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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 21st MEETING

Held at Headquarters, New York,
on Monday, 28 April 1986, at 3 p.m.

Chairman: Mr. RUIZ-CABAÑAS (Mexico)

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The meeting was called to order at 3.05 p.m.

REPORTS SUBMITTED UNDER ARTICLES 10 to 12 OF THE COVENANT (continued)

Initial report of Japan (continued) (E/1986/3/Add.4)

1. At the invitation of the Chairman, Mr. Aoki (Japan) took a place at the table.
2. Mr. DARUSENKOV (Union of Soviet Socialist Republics), observing that Japan offered an unusual example of an ancient country which had in the post-war period made spectacular technological and industrial strides, said that its report was particularly interesting on that account and could, moreover, serve as a model with regard to form as well as content.
3. He asked why, if Japan's GNP constituted approximately 10 per cent of the global GNP (para. 3 of the report), its per capita ranking remained relatively modest among developed countries.
4. With regard to the rights of non-nationals (para. 5), it would be interesting to know what recent legislation had been passed and whether the Government was considering the adoption of a unified body of legislation regarding aliens.
5. He asked to what extent the outmoded attitudes preventing a free choice of spouse (para. 7) still existed, whether they were particularly prevalent in rural areas, and what was being done to educate the public in that regard.
6. The report showed (paras. 21-30) that impressive measures had been taken regarding mother and child care, and it gave equally impressive figures for child mortality and adult longevity. He wondered, however, how expensive it was to have a child and how many women who could not afford hospitals availed themselves of government-operated maternity homes (para. 23).
7. Regarding Japan's agricultural policy (paras. 76 ff.), he inquired what percentages of cultivable land were being used for cultivation and for cattle raising, and what the major trend of agricultural development was, in view of the land shortage. It would also be interesting to have statistics indicating the relative trends of food imports and food self-sufficiency.
8. Considering the proportion of the aging population engaged in agricultural work (para. 128, tables 2 and 4), he asked how the elderly could be helped to find work in agriculture and the service industries. Furthermore, it was clear from the report that most of the rural population was not directly involved in agriculture and he wondered why that was so.
9. Mr. RUIZ-CABAÑAS (Mexico) said that he had been struck by the way in which the report, in a few well-chosen statistics, had managed to give a good picture of the very high level of development in post-war Japan. It was his impression that that high level was directly tied to the Government's policy to hold down military expenditure in favour of development, and he wondered if the representative of Japan would agree. In developed countries it was often held that military research

(Mr. Ruiz-Cabafias, Mexico)

always led to technological development, and the case of Japan showed that it was not necessary to follow that path.

10. Regarding the status of women, more information would be useful on the trend in the number of women in the work-force and in women's participation in decision-making. Also, noting that Japan's infant mortality was probably the lowest in the world, he would be interested to know the major causes of death among children, and among the population at large.

11. Regarding juvenile delinquency, the discussion in the Working Group had raised an interesting correlation between drug consumption and juvenile delinquency: he asked the representative of Japan whether that was the case in Japan, what drugs were consumed in Japan and where they originated.

12. The report gave many details on Japan's international co-operation, but the total amount set aside for that purpose had not been indicated.

13. Regarding the status of the Covenant within Japan's legal system, he asked whether economic, social and cultural rights were considered as important in Japan as civil and political rights, and whether Japan felt that it had met the expectations with regard to guarantees under the Covenant.

14. Mr. Aoki (Japan) withdrew.

REPORTS SUBMITTED UNDER ARTICLES 6 TO 9 OF THE COVENANT (continued)

Initial report of France (continued) (E/1984/6/Add.11)

15. At the invitation of the Chairman, Mr. Martin (France) took a place at the table.

16. Mr. MARTIN (France), replying to questions raised by members of the Working Group, said, with regard to the publicizing of the Covenant in France, that copies could be found at the bookstore for official publications and at Documentation française, which was the official publisher for the Government.

17. His country's report under articles 6 to 9 had been prepared by the then Ministry of Employment, and co-ordinated by the Ministry of Foreign Affairs.

18. The unemployment rate in France in February 1986 had been 10.5 per cent, with approximately 2.5 million unemployed, a 2 per cent drop since February 1985. A breakdown of unemployment by region indicated that in 1985 the hardest-hit regions had been Languedoc-Roussellon and Nord-Pas-de-Calais, with 13.9 and 13.2 per cent respectively, while the least affected had been Paris, Alsace and Rhône-Alpes, with 8.1, 8.6 and 8.6 per cent respectively. In a breakdown by age group, slightly over one third of the unemployed were below 25 years of age, and 27 per cent in that age group were unemployed. By sex, the figures were 13 per cent for women and 9 per cent for men. Also, in March 1985, 22 per cent of women as against 3.2 per cent of men had been engaged in part-time work, for a total of 11 per cent of all wage-earners; the part-time figures for men had remained relatively stable while those for women were growing steadily.

(Mr. Martin, France)

19. The Government provided certain incentives in an attempt to channel job-seekers to the more promising regions: it had allocated 33 million francs in 1985 for free transport vouchers and special allocations for room and board for those willing to look elsewhere for jobs.

20. With regard to the employment and training of young people, the Government had set up a very complex set of programmes. Since 1981, young people had been informed of job opportunities through the network of reception and guidance bureaux, which had helped about 150,000 young people each year; through the local employment agencies which found jobs for young people or advised them to take training programmes or join community-service projects; through the young people's information and documentation centres located in the large cities; and through special official brochures.

21. Five main categories of programmes were available to young people. First, there was the traditional apprenticeship system, which accounted for 112,000 contracts per year. Then there were the new programmes offering two sets of similar arrangements, one providing on-the-job training contracts, job-adaptation contracts and job-orientation contracts (para. 124 (g) of the report), all of which would be gradually phased out in 1986, and the other, instituted in 1984 to replace them, and providing "skills-acquisition" contracts, retraining contracts and training courses for initiation into the work-force. Under both sets of arrangements, 90,000 contracts had been concluded in 1985. In addition, over 100,000 young people had participated in the community-service projects, another 100,000 in a special training programme for 16- to 25-year-olds, and 12,000 in training courses for "young volunteers". The Government was also planning special programmes for school leavers, on which information would be provided in the next report.

22. Regarding the status of young people who had participated in community-service projects, out of 100 participants, 30 usually found work later, 10 went back to school, 10 went into military service, 10 went on to various training programmes, and 40 once again signed up with the National Employment Agency (ANPE), where they received priority for the new training programmes he had mentioned earlier.

23. The local initiative employment programme (para. 78 of the report) had been set up in 1981 to provide financial assistance to private associations which created jobs in connection with local projects; F 40,000 had been granted per job created, for a total of F 153 million in 1985. The programme had led to the creation of 5,000 new jobs, largely administrative posts in social and cultural activities.

24. Regarding the employment of the handicapped (paras. 45 ff. of the report), the Technical Committees on Vocational Counselling and Retraining (COTOREPs) had reviewed approximately 540,000 requests in 1984 and approved over 70,000 for vocational guidance programmes. To promote the integration of handicapped persons into the work-force, the Government had spent F 44 million in 1984 to assist firms which made changes in their operations in order to hire handicapped workers and F 2.2 billion to provide a minimum guaranteed income to every handicapped person engaged in some form of occupation.

(Mr. Martin, France)

25. The system of solidarity contracts comprised early retirement and "reduction in working hours" contracts. Under the former, workers took early retirement at 55 and were replaced by young workers, a scheme which had given work to 210,000 young people between 1981 and 1983. The latter scheme was intended to create new jobs in firms and State enterprises, but had resulted in the creation of only a few thousand jobs. The question of early retirement had so far not triggered any adverse reaction in France, although it was conceivable that such a reaction might emerge. At present, retirement was mandatory at age 65, and workers could choose to retire as early as 60. The issue of early retirement was, in general, much less of a problem than the creation of jobs for young people.

26. The new system of unemployment benefits established in 1984 comprised the unemployment insurance scheme for those who had already worked, and the national solidarity scheme, intended for young people seeking their first job and for the long-term unemployed. The unemployment insurance scheme provided a basic benefit of between 60 and 75 per cent of the former wage, with a minimum benefit of 75 per cent of the minimum wage. The basic benefit was payable for a maximum of two years, following which the unemployed were eligible for an end-of-entitlement benefit, which was smaller. The solidarity scheme provided for an integration allowance and a solidarity allowance, representing some 25 per cent to 50 per cent of the minimum wage.

27. The Public Employment Service comprised the National Employment Agency (ANPE), the Adult Vocational Training Association (AFPA) and the External Labour and Employment Services (SETE), supplemented by the National Union for Employment in Industry and Trade (UNEDIC) and the Associations for Employment in Industry and Trade (ASSEDIC), the latter operating at the local level.

28. Turning to the psychological effects of unemployment, he said that studies carried out in France in the past had indicated a feeling of futility on the part of the unemployed, which was why policies to tackle unemployment were a government priority.

29. With respect to vocational training, AFPA had had a budget of F 3 billion in 1984, and had trained some 73,000 workers. However, much vocational training was provided in the private sector; approximately 2 million workers had attended courses in 1984. In 1985 some 850,000 workers had participated in State-funded training activities.

30. Responsibility for women's rights had passed from a separate ministry under the previous Government to the new Ministry of Social Affairs and Employment, which monitored the activities of the Central Council on Occupational Equality, established in 1984. The Council was a consultative body comprising representatives of the Administration, trade unions and employees, together with independent members, which gave its views on prospective legislation and was empowered to make proposals to the Government. Occupational equality of men and women was monitored at the level of the individual employer.

(Mr. Martin, France)

31. With regard to the legal provisions guaranteeing equality of men and women, the 1946 Constitution guaranteed equality for all in all spheres of activity. Subsequent legislation enacted in 1972, 1975 and 1983 guaranteed equal remuneration and equal employment opportunities, and had introduced the concept of work of equal value. In particular, employers were prohibited from discriminating against female employees who were pregnant. To date there had been little jurisprudence connected with the legislation in question.

32. Women were underrepresented in technical occupations and in management in both the private and public sectors. It was government policy to encourage girls to pursue scientific and technical studies by means of an information campaign and the provision of grants, as a result of which some progress had been made over the past decade.

33. Women suffered a higher rate of unemployment than men: 13 per cent in September 1985, compared with 9 per cent for men. Since the autumn of 1984 female unemployment had increased at a faster rate than male unemployment, reflecting the preponderance of women in service industries.

34. With regard to vocational training for women, in 1983 women had accounted for exactly one third of the total number of workers trained. Some 27 per cent of all training had been provided by companies, 43 per cent by regional organizations and the remainder by the State, including AFPA.

35. Turning to the question of cultural disparities in respect of the status of women in urban and rural areas, he said that no studies of the question had been carried out. Nevertheless, it would appear that in recent years differences between urban and rural areas had largely disappeared with improved communications. Any existing cultural disparities were more likely to be based on socio-economic than geographical factors.

36. With regard to unemployment among migrant workers, in 1982 they had experienced an unemployment rate of 14 per cent, compared with 9 per cent for the population as a whole. By 1985, at which time there had been some 1.7 million migrant workers in France, the rate had increased to 17.5 per cent, compared with a national average of 10.5 per cent. Although no specific employment measures had been adopted for migrant workers, they benefited from special training programmes, designed to improve language skills, facilitate entry into regular training courses, promote the integration of immigrant women in the labour market, and speed up the social and occupational integration of refugees. Legal immigrants could, of course, participate in all the training activities available to French nationals.

37. France had concluded agreements with Yugoslavia, Algeria, Portugal and Senegal governing the repatriation and reintegration of migrant workers, agreements which dealt with the practical difficulties attending such transfers, for example, an awareness of the sectoral needs of the economies of the countries of origin. In practice, relatively few migrant workers - some 19,000 to date, out of a total of 290,000 unemployed migrant workers - had chosen to participate in such schemes.

(Mr. Martin, France)

Some migrants preferred to remain in France even if that meant tolerating a period of unemployment. Further, not all migrant workers were eligible, while employment prospects in the countries of origin were often poor.

38. Turning to the question of possible xenophobia in France, he said that government policy was designed to improve the regulation of migrant flows in response to economic difficulties while granting more extensive rights to those workers who were already in France. That policy was largely supported by the French people. However, France had always offered asylum to political refugees and was a party to the relevant international instruments. It should be recognized that there were rejectionist elements in French society, but they represented a small minority, and the majority of French people were optimistic over the prospects for successful integration.

39. With respect to French nationals working abroad, he noted that some 1.5 million were employed in a range of sectors, mainly in Europe, North America and South America. The French Government had enacted legislation to protect their social-security status and had concluded various bilateral agreements to that end.

40. There were five trade-union confederations in France (para. 198 of the report), the largest being the CGT, the CFDT and Force ouvrière. Each confederation comprised several federations. In addition, workers in the education sector had their own national federation, while there were several small, independent trade unions. The five major confederations were represented on various national organs and at the international level. All trade unions which were affiliated with a national confederation were recognized as being representative at the company and occupational levels. Independent trade unions could also be recognized as being representative if they met certain criteria, including minimum membership figures. Any disagreement as to whether a trade union was representative was settled in the courts.

41. Since 1968, trade unions had been officially represented in the trade-union branches in enterprises (para. 240 of the report). In July 1981, more than 22,000 enterprises had had at least one trade-union branch. In principle, only unions were authorized to negotiate collective labour agreements with the employer. Only unions represented in an enterprise could put forward candidates for the first round of elections of shop stewards and members of enterprise committees. Through the enterprise committees, the unions had a consultative role in the running of the enterprise. The unions were also represented on the boards of directors of public enterprises. Only unions which represented an enterprise were authorized to call for a strike, for which five days' notice was required.

42. In 1906 the Congress of Amiens had adopted a charter guaranteeing the autonomy of unions. Any worker, regardless of his political views could join a trade union. However, it was difficult for unions to remain outside political life in a country where government intervention in social and economic matters was so extensive. However, while unions often expressed their views regarding government policies, they attempted to remain independent of political parties. It was considered improper to hold political office while continuing to be active in a union.

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(Mr. Martin, France)

43. In 1985, there had been 1,861 localized labour conflicts, and approximately 273,600 employees had stopped working. In the same year, a total of 884,892 individual days had been lost because of strikes. That had been the lowest figure since 1946. In 1985, for every 100 employees, 5.7 work days had been lost, as compared with 10 days in 1984 and an average of 12 days for the period 1980-1984.

44. There was hardly any legislation on the right to strike in the private sector. In the absence of a special law, all strikes were, in principle, legal and there were no a priori restrictions. However, jurisprudence had intervened in order to avoid abuses. In general, abuses occurred only when the methods used by strikers were disproportionate to the objectives of the strike. When strikers engaged in illegal action, the employer could request the courts to dismiss the strikers. Courts could order the removal of picket lines or an end to the strikers' occupation of premises, for which the employer could request the use of the police and public-security forces. Workers could be dismissed and be forced to reimburse the employer for damage caused during the illegal action. Workers might also be liable to fines.

45. The Government could not intervene in strikes in the private sector, nor was it authorized to prohibit them. If a strike was illegal, it was for the judge to decide whether the police should intervene. It was government policy to improve labour relations through the encouragement of collective bargaining at all levels. A conflict could be settled by conciliation, mediation or arbitration procedures but was most often resolved through direct negotiation between the parties.

46. No one had the right to prohibit a strike in the private industrial or commercial sector. However, violence and occupation of premises were illegal. In the public sector, the right to strike was subject to legislation, and the Government had issued instructions covering certain categories of personnel.

47. Besides strikes, workers could make demands and put pressure on employers through their shop stewards, as well as through annual negotiation and through recourse to factory inspection if the employer did not adhere to labour legislation.

48. The Act of 3 January 1975 required the holding of consultations before workers could be dismissed for economic reasons. It also gave the public authorities the right to verify the validity of such dismissals and to protect workers' jobs. In 1984 the number of dismissals for economic reasons had been 12.5 per cent higher than in 1983. In the same year, 192 applications from employers had been examined, resulting in 1,219 authorized dismissals for economic reasons, while authorization for 1,301 dismissals had been refused. In 1984, out of 406 applications from workers, 392 had been refused.

49. Certain rules applied to consultations with enterprise committees or shop stewards. While the law stipulated the course to be followed by employers when effecting major staff cut-backs, smaller cut-backs involved the usual procedure of prior notification and consultation.

(Mr. Martin, France)

50. The courts decided on the reinstatement of workers unjustly dismissed. The judge was not obliged to propose that a worker should be rehired, nor was the employer obliged to rehire him. However, employers who did not rehire workers were bound to pay special compensation equivalent to at least six months' pay. Dismissal was permitted only for "real and serious reasons". There was no exhaustive list of such reasons.

51. The Labour Code forbade employers to terminate the labour contracts of pregnant women, except in two cases: when the woman had committed a serious error, and when reasons beyond the control of the enterprise made it necessary to terminate her contract. In cases of illegal dismissal, the employer had to pay compensation, determined by a judge, and to pay the employee during her pregnancy. However, the employer could not be forced to rehire her.

52. The guaranteed minimum wage had been established in 1950. In 1952, a system of price-indexing had been adopted. However, in the years of very high economic growth, other wages had risen much more rapidly as a result of collective bargaining and cost-of-living supplements. In 1970, a new minimum wage had been established. It was based on three factors: price-indexing, increased purchasing power of other wages and economic growth. Since 1970, its purchasing power had increased considerably.

53. There was a hierarchy of legislation on safe and healthy working conditions. The most important was the Labour Code, followed by the provisions on health and safety drawn up by the social-security funds (caisses de sécurité sociale), the provisions of collective agreements and the internal rules of the workplace.

54. Employers could be held criminally responsible if health and safety rules had not been observed. Generally, fines were imposed, but repeated breaches could result in prison sentences. If the employer or his representative was absolved from responsibility, the court could require the enterprise to establish a safety plan.

55. In cases of work-related accidents or illnesses, social-security benefits were granted and, except in the case of an extremely serious error on the part of the employer, the injured party could not sue the employer.

56. Labour inspectors played a very important role in enforcing labour legislation, and providing supervision, advice and information. There were currently 440 inspectors and 900 controllers in the corps of labour inspectors. They were trained for 18 months at the National Institute of Labour, Employment and Vocational Training.

57. The social-security budget, which was of the order of F 650 billion, had been in surplus for the past three years. However, if no reform was undertaken, a deficit of approximately F 10 billion was forecast for 1986. That deficit would, for the most part, affect old-age pensions.

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(Mr. Martin, France)

58. Under an ordinance of 30 March 1982, any employee who wished to retire at age 60 must cut all professional ties with his place of work. If a retired person found employment elsewhere, 10 per cent of his earnings was deducted for unemployment insurance. There was no deduction when earnings were less than the minimum wage.

59. There were no accurate statistics on persons living below the poverty level.

60. The Government was responsible for the organization and administration of the social-security system and it set the level of benefits. Employers made payments to the system and participated in its operation.

61. The large volume of social legislation was very difficult to avoid for two reasons. First, the French people expected the State to solve their problems. Secondly, it was often easier to make small amendments to existing legislation than to undertake major changes to simplify and reorganize the legal system. The authorities were quite aware of the problems involved, and efforts to simplify and co-ordinate legislation had recently been undertaken.

62. The body of law in France comprised, in descending order, the Constitution, ordinary law enacted by Parliament, government decrees and ministerial orders.

63. Jurisprudence in the social field was very important because the judge had the power to interpret the laws. He could also annul decrees and orders which he considered out of keeping with the law.

64. The CHAIRMAN said that the Working Group had concluded its consideration of the report of France.

65. Mr. Martin (France) withdrew.

REPORTS SUBMITTED UNDER ARTICLES 13 TO 15 OF THE COVENANT (continued)

Initial report of Colombia (continued) (E/1982/3/Add.36)

66. At the invitation of the Chairman, Mr. Albán-Holguín (Colombia) took a place at the table.

67. Mr. ALBAN-HOLGUIN (Colombia) said that the Institute for the Promotion of Higher Education, responsible to the Minister of Education, regulated and allocated funds for post-secondary education. Its board of directors included the most distinguished rectors of the country's public and private universities and representatives of the President of the Republic. At the end of 1985, there had been 388,800 university students in Colombia, comprising 40 per cent (159,000) in the public sector and 60 per cent (229,800) in the private sector. In the past five years, the number of students in the public universities had risen sharply as a result of increased State allocations. Clearly there was no tendency to favour the private sector, which existed because there was absolute freedom of education in Colombia. Higher education in the private sector was supported by scholarships and fellowships.

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(Mr. Albán-Holguín, Colombia)

68. Teachers in the public sector, who numbered approximately 200,000, earned more than teachers in the private sector, who numbered some 100,000. The budget of the Ministry of Education was larger than that of any other ministry. In the State budget, 16.7 per cent of public expenditure was allocated to education, but extrabudgetary appropriations brought the figure to somewhere between 25 and 28 per cent. Additional funds for education were provided by entrepreneurs, who contributed to apprenticeship programmes. In 1986, a Spanish Government loan of 1.38 billion pesos would further supplement the education and apprenticeship-programme budgets.

69. He drew attention to paragraph 13 of the report and said that the figures in it were accurate. Rural communities accounted for 70.59 per cent of primary-education establishments because city schools were fewer in number, albeit larger.

70. Virtually every subject-matter was covered in the universities, with the notable exception of nuclear science, despite the existence of a nuclear reactor in the country. Such subjects as education, health, law, political science, economics and the humanities were taught throughout the country, but medicine was concentrated in hospitals and medical institutes.

71. Colombia was a Catholic country, the Catholic Church played a role in education and Christian morality was referred to in the Constitution, but all religions were recognized and enjoyed complete freedom. In certain remote areas of the country where it was difficult to attract teachers, members of religious missions, working under State contracts, filled an important gap. Religious schools existed for all faiths as a matter of right, but Catholic-affiliated establishments had no special privileges. All teaching curricula had to be approved by the Ministry of Education and teachers had to meet minimum qualifications. The Ministry of Education regulated pensions and, to some extent, tuition fees. The Ministry allowed higher fees in institutions where students were prepared to pay them, but made sure that minimum standards for curricula and educational facilities were met.

72. Efforts had been made to improve pre-school education, and experts helped the Ministry of Education to set its policies in that area.

73. The country currently had enough trained teachers and enough graduates to replace them. The question was whether the economy could continue to provide enough jobs for all of them. The country had developed its education system more rapidly than its economy and the resultant discrepancy could lead to problems.

74. The co-operative schools had failed because they could not maintain salary scales that could compete with government salary scales and attract and keep science teachers.

75. Television in Colombia was run by an Executive Board composed of leading political, cultural and academic figures. There was no private television and the two existing channels would soon be supplemented by an educational one. Television journalists had the same legally guaranteed freedom of expression as those in the printed media.

(Mr. Albán-Holguín, Colombia)

76. In reply to another question, he said that Colombian women, including ministers, deputy ministers and members of Colombia's Permanent Mission to the United Nations, succeeded very well in reconciling their domestic responsibilities with their cultural and professional activities. Forty-six per cent of university students were women.

77. Concerning truancy in rural areas, he said it was difficult to bring educational services to remote areas. Colombia did not force parents to send children to school because that would provoke an adverse reaction. Instead, efforts were made to involve rural families in the educational process. Most truancy had in fact ended after school schedules had been dovetailed with harvest times, when rural children helped their families.

78. Less than 20 per cent of the student body was in non-formal education, which consisted principally of training in commercial and industrial skills.

The meeting rose at 6.15 p.m.