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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 9th MEETING

Held at Headquarters, New York,
on Monday, 12 April 1982, at 3 p.m.

Chairman: Mr. AKAO (Japan)

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session.

g.p.

The meeting was called to order at 3.35 p.m.

ORGANIZATION OF WORK

1. Mr. BOPINSKY (Union of Soviet Socialist Republics) raised the question of the Working Group's review of its composition, organization and administrative arrangements which had been postponed by agreement from the Working Group's 7th meeting. He proposed that, before proceeding further with the consideration of reports, the Group set a day for the consideration of that item, which was an integral part of the general question of the implementation of the Covenant.

2. The CHAIRMAN said that he had intended to take up that question after consideration of the reports scheduled for the present meeting had been completed.

3. Mr. BOPINSKY (Union of Soviet Socialist Republics) said that the continued deferral of the issue was quite unacceptable; the review was a part of the duties of the Working Group, as had been made clear by decision 1982/100 (in document E/1982/INF.3) adopted in February at the organizational session of the Economic and Social Council and the Group must take action on it.

4. Mr. BORCHARD (Federal Republic of Germany) said that he could not accept the Soviet representative's proposal. He interpreted the decisions taken on the issue by the Economic and Social Council at a previous session quite differently; decision 1981/162 had been adopted precisely because the Council had not been satisfied with the Working Group's report and recommendations on the review process and had needed more time in which to discuss it thoroughly. The records of the debates at that time indicated quite clearly that a number of delegations had requested the review process to be referred for consideration by the Council itself, since there was no point in asking the Working Group to re-examine it. Decision 1982/100 of the organizational session of the Council for the current year, while giving the Working Group the mandate to consider reports of States parties under the Covenant, made the issue of the review of its working methods the responsibility of the Council itself.

5. Mr. MARDOVICH (Byelorussian Soviet Socialist Republic) pointed out that the Working Group had entered the second week of its session without yet adopting its agenda; that was not the normal or the proper procedure. Council decision 1981/162 had established the provisional agenda for the Group, but the agenda must nevertheless be adopted, with appropriate amendments if necessary. He could not accept the approach of the representative of the Federal Republic of Germany; the plenary Council was naturally entitled to adopt a decision on the review process, but it was necessary for the Working Group to reach its own conclusions first. In the interests of the effective functioning of the Council, it was essential for the review to be on the agenda of the Working Group and to be considered at the current session.

6. The CHAIRMAN reminded members that the Working Group was required to proceed on the basis of consensus.

7. Mr. SOFINSKY (Union of Soviet Socialist Republics) emphasized the correctness of that principle; the will of certain delegations could not be allowed to dominate the Working Group. He could not accept the arguments of the representative of the Federal Republic of Germany and insisted that the Group be guided solely by the decisions already adopted by the Council, as embodied in the basic programme of work for 1982 adopted by the organizational session (E/1982/INF.3), the note by the Bureau on the agenda and other organizational matters (E/1982/L.20) and the Working Group's provisional agenda (E/1982/30), all of which established beyond question that the Working Group was obliged to proceed with the review. The argument that the Group had already considered the question could also be applied to the plenary Council, since the latter had already adopted decision 1981/158 on the subject. Furthermore, he had in his possession a draft resolution submitted by the representative of the Netherlands to the plenary Council; that draft had originally stated that the review should be carried out by the plenary Council but, as a result of a compromise, it had been decided to defer the question to 1983 and all reference to the plenary Council had been deleted. It was therefore not a question of whether the Working Group should consider the item but when, and he objected to continuing the consideration of reports until a date had been set.

8. Mr. BERGTHUN (Norway) said that it was still not clear to him exactly what had been decided on the issue by the Council. He failed to understand why the representative of the Soviet Union continued to oppose his proposal to raise the question with the Bureau of the Council; that seemed to him to be the fair procedure and could only clarify the Working Group's instructions.

9. Mr. MARDOVICH (Byelorussian Soviet Socialist Republic) said that the interpretation of the situation by the representative of the Soviet Union was perfectly accurate. It might also be useful to refer to certain documents prepared by the Secretariat for the session of the Economic and Social Council which was about to begin, and particularly the note by the Secretary-General on the revitalization of the Economic and Social Council (E/1982/28) which, in paragraph 10, emphasized the responsibility of all subsidiary bodies for considering and reaching conclusions on the issues before them and indicated that they should submit decisions and recommendations to the Council only when they had been fully worked out. The interpretation put forward by the representative of the Federal Republic of Germany ran counter to that approach; decision 1981/162 had been designed to promote the Working Group's work on the review question and the Group should assist in enhancing the Council's effectiveness by shouldering its own responsibilities and not adding to the Council's work.

10. Mr. ALLAFI (Libyan Arab Jamahiriya) said that the discussion was clearly not leading to the required consensus. Since the time of many of the governmental experts presenting the reports of the States parties was limited, the Group ought to resume its main task of considering them without further delay. In the circumstances, it might be necessary to call for an opinion from the Legal Counsel.

11. The CHAIRMAN noted that the Economic and Social Council was to hold the first plenary meeting of its first regular session of 1982 on the following day. He suggested that the Group might be in a better position to discuss the point at issue after the Council had decided on its own agenda.

12. Mr. SOFINSKY (Union of Soviet Socialist Republics) emphasized that he was not seeking to delay the consideration of the reports but merely to set a definite date for the Working Group's review of its composition, organization and administrative arrangements.

13. Mr. BERGTHUN (Norway) said that he was not prepared to take such a decision at the current meeting.

14. Mr. BORCHARD (Federal Republic of Germany) doubted that the Working Group had a mandate to carry out the review, but, if the Economic and Social Council decided that it had, his delegation would have some far-reaching proposals to make.

15. Mr. MRACHKOV (Bulgaria) supported the proposal to set a specific date for the discussion.

16. Mrs. POUDADE (France) said that the difficulty lay not in fixing a date but in agreeing on the mandate of the Working Group. She endorsed the suggestion that the Legal Counsel or the Bureau of the Economic and Social Council should be asked for advice.

17. Mr. AGBASI (Secretary of the Working Group) said that the Legal Counsel had been approached and had noted that the topic appeared as item 8 on the proposed schedule of work for the Council's first regular session of 1982 (E/1982/L.20), where it was assigned to the plenary Council. He would be able to elaborate further after the Council's first meeting.

18. Mr. SOFINSKY (Union of Soviet Socialist Republics) said that the Secretariat had acted wrongly in taking a stand on the matter and in approaching the Legal Counsel without being empowered to do so by the Working Group.

19. Mr. BERGTHUN (Norway) thought it very proper for the Secretariat to have sought information on the legal aspects. He repeated that he was not prepared to decide on a date for the discussion at the current meeting.

20. Mr. AGBASI (Secretary of the Working Group) said that he had acted under rule 30 of the rules of procedure of the Economic and Social Council, which also governed the Working Group in asking for information from the Legal Counsel. The Counsel's reply had been that it was clear from the provisional agenda approved for the Working Group on 8 May 1981 that the Economic and Social Council would itself take up the matter of the consideration of the review of the composition of the Working Group. Furthermore, the Working Group could not tamper with its agenda, which had been approved by the Economic and Social Council, without the prior approval of the Council.

21. Mr. BORCHARD (Federal Republic of Germany) said that the Secretariat would have been in violation of its duty if it had not sought legal advice, rather than the reverse. All the members of the Group were ready to discuss the substantive issue, provided there was agreement on the interpretation of their mandate.

22. Mr. SOFINSKY (Union of Soviet Socialist Republics) said that the Legal Counsel had explained that a decision of the Economic and Social Council could only be changed by the Council itself. At its recent organizational session, the Council had determined by decision 1982/100, that the Working Group should discuss all matters relating to the implementation of the International Covenant on Economic, Social and Cultural Rights.

23. The CHAIRMAN proposed that the discussion should be suspended and that the Working Group should proceed with its consideration of the reports of the States parties to the Covenant.

24. It was so decided.

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

25. Mr. ALLAFI (Libyan Arab Jamahiriya) referred to the statement made by the representative of the World Health Organization (WHO) at the 8th meeting, during the Working Group's consideration of the report of Bulgaria. He strongly supported the remarks which he had made, especially concerning the prevention of disability and rehabilitation, and endorsed the valuable proposal made by the representative of WHO that reports and documents considered in the Group should be referred by members to their respective governmental authorities for their consideration, so that the ideas contained in them might be discussed in future by the World Health Assembly.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX) BY STATES PARTIES TO THE COVENANT, CONCERNING RIGHTS COVERED BY ARTICLES 13 TO 15

Report of Byelorussian Soviet Socialist Republic (E/1982/3/Add.3)

26. The CHAIRMAN invited the representative of the Byelorussian Soviet Socialist Republic to present his country's report.

27. Mr. MARDOVICH (Byelorussian Soviet Socialist Republic) said that, before the report of the Byelorussian Soviet Socialist Republic was introduced, he would like to know why, as the Byelorussian governmental expert on the Working Group, he had been deprived of his country's nameplate. Some means should be found for distinguishing between the experts on the Working Group and the representatives who introduced their Government's reports.

28. Mr. BERGTHUN (Norway) said that he agreed with what had just been said by the representative of the Byelorussian Soviet Socialist Republic. He preferred the procedure followed by the Human Rights Committee in which the members were identified by name.

29. Mr. SOFINSKY (Union of Soviet Socialist Republics) said that the Government of the Byelorussian Soviet Socialist Republic had appointed a representative to introduce its report but had not withdrawn its expert from the Working Group. The

(Mr. Sofinsky, USSR)

latter as well as the former should clearly have a nameplate. The problem had arisen because of the Working Group's change of name.

30. Mr. AGBASI (Secretary of the Working Group) said that it was not United Nations practice to provide more than one nameplate for each Government. To do otherwise would lead to confusion.

31. Mr. HOUSHMAN (Division of Human Rights), supported by Mrs. POUDADE (France) and Mr. BORCHARD (Federal Republic of Germany), said that he agreed with the representative of the Union of Soviet Socialist Republics. When the President of the Economic and Social Council had appointed the members of the Working Group, he had appointed them by country and not as individuals. There would be financial implications if members were appointed as individuals. The advice of the Legal Counsel would have to be sought on the point which had been raised.

32. Mr. RUDNIK (Byelorussian Soviet Socialist Republic), introducing the report in document E/1982/3/Add.3, said that he wished to draw the attention of the members of the Working Group to certain new developments relating to his country's implementation of articles 13 to 15 of the International Covenant on Economic, Social and Cultural Rights.

33. One of the most important preconditions for overcoming economic backwardness and hastening economic development was a system of public education geared to the requirements of scientific and technical progress. In his country such a system was in operation and being improved all the time. It covered pre-school education, general secondary education, extramural education, vocational education, specialized secondary education and higher education. The first element in the system was the pre-school establishments which, with the active participation of families and parents, worked to inculcate into children basic practical skills, love of work and certain fundamentals of education. Those establishments taught children up to the age of seven.

34. Schools at the secondary level were of various types: general secondary schools, schools offering vocational training, schools offering intensified instruction in specific subjects, schools with extended hours, boarding schools, evening (late-shift) and correspondence schools for young workers, schools for the training of physically and mentally handicapped children, sanatorium-style forest schools and specialized schools. A special place in the educational system was occupied by vocational educational establishments, the basic task of which was to prepare all-round, technically trained and cultured young people for the national economy; they also provided young people with a general secondary education. Middle-level personnel were trained in specialized secondary educational establishments, including technical colleges, teacher-training colleges, nursing schools, and so forth.

35. Higher education, which was an integral part of the system was provided by universities, institutes, academies, and so forth. In addition to training highly skilled specialists, such institutions conducted scientific research, trained

(Mr. Rudnik, Byelorussian, SSR)

teachers, prepared educational literature and developed new methods and means of instruction. The principal forms of further education for working people were also based on higher-education schools: they included improving the qualifications of specialists with diplomas, the retraining of skilled personnel, post-graduate courses, and public universities. The system of higher education was public in the full sense of the word. It had been created for the people and served their interests. Education was completely free and all attendant expenses were covered.

36. There were currently 6,700 general-education day schools in the country, 220 vocational institutes, 136 specialized secondary educational institutions and 33 higher-education establishments. As of 1 January 1982, 3.6 million people out of a population of 9.7 million were undergoing various forms of instruction.

37. Education was international in character. Young people were imbued with patriotism and love of work, and with respect for their elders and for basic human rights, including the right to life, the need for peace and for preventing war. Young people in the Byelorussian SSR learned about the life and culture of the peoples of the world, and of the work of international organizations, and established friendly ties with young peoples' and students' organizations of other countries, which helped educate them to be genuine internationalists, deeply convinced of the need for mutual international understanding and prepared to struggle for peace and social justice, as required by article 13 of the Covenant.

38. Science was developing successfully in the Republic and approximately 38,000 scientific workers and specialists, whose accomplishments in such areas as mathematics, physics, nuclear energy, chemistry and biology had won wide renown, were engaged in scientific research.

39. The culture of his country, which was socialist in content and nationalist in form, had also flourished under the Soviet régime in a way that had become possible only within the fraternal family of peoples of the Soviet Union. The treasury of Soviet literature and art included the outstanding works of Yakub Kolas, Yanka Kupala, K. Krapiva, I. Shamyakin, V. Bykov, and M. Savitsky, many of which were well known abroad.

40. Mr. MRACHKOV (Bulgaria) said that he had been impressed by the extent to which fundamental rights had found a place in the constitution of the Byelorussian Soviet Socialist Republic and had thereby become constitutional rights. Moreover, those rights were recognized not only in the Constitution but also in the legislative and practical measures which had been adopted by the Government.

41. In connexion with paragraphs 10 to 12 of the report, he would like to know how the Byelorussian Soviet Socialist Republic handled the transfer of children from kindergartens to schools and how pre-school children were prepared for their later education.

42. Mrs. POUDADE (France) said that, in connexion with article 43 of the Constitution to which reference was made in paragraph 3 of the report, she would like to know the number of courses which were given in native languages and whether any quota system applied. Among the basic principles of public education, listed in paragraph 8 of the report, was the compulsory nature of education for all children and teenagers. That principle appeared to contravene article 13 (3) of the Covenant which provided for the liberty of parents and legal guardians to choose for their children schools, other than those established by the public authorities, which conformed to such minimum educational standards as might be laid down or approved by the State.

43. In connexion with the cultural rights referred to in paragraph 71 of the report, she would like to know whether association in creative unions was a right or a duty. She would also like to be informed whether it was possible for writers and artists to have a personal career outside such unions.

44. Mr. BERGTHUN (Norway) said that he would like to have information on how the unity of instruction and communist education, mentioned in paragraph 8 (f) of the report, was achieved. In regard to paragraph 8 (k), which referred to the secular nature of education, he assumed that education also covered the various major religions existing in the world; he would like to know how such education was provided. He would welcome the comments of the representative of the Byelorussian Soviet Socialist Republic on the system used in evaluating the performance of pupils in schools.

45. He had been greatly impressed by the expansion of concert life mentioned in paragraph 51; he would like to receive information regarding the types of activities which were undertaken in the 55 music associations. Information on the kinds of museums in the Republic, whether they were historical or artistic or other, would also be of interest. He would appreciate further information about the character of the cinema, theatre, music and fine arts clubs mentioned in paragraph 53 and the extent to which people attended ordinary cinemas.

46. Mr. BORCHARD (Federal Republic of Germany) said that he would be interested to know whether the guarantee of copyright mentioned in paragraph 67 applied in the international field or only within the Byelorussian Soviet Socialist Republic. He would also like to know which provisions of the Constitution guaranteed respect for the freedom indispensable for scientific research and creative ability, contained in article 15 (3) of the Covenant. Paragraph 69 of the report stated that people active in the fields of science, literature and the arts were independent of commercial considerations and producers. It was not the material basis for the freedom of creative work that was important but rather the freedom to express one's views and to create the pieces of art which one wished. He would also like to have information on what the normal development of a creative person would be in the Byelorussian Soviet Socialist Republic and whether, for example, an author would have the right to publish what he felt he should write or whether he must belong to a union as paragraph 71 seemed to suggest. It would also be of interest to the Working Group to know the extent to which foreign books were disseminated in their original language; science, literature and the arts were international in their

(Mr. Borchard, Federal Republic of Germany)

nature and it would be impossible for people to appreciate the achievements of other countries in those fields unless access to those achievements was permitted.

47. Mr. RUIZ-CABAÑAS (Mexico), referring to paragraph 36 of the report, asked whether the Government encouraged certain studies and discouraged others and also what the standards were for the selection of students for specific careers.

48. Mr. ALLAFI (Libyan Arab Jamahiriya) said he would like to know what was meant by the reference to religion contained in paragraph 10 of the report and whether the reference applied to one religion only. In regard to paragraph 59, he would like to know whether private ownership of historical and cultural monuments was permitted in certain circumstances. Information on the types of private property which were subject to State registration would also be appreciated.

49. He had noted with particular satisfaction the statement in paragraph 9 of the report to the effect that questions related to the struggle against racism and racial discrimination had been included in the programmes of secondary schools and institutions of higher education.

The meeting rose at 5.50 p.m.

