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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 15th MEETING

Held at Headquarters, New York,
on Thursday, 26 April 1984, at 10 a.m.

Chairman: Mr. BENDIX (Denmark)

later: Mr. MITREV (Bulgaria)

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by States parties to the Covenant concerning rights covered by articles 6 to 9
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The meeting as called to order at 10.10 a.m.

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

Report of the Byelorussian Soviet Socialist Republic (continued) (E/1984/7/Add.8)

1. At the invitation of the Chairman, Mr. Peshkov (Byelorussian Soviet Socialist Republic) took a place at the table.
2. Mr. PESHKOV (Byelorussian Soviet Socialist Republic), replying to questions asked at the 13th meeting, said that his country had followed the reporting guidelines and presumably other countries had done the same. It was therefore not surprising that a number of reports closely resembled one another.
3. The decision (para. 10, under art. 7) which enabled women with children under the age of eight to gain additional training with leave from work, while continuing to receive their average monthly pay, was intended to give women with small children more time to improve their skills. He could not provide figures on the number of women who took advantage of that option.
4. Referring to the question on occupational safety standards (para. 15 under art. 7), he said that intensive economic development had brought with it new technology which required the introduction of new safety measures. Safety concerns were now being stressed at the research and development stage. Legislation on labour safety went back to the mid-1920s and had been continuously supplemented to keep pace with technological innovations. For example, basic regulations on work involving the use of radioactive substances had been adopted in 1972. Housing construction had been a fairly simple process 50 years ago, but the technology had rapidly advanced and new regulations governing construction had been adopted in 1968. Another example of how legislation was being adapted to the development of new branches of industry was the introduction of sanitary regulations in many fields.
5. The law provided for disciplinary, administrative and criminal penalties for violations of labour-safety regulations. Trade-union committees played an important role in monitoring compliance with safety regulations and could propose that officials should be dismissed or punished; officials could also be fined by State boards of inspection. Especially serious violations were covered by the Criminal Code.
6. He agreed that the statistics in paragraphs 19 and 20 (art. 7) were not compatible since they covered a two-year and a one-year period respectively. He would bring that to the attention of his Government with a view to rectifying the problem in future reports.
7. If a government plan called for a transition from black-and-white to colour television set production in six months, but trade unions and engineers found that

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(Mr. Peshkov, Byelorussian SSR)

the change could be effected in four, they could put forward a "counter plan" (para. 7, under art. 8). Such plans could also relate to reductions in costs and materials. "State reporting on the implementation of collective agreements" (para. 10, under art. 8) meant that implementation was initially discussed within each separate enterprise, and then the management was obliged to report back to State organizations.

8. With regard to the question about types of social security and where funds for payments came from, he said that social security benefits covered old age, disability, illness and the loss of a bread-winner and ensured paid leave for women in connection with pregnancy and the birth of a child, and free medical care for the whole population. Workers made no contributions to the social security funds, whereas enterprises were required by law to do so. Expenditure on social security had increased by 11 per cent from 1981 to 1984. Concerning the question on social security for industrial and agricultural workers, he said that all categories of workers had equal rights to pensions.

9. He assured the Working Group that its questions would be conveyed to the competent bodies within his Government and that his country would continue to co-operate with it constructively.

10. The CHAIRMAN said that the Working Group had concluded its consideration of the report of the Byelorussian SSR.

11. Mr. Peshkov (Byelorussian Soviet Socialist Republic) withdrew.

Report of the Ukrainian Soviet Socialist Republic (continued) (E/1984/7/Add.9)

12. At the invitation of the Chairman, Mr. Bourchak (Ukrainian Soviet Socialist Republic) took a place at the table.

13. Mr. BOURCHAK (Ukrainian Soviet Socialist Republic), replying to questions raised at the 13th and 14th meetings, said that the Constitution of the USSR delineated the legislative competencies of the Soviet Union and of the Union republics. Some matters were covered by Union legislation alone, such as procedures for the adoption of the Constitution, financial and transport regulations, air and sea traffic codes and trade regulations; others were the exclusive responsibility of the republics, such as regulations governing road traffic and schools. Most matters, however, were regulated jointly by the legislative bodies of the Union and the individual republics. On the basis of the fundamental laws, the republics developed codes in accordance with their individual needs and traditions. As to whether the provisions on labour agreements in Ukrainian and Union legislation differed, he said that they did: for example, Ukrainian legislation listed seven specific cases in which such agreements could be dissolved, whereas Union legislation mentioned only three general causes for dissolution.

14. Article 66 of the Criminal Code, imposed prison terms of six months to three years or exile for two to five years as penalties for discrimination on the basis

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(Mr. Bourchak, Ukrainian SSR)

of ethnic origin. The only time a person had to declare his ethnic origin was during censuses; the most recent census, carried out in January 1979, had shown that the Ukrainian population was made up of over a hundred different nationalities. If members of a given nationality were concentrated in a single area, as was the case with Hungarians and Czechs, the schools gave instruction in the national language.

15. Turning to the questions on the constitutional provisions concerning evasion of socially useful work and the duty to have an honest and conscientious attitude to work (paras. 14 and 15, under art. 6), he explained that they were among the principles which, in addition to legislative norms, were set out in the Constitution and that as such, they carried no sanctions.

16. With regard to the question on how a worker could annul a contract of employment, he said that, if the contract had been signed for an indefinite term, a worker could annul it by giving two months' notice in writing; if it had been signed for a fixed term, it could be cancelled at the request of the worker in the event of sickness, disability or personal difficulties which prevented him from fulfilling it.

17. Under current legislation, a worker could not be dismissed on the initiative of the management unless the trade-union committee first gave its consent. Disputes over the dismissal of workers were arbitrated in the courts and by the Commission on Labour Disputes. In 1981, 3,000 complaints of unlawful dismissal had been submitted to the Commission and in 27 per cent of the cases, the worker had been reinstated. Officials were now required to take special examinations on their knowledge of labour legislation, and as a result, unlawful dismissals had become very rare. Workers were fully protected by the courts; the only exception was for those at the management level, who could nevertheless submit complaints through administrative channels.

18. A question had been asked about who paid for a worker's period of enforced idleness following unlawful dismissal (para. 23). In such a case, the officials of the organization in which the worker was employed would be held responsible. That helped to avoid unlawful dismissal.

19. The experts from Spain and Denmark had asked about the assertion made in paragraph 29 that additional guarantees of the exercise of the right to work for certain categories of workers did not discriminate against other citizens. That paragraph should be read in conjunction with paragraph 30. A minimum quota was fixed for the employment of young people, because management might otherwise be tempted to hire workers with better skills.

20. The expert from Bulgaria, referring to paragraph 32, had asked what disciplinary penalties were handed out in the case of non-observance of the labour rights of citizens. The inspectors could apply administrative sanctions under the law, and the Criminal Code also provided for criminal penalties.

(Mr. Bouchak, Ukrainian SSR)

21. The expert from Japan had asked how the Ukrainian SSR had been able to create so many jobs since 1970. That was a reflection of the clear advantages of an economy in which planning took account of demographic changes.

22. The expert from Spain had asked for data on the growth of employment of women. As a result of the two world wars, women comprised 54 per cent of the population; they accounted for 34 per cent of engineers, 35 per cent of agronomists, 71 per cent of economists, 62 per cent of doctors, 73 per cent of teachers and 35 per cent of school directors.

23. The expert from Ecuador, referring to paragraph 41, had asked for figures on the number of retired persons who worked and whether there was an age limit for such employment. Some 11.5 million people were currently receiving pensions, for which men became eligible at age 60 and women at age 55. Formerly, if retired persons worked, then they did not receive a full pension. At present, particularly because of the need for workers in the service industry, retired persons could work for pay while receiving their full pension.

24. With respect to a question asked by the expert from Bulgaria in connection with paragraph 42, generally speaking the State paid for vocational training and skill enhancement. Full-time or part-time training courses provided by an educational institution were paid for by that institution. Workers enrolled in such courses continued to receive full pay.

25. Several experts had asked under what conditions workers could receive part of their pay in kind (para. 52). Agricultural workers, for instance, could be paid part of their wages in kind. There was a tax-free minimum wage of 70 roubles. However that level had been set when the average wage had been 93 roubles; the average was currently 166 roubles, and in some areas, wages were as high as 234 roubles. Wages in the Ukrainian SSR should be viewed not only in absolute terms. For example, rent accounted for no more than 3 per cent of a worker's salary, and food prices were kept stable. In other words, wages had to be considered in real terms and in conjunction with other social amenities.

26. The expert from Japan had asked about a distinction between pay for manual work and for non-manual work. Lenin had stated that no official should receive more pay than a labourer; in general, that policy was followed. However, those who carried out hard physical labour or performed highly intellectual work sometimes received higher pay.

27. The expert from the German Democratic Republic had asked about the reference in paragraph 86 to minors being regarded as adults. That reference was misleading: it meant that, under the labour law, minors had equal rights as adults. With respect to another question from the same expert, paragraphs 87 and 88 of the report described the way in which the health of minors who worked was protected.

28. The experts from Tunisia and the German Democratic Republic had asked for explanations about the duration of paid annual leave ranging between 15 and 48 working days, referred to in paragraph 100. Leave was closely regulated by law

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(Mr. Bourchak, Ukrainian SSR)

in the Ukrainian SSR. Regular leave was 15 days per year. Extended leave up to 48 days was granted to teachers in higher-education institutions because of the summer vacation. Other workers were granted leave for continuous service in order to counter labour turnover. In addition, compensatory leave for extra days worked totalling 12 days could be granted in addition to the 15 days' regular leave. Workers engaged in harmful types of work were also granted additional leave ranging from 6 to 36 days.

29. The expert from the German Democratic Republic had asked why it was forbidden to give cash compensation in lieu of annual leave, as referred to in paragraph 101. Formerly, workers could work for a year and receive cash instead of leave. They were then required to take leave the second year. However, in order to ensure the good health of the workers, such payments were now forbidden, except where a worker was dismissed before he had used up his annual leave. A worker who became sick could carry his leave over to the following year.

30. The expert from Spain had asked whether the allowance for single mothers referred to in paragraph 135 was to compensate them for the lack of husbands. In the entire population, there were 8 per cent more women than men, and it was recognized that the State should attempt to ease the burden of single mothers.

31. Replying to a question put by the expert from Tunisia, he wished to assure the Working Group that measures were constantly being taken to ensure industrial safety in the Ukrainian SSR.

32. The expert from Japan had asked about the participation of trade unions in the decision-making process. At the enterprises, all decisions were taken with trade union participation. That included decisions on the conclusion and annulment of contracts, rules governing work, length of the work-day, dismissal and so on.

33. The range of questions and the interest shown in the report of his country would help the Ukrainian authorities to embody provisions in the legal codes in order to implement the Covenant. He had also taken due note of the comments made regarding the format of the report and the request for statistical data.

34. The CHAIRMAN said that the Working Group had concluded consideration of the report of the Ukrainian SSR.

35. Mr. Bourchak (Ukrainian Soviet Socialist Republic) withdrew.

Report of the Philippines (E/1984/7/Add.4)

36. At the invitation of the Chairman, Mr. Arcilla (Philippines) took a place at the table.

37. Mr. ARCILLA (Philippines), introducing his country's second periodic report, said that, given its limited capital resources, the Philippines had declared a national policy of human resources development, the objective of which was to ensure that basic social services were made accessible to all in order to enable

(Mr. Arcilla, Philippines)

people to engage in productive activities. That policy complemented the Labor Code, enhanced the quality of manpower, and helped to ensure enjoyment of the right to work.

38. Given the country's limited capability to provide jobs for its citizens, the right to work had still not become absolute: there was a need to recognize the fundamental difference in the material resource base of developed and developing countries respectively, which determined the degree of utilization of human resources.

39. The Government was seeking to reduce the current unemployment rate of between 15 and 20 per cent to a maximum of 4 per cent and also to absorb the estimated 750,000 annual entrants into the labour force. To that end, it had availed itself of the various existing policies to generate employment and to narrow the gap between labour supply and demand. It had taken the following action: (a) the livelihood programmes of various government agencies which were employment-oriented had been intensified; (b) provisions for protection of workers had been incorporated into the Constitution and the Labor Code; (c) the policies of key economic sectors had been realigned in order to generate employment; (d) overseas employment programmes had been closely scrutinized to ensure equitable working conditions for Filipino workers.

40. The livelihood programmes had done much to generate employment. They included the National Livelihood Program and the National Shelter Program of the Ministry of Human Settlements, the Self-Employment Assistance Program of the Ministry of Social Services and Development and the Green Revolution Program of the Ministry of Agriculture. Other efforts to reduce unemployment included protection against arbitrary termination, protection against work discrimination, enjoyment of trade-union rights and of the right to remuneration and safe and healthy working conditions. Those efforts had been rewarded, owing in large measure to the active role of the private sector in the investment, trade and agricultural fields. The private sector had also co-operated with the Government in various aspects of the livelihood programmes.

41. Mr. TEXIER (France) said that the report just introduced (E/1984/7/Add.4) was very frank in its presentation of the situation in the Philippines and showed that a great deal remained to be done to ensure respect for the rights enunciated in the Covenant. He wished his remarks to be construed not as negative criticism but as an effort to assist the Government of the Philippines in its implementation efforts.

42. With regard to the reference to involuntary servitude in paragraph 11 (b) of the report, he wished to know whether forced labour was ever imposed as a sentence in criminal cases and whether such labour might constitute an alternative to a sentence of imprisonment.

43. He would welcome an explanation of what appeared to be a widespread tendency for Filipino workers to take up employment abroad, a phenomenon which apparently was encouraged by the Government. He would also appreciate further details concerning salaries and salary guarantees. Reference was made in the report to

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(Mr. Texier, France)

various publications and tabulated data, and it would have been useful had those tables themselves, or a summary of their contents, been included.

44. He had been particularly surprised by the extent to which men and women were treated unequally in matters relating to employment. He would appreciate an explanation of paragraph 55 (a) in that connection, and considered it most unusual that the misconceptions listed in paragraph 55 (c) persisted even at the end of the twentieth century, particularly where the attitude of government offices was concerned.

45. The statement in the report that "household service shall always be reasonably compensated" (para. 62 (d)) seemed to imply that reasonable compensation was not always provided, and he wished to know if any problems existed in that respect. Likewise, the provision in the Philippine Labor Code that employers "shall determine and schedule the weekly rest day" of their employees (para. 99 (b)) seemed to him to provide meagre protection of workers' rights.

46. The elimination under the new Labor Relations Law of a clearance requirement for employer-initiated dismissals (para. 108 (e)) appeared to be a rather severe measure; although the reasons for that provision were clearly explained in paragraph 107 of the report, he nevertheless wished to know whether the measure in question was a permanent one or whether new legal texts concerning that issue were being drawn up.

47. It was disconcerting to note in the report that the right to strike was subject to so many legal restrictions that it would appear virtually impossible to exercise. For example, the need to give 30 days' notice of any strike (para. 121 (c)) clearly would undermine its efficacy. Similarly, he considered that a decision to declare a strike should pass by a majority vote in favour, rather than by the prescribed two-thirds of the total union membership (para. 121 (f)). In addition, the Minister of Labor and, ultimately, the President of the Philippines, enjoyed very wide powers, to bar or terminate a strike.

48. Those provisions were disconcertingly similar to Chilean legislation governing the right to strike, and he recalled the recent discussions in the Working Group on the subject. He wondered, in the light of the provisions mentioned in paragraph 127, what recourse trade unions had in the final analysis. The conditions governing the establishment of trade unions appeared quite severe, and he wondered how many trade unions there actually were in the Philippines.

49. With regard to the right to social security, he would appreciate confirmation of his assumption that paragraph 134 (g) meant that the Government paid for sterilization under the social security system. Lastly, he considered that efforts were needed to correct the problems outlined in paragraphs 160 (a) and (c).

50. Mr. KORDS (German Democratic Republic) said that the statement by the Philippine representative and the report which he had introduced showed the difficulties facing the Philippines in implementing the Covenant. He welcomed the

(Mr. Kords, German Democratic
Republic)

desire of the Philippine Government to maintain a dialogue with the Working Group. It would have been useful if the Government had provided a list of the problems it encountered in implementing the Covenant and indicated what was being done to overcome those difficulties.

51. He agreed with the expert from France that many laws in the Philippines established restrictions on the exercise of certain rights.

52. With regard to the need to ensure women equal treatment in employment, he wished to know how the Government enforced article 137 (a) (3) of the Labour Code, mentioned in paragraph 12. He wished to know what recourse a woman had in such a situation. With regard to protection against arbitrary termination of employment (para. 39 et seq.), he wished to know what the role of trade unions was in that regard, particularly whether they could protect workers against such dismissals and whether they could call a strike in protest.

53. He wished to know what role foreign enterprises played in the Philippines with regard to the implementation of articles 6 to 9 of the Covenant and inquired how the Government controlled such implementation. He would also appreciate information concerning annual paid vacations.

54. With regard to trade-union rights, he had the impression that they were tightly regulated by legislation which placed employers in a stronger position than trade unions. He therefore wished to know how the right of trade unions to operate freely and represent the interests of their members was guaranteed and whether they had the right to federate. In the light of the limitations imposed by the first clause of article 238 of the Labor Code, which was cited in paragraph 117, he wondered whether there was any way for trade-union federations to bring their views regarding a wide variety of economic factors to the Government's attention, and what the reasons were for that clause.

55. With regard to paragraph 118, he wished to know how the "industry groupings" functioned, how many such groupings there were and how many national trade-union federations existed. He also would appreciate further information regarding section 4 (3) of rule III of the Labor Code mentioned in the same paragraph. It would appear that excessive detail was requested therein. He also wished to know more regarding the rights of trade unions to join international trade-union organizations and wondered what activities they were prohibited from engaging in if they joined such organizations. Lastly, he deplored the fact that no information whatsoever was provided in paragraph 120 concerning the right trade unions to function freely.

56. Mrs. JIMENEZ BUTRAGUENO (Spain) said that she wished to know what plans the Government had to ensure the implementation of the Covenant, particularly articles 3 and 7, in so far as new employment opportunities for women were concerned. She wondered how many employed persons there were in the Philippines, how many of them were women, and what the current unemployment figure was. She also wished to know whether women occupied high-level positions in the labour market.

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57. Mr. IIYAMA (Japan) said that the Philippine Government should be commended for having adhered to the guidelines and for its frankness regarding the problems it faced in implementing the Covenant. He would appreciate further information concerning paragraph 65 of the report.

58. Mr. HAMIDA (Tunisia) said that the report of the Philippines (E/1984/7/Add.4) was thorough and honest, particularly since it depicted all the difficulties facing the Philippine Government in the implementation of the Covenant. He nevertheless had some questions regarding the information presented in the report. Articles 135-137 of the amended Labor Code, referred to in paragraph 12, contained provisions protecting against discrimination in obtaining employment. He asked what penalties were imposed if those provisions were not respected and whether such penalties were handed down by a labour court or by the regular courts.

59. It was to be hoped that the establishment of the Philippine Overseas Employment Administration (POEA), mentioned in paragraph 19, represented a response to the current economic situation and that the Philippine Government would eventually be able to reduce the emigration of its citizens. He wondered whether POEA was empowered to conclude bilateral agreements or whether it existed merely to serve as a mediator and to centralize information. He asked if it might be compared to a technical corporation agency such as the one which existed in his own country. He asked what the "appropriate entities concerned" were which worked in co-ordination with POEA.

60. Concerning the guarantees against arbitrary termination of employment, specifically those described in paragraphs 40-42 of the report, he wished to know what constituted an improper dismissal of an employee and what action was taken in such cases. He also sought more information about the composition of the National Labor Relations Commission and wanted to know if its decisions in labour disputes were binding. Paragraph 43 of the report listed the reasons for which an employer could dismiss an employee, the last of which was "other causes analogous to the foregoing"; he desired some clarification as to what those causes might be.

61. Paragraph 55 of the report enumerated difficulties encountered in reducing women's unemployment. He wished to know what the National Commission on the Role of Filipino Women (para. 52 (b)) was doing to protect women from discrimination in employment and to end such discrimination. A mismatch of jobs and skills was cited as a reason for women's unemployment; consequently, he wished to know the kind of training women received that made their skills unsuitable for available jobs. It would also be useful to know the percentage of Philippine women who were illiterate.

62. He commended the Philippine Government for the frankness shown in paragraph 160, which described the difficulties encountered in guaranteeing the right to social security, and asked what percentage of workers received social security benefits.

63. Mr. MITREV (Bulgaria) praised the comprehensive nature of the report and expressed satisfaction at the inclusion of numerous legal texts. He shared the concern of previous speakers at the obstacles which Philippine women faced in obtaining employment. He wished to know more about the "protective legislation" (para. 55 (a)) which actually prevented women from working, and consequently

(Mr. Mitrev, Bulgaria)

wondered why such legislation remained in effect. It was also unfortunate that some misconceptions regarding women were accepted as facts by some government offices, which presumably set the tone for employment policy in the private sector. Such a situation was unacceptable.

64. With regard to article 9 of the Covenant, he wished to be provided with more information concerning maternity benefits, the job security enjoyed by women who took maternity leave and the child allowances provided to working mothers. With regard to work safety, discussed in paragraphs 90-93 of the report, he noted that work-related injuries had increased significantly during the period under review. He wished to know the reason for that increase and what steps had been taken to remedy the situation.

65. In the matter of the right to form trade unions, he associated himself with the remarks made by the expert from the German Democratic Republic.

66. Speaking more generally, he had gained the impression from the first three paragraphs of the report that the Philippine Government did not consider itself to be entirely bound by the Covenant. The report stated that the right to work and other economic rights were guaranteed by the private economy. However, while it was true that private enterprise made it possible to implement the Covenant in some ways, that did not exempt the Government from its obligations vis-à-vis its citizens and their economic rights.

67. Mr. Mitrev (Bulgaria) took the Chair.

68. Mr. JATIVA (Ecuador) requested more detailed information about the situation of youth in Philippine society. Specifically, he wished to know the minimum age for employment and the maximum number of hours per day specified in the Labor Code during which a minor could work. He also wished to know what opportunities were provided for study and further development for youth in the Philippines and whether the Kilusan Kabuhayan at Kaunlaran (KKK) organized any special programmes for youth. He agreed with previous speakers that more information should be provided about women's unequal position in the labour market.

69. Mr. BENDIX (Denmark) observed that the section of the report dealing with misconceptions about the status of women had reminded him that the Philippines had ratified the Convention on the Elimination of All Forms of Discrimination against Women without reservations and had been an active participant in the United Nations Decade for Women. Given that the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women was to be held at Nairobi in 1985, he invited the Philippine Government to consider ways to eradicate those misconceptions. He agreed with other speakers that the continued existence of such a situation, particularly in the public sector, was somewhat incongruous.

70. The report stated (para. 125) that only 10 per cent of the labour force in the Philippines was organized; rigid legislation appeared to preclude, or at least discourage, membership in trade unions. He commended the reduction of the membership requirement for union registration from 50 to 30 per cent of all members

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(Mr. Bendix, Denmark)

in the bargaining unit (para. 126), but suggested that that figure could be reduced even further, if not eliminated. Finally, he urged the Philippine Government to provide an explanation as to why it had not yet submitted overdue reports on the implementation of articles 10-12 and 13-15 of the Covenant, and to submit those reports as soon as possible in order to maintain the dialogue which had been successfully established with the Working Group.

The meeting rose at 1 p.m.