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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 5th MEETING

Held at Headquarters, New York,  
on Wednesday, 18 April 1984, at 10.30 a.m.

Chairman: Mr. BENDIX (Denmark)

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by States parties to the Covenant concerning rights covered by articles 10 to 12  
(continued)

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The meeting was called to order at 10.45 a.m.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX)  
BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 10 TO 12  
(continued)

Report of the Netherlands (continued) (E/1980/6/Add.33)

1. At the invitation of the Chairman, Ms. Pieters Kwiers and Mr. Hamer (Netherlands) took places at the table.

2. Mr. TEXIER (France) said that the report did not form an integral whole, because it contained many references to other reports submitted to both the Working Group and other United Nations bodies. The two parts, which dealt with the Netherlands and the Netherlands Antilles, showed that a single Government sometimes faced problems both of underdevelopment and of overdevelopment.

3. Paragraph 8 of the report referred to "reasonable and objective grounds" which permitted exceptions in the application of non-discriminatory measures: he requested clarification as to what those grounds were. The influx of immigrants and political refugees into many Western European countries made the prevention of discrimination a common problem, and the Netherlands had found useful ways of dealing with it, as paragraph 17 showed. The opening of a number of experimental day nurseries to cater particularly to non-Dutch children was a commendable initiative but raised the problem of the creation of ghettos. He wondered whether the Government was aware of that danger, and if so, how it proposed to ensure that immigrants were not prevented from becoming integrated into Dutch society. However, the Government's even-handed approach to day care for both disabled and able-bodied children, as described in paragraph 22, was remarkable and original.

4. Although all discrimination in respect of housing was prohibited, the decentralization policy seemed to be causing the authorities a problem, one which was common to many European countries. Paragraph 66 indicated that certain municipal regulations included provisions which certain categories of people could regard as discriminatory, and paragraph 67 revealed that municipal authorities had been urged to make it clear in their regulations that applications for accommodation from foreign workers were dealt with according to the same objective criteria as those from anybody else. He asked how the Government monitored the provision by the municipalities of work and housing to immigrants. Referring to paragraph 77, he requested clarification about the requirement that municipalities must register all unoccupied dwellings, how that requirement was enforced and whether the municipalities had the power to allocate such housing to individuals.

5. Referring to paragraph 183, he asked whether the Government planned to institute a general health-insurance scheme in the Netherlands Antilles, and what it was doing to improve the health-care situation which, in poorer countries, was always a major problem.

6. The report emphasized the steps taken by the Netherlands to assist developing countries and indicated that the Government made every effort to welcome immigrants.

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7. Mr. ILYAMA (Japan) said the report (E/1980/6/Add.33) revealed that the Netherlands was deeply committed, both in words and in deeds, to the cause of human rights. In his introductory statement, the representative had pointed out that the structure of the welfare society had been subjected to a critical reappraisal, that the Government had provided most of the financial support to welfare organizations during the past decades, and that alternative forms of social welfare were developing. He would be interested to hear the reasons for that transition and the Government's evaluation of the efficacy of the alternative forms that were developing.

8. Mr. MITREV (Bulgaria) said that the authors of the report had focused on legal instruments rather than on practical measures taken to resolve existing social problems and ensure the enjoyment of social rights. More statistics, analysis of the results of government policy and descriptions of the real situation in the country should have been included. Although it was appropriate to refer to other reports, a summary of the relevant information they contained was essential to an understanding of the arguments.

9. Paragraph 7, for example, gave no information on the implementation of article 1 other than a reference to a previous report, and thus left many questions unanswered. The same was true for paragraph 12, which covered the implementation of articles 4 and 5. Paragraphs 13 to 15 dealt briefly with some aspects of protection of the family, but the information provided was inadequate. When referring to material contained in annexes, reports should mention the more important trends which the annexed material reflected: that was why he felt that paragraphs 42, 43, 45 and 48 provided less than satisfactory information about the important subjects of care of children away from the parental home, provisions for disabled children, child abuse and the employment of the dependent population.

10. On the subject of child care (paras. 19-31), the report gave the impression that the various forms of family assistance were not entirely adequate. Paragraph 20, for example, indicated that there were some 200 day nurseries with a total capacity of about 7,000 places. That seemed low for a developed country like the Netherlands, and he wondered whether the Government judged the number to be sufficient. Paragraph 20 also indicated that the Government had begun to take an interest in day nurseries fairly recently; he wondered how that interest was translated into practice, how many new places were created per year and how many children were unable to attend the nurseries owing to shortages. He would welcome similar information on the experimental day nurseries, day-care outside school hours and other forms of child care mentioned in paragraphs 21, 23, 24 and 30. Paragraph 31 indicated that day centres for school children had to be close to both school and children's homes, and that there were at present 52 such centres. He wondered whether the number was adequate in view of that requirement of proximity.

11. He requested clarification of the statement in paragraph 21 that for many different reasons, the children of foreign parents were seldom placed in the usual Dutch day nurseries. Had any provision been made to remedy that situation? What else was being done to provide non-Dutch children with the opportunity to participate in social activities on the same footing with Dutch children? He asked what the "illegal crèches" mentioned in the same paragraph were. The idea of toy libraries described in paragraph 28 was original, and he would welcome information on their organization and functioning.

(Mr. Mitrev, Bulgaria)

12. With regard to maternity protection, he had noted from paragraph 36 that the Civil Code provided that dismissal on account of marriage, pregnancy or maternity was null and void, and he wondered what arbitration procedures and judicial and administrative remedies were available in cases of violation of those provisions? Were the trade unions involved in attempting to secure redress of such violations? Referring to the statement in paragraph 38 that a limited number of places was available at day nurseries for children of one-parent families, he asked whether that impeded the implementation of the right of single parents to work.

13. With regard to the right to adequate food, he asked if the applications for national assistance to meet the cost of subsistence, which were normally made to the municipality in which the claimant lived, were processed uniformly in both the Netherlands and the Netherlands Antilles. Had the Government adopted any guidelines on that subject or did the municipalities have the right freely to decide how to deal with each application? Paragraph 62 described the Government's admirable efforts to contribute to the battle against poverty, but he would welcome further information about the official position on the right to development, which facilitated the enjoyment of all other human rights.

14. In his introductory statement, the representative had acknowledged that the housing shortage was one of the most serious problems his country faced, but the report gave very little information on the magnitude of the difficulties. The statistics in the annex indicated that there had been a 130,000-dwelling shortage in 1977: how many people, from which income and professional groups, had been affected by that shortage?

15. Referring to paragraph 86, he requested a definition of "squatters" and asked whether the new provision in the Code of Civil Procedure which made it possible to summons and evict squatters without naming them meant that the needs of the families evicted were not taken into consideration. Did the Government believe that that kind of eviction was consonant with its obligations under the Covenant to protect the social rights of citizens? He also requested a definition of the term "caravan-dwellers" used in paragraph 72.

16. He had understood that the Government had planned to save \$1.4 billion in 1983 by cutting social-security benefits and health-care subsidies. He wondered whether those plans had been implemented and, if so, what the result had been. He would also appreciate additional information on the Government's general policies relating to the right to physical and mental health.

17. He noticed certain disparities between the situation in the Netherlands as compared with the Netherlands Antilles. With regard to paragraph 135, he wished to know how the illiteracy figures in the Netherlands Antilles compared with those in the metropolitan country and what the explanation was for any difference. Paragraph 157 indicated that education was not compulsory in the Netherlands Antilles, and he wondered what the situation had been there prior to 1954 - when the two countries had become linked - and how it compared at present with the situation in the Netherlands itself. The statement in paragraph 148 that married men in the Netherlands Antilles earned more than unmarried men represented discrimination and contravened the principle of equal pay for equal work.

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(Mr. Mitrev, Bulgaria)

Differences arising from allowances paid to married persons were acceptable, but differences in the wages paid were not.

18. He welcomed the health-care measures indicated in paragraph 183, but wondered how health-care provisions for the poorest members of the population in the Netherlands Antilles compared with those in the Netherlands itself. Similarly, he would welcome statistics on the realization of the right to health in the metropolitan country along the lines of those provided for the Netherlands Antilles in paragraph 193.

19. He would also appreciate information regarding recourse procedures to remedy human-rights violations in the social, economic and cultural spheres, particularly information on how the Government implemented the right to work and the right to decent housing, besides providing financial assistance. He wondered whether any government office was concerned specifically with safeguarding social rights. He wished to know as well whether drug abuse was a problem in the Netherlands, particularly, among young people, the poor and migrant workers.

20. The introductory statement by the Netherlands representative at the preceding meeting reflected what he considered to be a disturbing trend, which was common lately in some developed countries, to downplay the importance of government action in the field of economic and social rights. Those rights were considered by the United Nations to be no less important than civil and political rights, and indeed, their enjoyment was deemed a prerequisite for the enjoyment of civil and political rights. Governments had the responsibility to implement the Covenant by taking positive action, and a posture of non-intervention in the enforcement of social rights was contrary to the spirit and letter of the Covenant.

21. Mr. KORDS (German Democratic Republic) said that the introductory remarks by the Netherlands and Netherlands Antilles representatives at the preceding meeting provided a useful supplement to the report (E/1980/6/Add.33). He looked forward to receiving the report of the Netherlands on the implementation of articles 13 to 15 of the Covenant, which would permit an evaluation of the report under consideration from a broader perspective.

22. He wished to know what relationship there was among private, governmental and non-governmental initiatives to implement the Covenant, and what the outlook was for the future.

23. With regard to the section on protection of the family (paras. 19-31), he felt that paragraph 19 implied that the changing role of women and the need to guarantee women opportunities for involvement outside the home had not been a major reason in the Netherlands for the increase in the number of day-care centres for children, whereas it was a key factor in other countries. He was therefore prompted to ask what percentage of the total work force in the Netherlands were women, whether regulations existed giving preference to working women when it came to placing children in child-care facilities, what fee was typically paid by families for day care, and what percentage of total income it represented. He also wished to know what was done by the national or municipal governments to ensure that children had opportunities to meet others of their own age.

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(Mr. Kords, German Democratic Republic)

24. With regard to the section of the report on maternity protection (paras. 32-38), he agreed with the expert from Bulgaria that more information should have been provided on the relevant legal provisions, so as to permit a more accurate assessment of the situation. He wished to know for what length of time women were entitled to paid maternity leave and whether the Netherlands Government planned to extend the period if that were necessary, in the light of the increased participation of women in society. He also wondered whether regulations were envisaged guaranteeing that women could return to their jobs after prolonged maternity leave. He would also welcome additional information regarding measures on behalf of working mothers who were self-employed or who worked in family businesses, referred to in paragraph 37. In particular, he wished to know how many women in that category received the aid described, how much financial support was provided, and for how long.

25. He attached considerable importance to the protection of children and young persons, which was dealt with in paragraphs 39 to 48 of the report. Young people must also have the opportunity to enter the labour force once they had finished school or vocational training. Statistics supplied by the European Economic Community indicated that 35 per cent of the unemployed in the Netherlands were under 25 years of age, and he wondered whether the Government had instituted programmes to deal with the problem. He wished to know the proportions of that group representing migrant workers and nationals of other countries. He wondered what steps the Government was taking to enable young people leaving school to complete their education in vocational training institutions. Lastly, he would welcome information regarding drug abuse among young persons.

26. Turning to the section of the report concerning the Netherlands Antilles, he said that there was a contradiction in paragraph 135: if education facilities were extremely good, then he wondered why illiteracy had not been eliminated and wished to know what the Government planned to do to achieve that goal. With regard to paragraph 157, he pointed out that the Covenant stipulated that primary education should be compulsory. Accordingly, he wondered why only 90 per cent of children between the ages of 5 and 14 attended primary school and wished to know what the outlook was for the coming years.

27. Ms. Pieters Kwiers and Mr. Hamer (Netherlands) withdrew.

Report of Italy (continued) (E/1980/6/Add.31)

28. At the invitation of the Chairman, Mr. Zucconi, Miss Cao Pinna and Mr. Librando (Italy) took places at the table.

29. Mr. ZUCCONI (Italy), thanking the members of the Working Group for the interest they had shown in his country's report, said that some of the points raised questioned the basic principles of his Government's policy in such general terms that they were impossible to answer. In other cases, specific data unavailable in New York had been requested and would be provided at a later stage. He assured members that their observations would be borne in mind when his country prepared its next report.

(Mr. Zucconi, Italy)

30. Some questions had touched not on the social aspects of the human rights situation in his country, but on the economic and cultural aspects, a fact that underscored the difficulty of keeping the three sectors completely separated. The Working Group might wish to consider changing the reporting system so that initial reports could cover the Covenant as a whole, rather than individual groups of articles, in order to facilitate the presentation of a complete picture in the country concerned.

31. Miss CAO PINNA (Italy) said that she would reply to questions raised concerning social and humanitarian matters dealt with in the report. With regard to the questions by the experts from France and Tunisia concerning the Interministerial Committee which prepared her country's reports to United Nations bodies, she said that the Committee had been established to facilitate co-operation among the ministries directly concerned with the broad range of human rights covered in the International Covenants. The duties of the Committee were described in the ministerial decree of 1978 attached to her Government's report on economic rights. In addition to preparing reports, the Committee was also called upon to establish procedures permitting a continuous exchange of views among the various ministries concerned with the implementation of human rights instruments. While priority had thus far been given to the report preparation function, once those reports had been completed, the Committee would discharge its other functions.

32. The Committee consisted of approximately 17 members, some of whom were permanent and some were consulted from time to time. Its membership included ministerial experts, representatives of non-governmental institutions and two independent legal experts. It was required to meet at least twice a year, and in any case, was convened to finalize the reports for which it was responsible. Its substantive work was carried out by working groups whose composition changed according to the questions dealt with.

33. With regard to the request by the experts from Bulgaria, the Soviet Union and France for additional statistics, she recalled that the guidelines for the preparation of reports did not specify which statistics should be included and said that her Government selected those which it felt would be of particular interest. It would bear in mind the request for more extensive statistical information. Some of the statistics requested had been included in her country's report on economic rights. In view of the absence of internationally accepted indicators permitting comparisons in the social spheres, her Government would have to be selective in the choice of statistics presented in that field.

34. The representative of the Soviet Union had observed that, in the discussion of article 12 of the Covenant, her Government had departed to some extent from the recommended reporting guidelines. As the report itself stated, that had been done in order to enable the Working Group fully to understand the revolutionary changes which the health-care system had undergone in Italy. Future reports would adhere more closely to the guidelines.

35. With respect to the reference made by the expert from the Soviet Union about the rate of inflation in Italy, the authorities were fully aware of that situation and had commented on it in the report. There was no need to go into the reasons

(Miss Cao Pinna, Italy)

for that inflation. The same could be said about the unemployment situation, which had been fully described in the report on economic rights. The report had not included the most recent trends on housing, because all the competent Italian authorities were currently elaborating acts for Parliament with a view to improving that situation. The section in the report on the housing sector had been quite factual and no attempt had been made to hide the situation.

36. The Anti-Slavery Society had recently made a critical report on Italy with respect to migrant workers. However, the Italian Minister of Labour had given a satisfactory reply in the Commission on Human Rights. Italy, in that regard, had a special situation because, while compulsory schooling was to age 14, people could not enter the labour force until age 15. In other words, there was a period when no provision was made for migrant workers seeking employment. However, the Ministry of Labour was studying ways of correcting that situation.

37. The report had provided pertinent information on drug addiction and she could only add that a recent meeting of five government ministers had studied possible measures to reduce it. For example, one proposal from the Minister for Justice was that people found guilty of illicit drug-trafficking should be sentenced to life imprisonment. There was as yet no indication whether that proposal would be accepted.

38. The new three-year plan with respect to health care had now been put into effect. Although, its scope had been reduced - a situation that obtained with respect to all public expenditure in Italy - the truly needy had not been affected.

39. In Italy, there was no discrimination between public and private kindergartens. For years, the private kindergartens had had no clear programme of education, and public kindergartens had therefore been established. The latter involved all aspects of children's lives and their programme was regarded as a preparation for elementary schooling. A positive step in that regard was that men, too, were now working in kindergartens.

40. A question had been asked about the possible impact of the abortion law on residential institutions for children. There had been no direct impact: the abortion legislation had resulted in a reduction in the normal size of the family, but as yet there was no evaluation of the overall situation. The Italian Government regarded the reduction in the number of children as a positive sign because many large, poor families had hitherto been unable to care for their children.

41. The concept of full-time school was still in the experimental stage, albeit an advanced one. Instead of attending school for four or five hours per day, children now remained there the whole day, which meant that meals and other activities had to be organized. The authorities regarded full-time school as a convenient arrangement because it kept children in safe places and off the streets.

42. As to the question asked about refugees, there was detailed information in the report submitted by Italy to the Committee on the Elimination of Racial Discrimination, and she was sure that the Secretariat could provide copies of that report to interested experts.

43. Mr. LIBRANDO (Italy) said that the expert from the German Democratic Republic had asked a question about family rights and had noted, from paragraph 1 of the report (E/1980/6/Add.31), that the Constitution placed limits upon the action of the State in that regard. The term "traditional characteristics" in that paragraph should probably have been translated from the Italian as "fundamental characteristics".

44. A question had been asked about the reference to marriage without consent in paragraph 10 of the report. Under Italian legislation, there had to be unreserved consent before marriage could take place. The new marriage legislation, enacted in 1975, made provision for the possibility of the annulment of marriage in the case of simulation. In short, it provided for the duties and rights of each spouse, but if simulation was verified, then the marriage could be declared null and void.

45. A question had been asked about the difference between annulment and divorce. He believed that legislation in most countries was clear on that point. A decree of nullity was granted in cases of false or simulated marriages, for example, in cases of bigamy. On the other hand, divorce was a result of situations that arose within the marriage itself.

46. With respect to the question about children born out of wedlock, referred to in paragraph 12, the 1975 legislation in that regard made it possible for children born of adulterous situations to be recognized by either the husband or the wife. If that recognition was given, then those children obtained all rights of legitimate children. In addition, such children could be admitted to the house of the parent only on the consent of the spouse of that parent. Under the law, regrettably, there was no duty on the part of the mother or father to recognize such children. He agreed that it was a shortcoming and hoped that it would be corrected in the near future. At least, he believed, the births of those children should be registered, as was the case in France and Switzerland. Unfortunately, unrecognized children had to be taken care of in public institutions or put up for adoption. It should be pointed out, however, that such lack of recognition was rare in Italy.

47. The expert from Bulgaria had stated that the basis for the dissolution of marriage, referred to in paragraph 16, seemed stricter than that of other countries. He did not agree. He and other Italian experts had studied Italian legislation and the laws of other countries and had concluded that Italian legislation in that regard was rather lax. For example, even the guilty spouse could seek a divorce. Perhaps, however, the five-year waiting period following legal separation before the dissolution of a marriage could take place was too long.

48. The expert from Tunisia had asked about the difference between religious and civil marriages and how that affected the dissolution of marriage. While a civil marriage could be dissolved by a judge, only the civil aspect of a religious marriage could be so dissolved. In other words, the couple would remain married in the eyes of the church.

49. The expert from Bulgaria had asked how the abolition of the traditional figure of the pater familias dovetailed with the reference in paragraph 36 and others to

(Mr. Librando, Italy)

family members being supported by the "head of the family". While that concept of pater familias had been removed by the new legislation, it had been considered practical in some situations to regard one person as the head of the family.

50. The expert from the German Democratic Republic had asked about legislation providing for people out of work. There was legislation which provided for unemployment for definite but rather short periods.

51. Under Italian legislation, all people had the right to adequate housing and the Government was doing its utmost to improve that situation despite economic constraints. The right to safeguards with respect to ownership of property was also recognized but that right had to be exercised within certain social limits. Before someone could be evicted, a judge held a preliminary hearing on the right of the owner to occupy the dwelling. Even when that right had been established, the eviction or non-eviction would depend on the availability of housing. The expert from the Soviet Union had stated that statistics showed that many people were in a difficult situation with respect to housing. That was indeed the reality and the authorities were doing everything to improve it. He also wished to inform the expert from Kenya, with respect to her question on the phenomenon of people living together because of the lack of housing, that there was no legislation which forced people to live together.

52. The Chairman, in his capacity as the expert from Denmark, had asked about the right of immigrants and refugees to housing. Immigrants from the countries of the European Economic Community had the same right as Italians in that regard and those rights would be further broadened if Italy signed the European Social Charter. Some accommodation was also reserved for the housing of refugees.

53. The expert from France had asked for clarification about the new nationality law. As was clear from the report, the couple must reside in Italy and the foreign spouse must have lived there for at least six months before Italian nationality was granted. In addition, there was the principle of consent by silence. In other words, if the responsible ministry did not reply to the application for citizenship within one year, then citizenship was automatically granted. No figures had been as yet compiled on the consequences of that new legislation.

54. A question had been raised about decentralization of authority to the various regions. It was true that Italy was a country of markedly different situations in the various regions. The north was accustomed to a more stable situation and had been systematic, for example with respect to health care. He agreed that it would be better if the same situation obtained throughout the country.

55. The expert from Spain had asked whether married couples were obliged to submit joint declarations of their respective incomes or whether that was merely voluntary. People had found the progressive tax paid in respect of a joint declaration to be rather oppressive and, as a result, there had been simulated separations of married people who wished to show that they did not live under the same roof. The new legislation now provided for single or joint declarations.

56. Questions had been raised about the parallel system of public and private

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(Mr. Librando, Italy)

schools. Italy was a pluralistic society, a condition not forbidden in the Covenant. He agreed that there could be discrimination with respect to schooling because only the wealthy could afford to send their children to private schools. In addition, religious schools had sought special consideration and the authorities had recognized that private and religious schools helped to relieve the burden on the State. In any event, that was a sensitive political situation that was yet to be resolved.

57. The CHAIRMAN said that the Working Group had completed its consideration of the report of Italy.

The meeting rose at 1.20 p.m.