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**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



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SUMMARY RECORD OF THE 516th MEETING

Held at Headquarters, New York,
on Thursday, 12 April 1984, at 3 p.m.

Chairman: Mr. MAVROMMATIS

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE
COVENANT (continued)

Democratic People's Republic of Korea (continued) (CCPR/C/z2/Add.3 and Add.5)

1. At the invitation of the Chairman, Mr. Han Si Hae (Democratic People's Republic of Korea) took a place at the Committee table.
2. Mr. HAN Si Hae (Democratic People's Republic of Korea), replied to the questions asked in connection with his country's initial report at the Committee's 509th and 510th meetings.
3. With regard to the questions asked concerning Korean reunification, he reiterated that the peaceful reunification of Korea was a matter of restoring the country's sovereignty and realizing the right to self-determination throughout the territory. As was well known, the southern part of Korea had virtually become a colony under the occupation of the United States of America, and the United States commander excercised complete control over the South Korean army. In the absence of reunification, it would be difficult to defend the independence and sovereignty of the country and, with the growing antagonism between the great Powers, the Korean people might again become the victims of foreign forces and colonialist designs.
4. His Government had consistently maintained that reunification must be achieved independently, without outside interference and in a peaceful manner, through dialogue. To that end, in January 1984 his Government had proposed the initiation of tripartite talks with South Korea and the United States. It was the unavoidable duty of the United States to ensure peace in Korea and to remove the obstacles to reunification. The participation of South Korea, which was not a signatory of the Korean Armistice Agreement, was necessary since it was directly involved in the creation of tension on the Korean peninsula. His Government had proposed that the tripartite talks should deal with the signing of a peace agreement between his country and the United States to replace the Armistice Agreement. The peace agreement would include the withdrawal of United States troops and the signing of a non-aggression pact between the North and the South, which could then initiate a dialogue on the ways of achieving peaceful and independent reunification.
5. In his Government's opinion, national reunification could best be achieved through the establishment of a confederal State in which the two regions would be autonomous and in which their different ideologies would remain intact. The confederal State would be independent and neutral.
6. However, his country felt that families should be reunified even before the country was reunified. Accordingly, in 1957 the Red Cross Society of the Democratic People's Republic of Korea had contacted the Red Cross of South Korea to propose the establishment of communications between separated families, but it had not received any affirmative answer. Nevertheless, in 1971 the Red Cross Society

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of his country had initiated talks with that of the South and had proposed that all the legal and social obstacles to the reunification of families should be removed, that families should be permitted to travel freely throughout Korea and that the possibility of enabling them freely to choose their place of residence should be discussed. However, the South Korean side had proposed only the discussion of notification of separated families as to whether family members were living or dead. Because of those fundamental differences, no progress had been made in the talks.

7. Referring to requests for additional information about the Juche idea, he explained that it was based on the philosophical principle that man was the master of the world and of his own destiny, and that, through independence (Chajusong), creativity and consciousness, he could free himself of the fetters of nature, oppose all forms of social subjugation and put everything to use for his own purposes. It was true that natural disasters such as floods were uncontrollable in some countries, but they could be controlled in others through an appropriate system of irrigation.

8. The Juche ideology consisted of independence in politics, self-sufficiency in the economy and self-reliance in defence. Political independence was the essence of an independent sovereign State. As his country's experience had shown, economic independence was necessary for political independence, but that could not be achieved in isolation. An independent economic policy ruled out foreign economic domination but not co-operation, particularly close economic and technical co-operation among developing nations. Moreover, his Government attached great importance to the establishment of a new international economic order and to South-South co-operation, in particular.

9. In connection with article 1 of the Covenant, his Government stressed that the racist régime which ruled in South Africa with the backing of the imperialists should abandon its policy of apartheid and its brutal oppression of the South African people and should recognize their right to self-determination and independence. His country had already expressed its active support for the African National Congress in its struggle for national liberation. It considered the provision of such support to be a sacred national duty under the banner of anti-imperialism and anti-colonialism. Moreover, his Government had always expressed, and would continue to express, its firm solidarity with the struggle of the Namibian people, and had contributed \$10,000 to the special fund for Namibia established by the non-aligned countries.

9. By the same token, the Palestinian people must recover their territory and build an independent Palestinian State there. The settlement of that issue must entail the withdrawal of the Israeli Zionists from the Palestinian territory they had occupied and the restoration of all the legal and national rights of the Palestinians. In that connection, he pointed out that the Palestine Liberation Organization had an office in his country. In accordance with the Juche idea, although Palestine and Namibia were occupied by foreign Powers, the Palestinian and Namibian people were still the true masters of their territory.

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10. Replying to the questions asked in connection with article 2, he explained that, in his country, international treaties were ratified by the President on behalf of the Government, in accordance with the socialist Constitution. The implementation of international treaties was a legal duty of the Democratic People's Republic and its citizens. Accordingly, there could be no conflict between domestic laws and the international treaties his country had ratified. The Democratic People's Republic of Korea had adopted measures to guarantee that all citizens had effective remedies for violations of the rights laid down in both the Covenant and the Constitution. For example, citizens were fully entitled to submit complaints and petitions, and a timely resolution of petitions was guaranteed by law.

11. The organs of State power were the administrative and executive organs and the judicial and procuration organs, which monitored and ensured the exercise of the constitutional rights of citizens. In accordance with his country's criminal laws, the public procurators ensured that State laws were properly observed at the time of an investigation or hearing. If anyone was unlawfully arrested or detained the public procurator took steps to secure his immediate release.

12. The Democratic People's Republic of Korea had taken specific action to ensure the equal rights of women and to create all the necessary conditions for them to enjoy those rights in practice. Under the country's labour laws, women had an equal right to work, to be remunerated in accordance with the work performed and to rest. An important law providing for the equality of men and women had been promulgated in 1946 guaranteeing women emancipation in all fields and according them ample opportunities to participate in the country's political, economic and cultural life. Among the State benefits accorded to women were a 77-day maternity leave and the possibility for mothers with more than three children to work a six-hour day at full pay.

13. The death penalty was reserved for special offences such as espionage and premeditated murder. It was not imposed indiscriminately, as the principle was to re-educate offenders. The death penalty could also be used in the case of spies who, even after receiving a pardon, continued to hand over important State secrets to the enemy or cause harm to the country's economy. There were no political criminals in the Democratic People's Republic of Korea, with the exception of spies.

14. Convicted individuals were sentenced according to their crime and could be deprived of certain rights and freedoms during the term of their sentence. The aim of sentencing was to prevent recidivism. Accordingly, convicts sentenced to reformatory labour had access to newspapers, could receive and send letters and be visited by relatives and friends.

15. Under the criminal laws of the Democratic People's Republic, juvenile offenders were not treated as ordinary criminals or sentenced to punishment. They were instead rehabilitated through the school, the family and social education.

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16. No one could be arrested or detained without the approval of the Prosecutor or a court judgement. As masters of the State and society citizens enjoyed full security and freedom of person. They were allowed to give full scope to their revolutionary zeal and creativity. There was no preventive detention in the Democratic People's Republic. However, individuals who committed crimes against the property of the State or of co-operative organizations could be arrested without a warrant if caught in the act; in such cases, a warrant was issued within 24 hours.

17. Turning to article 12 of the Covenant, he said that citizens were guaranteed complete freedom of movement and had the right to change their place of residence within the territory of the Democratic People's Republic of Korea and to travel abroad. Every citizen was entitled freely to choose work suited to his abilities, and citizens were provided with suitable housing near their place of work. Citizens were free to travel abroad for official and private purposes whenever they wished. Aliens could also enter the country at any time, subject to the relevant legal formalities. Travel into and out of the Democratic People's Republic of Korea was on the rise as a result of the growth of the economy, rising living standards and the expansion of exchanges with other countries. Since the beginning of the programme for the repatriation of Korean citizens from Japan in 1959, more than 100,000 individuals had returned and had been warmly welcomed by their compatriots. Returning Koreans were provided with assistance by the State in finding employment and a place to live. Many had been elected to public office and had distinguished themselves in various fields. The repatriated Koreans enjoyed the same rights as other citizens under the socialist Constitution without any discrimination whatsoever.

18. Replying to questions asked by Mr. Graefrath and Ms. Côté-Harper concerning the independence of the judiciary, he said that the independence and impartiality of judges was fully guaranteed under the Constitution and any interference in their activities was strictly prohibited. The judicial system consisted of four levels of courts, namely people's courts, province courts, the Central Court and the special courts. The people's courts had jurisdiction for a wide range of civil and criminal cases and were the ordinary courts of first instance. They were composed of a presiding judge and two people's assessors. There was a right of appeal to the court of the province or of a municipality directly under the central authority. The public procurators could also protest against a judgement.

19. The province courts acted as courts of first instance for certain criminal and civil offences, and also heard appeals against the judgements of people's courts. The judgement of the province courts was generally final. However, there existed an emergency appeals procedure whereby a case could be submitted to the Central Court. The special courts included military tribunals and traffic courts. The Central Court was the highest judicial organ and had original jurisdiction for particularly serious crimes and civil cases having nation-wide implications, and appellate jurisdiction for cases that had been tried in the province courts and special courts. The judges of the Central Court were selected by the Standing Committee of the Supreme People's Assembly, and the judges of other courts by the

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relevant people's assemblies. Candidates for the bench had to enjoy the confidence of the people and have a knowledge of the law. Court hearings were held in public, and trials were sometimes conducted at the scene of a crime, with the broad participation of the people. It enhanced a sense of responsibility of law officers to conduct investigations under the eyes and control of the popular masses. Anyone guilty of unlawfully arresting or detaining another or violating his rights was liable to prosecution. The criminal laws provided for release on bail if the accused was ill or pregnant. Persons convicted of espionage who required medical treatment were taken for such treatment to facilities affording adequate security.

20. Since the purpose of the criminal justice system in the Democratic People's Republic of Korea was to educate and reform offenders, a stay of execution could be granted or sentences reduced according to the degree of repentance of the offender. The President had power to grant a special amnesty and the Central People's Committee had the power of general amnesty.

21. Lawyers in the Democratic People's Republic of Korea enjoyed complete independence in the conduct of their activities, and had formed the Korean Democratic Lawyers' Association.

22. With regard to article 18 of the Covenant, all citizens were guaranteed the constitutional right to freedom both of religion and of anti-religious propaganda. There were three religions - Buddhism, Chondoism and Christianity - and the State ensured religious life by law. Believers set up their own organizations and maintained relations with the appropriate international bodies. Thus, the Federation of Korean Christians co-operated with the International Christian Conference for Peace in Prague and talks had been held in Vienna and Helsinki between Korean Christians living abroad and Christians from the Democratic People's Republic. Similarly, the Korean Buddhist Federation co-operated with the Asian Buddhist Conference for Peace. Like the Christians, his country's Buddhists pursued their own religious life. There was no discrimination between the religious and non-religious, all of whom had the same rights and duties and were treated alike.

23. With respect to article 19 of the Covenant, freedom of expression was guaranteed by article 53 of the Constitution and there was no restriction whatsoever on people's right to seek and impart information and ideas. The State ensured conditions for the free activity of democratic political parties and social organizations, and citizens had freedom of expression in the mass media. The Juche idea was accepted by everyone, but people could not have ideas forced upon them.

24. Turning to article 22 of the Covenant, there were three political parties in the country. The Workers' Party of Korea had about 2 million members working for the interests of the masses and the victory of socialism and communism. The Korean Social Democratic Party included workers, peasants, intellectuals, entrepreneurs and Christians. The Chondoist Chongu Party was composed of Chondoists. No restrictions were placed on the formation of political parties.

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25. The country's trade unions, which were affiliated to the General Federation of Trade Unions of Korea, were institutions for the ideological education of their members and mobilized them to carry out the political and economic tasks set by the Party and Government.

26. With reference to articles 24 and 26 of the Covenant, particular attention was paid to the protection of children and the Constitution set the minimum working age at 16. Infant mortality was the same in both town and country, and villages benefited from the Public Health Law to the same extent as the towns. The Labour Law provided for State old-age pensions for women over 55 and men over 60.

27. As for article 25 of the Covenant, all citizens over 17 enjoyed the constitutional right to elect and to be elected, regardless of sex, race, occupation, length of residence, property status, education, party affiliation, political views or religion. The only exceptions were people who had been deprived of those rights by a court and the insane. The electoral process was free but voting was not compulsory and anyone could present himself for election. Normally, many candidates ran for each office but discussions on their qualifications were usually held at meetings of voters in electoral districts until consensus emerged on a single candidate. It was not surprising that such candidates obtained almost 100 per cent of the votes.

28. With reference to questions about the character and structure of the State, the Democratic People's Republic was heir to the traditions formed during its struggle for the liberation of Korea and for the well-being of its people. All State organs followed the principle of democratic centralism, which meant that organs of power were elected by and responsible to the people, while administrative bodies were responsible to the organs of power which established them. Subordinate and local State organs carried out the decisions and instructions of higher bodies or operated under their guidance. By combining powerful centralized leadership with democracy, democratic centralism guaranteed that the role of the State was enforced.

29. The State was by nature a class dictatorship, which meant that it applied total dictatorship against hostile elements while ensuring democratic freedom and rights for working people. The State was seen as a weapon of class struggle for the dictatorship of the proletariat and for the building of socialism and communism. Its function of dictatorship against hostile elements related to only enemies entering the country from outside because there were no such elements inside.

30. The organs of the State could be divided into organs of power and administrative and judicial organs. They functioned at both the central and the local level. The central organs of power were the Supreme People's Assembly, the President and the Central People's Committee headed by the President. At the local level the organs of power were the people's assemblies and the people's committees which operated when the assemblies were not in session.

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31. The Supreme People's Assembly was the highest representative body and was composed of democratically elected deputies. It alone had legislative power and the authority to adopt and amend the Constitution. The President, as Head of State, represented State power. He was elected by the Supreme People's Assembly for a term of four years and was responsible to it for his activities. The Central People's Committee was composed of the President, the Vice-Presidents and other members. As the highest organ of State power, it worked under the direct guidance of the President in managing and supervising all other State bodies and affairs.

32. The central administrative and executive body was the Administration Council, which worked under the guidance of the President and the Central People's Committee. At the local level, administrative committees functioned as the administrative and executive bodies of local organs of power.

33. The country's Constitution provided for the State to be run by the masses. The Chongsan-ri spirit and method and the Chollima movement were ways of achieving that objective. The former, which had been created by President Kim Il Sung, required that higher bodies should help the lower, that the opinions of the people should be respected and that their active enthusiasm should be aroused by giving priority to political work. It embodied the principle that the people were the masters of the State and managed it entirely for their own benefit. The Chollima movement, on the other hand, aimed to accelerate the building of socialism to the utmost. The movement reflected the people's desire to build socialism faster. It had been initiated by the workers and had been unanimously accepted by them as giving the fullest scope to their enthusiasm and creative talents.

34. Finally, on the question of taxes, the Government had gradually abolished the tax system as the country's economic structure was reformed. Tax receipts had played little part in the State's finances and the last remaining tax had been abolished in 1974. The State and co-operative sectors of the economy constituted the economic foundation of the State.

35. Mr. TOMUSCHAT expressed his gratitude for the answers to members' questions and for the light they had shed on the situation in the Democratic People's Republic of Korea. However, he wished to ask what sort of publicity the Democratic People's Republic would give to the Committee's proceedings. Those proceedings were an important first step towards a continuing dialogue on human rights and they should be publicized to encourage its further development.

36. Mr. PRADO VALLEJO said that it would be useful if the statements made by the representative of the Democratic People's Republic of Korea in introducing his Government's reports and in answering the Committee's questions could be made available in extenso.

37. Mr. ERMACORA said that the answers given had clarified many problems which were important for an understanding of the Constitution and the human rights situation in the Democratic People's Republic of Korea. However, it was still not clear to him whether that country's policy on reunification accorded with the principle of self-determination set forth in article 1 of the Covenant.

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38. Mr. HAN Si Hae (Democratic People's Republic of Korea) invited members of the Committee to submit to him any further questions which they might wish to ask even after the meeting was concluded, and undertook to convey them to his Government for consideration. With reference to Mr. Tomuschat's question, he said that the media in his country would be able to publicize the Committee's proceedings if they so desired. As for Mr. Ermacora's question, his country's policy on reunification was one which aimed at self-determination for the whole of Korea.

39. The CHAIRMAN thanked the representative of the Democratic People's Republic of Korea for his Government's reports and asked him to convey the Committee's appreciation for them. He believed it was the first time that a second report had been provided so quickly to supplement the initial report.

40. Mr. HAN Si Hae (Democratic People's Republic of Korea) withdrew.

The meeting was suspended at 5.10 p.m. and resumed at 5.30 p.m.

GENERAL COMMENTS UNDER ARTICLE 40, PARAGRAPH 4, OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (continued)

Draft general comments on article 1 (continued) (CCPR/C/XXI/CRP.1/Rev.1)

41. The CHAIRMAN said that some members still had difficulties with paragraph 2.

42. Mr. BOUZIRI said that there appeared to be agreement on the substance of the matter and that Mr. Tomuschat's suggested text was acceptable.

43. Mr. HANGA agreed with Mr. Bouziri. He would however prefer the phrase "related to other provisions of the Covenant" in the third sentence of the paragraph.

44. Mr. AGUILAR thought that an appropriate wording would be "are closely related to other provisions of the Covenant and subject to other rules of international law".

45. Mr. GRAEFRATH said that it was essential that the Committee should not establish any kind of hierarchy among the articles of the Covenant. The term "subject to" was dangerous as it would imply that the right to social development was subject to other rules of international law. No such hierarchy existed; all rules enjoyed the same status.

46. Mr. ERMACORA said he disagreed with Mr. Graefrath. He could, however, accept the use of the word "interrelated", as Mr. Tomuschat had suggested.

47. Sir Vincent EVANS said that "interrelated" was acceptable to him.

48. Mr. GRAEFRATH suggested that paragraph 2 should be amended to read:

"Article 1 enshrines an inalienable right of all peoples as described in its paragraphs 1 and 2. By virtue of that right they freely determine their

(Mr. Graefrath)

political status and freely pursue their economic, social and cultural development. The article imposes on all States parties corresponding obligations. This right and the corresponding obligations concerning its implementation are interrelated with other provisions of the Covenant and rules of international law."

49. Mr. HANGA said that he could accept the proposed text but nevertheless considered that the use of the word "interrelated" might weaken the first paragraph of article 1 of the Covenant.

50. Mr. PRADO VALLEJO said that he was prepared to accept the text as it stood in the revised conference room paper. Rights and obligations were well balanced and there was a linkage with other provisions of international law.

51. Mr. ERMACORA said that the relationship between article 1 and other provisions of the Covenant must be made clear. The right to self-determination could not be freely exercised unless it was also possible to exercise other rights, such as freedom of expression and of opinion. The reference to "other rules of international law" was necessary in order to cover such issues as that of non-interference in the internal affairs of other States.

52. Mr. NDIAYE said that the text suggested that article 1 related only to some provisions of international law whereas it should apply to all such provisions.

53. Mr. DIMITRIJEVIC suggested that, as a compromise, the text proposed by Mr. Graefrath should be adopted.

54. Mr. NDIAYE said that, in the circumstances, he could agree to the compromise text.

55. Mr. AGUILAR said that he could agree to the adoption of the text as it stood in English, on the understanding that the other language versions would be carefully checked to ensure perfect consistency with the English text.

56. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the English text of the draft general comments on article 1 and to draw attention to the need for all language versions to be perfectly consistent with the English text.

57. It was so decided.

Revised draft general comments on article 14 (continued) (CCPR/C/XXI/CRP.2/Rev.1)

58. Mrs. CÔTE-HARPER said that she could accept the revised draft comments on article 14.

59. Sir Vincent EVANS proposed that the words "within the scope of that article" should be added between "courts and tribunals," and "whether ordinary or specialized" in the first sentence of paragraph 4.

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60. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the English language version of the revised draft general comments on article 14, as amended by Sir Vincent Evans, on the same conditions on which it had adopted the general comments on article 1.

61. It was so decided.

The meeting rose at 6.15 p.m.

