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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 10th MEETING

Held at Headquarters, New York,  
on Monday, 21 April 1986, at 10.30 a.m.

Chairman: Mr. RUIZ-CABAÑAS (Mexico)

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consolidated in a single corrigendum, to be issued shortly after the end of the  
session.

The meeting was called to order at 10.40 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)

Second periodic report of Spain (E/1986/4/Add.6)

1. At the invitation of the Chairman, Mr. Somalo (Spain) took a place at the table.
2. Mr. SOMALO (Spain), introducing his country's second periodic report concerning rights covered by articles 10 to 12 of the Covenant, said that Spain had a tradition of protection of the family and that right was enshrined in the Constitution as a social, economic and legal guarantee. Spain regarded the family as the principal nucleus of society, and after the country had become a democracy, many changes had taken place in that regard. The Civil Code, which had formerly been based on the Napoleonic Code, had been changed to provide for equality between the husband and wife and for the protection of all children, legitimate and illegitimate. Parental authority and decisions on where to live were now exercised jointly by the husband and wife. There were also new laws giving children the right to know who their parents were.
3. The annual rate of marriages in Spain had declined somewhat and, contrary to what had been expected, the new divorce legislation had not resulted in an increase in divorces; it had merely served to legalize situations that had existed before the legislation had come into force. At the administrative level, Spain was divided into 17 autonomous regions, each of which had its own competence in many areas, especially with respect to protection of the family. There were also regulations to protect the disabled, elderly and other groups.
4. With respect to maternity leave, a woman could choose the time of her 14-week leave, during which she received 75 per cent of her basic wage. The Workers' Charter provided various benefits for women with family responsibilities.
5. Protection of children had been recognized in the Constitution through a specific reference to the international agreements on the rights of the child. The age for the termination of compulsory education was 14 years and the minimum age for admission to employment was 16 years. There were measures to assist young people in finding employment and there were rules for the establishment of training contracts and contracts for practical work. Young people under 18 years could not perform night work.
6. The Constitution provided for the protection of the consumer and the 1984 General Act on the Protection of Consumers and Users was based on the principles and guidelines prevailing in that field in the European Economic Community, of which Spain was now a member. In 1966, the Interministerial Food Regulations Commission had been established and entrusted with the drafting of the Spanish Food Code, which was issued in 1967. All food regulations were revised regularly according to need. The report gave full details on food legislation and measures for supervision of food production and protection.

(Mr. Somalo, Spain)

7. With respect to the right to housing, article 47 of the Constitution provided that all Spaniards were entitled to enjoy decent and adequate housing. Formerly, all rents had been frozen, and that had diverted investments from housing, which had deteriorated as a result. Spain had done much to reverse that trend and under the 1981-1983 Three-Year Plan large sums had been allocated to promote housing construction. The active degree of implementation of the plan was about 90 per cent. There were also new forms of financing to provide low-cost housing for the population and, as a result, the rental market had gradually been diminishing. For example, in 1950, 52.8 per cent of dwellings were rented, while in 1980, rentals accounted for only 22 to 25 per cent of occupied housing.
8. With respect to article 12 of the Covenant, Spain's policy regarding the right to physical and mental health was to promote health, individual and collective preventive medicine, primary health care, efficient assistance and the patient's reintegration into society. Special measures had been taken for the offspring, adopted children and brothers and sisters of holders of the right, up to the age of 26 years. In addition, there were immunization and vaccination campaigns against various types of diseases and programmes for family guidance and family planning. The Spanish Penal Code had decriminalized the use of contraceptives and there had been a noted decrease in the birth rate.
9. There had been new developments in Spain since the second periodic report had been issued. For example, there had been provisions increasing unemployment benefits, measures for maternity protection of working women and creation of employment for women with family responsibilities. There were also new regulations for the protection of children and youth, and, since the age of termination of basic general education was 14 years, while the minimum age for admission to employment was 16 years, special measures had been taken to supplement the basic education of youth between 14 and 16 years and to train them for employment. Large sums had been allocated with a view to creating 11,000 jobs.
10. Measures had also been taken to combine agricultural insurance throughout the country and to carry out research in the area of physical and mental health.
11. Since June 1986, the National Plan on Drug Addiction had been established together with a Co-ordinating Group which comprised the Ministers of Health, Labour, Social Security, Justice and the Interior. While the penalties for illegal drug use had been increased, Spain tended to treat addicts more as sick people than as criminals. In March 1986, a Ministerial Co-ordinating Group had been established to co-ordinate all youth policies.
12. Mr. TEXIER (France) said that Spain's lengthy and balanced report revealed that it was making structural changes necessitated by its transition from authoritarian to democratic government and was making economic adjustments necessitated by its joining the European Economic Community.
13. He welcomed the fact that Spain's 1978 Constitution embodied many provisions of the Covenant, including those relating to housing and a minimum wage. He also welcomed the trend reflected in the Spanish Civil Code towards greater equality between men and women. Provisions for maternity protection and voluntary family

(Mr. Texier, France)

planning were very constructive, but in the area of child protection, he noted a discrepancy, in paragraph 37, between the fact that a child could leave school at the age of 14 but had to wait until he was 16 until he could go to work. The report noted efforts to increase the number of youth, consumer and ecology associations in Spain and he wondered how many such associations existed and how active they were. The population tables showed a birth rate declining faster than the death rate and he wondered whether there was any concern in Spain over the aging of a population that was perhaps not being replenished, despite the fact that many Spaniards who had emigrated were now returning. Noting that the marriage rate in Spain was declining while the divorce rate was increasing, he wondered what the ratio was between marriage and long-term cohabitation.

14. Turning to paragraph 49 of the report, he asked whether the Constitutional Court was competent to decide disputes concerning consumer protection. In connection with paragraph 164, he wondered who the high-risk social groups were and how that classification was made.

15. Mr. MRACHKOV (Bulgaria) said that Spain's comprehensive and substantial report reflected positive social developments which had facilitated implementation of the Covenant. The annex was particularly useful because it showed the continuous nature of the dialogue between the Working Group and the Spanish Government.

16. According to paragraph 3 of the report, Constitutional provisions which affected fundamental rights must be interpreted in conformity with the Universal Declaration of Human Rights and the international treaties and agreements on the same subject ratified by Spain. He wondered what the scope of that interpretation was and how it was actually applied in Spanish courts. Were international agreements ratified by Spain automatically a part of domestic law, or were special laws required to ensure their implementation? More details would be welcome about special measures to protect working women against harmful work and dismissal, and about special protection for pregnant women.

17. In connection with paragraph 39, he would like more information on the measures taken or envisaged to reduce the number of employed persons between 14 and 15 years of age, which seemed extremely high and inconsistent with the relevant ILO conventions. He also wondered how many people in Spain were unemployed and how long unemployment usually lasted, and he would also like more information concerning the present flow of migration and whether it had been affected by political changes. More information would also be useful concerning the legal status of abortion and its relationship to the birth rate and concerning the relationship between free, as opposed to paid, medical care. The Spanish representative had said that 90 per cent of the population had insurance coverage and he wondered whether that referred to the entire population or just the active population, and what percentage of medical costs were actually covered. He also wondered what measures were being taken for the 10 per cent of the population not covered and what Government policy was concerning the relationship between public and private medical care.

18. Mrs. KIMATA (Japan) drew attention to paragraph 18 of the report and asked whether such substantial increases in the percentage of day nurseries reflected the

(Mrs. Kimata, Japan)

increase in the number of women employed, a previous shortage of day nurseries or some other factor. In connection with paragraph 19, she would welcome more information concerning wife abuse and wondered whether it was increasing or decreasing and what the causes of it were.

19. Turning to paragraph 26, she asked whether there was a tendency for more men to take unpaid leave for birth of children and, if so, why. In connection with paragraph 41, she would welcome more information concerning training activities and opportunities, particularly for young people between 16 and 20. She wondered whether there were public training facilities as well as training contracts and whether employment was guaranteed after completion of training.

20. Mr. LY (Senegal) said he would like to know how international law and the Covenant were implemented domestically in Spain. He wondered what explanation there was for the trend against marriage noted in paragraph 13 of the report. He would like more information concerning preventive and educational measures, as opposed to punitive ones, to combat drug abuse among youth, as well as more information concerning youth unemployment.

21. He would welcome information concerning the consequences of Spain's entry into the European Economic Community, particularly with respect to the protection of Spanish agricultural workers.

22. Lastly, he asked what role Spain had played on the international level to promote the equitable distribution of world food resources, particularly in connection with aid to developing countries.

23. Mr. BEN HAMIDA (Tunisia) expressed regret that the second periodic report of Spain was not available in Arabic in spite of the fact that it had been submitted to the Secretariat in the autumn of 1985.

24. Paragraph 4 of the report stated that the Covenant was elevated to the status of a document which served to interpret the Constitution with respect to the rights recognized in it. The reporting State should clarify whether that was a reference to the inclusion of provisions of international law into Spanish domestic law or whether the Covenant constituted a source to which Spanish judges could refer in cases involving difficult interpretations. Since Spain was a party to both the Covenant and the European Convention on the Protection of Human Rights and Fundamental Freedoms, it would be useful to know which instrument took precedence under Spanish law in case of conflict. The reporting State should indicate whether there were domestic laws which governed those matters or whether judges themselves were empowered to resolve such questions.

25. According to paragraph 6 of the report, Spanish law recognized foreign divorce decrees as valid provided that they met with the requirements set forth in the Spanish Legal Code. It would be interesting to know in general under what conditions legal decisions taken in foreign countries could be executed in Spain. He inquired what legal force the biological tests referred to in paragraph 9 of the report had under Spanish law. Paragraph 14 stated that the number of persons filing for divorce had been lower than expected. He asked how the Government was able to estimate the number of persons in that regard.

/...

(Mr. Ben Hamida, Tunisia)

26. The reporting State should provide further information on how it implemented the various measures to promote the employment and recruitment of young people referred to in paragraph 41 of the report. Were subsidies or tax advantages given to enterprises which agreed to hire young people to enable them to acquire professional skills? He would appreciate statistical data on the number of young people who had benefited from those measures and the effectiveness of that policy in reducing unemployment among young people.

27. It was gratifying to learn what the Government of Spain had done to ensure an adequate standard of living and protect the rights of consumers. Referring to paragraph 78 of the report, he asked what practical measures were being taken to promote the conversion and restructuring of olive groves and requested information on the social and economic impact of the Plan for Restructuring Olive Groves and the Conversion of Depressed Olive-Growing Regions. The reporting State should also indicate the degree of participation by the population in the Plan and the difficulties which had arisen in its implementation. Lastly, it would be useful to have additional information on the Campaign against Desertification in the Mediterranean referred to in paragraph 91 of the report and on international co-operation agreements between Spain and African countries to combat desertification.

28. Ms. KIMBALL (Secretary of the Working Group) said that unfortunately there seemed to be a number of reports which had not yet been issued in Arabic. The Secretariat was making every effort to ensure that they would be available in that language as soon as possible.

29. Mr. POERSCHKE (German Democratic Republic) expressed satisfaction at the very detailed information provided in the second periodic report of Spain. A number of important steps had been taken by the Government to ensure the implementation of rights covered by articles 10 to 12 of the Covenant. Paragraph 18 of the report provided information on progress made in the construction and maintenance of day nurseries for workers. In that regard, the reporting State should indicate what qualifications were necessary for employment in day nurseries and whether there were specific programmes to speed up the training of qualified personnel for such jobs. Was it relatively easy to place children in day nurseries and were they given periodic medical examinations in the nurseries?

30. The Working Group would appreciate further information on measures taken by Spain to protect women who brought charges of physical abuse against their husbands. In that regard, he inquired whether there were arrangements, such as the availability of shelters, to protect such women on a temporary basis until their domestic situation was resolved. Lastly, it would be useful to have information on the measures taken by the reporting State to limit the adverse effects of unemployment on the enjoyment of the rights covered by article 11 of the Covenant.

31. Mr. BENDIX (Denmark) said that the report was commendable. It dealt with matters not even touched on in reports submitted by other countries. For example, he would be most interested in obtaining details of research on aflatoxin monitoring (para. 65 (d)). He wondered whether it would be possible to obtain further details on a bilateral basis when reports, such as the report of Spain, provided particularly interesting and extensive information.

(Mr. Bendix, Denmark)

32. He inquired whether the fact that the divorce rate had been lower than expected since the divorce legislation had been passed was because the tax laws presented certain obstacles, and whether, if that was the case, such problems were being addressed.

33. With regard to the composition of the population, he wondered whether any research was being carried out in the longer term on the issue of the declining fertility rate and the problems it would pose to society in the years to come.

34. In the area of the supervision of food production, he noted that responsibility lay with the autonomous communities. He wondered how that system was monitored and whether there was still a central body responsible for such supervision, especially in view of the fact, mentioned in paragraph 64 of the report, that traditional inspection methods had been replaced by an inspection system at critical points based on risk analysis.

35. Lastly, he asked what measures had been taken in Spain in connection with AIDS, and whether any statistics were available on the subject.

36. Mr. HODAKOV (Union of Soviet Socialist Republics) said that the report under consideration provided ample information enabling the Working Group to assess the progress made by the reporting State in implementing the rights covered by articles 10 to 12 of the Covenant. The process of democratization which had taken place in Spain in spite of the resistance of certain groups was particularly gratifying. He noted with satisfaction that the Government of Spain had taken a number of practical measures to ensure the enjoyment of social and economic rights, particularly in the fields of maternity protection, consumer protection and housing.

37. According to paragraph 22 of the report, for economic purposes, maternity was treated in the same way as temporary incapacity for work. He did not feel that that statement took due account of the social function of maternity and thought that the social security provisions in that regard should perhaps be reviewed. Referring to paragraph 18 of the report, he inquired how the day nurseries were financed and what percentage of enterprises were equipped with such nurseries.

38. Paragraph 39 of the report stated that, in 1984, the number of employed persons between 14 and 15 years of age was approximately 40,000. That high figure was cause for concern. The reporting State should provide information on measures taken to enable persons in that age group to continue their education. From the statistics provided it was clear that there were differences in the areas of employment of adolescent males and females. It would be interesting to know whether those employment patterns corresponded to the patterns of adult males and females.

39. Paragraph 46 of the report referred to the participation of young people in political, social, economic and cultural developments. He inquired whether steps had been taken to bring up young people in the spirit of the principles enshrined in the Charter of the United Nations and the Human Rights Covenants.

(Mr. Hodakov, USSR)

40. Lastly, in the context of article 11 of the Covenant, the reporting State should indicate whether there were problems in ensuring access to food for all sectors of the population.

41. The CHAIRMAN, speaking as the expert of Mexico, inquired whether the National Plan on Drug Addiction, which the representative of Spain had mentioned in his introduction to the report, paid adequate attention to preventive measures. He would like to be informed as to whether its principal objectives were to prevent the production and manufacture of drugs in Spain, to prevent their being brought into the country, or to discourage the increasing use of drugs in various sectors of society, particularly among young people.

42. He requested information on the impact on the Spanish economy of the flow of migrant workers through and from Spain. He also wished to have information concerning the status of and the benefits enjoyed by foreign workers in Spain.

43. Mr. Somalo (Spain) withdrew.

Second periodic report of Australia (E/1986/4/Add.7)

44. At the invitation of the Chairman, Mr. Farmer (Australia) took a place at the table.

45. Mr. FARMER (Australia), introducing the second periodic report of Australia, said that, since it had been submitted, an Australian Bill of Rights had been introduced into the Federal Parliament late in 1985. It sought to protect all persons in Australia against infringement of their fundamental civil and political rights, in addition to the protection already provided by other legislation, and would serve as a guide to the judicial interpretation of Federal laws. After a five-year transitional period, the Bill would have the force of law. It would not directly override State or Northern Territory legislation, but the Federal Government could enact specific legislation to that effect at a later date. Under the Bill, the Australian Human Rights Commission would be replaced by a new body, the Human Rights and Equal Opportunity Commission, with similar functions and, in addition, investigation, conciliation, reporting and other functions in relation to International Labour Organisation Convention No. 111. That instrument, relating to discrimination in respect of employment and occupation, was currently implemented in Australia through the voluntary co-operation of Federal and State Governments and employer and employee bodies. The proposed Bill of Rights was especially relevant to articles 10 to 12 of the Covenant in terms of enhancing protection against discrimination and promoting the rights of children and young persons.

46. Referring to other recent developments, he said that paragraph 27 of the report dealt with difficulties which could arise in relation to children born to temporary residents or prohibited immigrants in Australia. A bill currently before the Australian Parliament provided that such children would no longer automatically have Australian citizenship, thus overcoming some of the problems created by the case cited in the report.

47. In order to complete the information provided in paragraphs 113 and 114, he



(Mr. Farmer, Australia)

informed the Working Group that Tasmania, the Northern Territory and the Australian Capital Territory had now also enacted legislation relating to the parentage of children conceived as a result of artificial insemination by donor or in vitro fertilization procedures.

48. Turning to the subject of the enjoyment of their economic, social and cultural rights by Aborigines in Australia, he said that education for them was being given high priority. To ensure better co-ordination and single-source funding of Aboriginal education programmes, the Federal Government had decided that all its funding should be channelled through the Federal Department of Education as from 1 July 1986. Consistent with Australia's policy of involving Aborigines in the development, implementation and review of policy, the National Aboriginal Education Committee, attached to the Federal Department of Education, would be the principal policy adviser on Aboriginal education matters.

49. In addition to the initiatives for the protection and promotion of the rights of immigrants to Australia mentioned in paragraphs 131 and 132 of the report, the Government was currently undertaking a major review of migrant and multi-cultural programmes and services. It would put forward recommendations on the principles and strategies relating to the provision of government services in that field over the next decade. The first stage of the review would focus on the Federal Government's role in assisting overseas-born residents to participate more fully and equitably in Australian society. The second stage would evaluate key programmes and services already in place in the light of the principles and strategies developed.

50. With a view to the elimination of any vestiges of discrimination in the country, the Australian Government attached considerable importance to the development of healthy and positive attitudes among young people. It was sponsoring the production of a curriculum materials kit for secondary schools entitled "The People of Australia", which it hoped would promote understanding between different ethnic groups and provide a useful source of information on population from demographic, historical and international perspectives. Work on the kit was expected to be completed during 1986.

51. He recalled that the Australian Human Rights Commission had prepared a teaching manual on human rights for use in secondary schools. Australia had also been active in international efforts, most recently at the forty-second session of the Commission on Human Rights, to promote the development by the United Nations of materials for teaching and disseminating information on the principles of human rights.

52. Another area of particular concern was the question of youth unemployment. The most recent initiative to improve the longer term "employability" of teenagers through training on and off the job was an Australian traineeship system for 16 to 18 year olds, priority being given to 16 and 17 year olds who had not completed their final year of secondary schooling. A survey undertaken in July 1985 on the impact of the Community Employment Programme (CEP), which focused on short-term job creation had indicated that almost 61 per cent of participants were in employment after leaving CEP jobs six months previously. Some 46 per cent of them were in

(Mr. Farmer, Australia)

non-CEP employment at the time of the survey. Almost 100,000 individuals had been assisted under that programme since August 1983. More than half of those participating in youth employment programmes and more than 70 per cent of those completing them were found to be employed three months after they were no longer subsidized under such schemes.

53. The Government had now introduced into Parliament the Affirmative Action (Equal Opportunity for Women) Bill, the purpose of which was to require certain employers to promote equal employment opportunities for women by developing and implementing affirmative action programmes and reporting on progress achieved. All private-sector employers with a staff of 100 persons or more, and all higher educational institutions, would be required to comply with that legislation. The decision to take such action followed the implementation of an affirmative action programme in the federal public service. The Affirmative Action Bill provided for the introduction of relevant programmes and took due account of the special social, cultural, industrial and other conditions prevailing in Australia. Employers who did not comply with the Bill would be cited in the Federal Parliament. A coercive approach had thus been rejected: employers would be encouraged to provide better opportunities for women; and the principle of quotas was not being adopted under the new legislation.

54. The Affirmative Action Bill complemented the Sex Discrimination Act introduced in 1984. The Federal Government was developing other strategies in that area including a draft National Policy on Education for Girls to promote equal representation and attainment in the main school subjects and to improve teacher training and awareness. The Australian Government was also working to promote the provision of child-care facilities by employers and was engaged in discussions with those States where the current stringent regulations limited the number of child-care places available. Consultations were continuing with trade unions and other relevant parties to ensure the removal of regulatory impediments to equal employment opportunity for women.

55. His Government was concerned that "women's issues" should not be seen as discrete and compartmentalized. Efforts had been made, for example, to ensure that women were actively consulted in the preparation of the Federal budget. The Government recognized that it was only through proper participation in the decision-making process that women could achieve full equality.

56. He hoped that his introduction to the report had underlined the profound commitment of his Government to social progress and the equal enjoyment by all of the rights contained in the Covenant, in particular in articles 10 to 12.

The meeting rose at 1.10 p.m.