory, primary education free to all for the very reason that children should not be denied enjoyment of this right because their parents or guardians are unable to afford to send them to school. The Committee underlines the fact that, even in times of severe resource constraints, such as those caused by structural adjustment, ‘the vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes.’<sup>215</sup> This obligation is reiterated in respect of certain other rights within the Covenant which accords disadvantaged groups a degree of priority.<sup>216</sup>

##### **a. Poverty and denial of the right to education**

Attention is drawn in the Oxfam-commissioned report on education in Zambia to the perfect correlation between school attendance and the degree of poverty. The rate of attendance among children of primary school age from poor households in 1996 was 69 per cent compared with a rate of 84 per cent among their non-poor counterparts.<sup>217</sup> Reports from seven out of ten provinces in 1996 single out economic factors as the cause of drop-out from primary schools in half of reported cases.<sup>218</sup>

Children from very poor backgrounds in 1997 were half as likely to achieve minimum reading levels at Grade 6 than those from privileged households.<sup>219</sup> They were over five times less likely to reach the desired level.<sup>220</sup> This is because they tend not to receive the same degree of parental and material support in their education and do not have sufficient time for homework when helping with household tasks. In addition, many children from poor homes suffer from malnourishment which has been shown to effect school performance:<sup>221</sup>

Current estimates put malnutrition rates at 50% among school-aged children and a recent survey found that 46% of respondents came to school at least once a week without eating. Health profiles of school-aged children in Zambia show that parasitic worm infections occur in approximately 60%, and that approximately 75% suffer from anemia. Iodine deficiency runs nationally at 32%, and symptoms of vitamin A deficiency are also common. As a result many Zambian children are learning-disadvantaged.

The problems of poor nutrition and deteriorating child health are a reflection of the hardship caused by structural adjustment. Under BESSIP, the Ministry of Education in conjunction with the Ministry of Health is to conduct a national baseline study of children's health and nutrition with a view to piloting test interventions in two district schools

in Lusaka and Eastern Province.<sup>222</sup> This will feed into discussions on the preparation of a national strategy for school health and nutrition.<sup>223</sup>

The Bank is succinct in its analysis of the factors influencing the attendance of children from impoverished households at school: 'the poor face the necessity to balance the cost of education and its perceived long-term benefits against the immediate needs for labour and income generating capacity to produce food and other essentials for life.'<sup>224</sup> In an in-depth study of the global deficit in education, Oxfam is unequivocal in condemning the way in which poor sequencing of structural adjustment in Zambia has caused impoverishment which has resulted in the withdrawal of children from school because of escalating fees and the use of their labour to generate household income.<sup>225</sup> Labour is the principal asset of the poor. In a deteriorating economic climate, child labour, always important, is now seen as vital.

While willingness to pay may also be a factor in the decision of parents and guardians over whether or not to send a child to school, especially when the education on offer is of a low quality, there is no doubting the impact of cost-sharing and fees on access to education<sup>226</sup>. Against the backdrop of increasing poverty, the United Nations has highlighted the link between fees and falling school attendance and drop-out.<sup>227</sup> The World Bank itself reached the conclusion in its 1994 *Poverty Assessment* that fees constrained poor children's access to education.<sup>228</sup> The effect of shifting costs to parents due to falling public expenditure on primary education was a fall in attendance in rural areas.<sup>229</sup> Participatory poverty assessments conducted in urban area confirmed cost as a barrier to access: a quarter of parents in one shanty compound failed to pay PTA fees; in another, enrolment was limited as school fees were characterised as 'unaffordable.'<sup>230</sup> The Bank questioned the very rationale for school fees on the grounds that 'the costs of collection may be so high that the net returns to the system are dwarfed by the impact of fees on poor households.'<sup>231</sup> Its recommendation at the time was to 'eliminate the regressive cost-sharing currently in place by enforcing exemptions, reviewing fee structures and liberalising uniform requirements'.<sup>232</sup>

In the face of this barrage of criticism, the Zambian Government has not only failed to reduce the burden of direct and indirect fees for education placed on parents and guardians, but has incorporated the strategies of cost-sharing and community finding at the core of its national education policy. As has been noted, the cost of providing universal primary education is not to be met exclusively by Government and donors. The United Nations advocates assisted self-help in community schooling in Zambia - participation in leading, planning and managing school activities, and the provision of local labour and materials - but warns against adding to the financial burden: 'Since most people in most communities are already living below the poverty line, it will be unrealistic to expect communities to generate the finance needed for investment in educational rehabilitation and development.'<sup>233</sup> Others emphasise that 'the potential for community involvement must be evaluated against the widespread poverty of the people and their reduced ability to provide labour because they have been weakened by hunger and sickness.'<sup>234</sup>

## **b. Targeted assistance**

A State party to the Covenant is required to target resources at vulnerable and disadvantaged groups. In Zambia, help with school fees for children from impoverished families has been lacking: 'While the Public Welfare Assistance Scheme (PWAS) implemented by the Ministry of Community Development and Social Services, is providing support for school costs, the total available is inadequate and support is not being provided speedily.'<sup>235</sup> This is an understatement. At this juncture it is sufficient to note that spending on the PWAS in 1998 equated to just 13 US cents for each of the five million Zambians living in extreme poverty - please refer to Section 3(III) for more details.<sup>236</sup> This overall picture of utter deficiency places in perspective those subcomponents of the PWAS earmarked for help with education and health fees.

Somewhat belatedly, donor assistance is to be used in Zambia to provide bursaries to poor children to lower the private costs of education in order to help increase enrolment.<sup>237</sup> While action in this area is part of BESSIP, the bursaries are to be administered through the same and much maligned Public Welfare Assistance Scheme which is being revamped in order to better target its extremely limited resources by using a new 'vulnerability profile.' As a direct result of BESSIP, it is maintained that 'an additional half-a-million young people will have direct access to basic education.'<sup>238</sup> This assumes not only that the program runs to a second phase and that enrolment targets are met, but that the private cost of education ceases to be a barrier. Indeed, a stated aim is that by 2005 'No child [shall be] blocked from school because of costs, uniforms, distance, unfavourable school environment and parental perceptions.'<sup>239</sup> The claims do not stand up to scrutiny.

Direct private household costs for education in 1996 averaged \$17 per primary pupil over the year in 1996. Furthermore, estimates quantify the annual 'opportunity cost' - that is, income lost to the household on account of school attendance - as equivalent to \$49 per primary school pupil in 1996.<sup>240</sup> The total cost to be borne by the household is therefore \$66 for each child. Survey data for 1996 suggests that 14 per cent of children of primary school age were

not enrolled in school because it was too expensive.<sup>241</sup> This is likely to represent a significant underestimation.<sup>242</sup> However, based on this conservative estimate, cost prevented at least 77,000 children from attending school in 1996.<sup>243</sup> To cover the private costs of this number of children through bursaries would require annual funding of over \$5 million. Under the first phase of BESSIP, a total of \$1.6 million over the period 1999 - 2001 is to be allocated for the purpose of establishing and administering the bursary scheme.<sup>244</sup>

### **c. Vulnerable and disadvantaged groups**

Many aspects of a child's status reinforce denial of their right to education in Zambia. In addition to the overriding factor of poverty, a child is put at considerable disadvantage if they live in rural area, if they are a girl, if they are an orphan, if they are on the streets, or if they have special needs.<sup>245</sup> Under BESSIP, the plan is to nominate a teacher in each of the 611 zonal schools with responsibility for identifying vulnerable children in the area and then working with communities to ensure their participation.<sup>246</sup> Given the sheer number of disadvantaged children and the range of different problems they face, it is difficult to see what a single overworked teacher in one zonal centre school serving ten others can do to address the situation.

#### *i. Children in rural areas*

The difference in access to education between rural and urban areas is marked. Every indicator - with the exception of capacity - is significantly worse for rural areas: half of those aged 12 and over are illiterate compared with a fifth of those in urban areas;<sup>247</sup> net primary school attendance rates are only three-quarters of those in urban areas;<sup>248</sup> of those who starting primary school in rural areas, a little more than half make it through to Grade 7.<sup>249</sup> In urban areas, the corresponding figure is over three-quarters. Untrained teachers are concentrated in rural areas, especially in remote schools. Up to four out of every ten teachers in very rural provinces are untrained compared with only one in ten in the most urbanised provinces.<sup>250</sup>

#### *ii. Orphans and street children*

In the region of a half a million children in Zambia in 1996, representing 11 per cent of the population of those aged 14 and below, were orphans who had lost one or both parents.<sup>251</sup> It is reckoned that 68 per cent of orphans in rural areas do not go to school. Almost all support for orphan children in Zambia comes from the extended family. Official data suggests that a quarter of all households have foster children.<sup>252</sup> The Government has closed almost all State orphanages. However, fostering arrangements are informal and, while orphans gain family-based support, they enjoy fewer legal rights. In 1996, there were only eighteen formal adoptions in the whole of the country.<sup>253</sup>

Given these circumstances, orphans do not enjoy their right to education. Caring for orphans places an additional burden on the budget of extended families. It is difficult to find the money for school fees and many orphaned children work in order to make a contribution to household income. It is therefore difficult for them to attend school during normal hours, if at all. Those who do manage to attend school are at an apparent disadvantage: 'Teachers report that orphans - even those absorbed into their extended families - may be identifiable in class because they look then or because they do not have pencils and exercise books.'<sup>254</sup>

Orphaned children are themselves frequently called upon to act as carers. They tend to sick relatives. Hard statistics are lacking, but, by 1995, it was estimated that 7 per cent of households were headed by a child aged fourteen or below.<sup>255</sup> The number of such households is undoubtedly increasing. When parents die of AIDS, and when no extended family group exists or the capacity is lacking, children look after themselves and their siblings, although living conditions in such households are often poor.<sup>256</sup>

It is estimated that there were 75,000 street children (0-18) in Zambia 1996.<sup>257</sup> Recent estimates put the current figure at 90,000. Over one third of street children were double orphans with both parents dead.<sup>258</sup> It may be that as many as 70 per cent of children on the streets in Lusaka and the Copperbelt towns have lost both parents. The number of street children doubled over the period 1991-1996. An estimated seventy per cent of street children are boys. They are highly visible on the streets. Girls account for the remainder. Most of these children have never been to school at all or else have dropped out in order to make what living they can for themselves. A large proportion drink, take drugs and engage in solvent abuse: 'Too poor to afford glue to dull the evening chill, they sniff fermented sewage.'<sup>259</sup> Many are sexually active.

In the Oxfam-commissioned report on primary education in Zambia, deep concern is expressed over the prospects of unsupported children:

'For those who cannot get institutional support, the situation is grim: half a million children at risk, and the number increasing steadily; not able to pay school or training fees; carrying responsibilities well beyond their capabilities as children; so traumatized by what they have experienced when parents died of AIDS they cannot learn; totally and utterly excluded from the joy and gaiety of a normal childhood; a significant number at risk of contracting HIV/AIDS through virtually inescapable income-generating prostitution...'<sup>260</sup>

It is apparent that the Government's response to the problems encountered by orphans, including street children, must encompass action beyond the sphere of education. The *National Poverty Reduction Strategy Framework* categorises orphans and street children alongside other disadvantaged groups - the old, the sick, the disabled - in the group of incapacitated households.<sup>261</sup> There is no attempt at further differentiation. This feeds into the failure to explicitly address the problems faced by orphans and street children in the accompanying short-term plan of action on human resource development.<sup>262</sup> The stated aims are to develop specialised education facilities for those with 'hearing, physical, mental and visual handicap and/or impairment' and to improve targeted interventions on behalf of girls, the disabled and handicapped. This has heightened concern that the *National Poverty Reduction Action Plan 1999 - 2000* will make no special provision on behalf of orphans and street children.<sup>263</sup> The current Public Welfare Assistance Scheme includes unsupported children in its target group, yet the programme as a whole has been characterised as ineffective: it has recently been calculated that less than 2 per cent of all Zambians receive State welfare payments.<sup>264</sup> Please refer to Section 3(III) for further details.

Government policy on education fails to address the special circumstances of orphans and street children. Not only are the fees associated with State schools prohibitive, but they lack the necessary flexibility of teaching. The only dedicated provision at present is through community schools, most of which are funded by NGOs.<sup>265</sup> Zambia Open Community Schools are geared toward the teaching of pupils who must work to earn a living. Orphans are given a high priority in admissions. By the end of April 1998, the organisation catered for 3,900 children, thirty per cent of whom had lost one or both parents.<sup>266</sup> Even when the capacity of other accessible community school is added, the number of places available is a fraction of the total needed. The vast majority of orphans must either attend State schools as and when they can or else do without education altogether.

### *iii. The education of children with disabilities*

The Committee has determined that 'since the Covenant's provisions apply fully to all members of society, persons with disabilities are clearly entitled to the full range of rights recognized in the Covenant.'<sup>267</sup> The denial of educational opportunities to persons with disabilities is recognised as 'invidious discrimination' and the Committee emphasises that the effects of disability-based discrimination are particularly severe in, *inter alia*, the field of education.<sup>268</sup> To reiterate, there is an obligation upon State parties to take appropriate measures, to the maximum extent of their available resources, to target disadvantaged groups.<sup>269</sup> Furthermore, the immediate obligation upon State parties to ensure that all the rights in the Covenant are exercised without discrimination of any kind based on grounds of, *inter alia*, other status 'clearly applies to discrimination on the grounds of disability.'<sup>270</sup>

Disabled children in Zambia are largely anonymous and invisible. Parents are reluctant to openly acknowledge the existence of a child with a disability because of the stigma attached. This attitude means that few hard facts are available even on the prevalence of disability. Best estimates suggest that the number of children with disabilities aged 7 - 13 in Zambia in 1996 was likely to exceed 175,000.<sup>271</sup>

A State party does not meet all of its obligations by refraining from negative action or even by outlawing *de jure* discrimination on the grounds of disability: 'The obligation in the case of such a vulnerable and disadvantaged group is to take positive action to reduce structural disadvantages and to give appropriate preferential treatment to people with disabilities in order to achieve the objectives of full participation and equality within society for all persons with disabilities.'<sup>272</sup> At the primary level, a limited number of 28 special schools and 51 special units within mainstream schools cater for 20,600 pupils with a specific range of disabilities: blindness, deafness, and physical impairment.<sup>273</sup> Hence at least eight out of ten children with a disability were not attending school and were therefore denied their right to primary education.

The Government has an overall policy of integrating children with disabilities, to the maximum extent possible, into the ordinary school system. This approach accords with internationally recognised standards of best practice, as endorsed by the Committee.<sup>274</sup> However, the requirement is for *de facto* measures: 'In order to implement such an approach, States should ensure that teachers are trained to educate children with disabilities within regular schools and that the necessary equipment and support are available to bring persons with disabilities up to the same level of education as their non-disabled peers.'<sup>275</sup> In Zambia, in juxtaposition to this requirement: 'Ordinary classroom teachers have received no

guidance on how to teach children with disabilities; appropriate teaching materials, such as large print books for children who are visually impaired, are not available; furnishings and facilities are not adapted to the needs of the physically disabled....<sup>276</sup> Indeed, no information is recorded on the extent to which disabled children are integrated into the mainstream in Zambia whereas the Covenant requires State parties to monitor the actual situation in respect of each of the rights it contains and to pay special attention in this regard to vulnerable or disadvantaged groups.<sup>277</sup>

The need for additional resources is recognised and ‘international cooperation in accordance with articles 22 and 23 of the Covenant is likely to be a particularly important element in enabling some developing countries to fulfil their obligations under the Covenant.’<sup>278</sup>

## 5. *The education of girls: the extent of gender-based discrimination*

Zambia attended the Fourth World Conference on Women in September 1995 at which it reiterated its commitment to the education of the girl-child. In 1996, the Government finalised its National Gender Policy and Statement on the Girl Child and adopted the Strategic Action Plan for the Advancement of Women to implement both the Beijing Platform for Action and related short-term policy goals.<sup>279</sup> In 1997, Zambia signed the Gender in Development Declaration and began preparation of a report under the Convention on the Elimination of All Forms of Discrimination Against Women which Zambia ratified in 1985.<sup>280</sup> The latter contains an explicit article on the right of the girl-child to education, while the non-discrimination clause in both the Convention on the Rights of the Child and the Covenant *per se* is of immediate effect and applies to all rights, including the right to education.<sup>281</sup>

Considerable disparity in education between the education of women and men is all too apparent in Zambia. This must be set against the obligation of State parties under the Covenant to guarantee non-discrimination in the exercise of the rights it contains and their undertaking ‘to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights’.<sup>282</sup> Although the MMD Government has itself been in power since late 1991, and although the Ministry of Education began to pay special attention to the gender dimension in education in 1994, the concrete steps it has taken in respect of promoting the equal right to education by men and women date, in the main, from 1996.

The main policy vehicle for improving the position of girls is the 1996 Programme for the Advancement of Girls’ Education (PAGE). Initiatives centre upon the pursuit of an equal ratio of enrolment at first admission into the school system, the retention of girl pupils, and their progression through the system based on improved performance.<sup>283</sup> Specific interventions to achieve these objectives include affirmative action *vis-à-vis* enrolment and progression;<sup>284</sup> pre-service training for teachers on gender across the curriculum, gender-sensitive teaching and the provision of suitable basic teaching and learning materials; establishing single sex classes where appropriate; and encouraging family and community participation in the education of children.<sup>285</sup>

Currently PAGE operates nationally to raise awareness of gender issues in education, but its other elements to improve classroom teaching and learning processes are confined to a pilot scheme in Eastern Province.<sup>286</sup> Under BESSIP, PAGE is to be extended first to two more provinces and then to the whole country.<sup>287</sup> Total finance for PAGE under BESSIP and ongoing projects between 1999 - 2001 is costed at \$2.6 million.<sup>288</sup> On an annual basis, this is equivalent to just under \$1 for every girl of primary school age (7 -13).<sup>289</sup> Through the aforementioned support for designated zonal teachers and targeted bursaries, BESSIP will identify and support disadvantaged girls. The resource problems associated with both these initiatives have already been noted.

### a. **Primary attendance and learning**

Overall, girls accounted for 47.6 per cent of primary school enrolments in 1996. Hence, even in the aggregate, there is a small though significant disparity between the number of boys and the number of girls enrolled in school. However, it is only when the figures are broken down by location and Grade that other inequalities are revealed. In the urbanised Copperbelt and Lusaka, there is parity between the sexes in terms of lower primary school enrolments and close to parity throughout all primary grades.<sup>290</sup> In the line-of-rail Provinces of Central and Southern, the percentage of girls in lower primary grades exceeds 49 per cent, although enrolments fall off slightly when averaged across the higher Grades.<sup>291</sup> The contrast is with remote rural Provinces. The enrolment of girls in primary school across Luapula, Northern, North Western and Eastern Provinces averages less than 46 per cent.<sup>292</sup> At higher Grade 7, the percentage of girls falls to 40 per cent or less in these Provinces.<sup>293</sup> Even the provincial level figures conceal further inequality: ‘In remote and poor rural districts, such as Luwingu, Kaputa and Lunadazi, only one-third of the Grade 7 enrolment are girls.’<sup>294</sup>

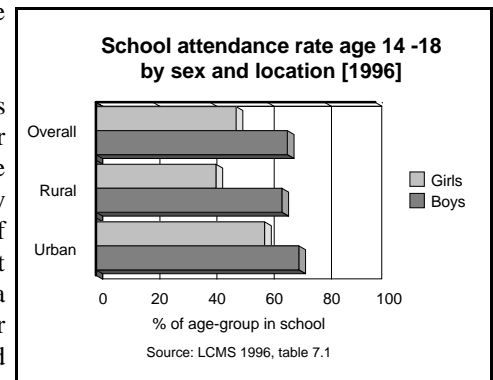
Higher drop-out rates and lower repetition rates for girls in each primary Grade culminated, overall, in completion rates of just below 68 per cent for girls compared with 81 per cent for boys for the cohort finishing their primary education in 1995.<sup>295</sup> Once more, the situation is at its worst in rural areas where, for every two girls beginning at primary school in 1990, only one would make it through to Grade 7.<sup>296</sup> However, while gender disparity in such areas is noticeable, it is not great: only a marginally higher percentage of boys, 54 per cent, make it through to the end of their primary education.

It is noted in the 1999 Oxfam-commissioned report on primary education in Zambia that '[t]he average raw scores obtained by girls in every subject in the end of primary school examination are lower than those obtained by boys in every province and for every year for which information is available.' Reading test results for Grade 6 primary pupils in 1995 were poor: only 28 per cent of boys reached the minimum level of mastery required; yet the corresponding performance of girls at 23.1 per cent was five percentage points lower.<sup>297</sup>

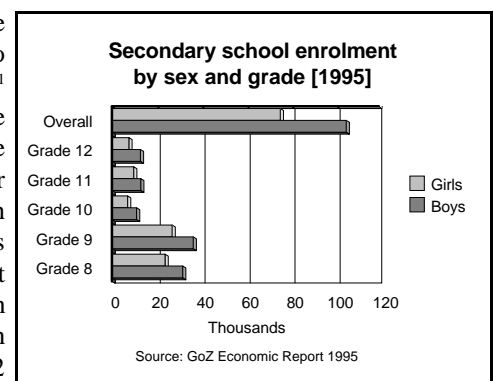
## b. Secondary and higher

At the secondary level, the picture of gender balance is more complex and apparent contradictions need to be explained. On the one hand, figures for 1995 reveal that, overall, girls accounted for 42 per cent of secondary school enrolment. Whereas 67 per cent of boys aged 14 - 18 were in school in 1996, the attendance rate for girls of the same age was only 49 per cent.<sup>298</sup> Once more, the disparity is more marked in rural areas where the 65 per cent of boys were in attendance compared to 42 per cent of girls.

On the other hand, net attendance rates at secondary school for girls and boys in the same year were broadly equivalent: 21 per cent for boys, 20 per cent for girls in Grades 8 - 12.<sup>299</sup> Overall school attendance rates simply express the proportion of those of a given age in school regardless of what grade they were attending, whereas net attendance rates express the proportion of children in the appropriate age groups attending the appropriate grade for that age.<sup>300</sup> The apparent anomaly is perhaps explained by the fact that a significant proportion of boys of secondary age were either attending a lower grade or even primary school, whereas girls were more likely to have dropped out rather than repeat years.



Presumably as a result of affirmative action, figures for 1997 on the relative number of girls and boys chosen for progression to Grade 8 do begin to record an improvement in the situation of girls at secondary school.<sup>301</sup> although approximately 22,500 or 30 per cent more boys than girls sat the examination, broadly equal numbers of male and female candidates were selected. Hence the selection rate for girls was much higher in 1997 than for boys: 42.2 per cent of all girls sitting the exam were chosen compared with 33.7 per cent of boys. Year on year figures confirm that affirmative action is improving progression rates for girls pupils.<sup>302</sup> Furthermore, although net secondary school attendance in rural areas was a third that of urban areas in 1996, there was no disparity between the sexes.<sup>303</sup> Rather, for once, it was in urban areas that net secondary attendance by girls was somewhat lower: 32 per cent for girls in comparison to 36 per cent for boys.



The ostensible success of affirmative action in ensuring the progression of equal numbers of girls to Grade 8 must not be allowed to mask two underlying dangers. The first is a result of treating economic and social rights in aggregate terms. Hence, while equal numbers of girls are now selected for secondary school, this should blind us neither to the fact that some 22,000 fewer girls than boys - each of them an individual with certain aspirations - actually sit the exam in the first place; nor to the fact that many hundreds of thousands of children, irrespective of sex, fail to complete even their primary education. The second danger is to miss the underlying problem of incapacity. Given the finite, small number of secondary school places, the majority of those who wish to continue their education are denied the opportunity to do so. On an aggregate basis, increases in the selection rate of girls over boys results in numerical equality; yet, on an individual basis, a boy who sits the exam has a greater chance of failure.

At the tertiary level, far fewer females than males enrol and participate. Out of just over 5200 students enrolled in technical, vocational and entrepreneurship training in 1996, only 1355 or a fraction over one in four were young women. Results for the academic year 1995/96 at the University of Zambia are indicative of the low number of women in tertiary

education: out of 1117 graduates, only 270 or a quarter were women. However, it will be a while before improvements in the number of girls currently progressing to and attending secondary school feeds through to the tertiary level.

### c. Reasons why girls do not enjoy equality in exercising their right to education

Any deficit in the education of girls and women is costly in economic and social terms, while the personal loss of opportunity and advantage is incalculable, but nevertheless deeply felt. Discrimination and inequality in education results in the violation or denial of aspects of, *inter alia*, the rights to work, to health, to protection of the family, and is detrimental to the realisation of many civil and political rights.<sup>304</sup> There is strong evidence to suggest that the education of girls is not only vital in furthering equality of opportunity in employment, but also improves household management skills, helps young women make informed choice about family planning, and improves child health care and survival rates when women start their own families. For example, the child of a Zambian mother with primary education had a 20 per cent better chance of surviving the first year of life in 1996 compared with the child of mother with no education.<sup>305</sup> The disparity increases as the education gap widens. In 1996, the infant mortality rate for mothers with no education was 133 deaths per thousand live births compared with a rate of 82 per thousand those born to mothers with secondary or higher education.<sup>306</sup>

Girls are withdrawn from school in Zambia because '[t]he ideal and almost only role that is envisaged for the girl child is to become a wife and mother.'<sup>307</sup> Girls are withdrawn from school because their household labour is perceived to be of greater benefit than the gains that will result from their education, especially when school fees are high. This circumstance is common in poor household in times of hardship exacerbated by structural adjustment.

#### i. Marriage and pregnancy

The conclusion reached in the 1996 *Zambia Demographic and Health Survey* is that '[a]t age 16 and older, women are much less likely than men to be enrolled in school, presumably due to cultural norms which encourage girls to drop out of school, possibly to get married and start a family.'<sup>308</sup> By the age of 18, 46.1 per cent of teenage girls are either pregnant or are already a mother.<sup>309</sup> There is a self-perpetuating circle in that teenage girls with no education or with primary education are, respectively, over twice and one and a half times more likely to become pregnant than girls with secondary or higher education while pregnancy and marriage are reasons for their non-attendance at school in the first place.<sup>310</sup> Other survey data for 1996 reveals that 12 per cent of those questioned who left school at Grades 8 - 9 did so because of pregnancy and 4 per cent because they got married. Bearing in mind that the survey included males, the percentage figure for pregnancy is an under-representation and would increase in a female only survey. The reasons given by parents in urban areas as to why a daughter was not attending school were 'marriage' in 37 per cent of cases and child care or income generating activities in a further 23 per cent.<sup>311</sup>

In 1997, the Government made the important policy announcement that all girls who became pregnant would be allowed to continue their education after delivery.<sup>312</sup> While the Government edict is welcome, its *de facto* enforcement is vital. The popular view that the education of girls is of lesser importance is entrenched. In a 1996 survey respondents were asked:<sup>313</sup> In case a household cannot afford to send all its children to school, who should be given priority between boys and girls? In urban areas 53 per cent said boys should be given priority and 25 per cent that girls and boys should be treated equally. Opinion in rural areas exhibits even greater discrimination: 70 per cent of respondents felt boys should be given priority as opposed to just 25 per cent who advocated equal treatment.

#### ii. Female household labour versus the cost of schooling

The World Bank has noted that rising school fees have a particularly detrimental impact on the education of girls, especially in rural areas:

'The first to be hurt by increasing direct costs are girls, because the perceived returns to girls' education are low, especially in patri-lineal societies where wives move to the husband's village. Also the opportunity cost is higher for keeping girls in school as they have important functions in the household, such as taking care of younger siblings, and fetching water and firewood.'<sup>314</sup>

This suggests that, while the PAGE initiative is to be welcomed, there is a contradiction at the heart of Government policy in that, despite the World Bank's recommendation to eliminate regressive direct and indirect school fees, an emphasis has been placed upon cost-sharing. In a recent United Nations study on sustainable development in Zambia, it is noted that '[t]he introduction of cost sharing measures has stretched the ability of poor families to meet the cost of education.' The report continues '[w]here parents have to make a choice because of limited resources, the boy child is

more likely to be favoured and the girl child passed over.<sup>315</sup> Yet the Bank, for its part, while seeking the protection of relative expenditure on primary education, has also set an agenda of economic conditionality which has required the decimation of public expenditure in real terms. Furthermore, structural adjustment has had a severe impact upon women by increasing their workload in order to raise household income in times of hardship. In turn, the education of girls in poor household is curtailed: 'This often leads to girl children being withdrawn from school to help look after the home while their mothers are out trying to earn some money.'<sup>316</sup>

## Notes

- <sup>1</sup> Ministry of Education (1996), *Educating Our Future*. See also *PPF* (1995 - 1998), Education, para. 141.
- <sup>2</sup> Ministry of Education (1996), *Educating Our Future*. For a summary of the Government's educational strategies, see Kelly (1998), p. 40.
- <sup>3</sup> The official age ranges for different grades are as follows: Grades 1 - 4 correspond to 7 - 10 years; Grades 5 - 7 correspond to 11 - 13 years; Grades 8 - 9 correspond to 14 - 15 years; and Grades 10 - 12 correspond to 16 - 18 years.
- <sup>4</sup> Initially known as the Integrated Education Programme.
- <sup>5</sup> See *ESAC II R&R*, Annex J, Letter of Development Policy, paras. 78 - 79. The four ministries are Education; Science, Technology, and Vocational Training; Community Development and Social Services; and Sport, Youth and Child Development.
- <sup>6</sup> *ER 1996*, para. 262.
- <sup>7</sup> *Ibid.*, para. 260.
- <sup>8</sup> ESIP spans four ministries and covers both education and training. It is because of this complexity that the decision was taken to focus upon basic education in one package (i.e. BESSIP) and training in a second package. See *BESSIP PAD*, pp.14 - 15.
- <sup>9</sup> Education strategies and plans to be implemented under BESSIP have been developed jointly between the Zambian Government and multilateral and bilateral agencies. This culminated in a joint appraisal mission in September 1998 prior to the launch of the programme. See *BESSIP PAD*, p.1.
- <sup>10</sup> Ministry of Education (1999), *Statement on Education Policy Implementation During 1999 - 2002*, para. 23 ff. (reproduced in the *BESSIP PAD*, Annex 11). The BESSIP program is comprehensively reviewed within the *BESSIP PAD* itself. For a summary of the first phase components, see pp. 7 ff. More detail is given in Annex 2
- <sup>11</sup> The budget breakdown by the main components is as follows: (1) Primary teaching/learning readiness \$156.8 m (46.1%) (of which instructional materials \$24.1 m (7.1%); school health and nutrition \$3.3 m (1.0%); equity and bursaries \$16.6 m (4.9%); teacher's compensation and other operating expenses \$112.9 m (33.2%)). (2) Primary school infrastructure \$109.4 m (32.1%). (3) Pre-service and in-service primary teacher training \$31.1 m (9.1%). (4) Curriculum development \$2.2m (0.7%). (5) Administration of the education system/capacity building \$40.8 m (12.0%).
- <sup>12</sup> *BESSIP PAD*, p.11.
- <sup>13</sup> *Ibid.*, p.2.
- <sup>14</sup> *Ibid.*, Program Summary.
- <sup>15</sup> *Ibid.*, pp.2 - 3. In respect of the World Bank, the triggers for phase II funding are: share of trained teachers serving in rural schools increased; Ministry of Education's Buildings Section strengthened and 2,000 classrooms constructed; bursary scheme in place for vulnerable children; at least 20 per cent of the Government's supply budget devoted to education; quantitative framework for analysing enrolments, unit costs, total costs, and sector financing has been developed for policy analysis within the Ministry of Education; district Education Boards established and functioning in 60 per cent of districts; first national assessment of learning achievement carried out and results publicised; Joint Steering Committee meeting regularly to monitor and receive reports on expenditures, activities and achievement of overall BESSIP objectives; 75 per cent of IDA funds for APL I (Adaptable Program Loan) committed; preparations in place for implementation of activities to be supported by APL 2. See *BESSIP PAD*, 'Objectives, Phasing and Triggers for IDA Support,' Annex 1.
- <sup>16</sup> *BESSIP PAD*, pp. 24 - 25.
- <sup>17</sup> Specific objectives and measures are outlined in the *Statement on Education Policy Implementation 1999 - 2002*, op. cit.
- <sup>18</sup> Relative spending targets are set in relation to 'supply expenditure'. This refers to sectoral allocations approved under the budget and excludes 'non-supply expenditure', i.e., money which is not earmarked for a particular ministry or agency but which is spent upon debt service, pensions, severance benefits etc. Broadly speaking, 'supply expenditure' is comparable with discretionary expenditure as used by the Bank to set recent spending conditionality. In its *Statement on Education Policy Implementation 1999 - 2002*, the Government has set a target of allocating 20.5 per cent of supply expenditure to education by 2001. 60 per cent of this money is to be spent upon the primary subsector. (See *Statement on Education Policy Implementation 1999 - 2002*, reproduced in *BESSIP PAD*, Annex 11, paras. 40 ff.).
- <sup>19</sup> The Bank is using 'Adaptable Program Lending' to finance its contribution to BESSIP: 'While Government has been working on developing a four year program, the uncertainties in the macroeconomic situation, together with the delays in restructuring MoE [Ministry of Education], the phasing in of decentralization, and the lack of a financially sustainable policy framework for the sector, all point to the need for a flexible longer-term approach to IDA support.' This means the Bank will provide \$40 million for the period 1999 - 2001 but will not provide a further \$60 million for the period 2002 - 2005 unless the first phase is successful. The Development Credit Agreement for phase I is drawn up to allow the Bank to fund any components, depending upon where funds are needed. Political and economic risks are significant concerns. See *BESSIP PAD*, pp.14 - 15.
- <sup>20</sup> Kelly (1998), p. 40.
- <sup>21</sup> The implementation of other sector programmes, such as the Agriculture Sector Investment Program, in advance of adequate restructuring, has caused considerable problems. Attention is therefore being paid to capacity building under BESSIP. The Bank (IDA), Irish Aid, the Netherlands and Norway are supporting a fund for BESSIP preparatory activities. The complexity of management of BESSIP and too rapid decentralisation of District Education Boards before the necessary support is in place are deemed modest risks. In respect of the former, technical assistance is being provided in the early years of BESSIP while the Government has agreed to adhere to staged decentralisation to minimise the latter risk. See *BESSIP PAD*, pp. 24 - 25.
- <sup>22</sup> UNAIDS & WHO (1998a), *Epidemiological Fact Sheet on HIV/AIDS and sexually transmitted diseases: Zambia*.
- <sup>23</sup> *PPF* (1995 - 1998), Education, para. 143.
- <sup>24</sup> *SCR* (1997), Education reforms in 1993 - 1996, para. 58.
- <sup>25</sup> *Idem*.
- <sup>26</sup> See *ESAC II R&R*, Annex J, Letter of Development Policy, para. 82.

- <sup>27</sup> *ER 1997*, para. 200.
- <sup>28</sup> Ministry of Education (1999), *Statement on Education Policy Implementation During 1999 - 2002*, para. 24.
- <sup>29</sup> *GC 3*, para. 10.
- <sup>30</sup> ICESCR, article 13(2)(a).
- <sup>31</sup> *GC 11*, para. 6.
- <sup>32</sup> The net enrolment ratio (NER) compares the number of those enrolled of the correct age for primary education compared with the number of children in the population at large who should be enrolled at that level. See Kelly (1998), p.2.
- <sup>33</sup> Figures for 1985 and 1994 cited in the *PFP* (1995 - 1998), para. 132.
- <sup>34</sup> Kelly (1998), p.2.
- <sup>35</sup> *LCMS* (1996), table 7.8. The net attendance ratio measures the proportion of children in the appropriate age groups attending the appropriate grade for that age. See *idem*, para. 7.2.
- <sup>36</sup> *LCMS* (1996), table 7.8.
- <sup>37</sup> Convention on the Rights of the Child, article 28(1)(e). Zambia ratified the Convention on 6 December 1991.
- <sup>38</sup> Kelly (1998), p.3.
- <sup>39</sup> *LCMS* (1996), Chapter 7, Education.
- <sup>40</sup> The figures derive from analysis of the *LCMS* (1996) data on attendance by grade by the Study Fund, as cited in Kelly (1998), p.3.
- <sup>41</sup> *PA*, para. 8.27.
- <sup>42</sup> Ministry of Education (1996), *Educating Our Future*, p. 22.
- <sup>43</sup> *PSHDZ*, p.72.
- <sup>44</sup> Kelly (1998), p.4.
- <sup>45</sup> Official primary school age is 7 - 13 years.
- <sup>46</sup> Watkins (1999), *Education now: break the cycle of poverty*, p.170.
- <sup>47</sup> Kelly (1998), p.3.
- <sup>48</sup> *Ibid.*, p.5.
- <sup>49</sup> *LCMS* (1996), table 14.14.
- <sup>50</sup> Kelly (1998), p.5.
- <sup>51</sup> *Idem*.
- <sup>52</sup> *GC 1*, para. 7.
- <sup>53</sup> *GC 11*, para. 10.
- <sup>54</sup> Ministry of Education (1996), *Educating Our Future*, p.173. The targets were originally set in accordance with the situation prevailing in Zambia in 1994.
- <sup>55</sup> *PA*, para. 2.37.
- <sup>56</sup> Coulthard & Ngenda (1996), 'Urban Poverty on the Copperbelt,' p. 10.
- <sup>57</sup> The progression rate from Grade 7 to Grade 8 rose from 34.7 per cent in 1996 to and 37.4 per cent in 1997. The numbers sitting the exam fell, respectively, from 179,513 to 175,784. See *ER 1997*, para. 194.
- <sup>58</sup> Kelly (1998), p.4.
- <sup>59</sup> *Ibid.*, p.5.
- <sup>60</sup> *Idem*.
- <sup>61</sup> *GC 11*, para. 6.
- <sup>62</sup> ICESCR, article 13(2)(e).
- <sup>63</sup> With support from UNESCO, a group of countries formed the Southern African Consortium for Monitoring Educational Quality. The results for Grade 6 learning achievement cited here come from its *Zambian* assessment. Subsequent SACMEQ tests of Grade 6 pupils are to be carried out in 2000 and 2005. In the meantime, a national committee has been formed in Zambia to establish a national system of assessment to be run by the Examinations Council of Zambia. An assessment of a sample of Grade 5 pupils covering mathematics and literacy in English and *Zambian* languages is planned for 1999. See *BESSIP PAD*, pp. 21 - 22.
- <sup>64</sup> *Ibid.*, p.5.
- <sup>65</sup> *Ibid.*, p.10; also p.15.
- <sup>66</sup> The illiteracy rate is estimated from data presented in the *LCMS* (1996), table 7.13. The assumption would appear to be that those with no education or with only lower primary education are judged to be illiterate (see Kelly (1998), pp.26 - 27). On this basis, in 1996, the illiteracy rate for young men 14-20 was 36 per cent compared with 37 per cent for young women of the same age. Although the illiteracy rates for older women aged 31-45 were at comparable levels to younger women - that is, around the 37 - 38 per cent mark - men in this age range recorded much lower rates of 14 per cent. The figures reveal the unequal access of women to education when they were younger but also shows that illiteracy among men is increasing. This will have a knock-on effect in that the educational level of the head of household correlates with the importance attached to the education of children.
- <sup>67</sup> *GC 11*, para. 6.
- <sup>68</sup> *PSHDZ*, p.69.
- <sup>69</sup> *BESSIP PAD*, p.10.
- <sup>70</sup> *Ibid.*, p.5.
- <sup>71</sup> *Idem*.
- <sup>72</sup> Kelly (1998), pp. 12 - 13.
- <sup>73</sup> ICESCR, article 12, especially subclause (b) on environmental hygiene.
- <sup>74</sup> ICESCR, article 11.
- <sup>75</sup> See *GC 4*, para. 8(b) and (d).
- <sup>76</sup> Basic Education Subsector Investment Programme, Terms of Reference, October 1997, quoted in Kelly (1998), p.9.
- <sup>77</sup> *BESSIP PAD*, p.9. \$109.4 million or 32.1 per cent of the *BESSIP* first phase budget is earmarked for this purpose.
- <sup>78</sup> Of the planned total of 4600 classrooms to be built/rehabilitated between 1999 - 2001, construction of about 1760 is already in an advanced stage of planning. This leaves a remainder of 3,000, three quarters of which are expected to be rehabilitated through community projects. The final schools will be built/rehabilitated through specific contracts. See *BESSIP PAD*, p. 21.
- <sup>79</sup> Kelly (1998), p.9.
- <sup>80</sup> *Ibid.*, p.10.
- <sup>81</sup> *Idem*.
- <sup>82</sup> *BESSIP PAD*, pp.8 - 9. \$24 million or 7 per cent of the *BESSIP* first phase budget is earmarked for this purpose. This subcomponent is entirely supported through donor funds.
- <sup>83</sup> Based on the experience of Grade 6 pupils in primary schools, as reported in the *SACMEQ Report 1997*, tables 3.4, 3.6 and 3.7. Cited in Kelly (1998), pp.10 - 11.
- <sup>84</sup> *ER 1997*, para. 199(iv).

- <sup>85</sup> *BESSIP PAD*, p. 8.
- <sup>86</sup> ICESCR, article 6(2).
- <sup>87</sup> ICESCR, article 7, in particular (a)(i) and (c).
- <sup>88</sup> *BESSIP PAD*, p.4.
- <sup>89</sup> Kelly (1998), p.8.
- <sup>90</sup> See *ESAC II R&R*, Annex J, Letter of Development Policy, para. 83.
- <sup>91</sup> See *PSREPC R&R*, Annex I, Letter of Development Policy, para. 40. This objective is outlined in the Ministry of Education's *Statement on Education Policy Implementation* (op. cit, para. 30) by which the first phase of BESSIP is to be implemented.
- <sup>92</sup> DANIDA is supporting the Zambia Teacher Reform Programme. See *BESSIP PAD*, p.21.
- <sup>93</sup> *Idem*.
- <sup>94</sup> *BESSIP PAD*, p.6.
- <sup>95</sup> *Ibid.*, p.9.
- <sup>96</sup> See, for example, the citations of the beneficiary assessments carried out for the World Bank's Poverty assessment, as summarised in para. 3.97 and box 8.4; also Kelly (1998), p.13.
- <sup>97</sup> *Idem*.
- <sup>98</sup> *BESSIP PAD*, p.6.
- <sup>99</sup> Kelly (1998), p.13.
- <sup>100</sup> *BESSIP PID*, p.4.
- <sup>101</sup> *PSHDZ*, pp. 68 - 69.
- <sup>102</sup> ICESCR, article 2(1).
- <sup>103</sup> *GC 3*, para. 10.
- <sup>104</sup> Total domestic expenditure excludes interest payments on foreign debt and foreign-financed capital expenditures.
- <sup>105</sup> See Kelly (1999), fn. 26.
- <sup>106</sup> For example, in its *ER 1997*, table 2.10, the Government records 21 per cent of external assistance as spent on agriculture, 14.6 per cent on health, 14.9 per cent on infrastructure and 11.4 per cent on education.
- <sup>107</sup> Kelly (1998), p.29.
- <sup>108</sup> *Idem*. Average expenditure on education in Sub-Saharan Africa is cited as 3.9 per cent of GDP in recent years (1992 - 1996).
- <sup>109</sup> *Idem*.
- <sup>110</sup> Kelly (1998), p. 31.
- <sup>111</sup> *Idem*.
- <sup>112</sup> *GC 3*, para. 10.
- <sup>113</sup> Kelly (1998), p.35.
- <sup>114</sup> *Idem*.
- <sup>115</sup> Figures cited in the *PA*, respectively, paras. 4.75 and 4.70. The approved budget share for primary education in 1992 was 19.6 per cent whereas expenditure on the subsector in the first half of the 1980s averaged out at just under 42 per cent.
- <sup>116</sup> Kelly (1998), p.35.
- <sup>117</sup> Expenditure on primary education in sub-Saharan Africa averaged 42.9 per cent. (World Bank (1995a), *Priorities and Strategies for Education*, cited *SCR* (1997), Box 2, p.37.
- <sup>118</sup> Kelly (1998), p.36.
- <sup>119</sup> Central Statistical Office (1994), *Priority Survey II 1993*, table 6.11.
- <sup>120</sup> In 1991, 88 per cent of university students were from a non-poor background, 4.3 per cent were from a poor background and 7.8 per cent from a core background. See *PA*, table 4.4.
- <sup>121</sup> *LCMS* (1996), table 7.15.
- <sup>122</sup> *BESSIP PAD*, p.3.
- <sup>123</sup> *SCR* (1997), table 11.
- <sup>124</sup> *Idem*.
- <sup>125</sup> In \$US at the prevailing exchange rate, expenditure per primary student was \$25 in 1995, \$28.8 in 1996 and \$27.3 in 1997. The first three figures refer to actual expenditure, the latter figure to the revised budget allocation. See Kelly (1998), table 13.
- <sup>126</sup> Kelly (1998), pp. 1 -2 and Figure 1.
- <sup>127</sup> *ER 1997*, table 2.10.
- <sup>128</sup> Donor resources included in the domestic budget were worth \$19 million. See Kelly (1998), p.33.
- <sup>129</sup> The UK (DfID) is supporting in-service teacher education and the provision of initial literacy in a familiar language. Denmark (DANIDA) is supporting teacher training colleges and will support the curriculum review under BESSIP. The Dutch and the Irish are supporting education in Western and Northern Provinces. The EU is providing assistance for planning in the Ministry of Education and will contribute finance for bursary support for poor pupils under BESSIP. Finland has been supporting a school maintenance program. Norway has initiated support for textbook supply and distance education. PAGE is supported by UNICEF and Norway aims at improving the access of girls to education, and their retention, completion and progression in schools. National and international NGOs are supporting education through a variety of initiatives. For a listing of existing and proposed donor support for education, see *BESSIP PAD*, pp.16 ff.
- <sup>130</sup> As of March 1999, actual commitments from donors, excluding IDA, for the first phase of BESSIP amounted to \$67 million. A further \$60 million was required, leaving an initial financing gap of \$6 million is for implementation of BESSIP in 2001. See *BESSIP PAD*, p.11.
- <sup>131</sup> Over the period 1993-1996, expenditure on education each year was \$82 million. In comparison, average debt servicing each year over the same period was \$335 million. See Kelly (1998), table 12, p.30.
- <sup>132</sup> K200 billion were transferred. See *SCR* (1999), Statistical Appendix, table 13. To convert into \$US, the prevailing exchange rate of \$1 = K1203.7 has been used.
- <sup>133</sup> Assistance grants contributed K128 billion to domestic revenue. See *SCR* (1999), Statistical Appendix, table 12. The net transfer to foreign creditors was therefore equivalent to K72 billion using the same exchange rate.
- <sup>134</sup> Calculated on the basis that 43 per cent of funds were spent on the primary sector in 1996, as cited in Kelly (1998), p.35. The IMF records a similar (though unadjusted) figure of 44.8 per cent. (*SCR* (1997), table 11, p.36).
- <sup>135</sup> The Government calculates that total direct costs to parents per primary pupil are \$17. Multiplied by 1.51 million pupils enrolled in primary school in 1996, gives a total parental spend of just under \$26 million.
- <sup>136</sup> *SCR* (1997), table 11.
- <sup>137</sup> *GC 2*, para. 9.
- <sup>138</sup> *Ibid.*, para. 8(d).
- <sup>139</sup> Watkins (1999), *Education Now*, p.171.
- <sup>140</sup> *PIRC & ESAC PAR*, para. 3.21.
- <sup>141</sup> In line with the target set, a discretionary budget allocation of 14.72 per cent is recorded for 1995. See *ESAC II R&R*, Annex J, 'Social Sector

Spending in 1996,' pp. 74.

<sup>142</sup>*PIRC & ESAC PAR*, para. 4.10.

<sup>143</sup>ERIP specified levels of social spending at 33 per cent of total non-interest expenditure spending in 1995. ESAC II included similar conditionality whereby the Government was to maintain the social sector budget at a minimum of 35 per cent of discretionary domestic expenditure in 1996. See *intra*, Section 3(I), fn. 10 for further details.

<sup>144</sup>*ESAC II R&R*, Annex J, 'Social Sector Spending in 1996,' pp. 74 ff.

<sup>145</sup>*Ibid.*, Annex J, 'Letter of Development Policy,' para. 79.

<sup>146</sup>*Ibid.*, Annex J, 'Sub-Sectoral Budget Allocation,' p. 75.

<sup>147</sup>The social component of the discretionary domestic budget is set at 36 per cent. See *PSREPC R&R*, Annex I, Letter of Development Policy, Annex A, 'Social spending in 1999,' p.56.

<sup>148</sup>Subsectoral budget allocation are no longer specified. Furthermore, of the seven social sector programmes earmarked for monitoring, none are specifically concerned with education. Monitoring of spending on the Public Sector Welfare Scheme is indirectly relevant given its planned role in meeting the educational costs of the poorest. See *PSREPC R&R*, para. 51; also *idem*, Annex I, Letter of Development Policy, Annex A, 'Social spending in 1999,' p.56.

<sup>149</sup>Kelly (1999), pp. 14 - 15.

<sup>150</sup>*Idem*.

<sup>151</sup>*Idem*.

<sup>152</sup>A Joint Steering Committee on which the donors and other stakeholders are represented will meet twice a year to review progress and examine next steps.

<sup>153</sup>*GC 11*, para. 9.

<sup>154</sup>*Idem*.

<sup>155</sup>*GC 11*, para. 11.

<sup>156</sup>*Idem*.

<sup>157</sup>World Bank (1995b), 'Assessing Sector Institutions: Lessons of Experience from Zambia's Education Sector,' p. 33.

<sup>158</sup>In March 1994, the World Bank instigated and then supported a Sector Institutional Assessment (SIA) of the Ministry of Education which was combined with a management audit already planned under the Public Sector Reform Programme. A perceived benefit of the SIA was to coordinate the PSRP and internally inspired reform. In a second phase, the SIA was extended to other ministries operating in the education sector with the goal of feeding into the formulation of the Government's Integrated Education Programme (which evolved into the Education Sector Integrated Programme). See World Bank (1995b), p.7.

<sup>159</sup>*Ibid.*, pp. 53 -54. The purpose of the SIA action plan was to identify wider fundamental legal and institutional reforms and to specify what action were necessary to build capacity and improve management within the education sector. See *idem*, Box 5, p.16.

<sup>160</sup>Assistance was to be delivered through the Bank's proposed Education Sector Investment Program.

<sup>161</sup>The BESSIP loan typifies the importance the Bank attaches to fundamental, policy orientated interventions in education: '...the World Bank's main contribution must be advice, designed to help governments develop education policies suitable for the circumstances of their countries. Bank financing will generally be designed to leverage spending and policy change by national authorities. Future operations will therefore adopt an even more explicit sectorwide policy focus in order to support changes in educational financing and management.' (World Bank (1995a), *Priorities and Strategies for Education*, Internet Summary, subsection 'The World Bank and Education'). During BESSIP preparation, the Bank provided: '(a) technical advice in education, finance and management issues, and (b) support for the process of external financing agency mobilization and consensus building on key issues through financing the ESIP secretariat, supporting a range of studies and workshops, and through substantive participation in conferences and workshops. The Bank also assisted the government to produce background documentation (including an Education Expenditure Review and the Benefits of Learning study).' (Cited from *BESSIP PAR*, p.19).

<sup>162</sup>*PIRC & ESAC PAR*, para. 2.25.

<sup>163</sup>Summarised in World Bank (1995b), p.29.

<sup>164</sup>*PIRC & ESAC PAR*, para. 3.21.

<sup>165</sup>For primary schools and teacher training colleges, all decentralised Education Boards were to be established by the end of 1996, followed by autonomy for all secondary schools by the end of the following year. This timetable was not adhered to. See *ESAC II R&R*, Annex J, Letter of Development Policy, para. 82.

<sup>166</sup>*Ibid.*, Annex J, Letter of Development Policy, paras. 77 ff. Specifically, the Government restated its targets of achieving universal basic education; of providing education and training for children who have dropped out of, or who have never attended, school; and of delivering youth and vocational skills training. Overall, it agreed to carry out a review to restructure those Ministries involved in the provision of education. In pursuit of the first objective of universal basic education, the Government agreed to maintain relative expenditure on the primary education subsector and to encourage the creation of community schools. Its stated policy in respect of the second objective, on the education of school drop-outs and those who have never enrolled in the formal system, was vague in the extreme and tautological: their needs were to be addressed 'through greater emphasis on non-formal education channels for the completion of their primary schooling and the provision of skills training for the informal sector.' Indeed, the education of such groups was elided into the overall question of vocational and technical training. Government policy in this area was at least better developed; however, for a critique of Government action and inaction on the issue of training, please see Section 2(II). The decentralisation of education management was to continue under the credit. Finally, measures were to be adopted to improve control over the deployment of trained and untrained teachers and to tighten monitoring of teacher emoluments by removing 'ghost' staff from the payroll.

<sup>167</sup>See *ESAC II R&R*, Annex J, Letter of Development Policy, para. 79.

<sup>168</sup>*Ibid.*, Annex J, Letter of Development Policy, para. 71.

<sup>169</sup>*BESSIP PAD*, Annex 2, 'Program Description and Detail on Phase 1 of IDA Support,' p.3.

<sup>170</sup>In a World Bank discussion paper on cost sharing in sub-Saharan Africa, community-based financing, non-government provision of services with public financing, and decentralisation of government services are all advocated as the balanced approach to cost sharing. (World Bank (1996), 'Cost Sharing in the Social Sectors of Sub-Saharan Africa: Impact on the Poor,' Executive Summary, pp.1 -2). The paper reviews and reaches contradictory conclusions on the Bank's official policy towards cost sharing in primary education. This must reflect the ambiguity of the underlying texts. Hence, while noting that recent Bank policy documents 'discourage cost sharing at the primary level' it is acknowledged that '[s]ome fees and various forms of cost sharing are, however, recommended in cases where the provision of schooling of an acceptable quality is unattainable with public funds alone.' (*Ibid.*, p.8). A Bank study on education finance advocates that primary education should receive the highest priority in public investment; yet it also recommends the expansion of community-supported schools. It is pointedly silent on the issue of primary school fees and the potential impact of community cost sharing on the enrolment of poor children. (World Bank (1987), *Financing Education in Developing Countries: An Exploration of Policy Options*). To cite the Bank's 1988 review of adjustment and education policy in Sub-Saharan Africa: '... there may be situations in which the judicious use of modest fees might be used for the explicit purpose of increasing accountability in education. For example, a purchase fee or rental charge for textbooks and other materials that are crucial to high levels of pupil achievement would help to ensure that these inputs are not eliminated from the budget during times of fiscal austerity.' (World Bank (1988), *Education in Sub-Saharan Africa: Policies for Adjustment, Revitalization and Expansion*, p.53). A policy paper on primary education, while recognising that cost sharing is more appropriate at higher levels, does not rule it out at the primary level and indeed recognises that significant sums have been generated at the local level

by school-based organisations through school fees, voluntary contributions, and social fund-raising events. (World Bank (1990b), *Primary Education*, pp. 44-45).

<sup>171</sup>World Bank (1995a), *Priorities and Strategies for Education*, Internet Summary, subsection 'Emphasis on Basic Education in Public Investment'. The same policy document sets out contradictory advice on the financing of primary and basic education. It is recognised that 'basic education ought to be the priority for public spending on education in those countries that have yet to achieve near-universal enrolment' and that 'to achieve equity, the government needs to ensure that no qualified student is denied access to education because of inability to pay.' At the same time, private financing 'can be encouraged...to supplement the income of publicly funded institutions' and financial measures to encourage school autonomy and accountability can include cost-sharing with local communities which is '...normally the only exception to free basic education' (see p.105). The document continues by advocating that scholarships can be used to cover fees and other direct costs and even to compensate poor families for loss of labour services to the household. Yet scholarships and bursaries are predicated on the assumption that primary education is not free of charge.

<sup>172</sup>World Bank (1999b), *Education Sector Strategy*, p.5.

<sup>173</sup>While stating that the Bank is committed to working towards the Jomiten Education For All targets and the OECD's Development Assistance Committee call for universal primary education and gender parity in primary and lower secondary education (see OECD (1996), *Shaping the 21st Century*), the Strategy singularly omits to reference the requirement that universal access to primary education should be free.

<sup>174</sup>World Bank (1999b), Annex 2, 'Further Remarks on the Checklist of Questions,' Question 5, p.50. The issue of public/private finance for education is discussed on several occasions in the main text of the *Education Sector Strategy*. See, for example, pp.8 - 9; pp.18 - 19; pp.34 -35.

<sup>175</sup>*Ibid.*, p.18.

<sup>176</sup>Besides the elimination of regressive cost-sharing, four other recommendations are made: to prioritize girls education; to change the school calendar to reflect rural seasonal labour demands and to avoid the call upon parents to pay fees when cash is in short supply; to rehabilitate and improve school infrastructure with community inputs; and to supply schools with essential learning materials. While the latter two recommendations are best tackled - as has been the case - through project assistance, the first two fall squarely within the policy sphere. See *PA*, paras. 10.18 ff.

<sup>177</sup>*BESSIP PAD*, pp. 5 - 6.

<sup>178</sup>Kelly (1999), p.6.

<sup>179</sup>*GC 2*, para. 6.

<sup>180</sup>*Ibid.*, para. 8(d).

<sup>181</sup>*Ibid.*, para. 9.

<sup>182</sup>The Bank's preoccupation under the its latest Public Sector Reform and Investment Credit is with the privatisation of ZCCM and the implementation of the public sector reform. Beyond the noted conditionality on the protection of social spending, no agreements whatsoever relate directly to policy initiatives on education.

<sup>183</sup>*GC 11*, para. 7.

<sup>184</sup>The text of this reservation is reproduced in the Treaty Bodies Database, under the entry for Status of Ratification of the Covenant, located at <[www.unhchr.ch/tbs/doc.nsf](http://www.unhchr.ch/tbs/doc.nsf)>.

<sup>185</sup>Calculations by Kelly (1998), p.36, based on the *Household Budget Survey 1993/94*, table 2.4.

<sup>186</sup>The relative spend is in respect of total domestic expenditure on education and excludes the external contribution from donors.

<sup>187</sup>*LCMS* (1996), table 11.1. Average monthly expenditure on education is recorded as K3233.

<sup>188</sup>Calculations by Kelly (1998), p.36.

<sup>189</sup>*PA*, para. 8.42.

<sup>190</sup>Ministry of Education (1999), *Statement on Education Policy Implementation During 1999 - 2001*, para. 10.

<sup>191</sup>A limited survey by the World Bank in 1995/6 suggests parents were spending between \$30 and \$60 per primary school child (cited in Kelly (1998), p.36). Furthermore, Kelly, citing figures from the BESSIP Preparatory Mission Documentation, records 1996 Government expenditure at \$28.8 per primary pupil.

<sup>192</sup>Kelly (1998), p.24.

<sup>193</sup>*GC 11*, para. 7. It is the Committee, not a State party, which decides whether an indirect cost is permissible.

<sup>194</sup>The World Bank estimates the cost of a uniform in 1994 as K5200. The calculations are based on this figure and use an exchange rate of \$1=K670. See *PA*, para. 8.45.

<sup>195</sup>*Idem.*

<sup>196</sup>Kelly (1998), p.24.

<sup>197</sup>*Ibid.*, fn. 66.

<sup>198</sup>*Ibid.*, p. 29.

<sup>199</sup>*GC 11*, para. 4. For evidence of the correlation between, for example, female education and contraceptive use or early childhood mortality in Zambia, see *ZDHS* (1996), respectively, pp. 54 and 97.

<sup>200</sup>Attention is drawn to this fact in *GC 1*, para. 4.

<sup>201</sup>ICESCR, article 14.

<sup>202</sup>*GC 11*, para. 3.

<sup>203</sup>*Ibid.*, para. 9.

<sup>204</sup>*Ibid.*, para. 7.

<sup>205</sup>Kelly (1998), p. 41.

<sup>206</sup>*GC 4*, para. 14.

<sup>207</sup>Kelly (1998), p.7.

<sup>208</sup>*Idem.*

<sup>209</sup>*BESSIP PAD*, p.17.

<sup>210</sup>*GC 4*, para. 14; also para. 10.

<sup>211</sup>Ministry of Education (1996), *Educating Our Future*.

<sup>212</sup>Kelly (1998), fn. 16.

<sup>213</sup>*Reporting Guidelines*, Article 13, para. 5(b).

<sup>214</sup>Kelly (1998), p.14.

<sup>215</sup>*GC 3*, para. 12.

<sup>216</sup>The parallel is with the right to housing, *GC 4*, para. 8(e).

<sup>217</sup>*LCMS* (1996), table 7.3. The school attendance rates are for children aged 7 - 13 and do not take into consideration whether a child is attending the appropriate grade for their age.

<sup>218</sup>Cited in Kelly (1998), p.23: 'Preliminary quantitative analysis of the 1996 LCMS data shows that poverty levels have a large negative effect on school attendance rates, the adverse effect of extreme poverty being about three times larger than the effect of being moderately poor.'

<sup>219</sup>15.3 per cent of pupils in the very low socio-economic band achieved the minimum mastery level in reading at Grade 6 compared with 28.3 per cent and 31.3 per cent of pupils from high and very high bands. See *SACMEQ Report 1997*, table 6.3 (cited in Kelly (1998), p.16).

<sup>220</sup>Overall, desirable achievement in reading across all socio-economic groups was low. However, only 0.7 per cent of the very poor as opposed to 3.7 per cent of those from high/very high socio-economic backgrounds achieved the standard.

- <sup>221</sup> *BESSIP PAD*, p.5.
- <sup>222</sup> *Ibid.*, p.9; also *idem*, Annex 2, Program Description and Detail on Phase 1 of IDA Support, Component 1.4, p.4.
- <sup>223</sup> *BESSIP PAD*, p.9.
- <sup>224</sup> *PA*, para. 3.95. In the same report it is stated that 'For parents, and in particular poor parents of the mid-1990s, the future benefits that might come from a greater period of schooling must be balanced against the lost opportunity costs of utilizing children in subsistence farming or informal sector activities.' (*Idem*, para. 8.34).
- <sup>225</sup> Watkins (1999), pp. 170 - 171.
- <sup>226</sup> There is evidence that some Zambian parents are unwilling rather than unable to pay school fees. They do not do so because the education on offer is of such low quality that they do not see a return on their investment, either in terms of the fees paid or in terms of the loss of income generation to the household when a child goes to school. See Kelly (1998), pp. 25 - 26.
- <sup>227</sup> *PSHDZ*, pp. 42 - 43.
- <sup>228</sup> *PA*, para. 10.19.
- <sup>229</sup> *Ibid.*, para. 3.61.
- <sup>230</sup> *Ibid.*, para. 3.99.
- <sup>231</sup> *Ibid.*, para. 8.99(d).
- <sup>232</sup> *Ibid.*, Chapter 10, 'Implementing a Poverty Reduction Action Plan,' p. 211, under (ii) Education.
- <sup>233</sup> *PSHDZ*, p.72.
- <sup>234</sup> Kelly (1998), p.41.
- <sup>235</sup> *BESSIP PAD*, pp. 5 - 6.
- <sup>236</sup> Kelly (1999), p.6. The number of Zambian living in extreme poverty in 1996 was calculated to be 5,068,000 (cited in Kelly (1999), using the Central Statistical Office (1997), *The Evolution of Poverty in Zambia*).
- <sup>237</sup> *BESSIP PAD*, p.9.
- <sup>238</sup> *Ibid.*, p.12.
- <sup>239</sup> *Ibid.*, Annex I, 'Objective, Phasing and Triggers for IDA Support,' point 7.
- <sup>240</sup> *BESSIP PAD*, p.20.
- <sup>241</sup> *LCMS* (1996), table 7.17.
- <sup>242</sup> The *LCMS* (1996) reveals that in another 11 per cent of cases 'lack of support' was cited as the reason for non-attendance which suggests a financial element. Furthermore, in 2 per cent of cases it was admitted that children were not attending school because they were working.
- <sup>243</sup> According to the Government, based on *LCMS* and Central Statistical Office data, 550,000 children of primary school age (7 - 13) were not enrolled in school in 1996. See Ministry of Education (1999), *Statement of Education Policy Implementation 1999 - 2001*, para. 7.
- <sup>244</sup> *BESSIP PAD*, Annex 3, 'Program Costs and Financing: Explanatory Note,' component 5.3, p.11.
- <sup>245</sup> *BESSIP PAD*, p.5.
- <sup>246</sup> *Ibid.*, p.9.
- <sup>247</sup> 49 per cent of those aged 12 and over in rural areas are judged to be illiterate compared with 17 per cent of the same cohort in urban areas. See *LCMS* (1996), table 17.14; see also *intra*, fn. 66 above.
- <sup>248</sup> Net primary school attendance rates in 1996 were 81 per cent in urban areas compared with 62 per cent in rural areas. *LCMS* (1996), table 7.8.
- <sup>249</sup> The figures compare those in Grade 1 in 1990 to those in Grade 7 in 1996. See *intra*, fn. 40 above.
- <sup>250</sup> 'Very rural provinces' refers to those off the line-of-rail. The highest concentration of 39 per cent of untrained teachers was in North West Province in 1996. The comparison is with the two most heavily urbanised line-of-rail provinces - Lusaka and the Copperbelt - in which most major Zambian towns and cities are located. The percentage of untrained teachers in the former was 7 per cent and 11 per cent in the latter. See Kelly (1998), Table 7.
- <sup>251</sup> The official estimate is 492,000. See *LCMS* (1996), p.12. Taking the age range from 0-18, the number of estimated orphans rises to 670,000.
- <sup>252</sup> *LCMS* (1996), table 2.3. Other estimates suggest a much higher figure: 72 per cent of Zambian households care for one or more orphans. See *The Economist*, 'Orphans of the Virus,' 14 August 1999, p.47.
- <sup>253</sup> *Idem*.
- <sup>254</sup> Kelly (1998) p.23.
- <sup>255</sup> Cited in *ibid.*, p. 23.
- <sup>256</sup> *ZHDR 1997*, Box 3.2.
- <sup>257</sup> Children of the street and children on the street both included: the latter have a home to go to, the former do not. Data on streetism is from Lungwanwa & Macwan'gi (1996), as cited in Kelly (1998), pp.22 ff..
- <sup>258</sup> Cf. 14 per cent double-orphans in the population at large.
- <sup>259</sup> *The Economist*, 'Orphans of the Virus,' 14 August 1999, p.47.
- <sup>260</sup> Kelly (1998), p.22.
- <sup>261</sup> Ministry of Community Development and Social Services (1998), *National Poverty Reduction Strategy Framework* [draft report], p. 9.
- <sup>262</sup> *Ibid.*, '5. Immediate short-term poverty reduction framework,' subsection on Human Resources Development.
- <sup>263</sup> Kelly (1998), p.23.
- <sup>264</sup> *The Economist*, 'Orphans of the Virus,' 14 August 1999, p.47.
- <sup>265</sup> NGOs supporting community schools include: The Reach Out Development Organisation, The Reformed Church of Zambia, World Vision International, Singlet International, Partners in Education, CARE International, the Zambia Red Cross, Fountain of Hope, Zambia Open Community Schools, Fatima Barefoot Organisation, Livingstone Street Kids Association, the Young Orphans Christian Association, Development Organisation for People's Empowerment and groups of Catholic Sisters. List as cited in Kelly (1998), fn. 17.
- <sup>266</sup> Kelly (1998), p.23.
- <sup>267</sup> *GC 5*, para. 5.
- <sup>268</sup> *Ibid.*, para. 15.
- <sup>269</sup> Specifically on persons with disabilities, see *GC 5*, para. 5; in terms of general disadvantage, see *GC 3*, para. 12.
- <sup>270</sup> ICESCR, article 2(2) as interpreted in *GC 5*, para. 5.
- <sup>271</sup> This figure is based on the WHO formula that 10 per cent of a population will have special educational needs. Official statistics significantly underestimate the number of children with disabilities. The 1990 census recorded just 11,000 children with disabilities in the 7 - 13 age range. See Kelly (1998), p.20, for a discussion of other available information on education and disability.
- <sup>272</sup> *GC 5*, para. 9.
- <sup>273</sup> Kelly (1998), pp.18 - 19.
- <sup>274</sup> 'Standard Rules on the Equalization of Opportunities for Persons with Disabilities,' annexed to General Assembly resolution 48/96 of 20 December 1993. For the Committee's citation of rule 6 on integrated education for children with disabilities, see *GC 5*, para. 35.
- <sup>275</sup> *GC 5*, para. 35.
- <sup>276</sup> Kelly (1998), p.20.
- <sup>277</sup> *GC 1*, para. 3.

<sup>278</sup>GC 5, para. 13.

<sup>279</sup>ER 1996, para. 258.

<sup>280</sup>CEDAW was ratified by Zambia on 21 June 1985.

<sup>281</sup>See, respectively, CEDAW, article 10; CRC, articles 2(1) and 28; ICESCR, articles 2(2) and 13.

<sup>282</sup>ICESCR, article 2(2) and article 3 respectively.

<sup>283</sup>ER 1997, para. 198.

<sup>284</sup>Kelly (1998), p.17.

<sup>285</sup>The encouragement of family support for children in education is known as Familypac.

<sup>286</sup>BESSIP PAD, Annex 2, Program Description and Detail on Phase 1 of IDA Support, Component 1.3, p.3.

<sup>287</sup>Idem; also BESSIP PAD, p.9.

<sup>288</sup>BESSIP PAD, Annex 3, Program Costs and Financing: Explanatory Note, Component 5, p.11.

<sup>289</sup>The total number of children between 7 - 13 is estimated to be 1.84 million in 1996. It is assumed here that half are girls.

<sup>290</sup>Girls account for 50 per cent of Grade 1-4 enrolments and 49.4 per cent Grades 1 - 7 enrolments in both the Copperbelt and Lusaka Provinces in 1996. See Kelly (1998), table 8.

<sup>291</sup>Across Grades 1 - 7, girls account for 48.8 per cent and 48.5 per cent of enrolments in Central and Southern Provinces respectively (*idem*).

<sup>292</sup>The percentage of girls enrolled in Grades 1 - 7 are: Luapula 45.9 per cent; Northern 44.6 per cent; North Western 45.8 per cent; and Eastern 46.4 per cent (*idem*).

<sup>293</sup>The percentage of girls enrolled in Grade 7 are: Luapula 39.9 per cent; Northern 39.2 per cent; North Western 40.5 per cent; and Eastern 38.1 per cent (*idem*).

<sup>294</sup>Kelly (1998), pp.17 - 18.

<sup>295</sup>Idem.

<sup>296</sup>Kelly (1998), table 1. The actual survival rate for girls at Grade 7 is 50.8 per cent.

<sup>297</sup>SACMEQ Report 1997, tables 6.2 and 6.3, cited in Kelly (1998), p.12.

<sup>298</sup>LCMS (1996), table 7.1

<sup>299</sup>Ibid., table 7.8.

<sup>300</sup>Definitions given in *ibid.*, para. 7.2.

<sup>301</sup>ER 1997, paras. 194 - 195.

<sup>302</sup>For example, in 1996, the progression rate for girls was 37.5 per cent.

<sup>303</sup>Net school attendance across both sexes at Grades 8 - 12 was 34 per cent in urban areas compared to just 11 per cent in rural areas. The net secondary school attendance rate for girls and boys in rural areas was identical, i.e., 11 per cent.

<sup>304</sup>In general, see GC 11, paras. 2 and 4 on the importance of the right to education as an economic, social, cultural, civil and political right and its interdependence with many other rights.

<sup>305</sup>The 1996 IMR for infants born to mothers with no education was 132.9 per thousand live births compared with an IMR of 110.2 per thousand for those born to mothers with at least primary education. See LCMS (1996), table 7.3.

<sup>306</sup>Idem. While the correlation between maternal education and infant and child mortality is high, other interrelated factors are, of course, involved. For example, higher socio-economic status is associated with lower infant and child mortality while, at the same time, the educational level attained by women is itself related to whether they come from a poor or non-poor background.

<sup>307</sup>PSHDZ, p.47, 'The low educational profile of the girl child.'

<sup>308</sup>ZDHS (1996), p.14. For the age group 16 - 20, 42.4 per cent of males are enrolled in school compared with 23.3 per cent females. See table 2.6.

<sup>309</sup>Ibid., table 3.10.

<sup>310</sup>The percentage of teenage girls who have begun child-bearing in 1996 was 48.1 per cent for those with no education, 33.1 per cent for those with primary education and 21.1 per cent of those with secondary or higher education (*idem*). Furthermore, 17 per cent of Zambian women with no education surveyed in 1996 used a contraceptive compared with 23 per cent of women with primary education, 38 per cent of women with secondary education and 55 per cent of women with higher education. See ZDHS (1996), figure 4.3.

<sup>311</sup>PA, para. 6.35.

<sup>312</sup>ER 1997, para. 249.

<sup>313</sup>LCMS (1996), table 19.9.

<sup>314</sup>PA, para. 3.61; also para. 10.18.

<sup>315</sup>PSHDZ, p.47, 'The low educational profile of the girl child.'

<sup>316</sup>Ibid., pp.47 - 48.