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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 19th MEETING

Held at Headquarters, New York,
on Friday, 25 April 1986, at 3 p.m.

Chairman: Mr. RUIZ-CABANAS (Mexico)

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The meeting was called to order at 3.10 p.m.

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

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

1. At the invitation of the Chairman, Mr. Telle (France) took a place at the table.
2. Mr. POERSCHKE (German Democratic Republic) said that the report was balanced and included useful statistical information. French legislation in areas covered by the Covenant was complex, in view of which it would be of interest to know how government activities in those areas were co-ordinated. Further, he wished to know how the Working Group's comments on the report were taken into account by the French Government, and whether the Covenant was widely available to the public in libraries.
3. It was to the Government's credit that no effort had been made to hide the problem of unemployment in France, and that steps had been taken to alleviate it. Yet there had been no reference to migrant workers, a particularly vulnerable group. The Working Group would welcome unemployment figures for migrant workers in comparison with the total, and details of any specific programmes to help them to find jobs. It would be of interest to know whether the Government had researched the psychological aspects of unemployment. In view of the large number of programmes available for the unemployed, he wondered whether they were adequately publicized. With respect to social security, he asked how many families were below the poverty line and what the Government was doing to help them.
4. With regard to trade-union rights (paras. 237-243 of the report), he asked how many trade unions and confederations existed in France, and whether they tried to secure worker participation in decision-making. It would be useful if the Government could provide statistics on strikes, stating how many strikes there had been over the past two or three years, how many workers had taken part and how many had been successful from the worker's point of view. He also wished to know which authorities could prohibit strikes, for example in areas of the private sector deemed vital to the public interest.
5. Mr. DARUSENKOV (Union of Soviet Socialist Republics) said that it was unfortunate that not all the permanent members of the Security Council had emulated France and assumed their obligations under the Covenant. In particular, the refusal of the United States to accede to the Covenant was undermining international co-operation in the field of human rights. In contrast, the high level of economic, social and cultural development in France was a positive factor in international relations. It was clear from the report that France had long been concerned to prohibit discrimination against workers, a tradition reflected in the Government's recent endeavours to provide benefits for low-income families and ensure that young people could exercise the right to work. France's experience in economic, social and cultural rights offered useful lessons for the international community.

(Mr. Darusenkov, USSR)

6. Paragraph 4 of the report referred to sanctions against employers who discriminated against individuals. In that connection, he wished to have details of the judicial practice followed: for example, could the courts reinstate a dismissed employee? Similarly, with respect to female employees, referred to in paragraph 5 (b), what sanctions were applied if a pregnant employee was dismissed, and could she be reinstated? Paragraph 5 (d) referred to legislation governing equality between men and women in employment. It was widely recognized that legislation was not, in itself, enough to guarantee equality, in view of which he wished to know exactly how the legislation operated.

7. He observed that the right to strike was not an absolute right, but rather a practical way in which workers could assert their economic and social rights. It would be of great interest to hear the French Government's views on that question. Paragraphs 241 and 242 of the report referred to certain restrictions on the right of public-sector employers to strike, but did not specify whether that right was similarly restricted in the private sector. Lastly, with respect to social security, he asked whether social insurance was made available solely through the Government or with the participation of employers.

8. Mrs. JIMÉNEZ BUTRAGUENO (Spain) said that she would welcome an explanation of the reference in paragraph 41 to the special provisions for the integration of women into the work-force.

9. Mr. RUIZ-CABAÑAS (Mexico) said that the French report was well structured, commendably logical, and objective, although there were some problems which were not mentioned, such as the status of migrant workers and foreign minorities in general. On a related matter, he would welcome information on the number of French employees working abroad, in what sectors they were employed and what the Government of France was doing to preserve their rights. Although France had an impressive tradition of promoting women's rights, it seemed that there was still inequality in French society, and he wondered whether the Government might comment on that, particularly with respect to the difference in attitudes between urban and rural areas.

10. Turning to the question of early retirement, he noted that in many countries the issue was becoming controversial, and that recently there had been support for an individual's right to choose to retire or to continue in employment. He asked whether any such sentiment had been expressed in France.

11. He would welcome information on the structure of trade unionism in France and on whether trade-union activities went beyond labour matters as such and involved relations with political parties. Lastly, it seemed that hostility towards migrant workers and foreigners in general was increasing in France. If that was indeed the case, he would welcome the Government's comments on the question.

12. Mr. Telle (France) withdrew.)

Initial report of Nicaragua (E/1984/6/Add.9)

13. At the invitation of the Chairman, Miss Lau (Nicaragua) took a place at the table.

14. Miss LAU (Nicaragua) said that the Covenant was regarded in Nicaragua as a legal instrument to be enforced under normal circumstances, but it could not be enforced in the current emergency situation. In a subsequent document her Government would provide the statistics omitted from the report through lack of experience and would answer many of the questions raised.

15. Drawing attention to article 29 of the Statute on the Rights and Guarantees of Nicaraguans cited in section I, paragraph 3, of Nicaragua's report, she said that the social responsibility of the individual referred to in that article, which accompanied the State's obligation to guarantee full employment, was a moral obligation to society rather than a legal one subject to penalties.

16. The economic blockade had caused urban unemployment and resulted in a black market, with a shift of workers to the informal sector of the economy where there was hope for a quick profit. The Government had therefore taken such corrective measures as the setting up of State supermarkets to provide basic foodstuffs at affordable prices, licensing arrangements to protect existing firms, carefully-monitored price controls and a law on monetary stability designed to promote increased use of checks and credit cards so as to protect the currency. The national employment policy was designed to promote uniform pay practices, basing pay on the complexity of the work performed. A fund had been established to launch projects that would stimulate job creation. Free job-placement agencies had also been set up, but more comprehensive economic measures were still required.

17. The vocational-training programmes were financed by two funds, one being the Fund to Combat Unemployment. They were administered through the National Vocational Training System, which was linked to the Ministry of Labour, though activities were co-ordinated with the Ministry of Education. In 1985, 14 central training councils had been established for the various branches of the economy.

18. The joint committees consisted of one representative from the employer and one from the workers, usually the trade-union representative. In non-unionized firms the workers elected a representative to participate in the committee. If the committee was unable to reach an agreement the matter was referred to a tripartite committee which included a representative of the Ministry of Labour. In addition to participating through the joint committees, in the review of cases of dismissal, the trade unions could also propose candidates for promotion.

19. In response to the question why Nicaragua continued to apply the Labour Code, which dated from 1945, she said that those provisions of that Code which were obsolete had been replaced by others. The Code contained provisions regulating holidays and rates of pay for overtime. The Organic Law on the Ministry of Labour introduced new employment policies and new policies relating to the organization of labour and to wages. It was one of the tools which had enabled Nicaragua to make the tremendous strides which it had made.

(Miss Lau, Nicaragua)

20. With reference to paragraph 21 on page 10, she said that the sectoral branches or bodies were the Ministry of Industry, the Ministry of Construction and the ministry involved in the agricultural farm. Those bodies regulated private, mixed-economy and State firms and all co-operatives. They had participated in the task of determining how labour should be organized and in setting wages.

21. With regard to safe and healthy working conditions, she said that safety inspectors visited the workplaces to see if safety standards were being met and to make sure that any irregularities they might have reported on an earlier visit had been corrected. There was co-ordination in that field between the Ministry of Health, the fire brigade and the police. Inspectors were empowered to fine employers who violated safety regulations.

22. With regard to trade-union rights, the various trade-union federations and confederations reflected the different political leanings, Sandinista, Communist, Socialist, Christian Socialist and Social Democrat. Some trade unions were not affiliated to any central union.

23. It was correct that the right to strike had been suspended; however, the suspension applied only to strikes which were against the security of State. Strikes that involved claims that related purely to labour matters were permitted and did occur despite the suspension.

24. There were 1,134 collective agreements covering nearly 336,000 workers. The conventions of the International Labour Organisation were ratified by the President and became part of Nicaragua's labour legislation.

25. Regarding the breakdown of social-security contributions she said that the employer paid 11 per cent of social-security contributions; the worker 4 per cent and the State 50 per cent.

26. The new draft Constitution had been drawn up by a special constitutional commission composed of the different parties represented in the National Assembly (Sandinista, Conservative Democrat, Christian Socialist, Liberal, Socialist, Communist and Marxist-Leninist). The commission had consulted the parties not represented in the National Assembly, trade unions and professional associations and other social forces and had also consulted the Constitutions of other countries. The 11 basic principles reflected in the Constitution included the principles of democracy, political pluralism, a mixed economy, non-alignment, anti-imperialism, anti-interventionism, Latin Americanism and defence of the nation. With regard to the labour rights which were not envisaged in the draft Constitution she said that the plan was to include the human-rights covenants as a constitutional norm. The reason she had earlier omitted mentioning one of the Covenants was that it made no mention of trade-union rights.

27. The new draft Constitution guaranteed the right to work - it provided that work was a right and social responsibility of all individuals and that the State was duty-bound to ensure that there was full employment - and the right of workers to participate in their firm in accordance with the law. It provided that all workers were entitled to equitable and satisfactory conditions of work and to equal

(Miss Lau, Nicaragua)

pay for equal work without discrimination on the grounds of sex and that workers should be paid in legal tender. It provided for a minimum wage - the term had, however, been altered to basic wage - which could not be attached except for the protection of the family (see para. 5, p. 8). It provided that the length of the work day, the amount of weekly rest and holidays were to be regulated by the law. It stated that all workers were entitled to stability of work and it recognized the right to strike, adding that that right must be exercised in accordance with the law. It also guaranteed the right to social security, a right which would gradually be extended to all sectors. It banned the employment of minors in work which was incompatible with their physical capacities or which would endanger their moral development. It provided that all workers were entitled to cultural and technical training - to be provided by the State - and guaranteed the right to trade-union freedom. It also stipulated that workers could enter into individual or collective agreement with their employers.

28. Mr. TEXIER (France) asked what stage had been reached in the elaboration of the new Constitution.

29. Miss LAU (Nicaragua) said that the work was still at the level of the nation-wide consultation with all organizations, trade unions, employees' associations and professional associations.

30. The CHAIRMAN said that it was the view of the Working Group that Nicaragua was making great efforts to comply with the provisions of the Covenant.

31. Miss Lau (Nicaragua) withdrew.

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

Initial report of Rwanda (continued) (E/1986/3/Add.1)

32. At the invitation of the Chairman, Mr. Kabanda and Miss Baziyaka (Rwanda) took places at the table.

33. Mr. KABANDA (Rwanda) said that a man and woman could not marry under any circumstances before the ages of 18 and 15 years respectively, unless a dispensation had been granted by the President of the Republic (para. 2 of the report). Before the age of 21, they could not marry without the consent of a person exercising parental authority over them. However, the President of the Republic could grant a dispensation from the need for parental consent.

34. Marriage was prohibited between legitimate or natural ascendants or descendants, and between legitimate or natural brothers and sisters. There could be no second marriage until the first had been dissolved or annulled. A woman who wished to remarry had to wait 10 months after the dissolution or annulment of her marriage. If divorce had been granted on the grounds of adultery, the guilty spouse could not marry his or her paramour.

35. Marriage without the free consent of either spouse could be contested. However, neither spouse could contest a marriage which had been contracted on false grounds or under duress when both spouses had explicitly or tacitly accepted that

(Mr. Kabanda, Rwanda)

marriage. A marriage which had been illegally contracted by a minor could be contested by that person and by the person exercising parental authority over the minor. The marriage could not be annulled if it had been approved by the person representing parental authority, or if the minor, after attaining 21 years of age, had explicitly or tacitly accepted the marriage.

36. Marriage contracted in contravention of articles 96, 100, 101 and 108 of the Constitution could be contested by those who had a personal, moral or monetary interest, and by the ministère public. However, when the marriage was contested because it had not been publicized or because of an error in the office of the registrar, the grounds for its annulment were decided by a judge. A marriage in which one or both spouses were minors could not be contested when both spouses had reached marriageable age or when the wife was pregnant.

37. A marriage which had been contracted in good faith and had subsequently been declared null and void had consequences in civil law both for the spouses and the children. If only one of the spouses had shown good faith, the marriage had such consequences only in favour of that spouse and the children.

38. Traditional Rwandese society recognized both monogamy and polygamy. However, since the adoption of the Constitution of 24 November 1962, only monogamous marriages were legal. However, polygamous unions contracted before 24 November 1962 were considered legitimate.

39. The husband was the head of the household and was obliged to protect his wife. The wife owed obedience to her husband. The husband was obliged to provide his wife with shelter and the necessities of life. Work was divided between husband and wife according to the nature of the work and the abilities of each spouse.

40. The purpose of marriage in traditional Rwandese society was procreation. While procreation was still an essential element of marriage, it no longer was the only purpose.

41. The husband could sue for divorce on the grounds of adultery, but the wife could not sue for divorce on the grounds of her husband's adultery unless that adultery constituted a serious wrong (injure grave). Either spouse could sue for divorce on the grounds of excesses, cruelty or serious wrong. The condemnation of one of the spouses to penal servitude for having besmirched one's honour could, should the circumstances so warrant, constitute grounds for divorce.

42. Divorce by mutual consent could take place only after two years of marriage and when both husband and wife had reached the age of majority. However, there could be no divorce by mutual consent after 20 years of marriage.

43. In Rwanda, abortion was neither legal nor tolerated. The use of contraceptives was controversial, and the general tendency was to rely on natural birth-control.

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(Mr. Kabanda, Rwanda)

44. In Rwanda, the State owned the land but the right to a parcel of land was that of the person who cultivated it. The use of the land was hereditary and it was not easy to transfer part of the family property to a person outside the family. The Government could dispossess families only by invoking public utility and by providing just compensation.

45. In Rwanda, people who worked the land lived in houses scattered throughout the countryside. That made it very difficult to carry out agrarian reforms, and the Government and local authorities were currently trying to convince farmers of the need to abandon traditional methods of cultivation.

46. Ninety-five per cent of the population was engaged in agricultural work, and agriculture accounted for approximately 63 per cent of the gross national product and about 48 per cent of all exports.

47. In Rwanda, it was government policy for the administrative and legal authorities to be as close to the people as possible. Among the rural population, the ministries were represented at the prefecture level and by regional representatives. The country was divided into 10 health-care regions. There was a youth counsellor (encadreur de la jeunesse) and a co-operative supervisor (encadreur des coopératives) at the prefecture and commune levels. In primary and secondary education, there were inspectors at the regional, sectoral and zone levels. In each prefecture, there was a court of the first instance and, in every one or two communes, there was a cantonal court.

48. Farmers' associations included production, marketing and trade co-operatives which came under the Ministry of Youth and the co-operative movement. Rural activities were generally financed by personal savings or by people's banks and private banking institutions. The ideal was to have one people's bank for each of Rwanda's 143 communes.

49. The Government aided both arable and pastoral farmers. For example, it provided high-grade seeds as well as breeding animals.

50. The Government fixed minimum prices for producers, which protected them against speculation. The prices encouraged producers and were not excessive for the wholesalers.

51. The Government was responsible for submitting the national development plan to the National Development Council for approval. The ministries were involved in drawing up the various parts of the plan and submitted them to the Ministry of Planning for finalization, evaluation and calculation of financial implications. The plan was financed in large part by the Government or the private sector; the remainder was financed by foreign aid, loans or investment.

52. The rural exodus was a major problem in Rwanda. A large number of young people who completed primary school went to urban centres in a vain search for work, often becoming vagabonds, delinquents or bandits. The Government was attempting to keep young people in rural areas by encouraging them to form agricultural, livestock or trade co-operative associations. The Government had also established vocational schools to train both boys and girls in useful occupations.

53. Miss BAZIYAKA (Rwanda), speaking on the subject of women, said that women in Rwanda had always played an important role in the family and had always been respected as mothers and educators. Equality between women and men was constitutionally guaranteed. The country's 1962 Constitution had established a hierarchical relationship between men and women, men being considered the natural head of the family, but the 1978 Constitution had eliminated all discrimination based on sex, so that now women could even be elected President if they met all other requirements. The Constitution also guaranteed equality between men and women in such areas as the right to education, job opportunities, equal pay for equal work, social security, paid leave, old-age pensions and retirement benefits, and it also guaranteed generous maternity leave.

54. The Government was making every effort to enable women to participate in the country's development on the basis of full equality by overcoming a historical legacy which had resulted in the limited participation of women in certain areas. Various social services and orientation programmes had been established to that end.

55. Rwanda had ratified the Convention on the Elimination of All Forms of Discrimination against Women without any reservations because it had already been doing its utmost to eliminate inequality based on sex, and it was an active member of the Committee on the Elimination of Discrimination against Women. One problem had arisen, however. Under the Penal Code, which reflected sociological factors, adultery committed by women was punished more severely than adultery committed by men, but efforts were currently under way to eliminate that discrepancy. The effect of the Convention had basically been to reinforce efforts that had already been undertaken.

56. Mr. KABANDA (Rwanda), speaking on problems of health, said that physical-education activities were organized both within and outside the schools through the Ministry of Youth and the co-operative movement. Efforts to improve medical care were being intensified everywhere through private hospitals, health centres and dispensaries, with the result that the population was in good physical shape despite a high, albeit decreasing, infant-mortality rate. The relevant statistics would be provided in Rwanda's next report. The Government had further authorized doctors to establish private medical-training facilities and a private health network to supplement the country's existing health infrastructure.

57. Lastly, he hoped that efforts would be made to inform newly independent States about the Covenant with a view to their acceding to it and benefiting from it as his own country had done.

The meeting rose at 6 p.m.