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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 14th MEETING

Held at Headquarters, New York,
on Wednesday, 1 May 1985 at 10.30 a.m.

Chairman: Mr. KORDS (German Democratic Republic)

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by States parties to the Covenant concerning rights covered by articles 6 to 9
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The meeting was called to order at 10.55 a.m.

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 Madagascar (E/1984/7/Add.19)

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

2. Mr. RAKOTOZAFY (Madagascar), introducing his country's second periodic report, said that it was very brief because little had changed in the four years since the initial report. He would transmit any questions and comments on the report to his Government with a view to improving the presentation of future reports and his country's provisions for implementing the articles of the Covenant under consideration.

3. Mr. TEXIER (France) said that since the Economic and Social Council had decided that States parties to the Covenant should present reports on their implementation of articles 6 to 9, 10 to 12 and 13 to 15 in that order, his first question was why Madagascar had so far submitted no reports on articles 10 to 15.

4. The report under consideration was disappointing, because it contained so little information and no statistics. For example, there was no reference to unemployment. He would like to know how much there was, if any and what was being done to eliminate it. The paragraphs on remuneration and on safe and healthy working conditions simply cited decrees and articles of the Constitution, but that was not what was required. Reports should describe Government efforts to implement the provisions of the Covenant and of the corresponding domestic legislation over the period to which they referred. There was nothing of that kind in the document under consideration.

5. Seeing that there was so little substance in the report, he had referred to its predecessor, which contained more information and showed that statistics were available. It was therefore reasonable to expect more to be provided. During discussion of the initial report, the representative of Madagascar had indicated that the questions and comments of the Working Group would be taken into account in drawing up the second periodic report. It was therefore disappointing that that had apparently not been done.

6. The seventh report by the ILO Committee of Experts on the Application of Conventions and Recommendations on the progress made in achieving observance of the provisions of the Covenant (E/1985/63) had also raised a number of issues on which it would be interesting to have the Government of Madagascar's observations.

7. In conclusion, he did not wish to seem too critical because he was aware of the difficulties faced by developing countries. He recognized that Madagascar was

(Mr. Texier, France)

showing a more positive attitude towards implementing the Covenant than many other countries. However, the document under consideration did not conform to the Secretary-General's guidelines for reporting (E/1984/6, annex). He was sure that Mr. Rakotozafy would do his best to answer the Working Group's questions, but there might also be a case for submitting a supplementary report, as Guyana had recently done.

8. Mr. BENDIX (Denmark) said that the Working Group had discussed in the past whether it should consider second periodic reports in cases where initial reports on the implementation of articles 10 to 12 and articles 13 to 15 had not been submitted, and had decided not to exclude the possibility, although it recommended that States should complete the whole cycle.

9. The document under consideration did not meet the requirements for second periodic reports. For example, it did not give any detailed information about developments in implementing the Covenant since the initial report in 1981. According to that report, the national economic plan for 1978-1980 had provided for the creation of job opportunities to reduce urban unemployment and curb the exodus from rural areas. What developments had there been in the meantime and what job creation measures did the national economic plan for 1982-1987 envisage? The initial report had said that there were job opportunities for 4.5 million people and an active population of 4.7 million. Did those figures mean that there were only 200,000 unemployed in 1981, and what had happened since then? He would also like to know the minimum age of employment and the age of retirement. Since the initial report had mentioned a statistical office, figures should be available which would enable the Working Group to form a clearer picture of the situation in Madagascar.

10. He also wanted to know if collective agreements had been introduced in the sectors where women were mainly employed, especially in agriculture, and whether anything had been done to meet the need to extend to seamen the trade union rights and guarantees granted to other workers by the Labour Code. More information would also be welcome on the question raised in connection with the initial report about the number and variety of trade unions in Madagascar and the extent to which workers enjoyed the right to organize and associate freely in such unions.

11. A further question concerning the right to social security which had not been answered in either of the reports was whether unemployment benefits existed in Madagascar. In conclusion, he hoped that additional information on efforts to implement the Covenant in Madagascar would be provided, including reports on the rights covered by articles 10 to 12 and 13 to 15, so that the Working Group could form a more complete picture of the situation there.

12. Mrs. JIMENEZ BUTRAGUEÑO (Spain) said that she regretted the report's brevity and its lack of information on developments since 1981, the more so because Madagascar had not submitted reports on articles 10 to 12 and 13 to 15 of the Covenant in the meantime. It was not sufficient for a report to refer to other documents, such as the various reports sent to ILO on the implementation of particular Conventions. It should explain what was in those documents.

(Mrs. Jimenez Butragueño, Spain)

13. With reference to paragraph 4 of the report, she wished to know if wages were increased only in accordance with seniority or if other criteria such as level of responsibility were taken into account. She would also like to have any available information about the implementation of Madagascar's second national economic plan, in particular with regard to the reduction of unemployment. The Working Group needed to have statistics which showed the incidence of unemployment by sectors of the economy and on women as compared with men. Like the representative of Denmark, she too wished to know whether unemployment was covered by social security benefits.

14. Mr. LUKYANOVICH (Union of Soviet Socialist Republics) said that he understood the difficulties experienced by developing countries in producing reports containing all the information and statistics of interest to the Working Group. However, it would have been better if the Malagasy Government had provided the information contained in its reports to ILO on the implementation of Conventions Nos. 14, 87, 122 and 132 instead of simply citing them as source material.

15. Despite its brevity, the document under consideration did indicate that wages had been improved. The provision in article 26 of the Constitution that the only conditions for access to public office, the professions and other employment were those of capacity and aptitude was also positive.

16. With reference to the right to work under article 6 of the Covenant, he wished to have more detailed information about the efforts being made to guarantee employment and prevent discrimination in that field. He also wished to know, in connection with paragraph 4 of the report, what was the current minimum wage level.

17. Mr. IIYAMA (Japan) said that he agreed with other members of the Working Group on the need for reports on articles 10 to 12 and 13 to 15 of the Covenant and for more detailed information on the implementation of articles 6 to 9, though he understood that those requirements might be difficult to meet.

18. On the basis of the Secretary-General's guidelines for reporting, he wished to know what factors and difficulties were affecting Madagascar's fulfilment of its obligations, under articles 6 to 9 of the Covenant and what action had been taken since 1981 as a result of the Working Group's consideration of the initial report.

19. Since the Covenant envisaged the possibility of international co-operation to achieve the rights for which it provided, he wondered if the Government of Madagascar thought that the United Nations and its specialized agencies could play a part in helping it to implement articles 6 to 9.

20. Finally, he wondered if Madagascar found the requirement to submit reports at two-year intervals burdensome.

21. Mr. POLO (Peru) said that although all of the four articles of the Constitution cited in paragraph 5 of the report as guaranteeing safe and healthy working conditions, with the possible exception of article 27, appeared to refer to the nature rather than the conditions of work.

22. Mr. AZIZ (International Labour Organisation) said that he wished to draw the Working Group's attention to the comments concerning Madagascar's observance of articles 6 and 8 made by the 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).

23. Mr. Rakotozafy (Madagascar) withdrew.

Second periodic report of the United Kingdom of Great Britain and Northern Ireland (E/1984/7/Add.20)

24. At the invitation of the Chairman, Mr. Field (United Kingdom) and Mr. Smart (United Kingdom) took a place at the table.

25. Mr. FIELD (United Kingdom) said that his Government attached particular importance to the Working Group's task of monitoring implementation of the Covenant, and hoped to establish a useful dialogue on issues arising under articles 6 to 9 by presenting a report which offered a full and honest picture of the current situation in the United Kingdom. Its report would be introduced by the Assistant Secretary in the United Kingdom Department of Employment in charge of the Equal Opportunities Branch.

26. Mr. SMART (United Kingdom) said he would refer primarily to changes which had taken place since the report had been drafted in September 1983. The United Kingdom had no written constitution, and instead gave effect to the principles of the Covenant through a wide range of individual legislative and other measures.

27. Regarding article 6 of the Covenant, the legislation described in the report had recently been supplemented by Codes of Practice which provided a useful framework of guidance on possible steps by individual employers and their employees to ensure that personnel procedures were free from race or sex bias.

28. As part of the "positive action" to reverse the effects of past discrimination or disadvantage (paras. 11 and 21 of the section in part one of the report dealing with article 6 of the Covenant), the Government had now designated over 100 bodies to provide single-sex training for women, largely in occupations linked with new technology and had also authorized a number of special schemes for ethnic groups.

29. Concerning the Government's policies on unemployment (para. 22 on art. 6), its strategy had been set out in a recent white paper: first, the Government sought to create an economic, financial and industrial climate in which enterprise could flourish; second, it sought to improve the labour market by encouraging more and better training and by removing obstacles to the hiring of workers; and third, it provided direct help for those worst affected by unemployment. Many of the schemes mentioned in the report had been expanded, particularly those designed to help young people and the long-term unemployed. The Government had recently proposed to offer new opportunities for vocational education and training to young people up to the age of 18.

(Mr. Smart, United Kingdom)

30. Regarding article 7 of the Covenant, the significant change in the Equal Pay Act envisaged in paragraph 6 of the relevant section of the report had been approved, and the Act now ensured the right to equal pay for work of equal value being done for the same employer.

31. As concerned article 8 of the Covenant, the principal laws relevant to trade union rights had been supplemented by the Trade Union Act 1984, which contained certain provisions covering ballots in trade unions and other matters.

32. The section of the report relating to article 9 of the Covenant described a very extensive range of social security benefits and other provisions, which had since 1983 been expanded to include successive increases in unemployment and child benefits.

33. Mr. BENDIX (Denmark) said that it was commendable that, in the United Kingdom's very extensive report, no attempt had been made in the report to gloss over current difficulties in the country.

34. Many of the statistics provided in the report in connection with article 6 of the Covenant were already outdated, and it would be useful to have figures on the trend in respect of unemployment in the United Kingdom - which the ILO report (E/1985/63) set at 12 per cent - in order to judge the effect of the Government's action to deal with the problem.

35. He wondered how unlawful discrimination by employers (para. 3 on art. 6) was ascertained and controlled; and whether the "positive action" (para. 11 on art. 6) had been conceived of as a temporary or permanent approach. It would be interesting to know in what specific sectors such action had been taken.

36. On the related issue of action by employers (para. 16 on art. 6), were employers encouraged by subsidies to create job opportunities for women? More information should be provided on the conclusions of the joint union-management committee established to examine the position of women in the civil service (para. 19 on art. 6) and on the actual percentage of women in the civil service, especially in senior posts. It was not clear whether the goal of part-time work for women was seen as a way merely of bridging the gap between periods of full-time work, or as an alternative to full-time work.

37. The United Kingdom had set up some very impressive training schemes (paras. 48 ff on art. 6), and it would be interesting to know more about the applicants to the various programmes and courses and whether their numbers had declined (para. 52) owing to lack of interest or rather to the high cost of the training.

38. The Government's encouragement of the application of computers and new technology in civil service work (paras. 102-103 on art. 6) was most interesting and could serve as a model for other countries.

(Mr. Bendix, Denmark)

39. Regarding the termination of employment, did section 50 of the Employment Protection (Consolidation) Act 1978 referred to in paragraph 118 on article 6 stipulate that an employee should receive full pay during the statutory notice period, or only an amount adjusted to the length of service?

40. The report often used terms such as "most employees", giving the impression that there were generally exceptions to the rule. If that was so, the situation was perhaps due to the fact that there was no written constitution but only separate legislative acts. A case in point was the statement in paragraph 120 on article 6 that for "most" women employees, dismissal on account of pregnancy would be automatically unfair. The maternity provisions described seemed to leave loopholes for employers to discriminate unfairly, and he wondered if any thought was being given to revising them.

41. In the section of the report relating to article 7 of the Covenant, it was stated (para. 15) that health and safety inspectors made periodic visits to establishments; details on the frequency of such visits would be helpful.

42. The statistics on industrial accidents and disease rates in annex 7F showed that the level of fatal accidents remained high: was anything being done to improve control over machines in the industries concerned?

43. In connection with article 8 of the Covenant, he wondered whether the changes introduced by the Employment Acts 1980 and 1982 (para. 3) had in any way affected the right of trade unions to function freely.

44. As to article 9 of the Covenant, he noted that some of the groups excluded from the right to statutory sickness pay under social security (para. 11) seemed to be the most vulnerable in society. Also, with the exclusion of employees whose employers were not resident or present in Great Britain (para. 11 (1)), there was a danger that foreign investors might be encouraged not to pay sickness benefits to their employees in the United Kingdom.

45. Mr. HOPPE (German Democratic Republic) noted the extensive information contained in the United Kingdom report and the good picture it gave of the latest developments regarding implementation of the Covenant.

46. In relation to article 6 of the Covenant, paragraph 13 referred to traditional prejudices against employing women. Information should be provided on the number of women employed and their share in positions of leadership throughout the country.

47. The report stated that the Government's Youth Training Scheme (paras. 30 ff. on art. 6) was intended to cover the majority of unemployed young people. What happened, however, after they had been trained under the various facets of the Scheme: were they guaranteed appropriate employment? Similarly, under the Training Opportunities Scheme, applicants had to be unemployed or be prepared to give up their jobs in order to qualify for training (para. 50 on art. 6), and it was not clear that they were guaranteed a new job at the end of their training. The report suggested (para. 52) that the reverse was the case.

(Mr. Hoppe, German Democratic Republic)

48. According to paragraph 5 on article 8 of the Covenant, the Government had recently proposed legislation under which, in cases where a trade union authorized or endorsed a strike or other industrial action, immunities from civil liability would be conditional on the support of the trade union members concerned as tested in a secret ballot. Had that proposed legislation been included in the Trade Union Act 1984, what were the specific provisions in the new Act regarding the possibility of strikes, and did those provisions fully coincide with article 8 of the Covenant?

49. Mr. TEXIER (France) requested clarification regarding the notion of nationality as opposed to citizenship in relation to racial discrimination (para. 5 on art. 6). He would also like further information on the composition of the industrial tribunals (para. 6 on art. 6) as well as on the composition and functioning of the Equal Opportunities Commission (para. 8) and whether it had binding powers.

50. The report did not seek to hide the fact that the United Kingdom was suffering from the same unemployment problems as most other EEC countries. He noted that the United Kingdom was using the same means to combat unemployment as France was using, with somewhat varying results. In particular, great efforts were being made to train young people and fit them for work. He also noted that the authorities were considering increasing the number of part-time jobs. Was that to accommodate the wishes of men and women with young children who wanted to spend time at home or was it a means of relieving unemployment by making room for more workers?

51. In connection with paragraph 25 on article 6, could the United Kingdom representative give a brief account of the substance of the two judgements, mentioned as having influenced marital discrimination?

52. Youth was one of the main problems in present-day society. He noted that the United Kingdom had established a community industry scheme. Was that scheme similar to the one recently started in France which provided for young people who had not yet started work, either because they were not fully trained or because there were no jobs in their particular branch of training? What results had it produced, and had it helped young people to find permanent employment?

53. Regarding work preparation, he noted from the table in paragraph 57 on article 6 that there were only 600 enrolments, in the wider opportunities courses for women. That seemed a small number out of a total of over 18,000 for the five different courses provided. What was the reason for such a low figure - or was it considered normal?

54. Subparagraph 98 (b) on article 6 referred to the responsibility of the local authority careers service for "making prompt submission of suitable young people to available places". How were prospective employers and young candidates brought into contact, and was there a national or decentralized agency responsible for dealing with such matters?

(Mr. Texier, France)

55. In connection with the legislation on unfair dismissal, he noted from paragraph 119 on article 6 that where a tribunal found that a dismissal was unfair, it had power to order the reinstatement or re-engagement of the employee and/or to award compensation. What were the legal criteria for choosing between those remedies?

56. In connection with article 7 of the Covenant was there a minimum wage in the United Kingdom and, if so, what was the current level? Was it the same throughout the country, and was there a uniform figure for all types of work, or did each one have its own minimum?

57. On safe and healthy working conditions (para. 8 on art. 7), he noted that national and regional inspectorates were responsible for enforcement of the Health and Safety at Work Act; were there also inspectorates within enterprises, as was compulsory in France where more than 50 people were employed? Did the national and regional inspectorates include trade union and enterprise representatives?

58. The report contained a number of specific references to problems of labour legislation or trade unionism in the police force, the army and the fire service. Was there a uniform salary scale for the public services or did each sector have its own?

59. The proposed legislation described in paragraph 5 on article 8 seemed to him potentially dangerous, since it presumably meant that the head of an enterprise could sue trade union officers for damages - an action that in France might be regarded as violating the right to strike. Had the legislation referred to come into force, had there been any judgements under it, and what was the prevailing legal view on it - or was legal opinion divided, as in France?

60. Mrs. JIMENEZ BUTRAGUENO (Spain) said that many of the measures described in the report were similar to those taken in her own country.

61. In connection with paragraph 12 on article 6, had the Equal Opportunity Commission been established as a result of women's efforts to achieve equal rights or because of the United Kingdom's entry into the European Economic Community? When in fact, had the United Kingdom joined the Community? Furthermore, in connection with paragraph 27 on article 6, had the United Kingdom had to make a special effort to adapt itself to article 119 of the Treaty of Rome and the Community guidelines on equal pay, employment promotion and social security. Regarding the position of women in the Civil Service (para. 19 on art. 6), in Spain part-time work was provided for all women with family responsibilities, but only on a temporary basis because part-time workers could not hold important jobs. She would also welcome more information on the described measures to encourage women to enter non-traditional areas of work described in paragraph 21.

62. As far as young people were concerned, she would like to know whether the Community Industry scheme referred to in paragraph 43 on article 6 involved employment, with labour or employment contracts, rather than training. Was the

(Mrs. Jimenez Butragueño, Spain)

scheme effective and did it enable young people to work in industry? Paragraph 72 on article 6 referred to support for employers to encourage them to recruit and complete the training of apprentices. Was the scheme effective and did it enable young people to find work?

63. With regard to social security, measures for improvements were currently being discussed in Spain to remedy a deterioration resulting from the current international crisis. How far had that crisis affected social security in the United Kingdom, especially in respect of retirement? In Spain, there was no compulsory retirement age in the private sector but there was a legal retirement age for civil servants. Was there any suggestion in the United Kingdom that mandatory retirement could be used as an incentive to early retirement?

64. Lastly, she asked whether there had been any changes in the widow's allowance, whether a widow had to meet special requirements to qualify for the allowance, and whether a man could obtain a widower's allowance.

65. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that the United Kingdom was to be commended on an interesting report and on its co-operative attitude. He would, however, have appreciated more statistical material, and hoped that it could be provided in the answers or in future reports.

66. The most important issue under discussion was the right to work (art. 6), which some regarded as the basis of all the other rights. What were the possibilities of eliminating unemployment - or at least chronic mass unemployment - in the United Kingdom? What measures could the Government adopt to implement the right to work, and did Government measures result in any increase or decrease in the number of unemployed? What were the figures for full- and part-time employment? What could be done about mass dismissals: could they be countered by Government or court decision?

67. He would also like more information and statistics on measures to ensure equality of race, sex and colour (art. 2 of the Covenant) in connection with the implementation of articles 6 to 9. Was there any discrimination in respect of the right to work, and what Government or other official measures had been or were being taken to prevent such discrimination?

68. It had been pointed out at a recent meeting that in some countries - especially to socialist States - the right to strike was neither recognized nor prohibited. He would like to know who in the United Kingdom could permit or forbid a strike and under what conditions; and also who could stop a strike and on what basis. Were there any cases of pressure being exercised on strikers or of coercive court, administrative, police or other measures, or of arrests? If so, what measures had been taken and on what grounds? Had any material measures been taken, such as deprivation of allowances or confiscation or blocking of trade union funds? Were strikers deprived of any traditional benefits in connection with strikes?

(Mr. Yakovlev, USSR)

69. He, too, would be interested in the information requested by the experts from France and the German Democratic Republic concerning immunity from civil liability for organizers of strikes.
70. Concerning youth, he would like information on pay for young people between 11 and 16 years of age.
71. Lastly, how many families and children were currently below the poverty line? What remedial measures were being taken by the Government and other State or social authorities where the problem was acute?
72. Mr. IIYAMA (Japan) commended the United Kingdom on an excellent, comprehensive and informative report.
73. He asked who drew up the codes of practice under the Health and Safety at Work Act 1974 referred to in paragraph 9 on article 7. Were such codes specific to individual workplaces or did they apply to whole industries?
74. Regarding the right to strike, he would like to know whether and in what circumstances the Government could intervene in a strike in the private sector - for example, in an industry deemed vital to the public interest. What might such an industry be and what form might such intervention take? Had such action ever in fact been taken?
75. He noted from paragraph 28 on article 9 that the Government was currently reviewing the death grant in the light of comments on a consultative document. Could the United Kingdom representative explain what was meant by "a simple contribution condition"?
76. Lastly, he would like to know whether the dialogue with the Working Group referred to in the guidelines agreed by the the Secretary-General had had any impact on United Kingdom implementation of articles 6 to 9; and whether the United Kingdom Government found the two-year reporting period a burden.
77. The CHAIRMAN said he had received from the Secretary-General a copy of a communication from Argentina in Spanish. The communication was being informally translated into English and French, and copies would be given to experts individually.

The meeting rose at 1.05 p.m.