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

SUMMARY RECORD OF THE 18TH MEETING

Held at Headquarters, New York,
on Tuesday, 28 April 1981, at 10.30 a.m.

Chairman: Mr. JOHNSON (Ecuador)

later: Mr. KORDS (German Democratic Republic)

CONTENTS

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)

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8 p.

The meeting was called to order at 10.50 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 Panama (E/1980/6/Add.20)

1. At the invitation of the Chairman, Mr. Diaz (Observer for Panama) took a place at the table.
2. Mr. DIAZ (Observer for Panama) said that the expert whom his Government had designated to introduce its report could not be in New York for the session of the Working Group. He therefore asked the Working Group to defer consideration of the report until the following year.
3. The CHAIRMAN said that, if there was no objection, he would take it that the Working Group agreed to the request by the representative of Panama.
4. It was so decided.

The meeting was suspended at 10.55 a.m. and resumed at 11.30 a.m.

Report of Australia (E/1980/6/Add.22)

5. At the invitation of the Chairman, Mr. Joseph (Observer for Australia) took a place at the table.
6. Mr. JOSEPH (Observer for Australia) said that Australia took seriously its obligations under the Covenant and that since its first report had been considered by the Working Group the preceding year it had ratified the International Covenant on Civil and Political Rights. That step had been taken following an exhaustive examination of the practical implications it would have for all jurisdictions within the Australian Federation. Ratification of the Covenant had been followed by the adoption by the Parliament of a bill for the establishment of a Human Rights Commission to hear complaints of violations of human rights within areas of federal responsibility. The Commission would complement and extend provisions already existing in Australian law in such legislation as the Racial Discrimination Act of 1975.
7. The Australian federal political system meant that several jurisdictions bore responsibility for implementing Australia's international obligations. While that system might make for some complexity in presenting a comprehensive picture of the situation, it did not constitute a hindrance to the effective protection of human rights. Since the Federation had been formed in 1901, the power of the central Government had grown steadily. While the states had also expanded their activities, the federal Government had the first right of taxation, which gave it a virtual monopoly over taxes and an effective means of ensuring that the states followed its policies in order to qualify for federal funding. Although there had

(Mr. Joseph, Observer, Australia)

been some discussion of the possibility of decentralization, and indeed some steps had been taken in that direction, the states had grown accustomed to the existing relationship with the federal Government and were unlikely to seek any radical changes. For the sake of brevity and coherence, the report concentrated on federal policies; state laws and practices were cited where they added significantly to the range of measures employed within the nation as a whole.

8. As a country which for most of its independent history had enjoyed a high degree of social and economic development, Australia possessed a solid base for implementing the rights provided for under the Covenant and for the great bulk of the population those rights were in many respects already practically assured. That was not to say that Australia was a utopia; the society was evolving all the time and new and more effective ways of ensuring social and economic security were constantly being sought and implemented. The generally high standard of public welfare reflected the fact that policy priorities had in recent years been primarily directed to adjusting or amending existing programmes to improve their quality and to catering for the special needs of disadvantaged groups. Accordingly, the report contained numerous references to special programmes for groups which had not had adequate access to the general range of governmental and private health, welfare and social security programmes in the past.

9. One such group was the Australian Aborigines, who comprised only two thirds of 1 per cent of the total population. The Government was committed to the principle that all Aborigines and Torres Strait Islanders should be free to determine their own future and it recognized their fundamental right to retain their racial identity and traditional life-style, should they so desire. The Government had undertaken to fund programmes aimed at Aboriginal self-sufficiency. A fundamental objective of Commonwealth Aboriginal affairs programmes was to secure for Aborigines access to the community services available to other Australians, to facilitate the adaptation of programmes where necessary to make them culturally appropriate and to provide additional services appropriate to the particular needs of the Aboriginal people.

10. Social security systems generally had two over-all objectives, namely, the provision of minimum income support for such contingencies as old age, invalidity, sole parenthood, unemployment or sickness, and the maintenance of previous living standards when people became old or incapacitated. The income security system in Australia had always been based on the objective of sustaining a minimum level of income for those in need. The maintenance of living standards was generally left for individuals to meet through their own private arrangements. The Government assisted them by a variety of means, including tax concessions for occupational superannuation schemes.

11. In the area of health, the federal Government had sought to encourage the development of health services which adequately met the needs of all Australians through combined federal-state cost-sharing arrangements, targeted financial assistance, surveillance of health insurance arrangements and cash benefit programmes. Some 10 years earlier, the health services system had consisted essentially of a collection of private insurance schemes receiving some support

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(Mr. Joseph, Observer, Australia)

from the Government. That system had been criticized, inter alia, because it did not cover the poorest segment of society and was of a piecemeal nature. Consequently, in 1972 the Government had introduced a new system providing for payment by the federal Government of 80 per cent of medical fees and one half the cost of hospitals run by the states. That new system had been plagued by runaway costs and new arrangements had had to be introduced in the late 1970s, putting health care back in the hands of private concerns receiving Government support. As costs continued to escalate, the Government was reviewing the matter and changes were in the offing.

12. In addition to administering such financial programmes, the federal Government also administered a range of activities designed to maintain and improve the health of Australians. Quarantine procedures were aimed at ensuring that Australians were protected from exotic diseases, and research in pursuit of improved health care was likewise encouraged. Advice on a wide range of public health matters, including occupational health, family planning, women's health, preventive medicine, nutrition, environmental health and epidemiology was also provided.

13. Mrs. JIMENEZ BUTRAGUENO (Spain), noting that Australia had a reputation as a country in which foreign workers received good treatment, asked whether there was complete equality of aliens and foreigners before the law. She also asked whether there was full equality between men and women or whether the situation was still evolving. In particular, she wished to know whether there was any de facto or de jure discrimination against women in education.

14. She requested additional information about the Family Support Services Program, especially with regard to eligibility requirements for homemaker assistance. The report indicated that the programme included services for single parent families and she asked whether men raising families alone had the same entitlements as women in similar conditions. She also wanted to know whether the "widow's pension" in Australia was payable to working women or whether a condition for receiving the benefit was that the woman should not work.

15. Lastly, she asked whether the Government provided any specific assistance for handicapped adults.

16. Mr. CHERNICHENKO (Union of Soviet Socialist Republics) requested more detailed information regarding the procedure for obtaining a divorce in Australia.

17. The report indicated that the Conciliation and Arbitration Commission had determined that women with a minimum of 12 months' service were entitled to unpaid maternity leave not exceeding one year and he asked for information concerning the leave entitlements of women who did not have at least 12 months' service.

18. In connexion with the application of article 11 of the Covenant, he asked how many unemployed there were in Australia and what proportion of that number consisted of young people.

19. Lastly, he wanted to know what percentage of average income was spent on rent.

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20. Mr. BORCHARD (Federal Republic of Germany) commended the Government of Australia for its very frank report, which touched on both the achievements and problems encountered by that country in applying the provisions of the Covenant. The report dealt only briefly, however, with one matter that was of great importance in view of Australia's history as a country of immigrants. He asked whether any distinction was made in law between aliens, in general, who might reside in the country for a period of time and those who arrived with the intention of settling permanently. He also wished to know whether there was any general policy to assist immigrants in starting a new life in Australia.

21. Mr. SHAMMA (Jordan) requested information concerning the cultural, economic and social conditions of the Aborigines and concerning any measures adopted by the Government to promote and enhance their cultural rights.

22. Mr. SAMSON (International Labour Organisation), drawing attention to the comments on Australia contained in the report of the ILO Committee of Experts (E/1981/41), said that article 10, paragraph 2, of the Covenant provided for special protection of mothers during a reasonable period before and after childbirth and, more particularly, for paid leave for working mothers during that period or leave with adequate social security benefits. Both the Australian Government's report and the ILO Committee's report indicated that there was no social security maternity benefit in Australia, that a right to paid maternity leave was enjoyed only by federal government employees, some state government employees and some women working in the private sector, and that under various awards provision was made for unpaid maternity leave. The Committee of Experts had therefore considered that information would be desirable on any further measures to establish such entitlements. The Committee of Experts had also suggested that additional information would be desirable on any measures taken to regulate the type of work to which women might be assigned during pregnancy and following confinement. It would also welcome information on any further measures to safeguard security of employment of women workers before and after childbirth.

23. With respect to work by children and young persons, the Government's report referred to a report relating to ILO Convention No. 138 that had been submitted to the ILO. Such cross-references were specifically permitted by article 17 of the Covenant. That report to the ILO had run to over 100 pages; the Committee of Experts had analysed the information it contained and the relevant laws and regulations, enabling the Working Group to appreciate the nature and scope of the protection provided.

24. Australian legislation differed from that of other States considered by the ILO Committee in that it did not establish a general minimum age for admission to employment. It approached the question of child labour primarily from the point of view of compulsory school attendance, supplementing that approach by various provisions establishing a minimum age for particular types of work. However, that left considerable scope for work outside school hours and the situation varied from one state to another. Accordingly, the ILO Committee considered that additional information would be desirable on measures adopted to establish a general minimum age for work by children under the school-leaving age and the conditions of employment applicable to such work, measures taken to establish a minimum age

(Mr. Samson, ILO)

for street-trading in the Northern Territory and in South Australia and to raise the minimum age for such work in Queensland, Tasmania, Victoria and Western Australia, where the current minimum of 11 or 12 years appeared too low. It also requested information on further measures to establish special minimum age standards for harmful or dangerous work (with special attention to agriculture, construction and transport), and further measures taken to ensure that children and young persons were medically fit for the work in which they were employed.

25. The questions raised by the Committee of Experts, which were intended to promote a dialogue on the application of the Covenant, related to matters which merited study by the competent authorities and on which information could be provided in subsequent reports. It was to be hoped that particularly in a federal state where the legislation and practice of a number of different jurisdictions were involved, the questions raised by the Committee of Experts would be found constructive and helpful.

26. Mr. KORDS (German Democratic Republic) took the Chair.

27. Mr. JOSEPH (Observer for Australia) expressed regret that last-minute changes in the schedule of the Working Group would preclude detailed replies to the questions raised.

28. With regard to the questions put by the representative of Spain, he said that Australian legislation identified two basic categories of foreign workers: permanent residents and visitors. Although permanent residents could choose to stay for only a short time, they enjoyed virtually the same rights as Australian citizens, except the right to vote and certain legal rights, such as the right to serve on juries. Women enjoyed all rights except, in certain instances, with respect to the right to equal pay. All federal jurisdictions and five of the six states had legal provisions guaranteeing equal pay for women. Legal pressure was being brought to bear on the sixth state in order to bring it into line with the rest of the country in that respect. In general, in 90 per cent of the cases, women received pay equal to that of men.

29. With respect to support services for mothers, he pointed out that the Australian Government provided all mothers with a family allowance on the basis of the number of children. Single parents received special tax breaks and since November 1980 were eligible to receive income maintenance payments. Unmarried mothers enjoyed the same rights as married mothers, and in addition, were also eligible for the benefits provided to single parents. Handicapped adults were eligible to receive various forms of federal payments.

30. In reply to the questions raised by the representative of the Soviet Union, he said that the procedures regulating divorce were governed by the Family Law Act. The minimum waiting period was one year and the breakdown of the marriage was accepted as grounds for divorce. The main progressive feature of the divorce legislation was the equal division of communal property and earnings between the partners. Income earners, whether the wife or the husband, were required to support the children on the basis of their financial capacity, which was determined

(Mr. Joseph, Observer, Australia)

by the Family Law Court. That Court also decided on the custody of the children, who could advise the Court of their preference.

31. Paid maternity leave was granted to federal employees and employees in certain states. A significant portion of the private sector did not provide paid maternity leave. A woman had to work a minimum of 12 months before she became eligible for paid maternity leave.

32. Like many other industrialized countries, Australia suffered from unemployment. Nevertheless, its unemployment situation was better than most other OECD countries. Currently about 5 per cent of the work force, including both men and women, was unemployed. A disturbingly high proportion of that percentage was made up of young people, especially school-leavers. The Government was careful not to enact unemployment legislation which would reduce their employment prospects.

33. In reply to the questions raised by the representative of the Federal Republic of Germany, he said that his Government followed a liberal immigration policy under which permanent residency was not difficult to obtain. Australia took in large numbers of immigrants and many refugees, especially those from Indo-China. There were no legal distinctions or restrictions between immigrants and Australian citizens. After three years of residence, an immigrant could apply for Australian citizenship, which was denied only in cases of serious criminal offences.

34. In reply to the question raised by the representative of Jordan, he said that the Aboriginal population numbered approximately 120,000 people. The Aboriginals had their own distinct cultural identity, which varied from location to location. Some Aboriginals tended to assimilate the cultural habits of the majority of the population. That group did not earn as much as the average Australian citizen and lived in inferior housing. In general, the Aboriginals had a high infant mortality rate. Fifteen years earlier, the Government had changed its policy to one which was designed to give Aboriginals the choice of retaining their own culture or assimilating into the mainstream of Australian life. They enjoyed the same social and medical rights as the majority of Australian citizens and also received special assistance from the Government. Although much remained to be done, the Government was committed to ensuring full enjoyment of their rights.

35. In reply to the questions raised by the representative of the ILO, he said that the comments of the Working Group of Experts regarding paid maternity leave would be given serious consideration by his Government. Although there was no general provision for a minimum age of employment, the minimum school-leaving age served the same purpose since a child could not work if it had to remain in school. With respect to the question of part-time employment, he felt that most young people welcomed the possibility of earning money through after-school employment.

36. The CHAIRMAN said that, if he heard no objection, he took it that the Working Group had concluded its consideration of the report of Australia (document E/1980/6/Add.22) submitted in accordance with Council resolution 1988 (LX) by States parties to the Covenant concerning rights covered by articles 10-12.

The meeting rose at 12.50 p.m.