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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 26th MEETING

Held at Headquarters, New York,  
on Thursday, 1 May 1986, at 10.30 a.m.

Chairman: Mr. RUIZ-CABAÑAS (Mexico)

later: Mrs. JIMENEZ BUTRAGUENO (Spain)

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Reports submitted under articles 6 to 9 of the Covenant (continued)

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

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

Second periodic report of Mexico (continued) (E/1984/7/Add.26)

1. At the invitation of the Chairman, Mr. Karwanski (Poland) took a place at the table.

2. Mr. TEXIER (France) said that the report of Poland had for the most part satisfied his expectations. Noting the existence of both a private and a State sector in that country, he requested further information concerning the regulation of relations between the two sectors. A remark that steps were being taken to give jobs to everyone indicated that some people were out of work, but no statistical information had been provided on the rate of unemployment. Statistics would also be useful in connection with the subject of remuneration, particularly on the effect of inflation on wages, changes in purchasing power and the income structure. The powers vested in the State Labour Inspectorate appeared to be commendable, but it would be useful to know the extent of compliance with the fines and sanctions imposed by it. The extension of certain powers to social labour inspectors, as mentioned in paragraph 47 of the report, also appeared to be a positive development.

3. With regard to article 8 of the Covenant, there was apparently a discrepancy between Poland's legislation and the actual situation in that country. The provisions of article 85 of the Polish Constitution seemed very positive, as did the four fundamental principles stated in the Trade Union Act. The rights to form and join trade unions, the right of such unions to function freely and the right to strike were all satisfactorily enumerated. However, one particular trade union, Solidarność had been banned pending the "normalization" of the situation. The criteria for such a "normalization" required clarification. International public opinion had reacted strongly to the detentions of trade union members, the imposition of other restrictions on those members and the flight of some into exile. The report stated that martial law had been decreed in order to eliminate the danger of civil war. However, a civil war must involve the participation of armed forces, and it would be interesting to know whether the implication was that Solidarność had taken up arms. When first registered in 1980, Solidarność had, as a trade union which represented the people, quickly gathered many members. It continued to exist, despite the fact that many of its members now resided in foreign countries, including France. It was entirely fitting that the Nobel Peace Prize should have been awarded to Lech Walesa.

4. The report implied that Solidarność had been banned because it attempted "to win a series of wage and social concessions, demanding the curtailment of the working week and the like", but he considered such attempts to be among the normal functions of a trade union. He questioned how the union's demands could have "provoked a colossal economic crisis". It was his feeling that Solidarność, which represented large numbers of Poles, was the hope of Poland. He wished to know if the Government of Poland intended to restore freedom of expression to that trade union, to halt the arrests of its members and to make its own practice conform to

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(Mr. Texier, France)

article 8 of the Covenant. It was likely that, as he spoke, members of trade unions would be marching in his country to celebrate May Day, a holiday which was also celebrated in Poland. However, a recent account in the newspapers stated that authorization to march had been refused to some 15 persons in Warsaw, including certain leaders of Solidarność, because, according to the press, their slogans could represent a threat to public order and security. It was unclear how slogans could represent such a threat if the demonstrations were intended to be peaceful. International public opinion continued to hope that Solidarność would at some time again be permitted to operate freely.

5. The extension of the maternity allowance period, mentioned in paragraph 82, was described as a positive step, but further data was requested with respect to increases in pensions, family allowances, social security benefits, etc. The Government's efforts to unify the methods applied in various pension systems were praiseworthy, as was the expansion of obligatory social security for persons in private business and for traditional craftsmen. In conclusion, he asked whether family allowances were paid to all wage-earners in Poland with families, or only to low-income families, and whether such allowances were paid after the birth of the first child or only after subsequent births.

6. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that it was undeniable that Poland had made an important contribution to co-operation designed to reinforce the rights enshrined in the Covenant. Anyone who tried to deny that contribution should have his attention drawn to those countries which spoke at length on the subject of human rights but in fact proceeded to violate them and to sabotage international co-operation in the field covered by the Covenant. The report of Poland and other documents made available to the Working Group showed that Poland fully implemented the articles which were currently under consideration. It was possible that the process of normalization in Poland was not to everyone's liking. Great achievements had been made, but some problems still remained. He thoroughly disagreed with the biased political approach to that country's report. It was not the function of members of the Group to say that a certain trade union was the hope of Poland, or to say what was or was not criminal in a given country. Identical objective standards must be applied in attempts to understand the experience of any given country in the light of its own circumstances. He, for example, did not wish to ask why it was forbidden in some countries that teachers should become members of the Communist Party. It was not in keeping with the duty and functions of the Group to comment on the manner in which the Governments of certain countries should conduct themselves. The Government of any country had a right to punish illegal activities, irrespective of the views of international public opinion. He did not wish to refer to the restrictions which certain countries imposed on the pretext of State security considerations, or to pronounce an opinion as to whether such restrictions were legal. Such discussions would lead the Group far away from its subject. The sovereign Government of Poland had a right to act as it wished in the light of the conditions prevailing in that country. If someone committed a crime, his act remained criminal, irrespective of whether he was later awarded some prize. In the case of the Nobel Peace Prize, there was ample evidence of a propaganda campaign based on a biased political position and of political blackmail exercised through the economic boycott measures directed against the people of Poland. Despite the enormous pressure being exerted against it, Poland was being normalized in keeping with the provisions of the Covenant.

7. Mr. TEXIER (France) thanked Mr. Yakovlev for the lecture which he had delivered to the Working Group about what an expert should and should not do. For his own part, since he had great respect for Poland, which was totally independent, he expected answers from the representative of that country and from no one else.

8. Mr. HOPPE (Denmark) said that, like Mr. Texier, he assumed that the representatives of States parties, not members of the Working Group, should reply to questions raised by experts. Furthermore, it was not the practice of the Working Group to make comments on the questions asked by individual experts. If that was to be the case, he would have a number of comments to make concerning the questions asked at the previous meeting by various members of the Working Group, including Mr. Yakovlev. He preferred, however, to wait to hear the replies from the representative of Poland.

9. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that he had not forced his views on anyone and had not replied to any of the questions raised. Nevertheless, he categorically objected to statements to the effect that a certain phenomenon in a particular country was the hope of that country. A biased political approach in the consideration of reports was unacceptable. The Working Group should not be used as a forum for hostile political propaganda against States parties. He had not referred to any of the statements which certain experts had made with that purpose in mind. Nevertheless, like the other experts in the Working Group, he also had the right to direct the attention of the Working Group to statements or approaches which he considered incorrect.

10. Mr. Karwanski (Poland) withdrew.

11. Mrs. Jimenez Butragueño (Spain) took the Chair.

Initial report of Mexico (continued) (E/1984/6/Add.10)

12. At the invitation of the Chairman, Miss Dieguez Armas (Mexico) took a place at the table.

13. Mr. MRACHKOV (Bulgaria) said that the report of Mexico provided ample information on progress made in the implementation of articles 6 to 9 of the Covenant. It was impressive that so many provisions of the Political Constitution of 1977 dealt with such rights as the right to work, the right to social security and the right to form trade unions. He inquired whether that reflected the general constitutional philosophy of Mexico or was the result of a long process of evolution. The reporting State should indicate what legal recourse was available to an employee in the event of wrongful dismissal, as referred to in paragraph 17 of the report. It would also be interesting to learn whether Mexican labour legislation recognized the cancellation of a labour contract by an employee without advance notice and, if so, what procedures were followed in such cases.

14. Referring to paragraph 27 of the report, he requested further information on the Government's policy in promoting the employment of women. In that regard, the reporting State should indicate the trend of women's participation in the work-force and measures taken to provide protection to women in the workplace. Specific figures should be provided on employment based on the five-day work week and the six-day work week in Mexico.

(Mr. Mrachkov, Bulgaria)

15. Referring to paragraph 124 of the report, he asked how the institutions responsible for providing social security services had been integrated into the National Health Scheme and how the activities of those organizations were co-ordinated. Lastly, the reporting State should provide information on the prospects for extending coverage of social security services to non-wage-earning workers, as referred to in paragraph 125.

16. The CHAIRMAN, speaking as the expert of Spain, requested the reporting State to provide more up-to-date data on the economically active population, as described in paragraph 26 of the report. Referring to paragraph 50, she inquired on what basis minimum wages were reviewed by the National Board and the Ministry of Labour and Social Welfare. Paragraph 73 of the report stated that employers were required to give preference, inter alia, to workers who had family responsibilities. In practice, that often amounted to indirect discrimination against women because most workers with family responsibilities were men. The reporting State should clarify what it meant by the phrase "workers in a position of trust", which appeared in paragraphs 101 and 105 of the report.

17. Information would be appreciated on the proportion of workers covered by the general social security system. Referring to paragraph 131 of the report, she asked how a conflict between a wife and a common-law wife concerning entitlement to benefits would be settled and whether a common-law husband was also entitled to benefits. Lastly, with regard to paragraph 165 of the report, she inquired under what conditions the Mexican Social Security Institute might conclude contracts for optional insurance to provide sickness and maternity benefits to applicants.

The meeting rose at 11.55 a.m.