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SESSIONAL WORKING GROUP OF GOVERNMENTAL EXPERTS ON THE IMPLEMENTATION
OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 18th MEETING

Held at Headquarters, New York,
on Friday, 3 May 1985, at 10.30 a.m.

Chairman: Mr. KORDS (German Democratic Republic)

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The meeting was called to order at 11 a.m.

ORGANIZATION OF WORK

1. The CHAIRMAN informed the Working Group of the programme of work for the remainder of the session, which had been drawn up on the basis of discussions held among the members of the Bureau. He urged that, during the discussion on suggestions and recommendations to the Economic and Social Council based on the consideration of reports submitted by States parties and the specialized agencies, which the Working Group would begin at its 19th meeting, members should focus on ways in which recent Economic and Social Council resolutions had produced changes in reports of States parties.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX) BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 6 TO 9
(continued)

Second periodic report of Australia (continued) (E/1984/7/Add.22)

2. Mr. LUKYANOVICH (Union of Soviet Socialist Republics) said he was particularly interested in the report of Australia because that country, like his own, had a federal structure; consequently, he was able to understand many of the particular problems faced by Australia in implementing the Covenant. He had been most impressed by the large number of bodies established by the Australian Government to implement the Covenant; while such bodies could be compared to the standing bodies in the Soviet Parliament, the Australian bodies appeared to have more executive powers, whereas those in the Soviet Union were of a more legislative nature.

3. He welcomed the fact that Australia actively participated in ILO activities and had become a party to the various ILO Conventions specified in paragraph 3 of the report.

4. He was interested in learning more about the centralized system of wage fixation mentioned in paragraph 8. Were the wages set under that system applicable to the entire country, who was actually responsible for taking such decisions, and were the wages set binding, or merely recommendations? He would also like to know what role, if any, trade unions played in recommending or fixing wages under the system.

5. He asked how Australia implemented ILO Convention No. 111: Discrimination (Employment and Occupation), in view of the fact that at least four Australian states had their own legislation to eliminate discrimination in employment. Paragraph 14 stated that the Federal and State Committees had succeeded in eliminating a number of discriminatory employment practices; he wished to know the areas in which such practices had been eliminated, and, in areas where they had not, why not. Paragraph 16 contained a reference to the "independent chairmen" of those Committees, and went on to say that those chairmen had been appointed by the respective Ministers for Employment and Industrial Relations. He questioned the

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degree to which such officials could be independent if they had in fact been appointed. It would be interesting to know the nine languages other than English in which Committee brochures on "Equality in employment" had been published.

6. He requested clarification of the relationship between federal and local legislation and the extent to which each prevailed over the other. He welcomed the inclusion in the report of court decisions relating to the Racial Discrimination Act and the Racial Discrimination Amendment Act 1983 (paras. 25 and 26).

7. With regard to the Aborigines in Australia, he asked whether any statistics existed regarding changes in minority employment and unemployment, and whether there were any special training centres in Australia for members of minorities. Paragraph 64 of the report stated that the Australian Government considered unemployment among Aborigines to be unacceptably high; however, while paragraph 65 noted that Aborigines comprised 1.1 per cent of the total Australian population, the total population was not provided. How many Aborigines belonged to trade unions, and were there any obstacles faced by minority women in joining trade unions?

8. Paragraph 70 referred to a housing programme for Aborigines. Was a special rent scheme in effect for such public housing? It was not clear whether the 876 positions in Government departments for which a knowledge of Aboriginal and/or an ability to communicate with Aborigines was desirable (para. 72 (b)) were specifically intended for Aborigines. He was particularly surprised by the use of the phrase "an ability to communicate with Aborigines"; while he conceded that the Russian translation might be at fault in that regard, the wording nevertheless sounded somewhat condescending.

9. He expressed satisfaction at the proclamation of the Human Rights Commission Act 1981 (para. 30); however, he would be grateful for further information regarding the function of the Australian Human Rights Commission, particularly as set out in paragraph 31 (f). In that connection, he asked whether public discussions of human rights in Australia had been held and if so, with what results. He also asked what the status of the Sex Discrimination Act 1984 (para. 34) was in relation to ILO Convention No. 111.

10. Had the Australian Government which had taken office subsequent to the publication of the policy paper entitled "Reforming the Australian Public Service" in 1983 reaffirmed the intentions enunciated in that document? Furthermore, was the declaratory statement that was to be included in the Public Service Act (para. 38 (a)) intended to replace the relevant ILO Convention?

11. More information was needed regarding the organizations listed in paragraph 39, which appeared to be private organizations rather than State entities.

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12. The examples of legislation from the States of New South Wales, Victoria and South Australia all contained references to discrimination on the grounds of "physical impairment". Did that term refer to a permanent or a temporary disability, and did it cover occupational accidents? He noted with interest that, in the state of South Australia, at least one member of the Handicapped Persons Discrimination Tribunal must be a person who had a substantial physical impairment (para. 54). While such a measure was commendable, certain physical impairments might make it difficult for such persons to be physically present in court. He therefore sought further information regarding Australia's experience in that area. He also wished to know what concrete results had been achieved in the three years that the Ethnic Affairs Commission had existed in South Australia.

13. It was clear from the report that Australia was doing much to reduce unemployment. In that connection, he drew attention to the "Job Bank" mentioned in paragraph 78 (c), and asked if it had been completed by the end of 1984, as scheduled, and whether it had actually begun operations. While paragraph 80 noted that the initial report of Australia contained an explanation of the way in which employment statistics were gathered, it would have been useful to include such statistics in the current report.

14. In connection with the provision of Commonwealth Employment Service (CES) services for migrants (para. 77), he asked whether such services were provided on a paying basis or free of charge. It was to be hoped that they were provided free or at low cost, since migrants rarely arrived at such facilities with much money. The School-to-Work Transition Program (para. 114) constituted a significant measure in that it enabled young people to find their place within the national economy.

15. In connection with termination of employment, he asked what had been the results of the hearings following the test case on minimum standards of job protection in federal awards brought by the Australian Council of Trade Unions (para. 121). Had there been any decision or recommendation? If so, had they been put into effect?

16. In connection with wage fixation, he inquired as to the meaning of "fair and proper wages" (para. 131). It was stated in that paragraph that over 66 per cent of the work-force in Queensland were covered by State awards: what about the rest of Australia?

17. On the subject of safe and healthy working conditions (para. 145 et seq.) he would like to have statistics on numbers of accidents at work, and also information on what assistance was provided in case of accidents.

18. The section on article 8 of the Covenant: trade union rights, was shorter than the subject merited. Could more information be provided?

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19. With regard to article 9, he would like to know that amounts of the increases in pension and benefit rates (para. 161 (a)) and whether such increases were in line with movements in the consumer price index. Were all Australians insured under Medicare, and did the scheme cover aliens and migrants? He wondered why there were two different methods of paying for treatment under Medicare: in the system where the patient claimed a refund, there would obviously be a delay before he received it. Why was private insurance needed if Medicare covered basic medical services and hospital treatment? He would like to know more about Medicare, and whether it operated in private clinics or only in State hospitals. He also questioned whether the health levy of 1 per cent on certain taxable income (para. 163) was enough to cover the entire cost of the system, particularly in view of the general increase in medical costs. Regarding rehabilitation allowance, he would like to know whether the new form of income maintenance payment (para. 165) was given only to people undertaking a federal rehabilitation programme. Had there been any change in the grant itself, or was it merely a change of name? He would like more details.

20. Was he correct in understanding from paragraph 198 that a person dismissed for exercising the right to strike was not entitled to unemployment benefit? Why was there such a large difference between the benefits for a single person and a married couple (subparas. 200 (a) and (c) respectively)? How many unemployed people received benefits, and on the basis of what criteria?

21. He noted from paragraph 222 that eligibility for family allowances depended primarily on residence. Did that mean permanent residence? If so, what length of time was required to establish it, and what other factors were involved? He would also like to know whether aliens and migrants working in Australia could qualify for family allowances.

22. Mr. AIDARA (Senegal) said the section of the report dealing with measures and mechanisms to combat all forms of discrimination suggested that Australia must have experienced major problems in that respect. Was that so, and what was the composition of the country's population?

23. Reference was made at various points in the report to the establishment of Government commissions and committees with consultative and legal functions. He would like to know what were the functions of such bodies, how they worked and what was their role in relation to the legislative powers in Australia. He noted from paragraph 30, for example, that the Government had established a Human Rights Commission to ensure that practices and policies conformed fully with the International Covenant on Civil and Political Rights and a number of Declarations. Did that Commission deal also with the International Convention on Economic, Social and Cultural Rights and the international conventions concerning women, the elimination of all forms of discrimination and apartheid?

24. In connection with trade union rights, Australia clearly intended to comply with the provisions of the Covenant. However, the provisions referred to in paragraphs 198 and 250, that unemployment benefit and special benefit were not

(Mr. Aidara, Senegal)

payable to persons whose unemployment was due to industrial action by themselves or by members of their union, seemed, in fact to be a restriction on the right to strike as recognized in article 8 (d) of the Convention, or a penalty imposed on someone who went on strike or was a member of a trade union that was on strike.

25. Mr. DICHEV (Bulgaria), referring to paragraph 15, asked whether the number of complaints received on grounds not specified in the Convention was still increasing.

26. The report stated (para. 14) that the Federal and State Committees had eliminated a number of discriminatory employment practices and removed discriminatory provisions from awards. How many such practices had been eliminated, and how many still remained?

27. Regarding the Human Rights Commission whose functions were set out in paragraph 31, could the representative of Australia give some examples of how it operated.

28. In connection with federal employment policies, he would like to know whether and to what extent the Government had achieved any of the intentions set forth in paragraph 38. He would also like some information on the progress of the School-to-Work Transition Programme (para. 115).

29. Regarding article 7, concerning the right to just and favourable conditions of work, he asked whether there were any difficulties for women, young people and old people and what were the approximate wages for those categories. Regarding rest and leisure provisions, what was the length of the paid holiday, and did it differ in industry and in agriculture?

30. Concerning article 8, he wondered whether the trade unions could help in any way to reduce strikes, and whether strikes helped the productivity of the economy in general.

31. Lastly, regarding article 9, he asked, in connection with paragraph 161, what was the minimum pension for workers and whether the rates differed for farm workers and for widows.

32. Mr. BENDIX (Denmark) asked whether the two alternative methods of paying for Medicare (para. 162) were in any way related to income levels.

33. He also inquired whether under the wage pause mentioned in paragraph 126 had entailed a pensions pause as well.

34. Mr. POLO (Peru), referring to paragraph 132, asked what was meant by "comparative wage justice" and "value of the work"?

35. Mr. AZIZ (International Labour Organisation) said that he wished to draw attention to the comments on Australia in relation to article 6 of the Covenant and the Employment Policy Convention, 1964 (No. 122) which had been made by the ILO

(Mr. Aziz, ILO)

Committee of Experts on the Application of Conventions and Recommendations in its seventh report on progress in achieving observance of the provisions of the Covenant (E/1985/63).

36. Mr. Farmer (Australia) withdrew.

Second periodic report of Madagascar (continued) (E/1984/7/Add.19)

37. At the invitation of the Chairman, Mr. Ramasy (Madagascar) took a place at the table.

38. Mr. RAMASY (Madagascar), replying to questions raised by members of the Working Group, said that their comments would be transmitted to his Government, whose next report would be fuller. He wished to add that his country's initial report on rights covered by articles 10 to 12 of the Covenant had just arrived and he hoped the Working Group would be able to consider it at its next session. His Government's attention would be drawn to the question of a report on rights covered by articles 13 to 15 of the Covenant.

39. With regard to the question of the periodicity of reports, most States had difficulty, for various reasons, in submitting them every two years. In the case of his own country, where more than 88 per cent of the active population lived in rural areas, unemployment was hard to define. For example, should seasonal unemployment be included, and how should the figures be recorded? The information given previously, especially that about basic legislation, remained valid. He therefore suggested that the Working Group should give serious consideration to the reasons why few States parties submitted periodic reports and provide suitable machinery to enable all States to fulfil their obligations under the Covenant.

40. In response to various requests for statistics, the Ministry of Labour reported that the national employment office had registered 31,649 job applications in 1981 but only 2,381 places had been offered. The guaranteed minimum wage was 18,000 CFA francs. According to World Bank statistics for 1982, the active population was 4,321,300 out of almost 9 million, 88 per cent working in agriculture, 1.5 per cent in industry and commerce, less than 1 per cent in the service sector and 1.2 per cent as public employees. The ratio of men to women in the active population was about 11 to 9.

41. The additional information requested by the representatives of France and Denmark would be supplied as an addendum to the report and would include, in particular, material on unemployment and the efforts being made to reduce it.

42. In reply to further questions put by the representative of Denmark, the minimum legal age of employment was 14. Retirement age was 60 for public employees; in the private sector it was 60 for men and 55 for women. The Ministry of Labour was currently drafting a decree extending trade union rights to seamen which might be issued in July 1985. Unemployment benefits did not exist, but family allowances continued for six months for workers registered with the national insurance organization.

(Mr. Ramasy, Madagascar)

43. So far as trade union rights were concerned, he referred the Working Group to summary record E/1981/WG.1/SR.2, paragraphs 58 and 59. The purpose of the trade unions was to pursue and protect the socio-economic interests of their members. Legislation on the subject was available at his mission and he would draw particular attention to Order No. 75/213 DM containing the Labour Code, which was in the official gazette for 8 June 1975.

44. On the subject of safe and healthy working conditions, Order No. 2806 issued by the Ministry of Labour on 6 July 1968 regulated enterprise medical services and laid down that they should provide workers free of charge with regular health visits, preventive care, treatment in case of illness and transport for members of their families to the nearest medical centre.

45. He would continue his efforts to obtain more information which he would transmit by note verbale.

46. The CHAIRMAN said that any statistics of a general nature which had been requested by members of the Working Group could be included in the report on implementation of articles 13 to 15 of the Covenant to which the representative of Madagascar had referred. The Working Group had thus concluded its consideration of the second periodic report of Madagascar.

The meeting rose at 12.45 p.m.