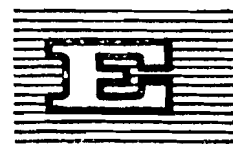


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SESSIONAL WORKING GROUP ON THE IMPLEMENTATION OF THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 5th MEETING

Held at Headquarters, New York,
on Tuesday, 15 April 1980, at 3 p.m.

Chairman: Mr. NAGY (Hungary)

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The meeting was called to order at 3.30 p.m.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX)
BY STATES PARTIES CONCERNING RIGHTS COVERED BY ARTICLES 6 TO 9 OF THE COVENANT
(continued) (E/1978/8 and Addenda)

Report of Ecuador (E/1978/8/Add.1)

1. Mr. SAMSON (International Labour Office), speaking at the invitation of the Chairman, thanked the representative of Ecuador for agreeing to allow additional information to be provided on behalf of ILO. The International Labour Organisation firmly believed that the task of assessing progress in achieving observance of articles 6 to 9 of the International Covenant on Economic, Social and Cultural Rights should not be left up to the International Labour Office or to individual staff members of the Office. Therefore, in accordance with the principles it applied in supervising the implementation of ILO standards, the Governing Body had decided to commission an independent body of experts chosen from around the world to perform the duties assigned to it by the Economic and Social Council. The experts had not been influenced in their work by any individual opinions or knowledge elicited from the ILO itself.

2. At the previous meeting the representative of Ecuador had observed that the implementation of the Covenant depended not only on national action but also on international factors, such as the terms of trade. Article 2 of the Covenant referred to international assistance and co-operation with a view to achieving progressively the full realization of the rights recognized in the Covenant. Ecuador had in fact been receiving technical co-operation from ILO, especially in the area of promotion of employment. With reference to article 6, he pointed out that ILO was carrying out employment programmes in Latin America and the Caribbean; all ILO assistance was provided within the framework of a country's general development programme. ILO was also providing assistance, at the request of the Andean Group, on co-ordinating the social policies and legislation of member countries of the Group; a mission had been sent to those countries to co-ordinate their efforts on the basis of a number of ILO standards.

3. Since the submission of the first ILO report (E/1978/27) to the Economic and Social Council, Ecuador had ratified two important social security conventions concerning medical care and pensions. That was an example of the progress in expanding social security coverage referred to by the representative of Ecuador. Ecuador had also ratified the Conventions on organizing agricultural workers and on protecting workers against the effects of vibration and noise. The ILO Committee of Experts had reconsidered its reference in the 1978 report to the vital question of employment standards and policies and the promotional approach recommended in articles 2 and 6 of the Covenant, and it was continuing its dialogue

with the Government of Ecuador on that and a number of other questions. The representative of Ecuador had also referred to important aspects of his Government's efforts to guarantee the right to work. The Committee of Experts had considered measures to reduce underemployment, especially in rural areas, and to prevent migration from rural areas; the employment effects of the growing oil industry; the promotion of small-scale industry and handicrafts and the formulation and implementation of a national vocational training plan.

4. There had also been new developments with regard to the implementation of article 8 of the Covenant. In its report, the Committee of Experts had stated that complaints alleging violations of freedom of association were pending before the Committee on Freedom of Association of the Governing Body. The case had since been disposed of. With regard to industrial disputes, in June 1979 the Government of Ecuador had informed ILO of new developments, including the important political development to which the representative of Ecuador had referred at the previous meeting. The persons who had been arrested had been released and no one involved in the 1977 incidents remained in prison. The Governing Body of ILO had accordingly considered that there was no need for further consideration of the matter. The Committee of Experts had examined other developments with regard to freedom of association and the right to organize.

5. The ILO report had also mentioned a number of other questions that were relevant to the social development programme of Ecuador, including the Government's intention to take additional measures to ensure the implementation of the rights established in the Constitution, particularly with regard to expanding employment opportunities in order to give practical effect to the right to work. There had been improvements in enforcing the minimum wage, and measures had been taken to secure equal treatment in employment for women and ethnic minorities, and to ensure safe working conditions.

6. The Committee of Experts had considered all the above matters within the framework of the Covenant and its mandate to promote progress in achieving observance of the provisions of articles 6 to 9 thereof. Its approach to the task was outlined in the ILO report. The Committee was very conscious of the fact that implementation of the Covenant was a continuing process. Its practice was to draw attention to certain problems which would normally be dealt with as part of a Government's over-all policies. In future reports by States parties, it would be useful to have information on new measures and statutes and on the results obtained in the implementation of government policies.

7. Mr. ALBORNOZ (Ecuador) said that he had not objected to having a representative of ILO make a statement in order to supplement the information contained in the agency's 1978 report. Several of the problems mentioned were being given priority attention by his Government not because of any suggestions by any international organization but as a part of its own deep-rooted and

(Mr. Albornoz, Ecuador)

continuing concern for the principles embodied in the Constitution and as a vital element in the policy of a republic which respected human rights. His Government was thankful to ILO for its co-operation and technical assistance, which ILO had a duty to provide at the request of Governments of Member States. Ecuador had benefited from projects in which ILO experts had participated, particularly in the field of actuarial studies in connexion with the establishment of the social security system. In turn, many qualified Ecuadorian specialists had been recruited by ILO to serve in other countries and at ILO headquarters: in international co-operation every country had something to learn and something to teach.

8. ILO experts had also co-operated with his Government in programmes carried out jointly with other United Nations agencies, such as programmes for the Indian population of the Andean region of his country. Similarly, UNESCO, FAO and other international agencies had co-operated with his Government in the implementation of the programmes of the Ministry of Labour and Social Welfare.

9. On behalf of his Government, he thanked those who had made favourable comments on his country's report. The exercise had been very useful and had given the Working Group experience which should be valuable in its consideration of future reports, whether in connexion with articles 6 to 9 or with other articles of the Covenant.

10. Mr. VOICU (Romania) said that the Working Group's decision to allow a representative of ILO to speak at the current meeting should not be viewed as a precedent. His delegation had agreed to allow the representative of ILO to make a statement because the representative of Ecuador had referred to the ILO report and because he had said that he wished to hear the additional information provided by ILO and had commented on it afterwards.

11. Mr. BYKOV (Union of Soviet Socialist Republics) said that he fully agreed with the remarks that had just been made by the representative of Romania. If the delegation of a State party felt that a statement by a representative of ILO might be useful, the statement should be allowed, but in such cases it should be made quite clear that the procedure was being permitted at the express desire of the State concerned and the statement should not be considered as part of the Working Group's consideration of that State's report.

12. Mr. VOLLERS (Federal Republic of Germany) said that he could not allow what the representatives of Romania and the Union of Soviet Socialist Republics had said about the right of specialized agencies to address the Working Group to go

(Mr. Vollers, Federal
Republic of Germany)

unchallenged. If delegations disagreed on the matter, it would have to be discussed before the Working Group proceeded to consider other reports.

13. Mr. HARASHIMA (Japan) said that it was his understanding that the Chairman proposed to allow representatives of specialized agencies to make statements and ask questions, on condition that the delegation of the State Party concerned might ignore such questions. It was the right of every delegation which was present for the discussion of its country's report to answer questions if it considered that appropriate or to choose not to answer.

14. Mr. VOLLERS (Federal Republic of Germany) said that it was his understanding that the Working Group had decided to follow the rules of procedure of the Economic and Social Council, in particular rule 75 (b), which provided that specialized agencies had the right to participate, without a vote, in deliberations on items of concern to them. In other words, representatives of the specialized agencies could participate in the discussions, of the Working Group and give opinions and advice. It was his delegation's view, therefore, that representatives of specialized agencies should be allowed to speak during the discussion of reports of States Parties to the Covenant.

15. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya) said that his delegation reiterated the position it had taken at the previous meeting.

16. Mr. SALMENPERÄ (Finland) observed that members seemed to be confusing two separate issues: the reports to the Council by specialized agencies and the right of their representatives to participate in the discussion, and the reports by States Parties. The Working Group would not be discussing the reports of specialized agencies at the current session. The Council's rules of procedure required, however, that specialized agencies should be allowed to state their views.

17. The CHAIRMAN suggested that the officers and interested delegations should try to find a solution to the problem in informal consultations. In the meantime, the Working Group would resume its consideration of the report of States Parties.

Report of Norway (E/1978/8/Add.12)

18. Mr. LINDSTROM (Observer for Norway) said that economic and social rights in his country were safeguarded by legislation and through budgetary appropriations by Parliament. The political will to implement policies associated with the welfare state through financial appropriations and political decisions was essential, and those policies enjoyed wide support among the people of Norway, irrespective of political affiliations.

19. With regard to article 6, he pointed out that Parliament had endorsed the employment policy proposed by the Government in the Report to the Storting No. 14: 1977-78. With regard to policies and techniques to achieve steady economic, social

(Mr. Lindstrom, Observer, Norway)

and cultural development, discussed on page 5 of his country's report, he pointed out that the overriding principle of Norwegian employment policy was to enable employees to remain in their jobs as long as possible. Providing alternative jobs or unemployment benefit was regarded as a less effective way of solving the problem. For that reason, the Government provided considerable support to enterprises experiencing economic difficulties to enable them to continue to function. Up to 20 per cent of the industrial labour force was affected by such measures.

20. With regard to discrimination in appointment to jobs and notice to leave, he said that the Bill for Equality of Status between the Sexes had become law and its provisions had entered into force. In order to facilitate its implementation an Equal Status Ombudsman had been appointed and a Grievance Board established.

21. Although the statistical and other information provided in connexion with article 6 in his country's report was not up to date, it did reflect the situation in Norway. In 1979 the number of unemployed had risen to approximately 21,000 or 1.4 per cent of the labour force. The Act of 4 February 1977 relating to Worker Protection and the Working Environment, which was mentioned several times in the report, was regarded as a milestone in efforts to protect the interests of employees. The implementation of that Act was carefully monitored by the Government and by employers' and employees' organizations.

22. With regard to the provision of article 7, on normal hours of work, he pointed out that under Norwegian legislation, no employee's working hours and overtime could exceed 16 hours in any 24-hour period. The weekly, monthly and yearly restrictions on maximum permissible hours of overtime were mandatory and applied even if an employee was willing to work longer hours.

23. Mr. SALMENPERÄ (Finland) asked whether the compulsory arbitration system for labour disputes was used often and what the results of that system were.

24. Mr. HARASHIMA (Japan) asked why the remuneration of adult women had increased more rapidly than that of adult men, to judge from the table in section A.4 of the part of Norway's report relating to article 6.

25. Mr. VOLLERS (Federal Republic of Germany), referring to the statement, in the section on free choice of occupation, that a person applying for unemployment benefit might, in certain circumstances, be obliged to move to another locality to take up suitable work, asked whether in such instances the person concerned could bring his family with him, and whether the Government provided aid for moving the family. He had noted from the relevant ILO report (E/1979/33) that in Norway certain classes of workers were not covered by collective agreements, especially workers in small undertakings, and he asked how Norway handled that problem. The ILO report also stated that compulsory arbitration might be imposed by a special statute, and he hoped the representative of Norway would provide information on the circumstances in which compulsory arbitration was used.

26. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya), referring to the section of the report on equal pay for work of equal value, asked whether there had been any new developments since 1977 in that field, with particular reference to immigrants.

27. Mr. SVIRIDOV (Union of Soviet Socialist Republics) said that the report stated that the Constitution of Norway contained only one provision of an economic, social or cultural nature. He asked whether the Government of Norway intended to enact further legislation to govern rights in these spheres, especially the right to work. Other matters covered by the report on which his delegation would like further information were the legal status of immigrant workers with regard to employment, the absence of any legislation expressly stating that there was protection against discrimination with regard to the right to work and against arbitrary termination of employment, and any measures taken since 1977 to prevent discrimination against women.

28. Ms. RICO (Spain) said that she hoped the representative of Norway would provide further information on any recent legislative advances with respect to migrant workers, with particular reference to social security and equal pay.

29. Mr. SAMSON (International Labour Office) said that, as an earlier speaker had noted, the ILO report (E/1979/33) had suggested that Norway should supply information on how the payment of fair wages was ensured for workers not covered by collective agreements. With regard to the need to ensure that immigrant workers were not paid lower wages than Norwegian workers, he pointed out that Norway had ratified the 1949 and 1975 Conventions on the treatment of migrant workers. With regard to safe and healthy working conditions, the ILO Committee of Experts had suggested that additional information regarding the agricultural sector would be useful. With regard to compulsory arbitration, it should be noted that when ratifying the Covenant the Government of Norway had made a reservation to the effect that that practice should not be considered incompatible with the right to strike.

30. The committee of experts had suggested that additional information was needed on criteria and procedures governing promotion in employment; that suggestion should be read in conjunction with the Committee's general comments in paragraph 18 of the ILO report. The provisions of the Covenant did not merely prohibit discrimination on grounds of sex in promotion, but stipulated that only considerations of seniority and competence should govern promotion.

31. Mr. LINDSTROM (Norway) said that Norway's system of compulsory arbitration was unique. Negotiations involving employee and employer organizations were conducted every two years to regulate wages and working conditions. If no agreement was reached and a strike or lock-out occurred, the Government had the right to submit to Parliament if it found that the strike or lock-out had a detrimental effect on the national economy, legislation imposing compulsory arbitration on the parties. The legislation then had to be enacted by the Parliament. Agreements reached through compulsory arbitration were valid only for the period under negotiation. The system had been used several times since the Second World War and on each occasion the parties had accepted the settlement.

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32. In reply to the question asked by the representative of Japan, he said that the main reason why the average wages of adult women had increased faster than those of adult men was that women had started at a lower point than men in 1967 and that the Government had encouraged the rapid increase in women's wages. With regard to the question about the provision that a person applying for unemployment benefit might, in certain circumstances, be obliged to move elsewhere in order to take up suitable work, he said that that arose because Norway was very sparsely populated. If a factory had been closed in an area where there were no other opportunities for employment, the Government took the view that it could not continue paying unemployment benefits indefinitely. In certain cases, however, the Government chose to give heavy subsidies to factories so that they could continue to operate. If a person's unemployment benefits were terminated in such cases, he was entitled to receive assistance from the Government to cover removal and resettlement expenses.

33. With regard to the question concerning guaranteed wages in small undertakings not covered by collective wage agreements, he said that in practice such undertakings invariably applied the provisions of any new wage agreements reached in the area in which they were situated, although there was no obligation on them to do so. In any event, the legislation regarding the minimum wage system applied to them.

34. Replying to the questions asked by the representatives of the Libyan Arab Jamahiriya and of Spain, he said that his Government was still considering whether specific legislation was required to guarantee equal pay to migrant workers. It had hesitated because, since its laws were totally non-discriminatory, all workers in Norway had the right to equal treatment and were covered by the negotiated wage agreements. However, the Government was very much aware that there had been some examples of discrimination and, for that reason, special legislation might be necessary. The Government had gone to great lengths to try to improve conditions for immigrants from non-Nordic countries. The measures it had taken to assist them to integrate into Norwegian society were described in detail in its periodic reports to the Committee on the Elimination of Racial Discrimination. With regard to social security coverage for immigrants, since Norway had no separate "guest worker" system, migrant workers had exactly the same social security rights as Norwegian nationals and were entitled to benefits from the moment they began paying contributions.

35. His Government saw no need to take further legal steps with regard to the right to work, which was already guaranteed by the Constitution. Every Norwegian Government, whichever party was in office, was committed to creating conditions to ensure employment for all. While the current figure of 1.4 per cent unemployment was too high, it was still probably one of the lowest rates in the world. In no case did the Government use labour policy as a means of balancing the budget.

36. The law covering the equal status of women had been in force for more than a year, and the post of ombudsman (the incumbent was a woman) had been established to monitor compliance and recommend prosecution in cases of violation. Unemployment among women was a longstanding problem, but it was only fair to point out that the male unemployment rate was higher. The Government was fully aware of the need to remedy the situation.

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37. With regard to the working conditions of agricultural workers, it had proved difficult to improve conditions with respect to annual or sick leave, since most farms were family concerns and finding replacements was difficult or impossible. A system of guaranteed annual and sick leave had been established, but there had been some problems in putting its provisions into practice.

38. Mr. VOICU (Romania) requested more information about the conduct and results of the trial projects mentioned on page 4 of the report (E/1978/8/Add.12), with particular reference to the provision of jobs for young people with alcohol or drug problems.

39. Mr. HARASHIMA (Japan) said that he was not entirely convinced by the explanation given by the representative of Norway concerning the evolution of levels of remuneration of men and women, namely, that women's wages in the base year (1967) had been lower than those of men. He wondered whether there might be some other factors, such as government measures, that had caused the rapid rise in women's wages in 1974 and 1976.

40. Mr. LINDSTROM (Norway) said that more than 15,000 people had found employment as a result of the Government's special job creation measures, but he was unable to give a detailed breakdown to show just how many of them were young people with alcohol or drug problems. The total figure also included those with physical and other handicaps.

41. In reply to the comment by the representative of Japan, he explained that there was no other identifiable reason why women's wages appeared to have risen faster than those of men. Obviously, as women remained longer in employment and therefore gained seniority and the opportunity to rise to higher positions, their wages increased accordingly.

Report of Tunisia (E/1978/8/Add.3)

42. Mr. KAABACHI (Observer for Tunisia) said that Tunisia was a small country with a population of approximately 6 million, almost 1.5 million of whom were children and young people of school age. In the 25 years of its independence, it had been endeavouring to ensure better conditions for all its people and, as World Bank statistics indicated, despite its limited natural resources, it had managed to increase average per capita income from \$200 in the 1960s to \$1,000. In pursuance of its own development options, the Government allocated more than 30 per cent of its budget to education and culture and 53 per cent to the provision of housing, health and other social services. It had adopted the "basic needs" strategy long before that strategy had begun to be advocated at the international level.

43. He drew particular attention to the account given in the report of Government's measures to promote employment and of the legislation on ensuring equal rights for women in matters of employment and remuneration. Section II of the report described the various ways in which the Government was seeking to ensure better working conditions in all sectors, including the special emphasis it was placing on the role of the enterprise as a basic unit for promoting the social welfare

(Mr. Kaabachi, Observer, Tunisia)

of workers and their families. As members would see from section III, trade union rights were guaranteed under article 8 of the Constitution and defined in greater detail in the Labour Code, the provisions of which applied to both the public and private sectors. The only restriction placed on the right to strike was that stated in section 389 of the Code governing the case of a strike or lock-out that was likely to be prejudicial to the vital national interest - for instance, a strike involving hospital staff. The benefits to which all Tunisians were entitled were set out in section IV of the report. Those benefits reflected the Government's policies and priorities with respect to population, incomes and the creation of employment.

44. Mr. SVIRIDOV (Union of Soviet Socialist Republics) inquired whether the provisions of section 389 of the Labour Code were ever implemented and, if so, how often. He requested further information on the reference in section IV to the allowances for leave taken by young workers and requested clarification on the impact of Act No. 75-82 of 30 December 1975 on the size of families, and the extent to which that Act differed from the Act of 14 December 1960 which it had replaced.

45. Mr. JOHNSON (Ecuador), referring to section 389 of the Labour Code, asked which authority was responsible for deciding that a strike or lock-out was likely to be prejudicial to the national interest.

46. Mr. HARASHIMA (Japan) said that his Government was extremely interested in some of the concepts described in the report, especially with respect to the role of the enterprise in promoting social welfare. He requested details of the social function assigned to enterprises and of the kind of incentives they were given to encourage them to play such a role. He was most interested to learn of the institution of a guaranteed minimum wage in the agricultural sector, where the implementation of such a measure was often difficult, and would welcome more information on how the agricultural minimum wage was guaranteed. Further details on the social funds mentioned in section II, particularly details of their structure, would also be welcome.

47. Mr. VOLLERS (Federal Republic of Germany) asked whether the institutions to promote better health and safety conditions for workers, mentioned in section II were privately or State-run and requested further details of their activities. He had noted from the ILO report (E/1978/27) that the right to strike was not mentioned in the Tunisian Labour Code: given that the report was several years old, he wondered whether any regulation on that subject had been promulgated in the meantime. He asked whether there was still no unemployment protection in Tunisia and, if not, whether there were any plans to introduce it. According to section IV of the Tunisian report, social security benefits had been extended to all categories of workers in all sectors of the economy; he asked whether the whole working population was covered, without exception, and whether the same applied to the scheme covering compensation for industrial accidents and occupational diseases.

48. Mr. VOICU (Romania) observed that the general information provided by the representative of Tunisia helped members of the Working Group to put the report in perspective. The Tunisian Government's constant concern with matters of employment had been demonstrated by the seminar on the rights of migrant workers which he had had the opportunity of attending in Tunisia in 1975. He requested information on the latest developments with respect to improving the conditions under which young people started their working life and their involvement in the development process.
49. Mr. SALMENPERÄ (Finland) said that he still had some doubts about the efficacy of the Working Group's procedure, given that there was no list of standard questions.
50. He asked whether the periodic negotiated review of wages mentioned in section II of Tunisia's report took place in the context of the trade unions. He noted that improvement of the working environment was covered under the Labour Code, but he wondered whether there were any other regulations on the subject and, if so, how they were implemented.
51. The CHAIRMAN announced that the representative of Tunisia had no objection to allowing the Observer for ILO to speak.
52. Mr. SVIRIDOV (Union of Soviet Socialist Republics), speaking on a point of order, said that the matter had already been discussed; even if the representative of the State Party had no objection to a representative of a specialized agency speaking, the decision on the matter had to be taken by members of the Working Group.
53. Mr. VOLLERS (Federal Republic of Germany) said that the methods of work and rules of procedure of the Economic and Social Council applied to the Working Group's proceedings. There was accordingly no need for any decision by the Working Group. He proposed that the Observer for ILO should be allowed to speak and that, after the meeting, the officers should have consultations with a view to finding a solution to the problem.
54. The CHAIRMAN said that he proposed to conduct informal consultations on the matter.
55. Mr. VOICU (Romania) said that he was at a loss to understand why the Observer of ILO should be invited to speak when the Working Group was in the process of discussing a national report.
56. Mr. MWANJABALA (United Republic of Tanzania) suggested that the representatives of the Union of Soviet Socialist Republics and of the Federal Republic of Germany should be included in any informal consultations.
57. Mr. VOLLERS (Federal Republic of Germany) said that the matter was of interest to all delegations.
58. The CHAIRMAN said that it had been his intention to invite all interested delegations to participate.