

III. Social Welfare

Introduction

It is pertinent to reiterate the extent of poverty in Zambia before examining the issue of social security and welfare assistance. In 1996, it was estimated that 69 per cent or almost 6.6 million Zambians were poor. This includes 5.1 million or 53 per cent of the population living in extreme poverty. In comparison, 70 per cent of the population lived in poverty in 1991 and 74 per cent did so in 1993. In fact, due to population growth, more Zambians are poor today than at any time during the decade. While a decrease in the percentage of those living in extreme poverty was recorded between 1993 and 1996, the continued economic recession is likely to have seen a reversal in this trend.¹ Indeed, latest estimates suggest a rise in poverty to affect 72 per cent of the population.²

The 1998 budget address is recognised as constituting the first public admission by the MMD Government that sustainable development was impossible while poverty levels were so high.³ The target of reducing poverty levels to less than 50 per cent by the year 2004 was set.⁴ The Government drafted a National Poverty Reduction Strategy Framework in early 1998 and has since adopted the National Poverty Reduction Action Plan 1999 - 2000. A national Poverty Reduction Unit has been established within the Ministry of Community Development and Social Services to coordinate the implementation of this plan.

The provision of welfare assistance is one subcomponent of the support envisaged under the action plan which spans development in agriculture, infrastructure, human resources, micro-enterprises and the informal sector, together with improved monitoring and evaluation. However, the plan must be brought to fruition before it can be characterised as a progressive step towards the alleviation of poverty in Zambia and the realisation of economic and social rights. As it is, weaknesses in existing programmes continue to render them ineffective.⁵ This applies to the Public Welfare Assistance Scheme and the National Social Safety Net which are reviewed here in the context of the right to social security.

The analysis which follows is structured across four subsections. A preliminary concern is to map out the right to social security under the Covenant. In a second subsection, a brief overview is provided of the public social welfare system in Zambia. In the context of retrenchment as a result of economic reform, a third subsection details the social assistance available to retrenched. A final subsection considers the extent of action by the World Bank to promote a social safety net in mitigation of the hardship caused by the structural adjustment programme.

A. The right to social security

General provision for social security is made under article 9 of the Covenant:

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

The Committee has not issued a general comment on article 9. Nevertheless, it is possible to discern some of the central elements of a right to social security. The expectation arising from a State party’s obligations under the Covenant is for a formal, public social security scheme to be in operation.⁶ The range of social security envisaged under article 9 includes medical care, cash sickness benefits, maternity benefits, old-age benefits, invalidity benefits, survivors’ benefits, employment injury benefits, unemployment benefits and family benefits.⁷ Moreover, it is apparent that the Committee recognises a broad right to social security under the Covenant beyond a system of social insurance available to those with a record of contributions. The universality of the rights in the Covenant is unequivocal. In respect of the right to social security, this is underlined by the Committee’s request for information on the extent to which any groups do not enjoy the right to social security at all or do so to a significantly lesser degree than the majority of the population.⁸ A Government is required to indicate the measures it has taken to realise the right for such groups, to include the adoption of timetables and benchmarks.⁹ The plight of the vulnerable and disadvantaged is singled out for special attention by the Committee.¹⁰

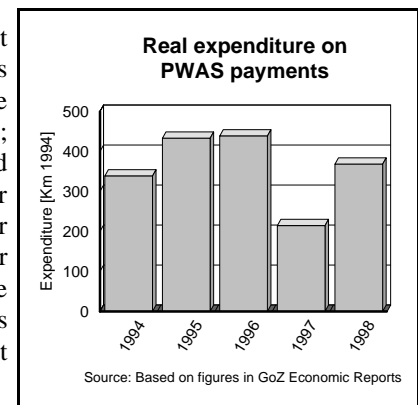
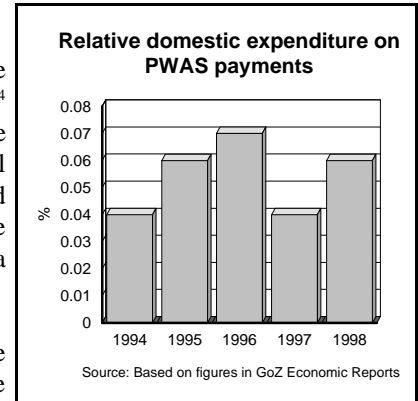
Furthermore, the Committee recognises the relevancy of a number of ILO conventions on social security to the realisation of article 9.¹¹ While Zambia has not ratified the conventions referred to - and this, in itself, must be a matter of concern and regret - this does not preclude their use in interpreting the right to social security under the Covenant.¹²

B. The Public Welfare Assistance Scheme

The Public Welfare Assistance Scheme, run by the Ministry of Community Development and Social Services, constitutes the State social safety net in Zambia. Its coverage is extremely limited and meagre resources are concentrated on the poorest and most vulnerable: orphans, the disabled, the elderly and unsupported children, women and dependants. Component programmes of the PWAS include the Health Care Cost Scheme, the school bursaries scheme and the Nutrition and Food National Social Safety Council. Most payments from the scheme are for food, shelter, medical costs and educational fees.¹³

The Covenant requires a State party to use maximum available resources to achieve progressively the full realisation of the rights recognised under the Covenant.¹⁴ Furthermore, if essential minimum levels of each right are to be realised by the vulnerable and disadvantaged in Zambia, as required by the Covenant, then social security for such groups is essential.¹⁵ The existence of user fees for health and education in Zambia reinforces the obligation on the Government to provide assistance to meet these costs to the maximum of its available resources if prima facie violations of the Covenant are to be avoided.

When juxtaposed to the Government's obligations, the level of funding for the PWAS is grossly inadequate in both relative and absolute terms. In every year since 1994, payments made from the PWAS have never amounted to even 0.1 per cent of domestic expenditure. Spending in 1997 under the PWAS on assistance - support services and the health and education schemes - amounted to K517 million.¹⁶ This represents a fall in actual expenditure on provision of forty per cent over the previous year. In 1998, the budget for the PWAS was doubled to K1.1 billion; however, in real terms this failed to raise spending even to the levels of 1995 and 1996. The amount spent in 1998 was the equivalent to just K217 or 13 US cents for each of the five million Zambians living in extreme poverty.¹⁷ The actual number assisted under the scheme during the year was 128,075 persons.¹⁸ Hence only 2.5 per cent of those classified as extremely poor were assisted. Payments on an average annual per capita basis were K8,800 or \$4.75.¹⁹ To add a final perspective to this level of funding, tax concessions to the mining sector announced in the 1998 budget were worth K18 billion or sixteen times the entire budget for the PWAS.



In the case of Zambia, resources targeted towards vulnerable groups to mitigate the effects of structural adjustment have been characterised by the UN ACC Task Force on Full Employment and Sustainable Livelihoods as 'far too meagre'.²⁰

Safety nets for vulnerable groups facing severe economic hardship can be improved and a comprehensive social security system should gradually be extended. Years of hardship and poverty have increased destitution. The worst affected are the disabled, unsupported old people, orphans and neglected children, single-headed households and the homeless. An increasing number of households are headed by children, following the early death of parents through HIV/AIDS. The effectiveness of the Public Welfare Assistance Scheme (PWAS) has been very limited.²¹

Administration of the PWAS was decentralised in 1996 in an attempt to improve targeting. Ward Welfare Assistance Committees at the local level are responsible for identifying the most disadvantaged and vulnerable persons in a community and making a recommendation for their support to the appropriate District Welfare Assistance Committee.²² Furthermore, the eligibility requirements for assistance have recently been made more stringent to further focus who receives payment. The new eligibility criteria and operational guidelines are to be first tested in a pilot scheme. It will take four years to launch the revamped PWAS.²³ Although the emphasis upon the delivery of assistance at the community level is further reinforced, a Public Welfare Assistance Management Unit has been established in the Ministry of Community Development and Social Services to co-ordinate implementation of the PWAS.

This notwithstanding, policy measures adopted by the Government in respect of the PWAS do not constitute active steps for the progressive achievement of the right to social security for the 53 per cent of the population living in extreme poverty.²⁴ Instead, the attempt to focus welfare on an ever smaller subset of recipients when 5,068,000 Zambians are already classed as extremely poor is symptomatic of the utterly inadequate level of spending. While the Committee has determined that the most vulnerable must be protected by the use of targeted programmes, the underlying requirement which must be fulfilled is the use of maximum available resources.²⁵

Arising out of the obligation to take steps, the Zambian Government is most certainly required to ensure the measures it adopts are deliberate, concrete and targeted towards the realisation of the right to social security.²⁶ Moreover, the requirement of progressive realisation ‘imposes an obligation to move as expeditiously and effectively as possible’ towards the full achievement of the right. In stark contrast, a number of organisations have been highly critical of the way in which the welfare and social safety net systems in Zambia are run. In its annual report on Zambia, Social Watch was of the view that ‘[a]bove all, the capacity of the Department of Community Development and Social Services, which is charged with the responsibility of assisting persons who have been negatively affected by structural adjustment, is almost non-existent, apart from being a drain on the same meagre financial resources that are set aside for the poor.’²⁷ The World Bank itself has described the PWAS as suffering from design weaknesses, limited administrative capacity and low budget allocations.²⁸

C. Social assistance aimed at retrenched

The Committee itself recognises unemployment benefits as one category of social security under article 9.²⁹ As has been noted, Zambia has not ratified those ILO Conventions referred to in the Committee’s reporting guideline on article 9. However, it has ratified the ILO Termination of Employment Convention 1982 (No.158). This entitles a redundant worker to either terminal benefits or social security or both in combination.³⁰ In the case of Zambia, where legal entitlements to terminal benefits are not honoured in practice, the obligation on the State to provide social security to retrenched is unequivocal. Furthermore, and this is most pertinent in a country such as Zambia where the informal economy predominates, all retrenched have a right alongside other members of society to social assistance when they are vulnerable or disadvantaged.

As was noted in Section 2(II), a National Social Safety Net has been established in Zambia ‘to co-ordinate safety net programmes for retrenched/displaced workers’. It is important to recognise that the focus is upon formal sector unemployment and the scheme does not constitute a program of social assistance for all in Zambian society.³¹ To recap, the National Social Safety Net was set up within the Ministry of Labour and Social Security in 1993. It is managed by a Co-ordinating Committee which allows all the relevant bodies to work together. Five schemes, concerned with providing information on the social impact of privatisation, retraining, business development, resettlement, and welfare are run by the relevant Ministry or agency, but co-ordinated under the National Social Safety Net.³²

The one component of the scheme concerned with social security *per se* is the Public Welfare Assistance Scheme. Hence there are no dedicated measures or additional resources under the safety net to meet the welfare needs of retrenched. On the contrary, the 80,000 redundancies in the formal sector since 1992 have increased the demands on the PWAS as former employees and their families become impoverished. However, while many retrenched will be living in extreme poverty, many of them will not be destitute and will not therefore qualify for assistance.

Overall, the National Social Safety Net Co-ordinating Committee has itself been sharply criticised for its complete lack of urgency, for spending most of its funds on its own facilities and staff, and for an almost total absence of concrete results.³³ Despite being set up in 1993, it took four years before it even produced a policy framework in 1997. Funding from the United Nations Development Programme agreed in 1995 was spent on capacity building, staff and operational costs. This source of funding was due to end in 1998. A direct grant of \$292,000 from the World Bank was made through the Institutional Development Fund in 1996, bringing the total level of committed funds to \$500,000.³⁴ This money too was spent largely on staff training and equipment. Hence negligible resources were used to deliver direct measures to assist impoverished retrenched. Given that the Government funds only the operational costs of the Safety Net to the tune of K200 million, that current donor commitments are uncertain against this background of mismanagement and inaction, it is difficult to see how the National Social Safety Net can have any impact on solving the social problems caused by retrenchment.

D. The failure by the World Bank to support social welfare measures in mitigation of the hardship caused by adjustment

Information is sought from State parties to the Covenant about the role of international assistance in the full realisation of the right to social security.³⁵ Article 22 provides a basis upon which the World Bank is required to account for the advisability or otherwise of international assistance measures.

The influence of Bank action upon redundancy compensation has already been documented. The focus in this subsection is squarely upon Bank action on social assistance in mitigation of retrenchment *per se* and the wider hardship caused by structural adjustment. The Bank has also used adjustment lending to underpin reform of basic pensions and social security institutions: this action is not reviewed.³⁶

The Economic Recovery Credit (FY 1991) did little to influence pro-poor social policies, despite the fact that protecting vulnerable groups was specifically mentioned as a loan objective. The Government was required to draw up a schedule for implementation of a Social Action Program which the Bank has subsequently acknowledged suffered from poor implementation capacity and could not, in any case, deal with all the support required as a result of the adjustment program.³⁷

The two Privatisation and Industrial Reform Credits were orientated towards parastatal restructuring, privatisation and public sector reform. They have therefore been intrinsically linked to retrenchment. The Bank concedes that '[o]ne of the critical aspects of privatization and other reforms envisaged under PIRC is the effect the program will have initially on vulnerable groups'³⁸ Yet the limited social actions specified under the credits have proved totally ineffective in alleviating poverty and hardship among those who have lost their jobs.

PIRC I sought the development of an improved social program.³⁹ The Government agreed under PIRC I to formulate and introduce a social action plan and strengthen the national social safety net to support those most adversely affected by reform, including those made redundant as a result of rationalisation of the civil service and privatisation.⁴⁰ This has proved entirely inadequate. First, the planned safety net was to target only retrenchees as a subset of those adversely affected by economic reform. Second, requiring a plan of action does not guarantee the actual delivery and implementation of social support. In the context of the austerity measures simultaneously required by the Bank, the financing of an adequate safety net was always an unlikely prospect. In the event, it is unsurprising that social support has not been successfully delivered, even to the limited extent envisaged.

The Bank did earmark a small share of privatisation technical assistance to fund consultants to assist in the formulation of the social action plan and retrenchment safety net.⁴¹ Out of a total budget of \$11m, less than 4 per cent of funds or \$0.4 million were earmarked for the social action component of the technical assistance on offer.⁴² The bulk of funds under PIRTA were focused upon the hiring of long-term advisers and short-term specialists to support privatisation. The long-term posts funded through PIRTA do not include a social adviser while the hiring of short-term expertise is limited to the sale and negotiation process.⁴³ The Bank spells out terms of reference for each post, but, beyond the inclusion of the monitoring and coordination of the social action plan within the remit of the privatisation adviser at the Ministry of Finance, an explicit consideration of social issues is rarely specified.⁴⁴ In relation to ensuring that privatisation accords with the protection of economic and social rights, this must represent a significant omission. It should also be noted that the formulation of a plan is of no use to those affected by redundancy unless it results in the actual delivery of a program of support. The sad reality is the total inadequacy of the National Social Safety Net which has resulted.

The remit of PIRC II in respect of social assistance was even more circumscribed. It required the completion of a study on the impact of privatisation by ZPA and the exploration of ways to design and fund redundancy compensation packages.⁴⁵ In respect of the latter, the inadequacy and inequity of the resulting system of funding and allocating benefits and entitlements has already been discussed in Section 2(II). Moreover, the failure to deliver satisfactory redundancy compensation has heightened the need for an effective social safety net. Of distinctly marginal significance is the agreement with the Government to conduct an assessment of the impact of privatisation upon parastatal managers, shareholders, employees, financial institutions and the general public.⁴⁶ In sum, both initiatives required under PIRC II, by either concealing the negative repercussions of privatisation or by engineering redundancy payments to deprive retrenchees of cash compensation, have proved to be counterproductive in terms of human rights.

One condition of second tranche release of ESAC II was the development of policy recommendations on NGO participation in the delivery of social services.⁴⁷ In addition to specifying overall levels of social spending, loan conditions required the protection of expenditure on certain subcomponents including the PWAS.⁴⁸ This was fixed in absolute rather than relative terms, although the sum involved was just K760 million.⁴⁹

In its *Letter of Development Policy* appended to ESAC II, the Government agreed to introduce targeting guidelines and implement a policy to deliver help through the Public Welfare Assistance Scheme to enable very poor families to pay school and medical fees.⁵⁰ The implementation of policies developed by the Ministries of Health and Education were reliant on guidelines being drawn up by the Ministry of Community Development and Social Services under the PWAS, yet the latter had not been delivered. ESAC II was meant to foster the completion of work on a vulnerability profile in 1996 as the basis for these guidelines and implementation mechanisms.⁵¹ However, this was not made the subject of a specific loan condition. The vulnerability profile itself was to be designed to 'simplify and improve the identification and targeting of households qualifying under the Public Welfare Assistance Scheme for health and education payment exemptions in particular.'⁵² In other terms, given that no extra resources were to be allocated to the PWAS, this equates as much to the exclusion of the extremely poor as it does to channelling resources to the ultra poor. As it was, already paltry expenditure on the PWAS during 1997 was decimated and the agreed reforms did not take place.

Under the PSREPC (FY) there is a renewed undertaking to initiate implementation of the revamped PWAS, although clearly this should already have occurred under ESAC II.⁵³ Once more, this is not made the subject of a specific loan agreement. The Government has agreed to maintain non-personnel spending in priority areas concerned with, *inter alia*, social safety nets and welfare assistance.⁵⁴ The Bank reverts to the use of relative protection 'to allow Government to adjust the absolute expenditures depending on fluctuations in revenues and domestic expenditures...' Fewer priority areas are monitored than before, although one of these is the PWAS.⁵⁵ If the specified domestic expenditure is realised, the amount spent on the PWAS in 1999 should be K2.8 billion.

Notes

¹ The percentage living in extreme poverty in 1991 was 58.2 per cent; in 1993, 60.6 per cent; and in 1996, 53.2 per cent.

² Cited in Social Watch (1999), *Report on Zambia*.

³ 'This budget announcement is highly significant because it is first time that the present government publicly admitted the existence of high poverty levels in the country and committed itself to addressing the problem.' (Ibid.).

⁴ R. Penza (then Finance Minister), *Budget Address*, 30 January 1998, para. 85. In general on the issue of poverty reduction, see paras. 82 ff and paras. 150 ff.

⁵ While welcoming the national programme against poverty, Social Watch is nevertheless of the view that it is a reflection of the past failures of discrete measures.

⁶ It is specified in the *Reporting Guidelines* that a State party provides information on, *inter alia*, the main features of the social security scheme on offer, its comprehensiveness, and the nature and level of benefits and the percentage of GDP/public expenditure on social security (respectively, *Reporting Guidelines*, Annex, Section B, Article 9 of the Covenant, paras. 3 and 4. See also para. 5 which asks for details of private schemes *in addition* to the provision made by the State).

⁷ Ibid., para. 2.

⁸ Ibid., para. 6.

⁹ Ibid., para. 6(a) - (b).

¹⁰ Ibid., para. 6(c).

¹¹ Respectively, ILO Social Security (Minimum Standards) Convention (No. 102), 1952 and other relevant subsequent ILO Conventions listed by the Committee: Employment Injury Benefits Convention (No. 121), 1964; Invalidity, Old-Age and Survivors' Benefits Convention (No. 128), 1967; Medical Care and Sickness Benefits Convention (No. 130), 1969; Employment Promotion and Protection Against Unemployment Convention (No. 168), 1988. See *Reporting Guidelines*, Annex, Section B, Article 9 of the Covenant, para. 1.

¹² The central ILO instrument cited by the Committee is ILO Social Security (Minimum Standards) Convention (No. 102), 1952. The argument is one of substitution: Zambia is a State party to the Covenant; the Committee recognises the relevancy of ILO Convention 102 to article 9; hence to fulfil its obligations in respect of the right to social security, Zambian law and policy must conform with the Committee's interpretation of article 9 and therefore the normative content of the Social Security Convention.

¹³ *ER 1997*, para. 228.

¹⁴ ICESCR, article 2(1).

¹⁵ See *GC 3*, para. 10.

¹⁶ The total expenditure on the PWAS in 1997 was K683 million to cover administration and the core programmes. See *ER 1997*, para. 228.

¹⁷ Kelly (1999), p.6. The number of Zambians 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*).

¹⁸ *ER 1998*, p.89.

¹⁹ Kelly (1999), p.6.

²⁰ UN ACC Task Force on Full Employment and Sustainable Livelihoods (1997), *Synthesis Report*, Chapter 3 Policies for full employment, Section 3.3.5 Targeted programmes for special groups and gender discrimination and child labour.

²¹ Ibid., Chapter 2 Country experience and policies, Section 2.2.1 Targeted programmes for vulnerable groups.

²² *ER 1996*, para. 249.

²³ *PSREPC R&R*, para. 30.

²⁴ The percentage is based on estimates of poverty made in 1996. See Central Statistical Office (1997) *Evolution of Poverty in Zambia*.

²⁵ See *GC 3*, especially paras. 10 and 12.

²⁶ *GC 3*, para. 2.

²⁷ Social Watch (1998), *Report on Zambia*.

²⁸ *PSREPC R&R*, para. 30.

²⁹ See *intra*, fn. 6 and fn. 7.

³⁰ ILO Termination of Employment Convention (No. 158), 1982, article 12 (1)(a) - (c).

³¹ NSSNCC Secretariat (undated), *The National Social Safety Net: Coordinating Retrenchment Programmes*.

³² The Social Impact component is run by the Social Impact Department at the Zambian Privatisation Agency; the Future Search graduate training programme is run by the Public Service Management Division; the Small Business Development Programme is managed by the Ministry of Commerce, Trade and Industry; and the Land Resettlement Programme is operated by the Department of Resettlement in the Office of the Vice President.

³³ 'The National Social Safety Net Committee is itself a disgrace, and if we had any shame, in the face of the tens of thousands who must unavoidably lose their jobs, it would be a national embarrassment.' (Bull (1994b), 'Where are the Government's policies?').

³⁴ Consideration of using an IDF grant to support the Department of Community Development was announced in the *CAS* (1996), para. 43.

³⁵ *Reporting Guidelines*, Annex, Section B, Article 9 of the Covenant, para. 8.

³⁶ Under the Bank's ERIP credit, one condition of second tranche release is the drafting and submission to Parliament of legislation for a new basic social security pension scheme and independent social security institutions. The table of key indicators for project implementation records completion of all relevant actions in this area, and the passing of a new Social Security Act by the Zambian Parliament. (See *ERIP ICR*, para. 9; also *idem* Part II, Statistical tables, tables 5 and 6).

³⁷ *ERP PCR*, paras. 43 and 48.

³⁸ *PIRTA M&R*, Annex I, para. 11.

³⁹ *PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table H; also *PIRC & ESAC PAR*, para. 2.14.

⁴⁰ *Idem*.

⁴¹ *PIRTA M&R*, Annex I, para. 11.

⁴² *Ibid.*, Schedule A. Of the total cost, IDA funds amount to \$10m.

⁴³ *Ibid.*, Annex I, para. 7.

⁴⁴ See the terms of reference of the adviser to the Economic Analysis and Reports Unit at the Ministry of Finance, *PIRTA M&R*, Annex I C(iv). A paragraph within the memorandum recommending the proposed technical assistance credit to the Bank board refers to the hiring of consultant services to develop the social action plan and the design of materials for 'counselling guidance' and 'reorientation' associated with the redundancy program (*PIRTA M&R*, para. 11). Otherwise, any consideration of social issues is entirely contingent. Within the terms of reference for the Corporate Finance/Merchant Banker, the main requirement with direct social import is that recommendations for dealing with redundancy and pension liability are drawn-up. The Accounting and Valuation Specialist, in developing methodologies to evaluate bids, should examine the extent to which commitments by the buyer to maintain employment levels should be weighted relative to other factors.

⁴⁵ *PIRC & ESAC PAR*, paras .2.15 and 2.19.

⁴⁶ *Ibid.*, para. 2.15.

⁴⁷ *ESAC II R&R*, para. 51; also para. 57 (i).

⁴⁸ See *ibid.*, Annex J, 'Sub-sectoral budget allocation,' p. 75.

⁴⁹ See *ibid.*, Annex J, 'Social sector spending in 1996,' p. 73.

⁵⁰ See *ibid.*, Annex J, Letter of Development Policy, para. 73; also *ESAC II R&R*, para. 52.

⁵¹ *Idem*.

⁵² *ESAC II R&R*, Annex J, Letter of Development Policy, para. 73.

⁵³ *PSREPC R&R*, para. 49.

⁵⁴ *Ibid.*, Annex I, Letter of Development Policy, para. 42 and Annex A, 'Social spending in 1999,' p.56.

⁵⁵ *PSREPC R&R*, para. 51; also *idem*, Annex I, Letter of Development Policy, para. 42 and Annex A, 'Social spending in 1999,' p.56.