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

SUMMARY RECORD OF THE 6th MEETING

Held at Headquarters, New York,
on Wednesday, 16 April 1980, at 11 a.m.

Chairman: Mr. NAGY (Hungary)

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The meeting was called to order at 11.25 a.m.

ORGANIZATION OF WORK

1. The CHAIRMAN said that informal consultations on participation by the specialized agencies in the discussion of reports submitted by States parties to the Covenant had produced agreement on a formula reading: "At the end of the discussion by the Working Group of the report of a State party, representatives of the specialized agencies may be allowed to make a general statement on matters relating to their fields of competence."

2. If he heard no objection, he would take it that the Group agreed to adopt that method of proceeding.

3. It was so decided.

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)

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

4. Mr. SAMSON (International Labour Organisation) expressed appreciation to the Working Group for its decision to allow general statements by representatives of the specialized agencies. He drew attention to the evaluations made by the ILO Committee of Experts on the application of Conventions, as contained in the first report of the International Labour Organisation to the Economic and Social Council (E/1978/27), and stressed the need for international co-operation as an essential component in the implementation of the Covenant. ILO was assisting Tunisia with manpower training and in examining the situation in the country and was recommending further measures for the protection of worker safety. Since the submission of its first report, ILO had had the opportunity to examine a further report from Tunisia and dialogue was continuing on the question raised. The Tunisian Government intended to introduce a statutory provision requiring equal payment for men and women, and criteria to govern promotion irrespective of sex.

5. While social security protection had been significantly extended in recent years, it had yet to be extended to the non-wage earning sector and agricultural workers. It would be appropriate for Tunisia to supply information on that subject when next it was called upon to report on its implementation of articles 6 to 9 of the Covenant.

6. The matter referred to in the last paragraph of the ILO report (E/1980/27) concerning the implementation of article 8 in Tunisia had been the subject of careful attention and co-operation between the Tunisian Government and ILO; the Government had invited a representative of ILO to visit Tunisia to discuss the matter.

7. Mr. VOLLERS (Federal Republic of Germany) said that in view of the information supplied by ILO, it would be interesting to receive details of international assistance and co-operation received by Tunisia in establishing safety and health institutions.

8. Mr. KAABACHI (Observer for Tunisia) said that the Tunisian authorities had never yet been obliged to invoke the powers established in section 389 of the Labour Code to prevent a strike which might damage the essential interests of the country. The various conciliation measures provided for under Tunisian legislation had functioned satisfactorily.

9. The right to strike was recognized although it was not spelled out in any legal provision; indeed, it hardly seemed possible to guarantee trade union rights without guaranteeing the right to strike. Strikes did quite frequently occur in Tunisia; even senior civil servants had gone on strike.

10. In reply to the points raised by the representative of Japan he said Tunisia considered that enterprises had a social as well as a productive role to play. Thus, the public enterprises operated special funds to provide facilities for workers, while workers in all enterprises, public and private could enjoy the cultural facilities established by the Government.

11. Although it seemed too difficult to believe that there could be job stability and guaranteed wages in an agricultural sector entirely outside governmental control, the agricultural producers had agreed to set up a body to monitor the payment of minimum wages. The minimum wage in agriculture was a daily rate because of the seasonal nature of Tunisian agriculture. Stable employment was available under those conditions.

12. All social services were provided by the Government. Only public enterprises had to provide additional facilities but other enterprises were obliged to contribute financially to the Government services. Similarly, the health and social security institutions were Government run, although, in that connexion, Tunisia had benefited from generous technical assistance and co-operation programmes, financed by several developed countries including the Federal Republic of Germany.

13. Since more than 50 per cent of the population of Tunisia was under 20 years of age, there was a substantial body of legislation, drafted both by the Government and by ILO, to ensure the protection of minors and the development of their personality. Tunisia and ILO had excellent relations and ILO provided both assistance and constructive criticism. Regarding the matter raised by the representative of ILO, he confirmed that the Organisation had been invited to discuss the matter with the Tunisian Government. The case concerned certain trade union leaders who had been tried for going beyond what were considered to be legitimate union claims, apparently for political motives. They had been imprisoned for disturbing the public order rather than for organizing a strike; in any case, clemency had recently been granted to all those still in prison.

14. Tunisia was gradually improving its position through the concerted efforts of its people. Creation of more employment was a primary objective of national development plans; while the country currently supplied migrant labour to other States, that was regarded as an interim solution pending the creation of sufficient employment opportunities in Tunisia for all citizens of the country.

15. The CHAIRMAN announced that the Working Group had concluded consideration of the report submitted by Tunisia.

Report of Finland (E/1978/8/Add.14)

16. Mr. SALMENPERÄ (Finland), introducing the report submitted by his Government (E/1978/8/Add.14), said that he would confine his remarks to developments that had occurred since the report had been issued. Referring to the right to work, he said that the Penal Code would be reviewed shortly in order to include a new category of crime, namely, work crimes, covering all forms of discrimination at work. It was generally accepted that the seriousness of such discrimination should be recognized and that the penalty for such crimes should be increased. The right to freedom of occupation had been recognized in Finland since 1919 and the Government could not restrict that right through any administrative measures.

17. Regarding conditions of work, recent efforts had focused on eliminating hazards caused by substances used in work premises. Employers had been given a detailed list of hazardous substances and had been asked to take every precaution to avoid exposing workers to them. In addition, it was required that adequate information concerning the hazards should be provided on a standard form on the products themselves and employers were required to keep a list of workers who might be exposed to carcinogenic substances. The 1979 Co-operation in Enterprises Act gave employees a greater say in certain matters and required employers to negotiate with their employees before making any important decision regarding the enterprise. Similarly, decisions regarding child-care and meal arrangements required the workers' prior agreement. Legislation on workers' health care had existed for a long time; however, a new approach - that of preventive care - had recently been adopted in the Occupational Health Care Act of 1978. Under that Act, employers were required to draw up a health protection plan, to advise workers on protective measures as well as to screen disabled persons.

18. Finally, in the field of social security, the length of maternity leave (currently nine months) was expected to be increased to 13 months. Fathers could take up to 36 days of leave in connexion with the birth of their child and adoptive parents had the same rights.

19. Mr. VOLLERS (Federal Republic of Germany) asked whether there had been any change in the 7.4 per cent unemployment rate recorded in 1978. Referring to the statement in the report (E/1978/8/Add.14, p. 3) to the effect that collective agreements also covered non-union members, he asked whether, in the event of a strike, non-union members were expected to go on strike also and, if they were, whether they received any remuneration while on strike and from what source. He also asked whether the collective agreements could stipulate that only union members should be employed.

20. With regard to the possibility, provided for in the Contracts of Employment Act, of discontinuing work and salaries pending further notice (E/1978/8/Add.14, p. 2) he asked whether such action was taken on an ad hoc basis by employer and employee together or whether the employer could coerce the employee into agreeing to such a suspension, and also whether the suspension was for a limited or indefinite period. It would also be interesting to know whether the average wage paid to women still amounted to 70 per cent of the average wage paid to men as stated in the report (E/1978/8/Add.14, p. 3).

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(Mr. Vollers, Federal
Republic of Germany)

21. Finally, referring to the National Sickness Insurance Scheme which according to the report (E/1978/8/Add.14, p. 10) was financed by employers and employees alike, he asked whether unemployed and self-employed persons contributed to the financing of that scheme.

22. Mr. DIA (Senegal), referring to the statement in the report (T/1978/8/Add.14, p. 1) to the effect that the Government authority must arrange work opportunities "unless otherwise provided by law", asked under what circumstances the law could provide otherwise. Secondly, noting that, under the Freedom of Occupation Act of 1919 each person could freely choose his occupation subject to certain exceptions, he asked what those exceptions were.

23. Mr. IWANJABALA (United Republic of Tanzania) asked whether the nine months of maternity leave was taken before or after delivery and whether it was not something of a privilege.

24. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya) referring to the right to just and favourable conditions of work, asked whether the Labour Protection Act (E/1978/8/Add.14, p. 5) covered foreign workers as well as Finnish nationals.

25. Mr. HARASHIMA (Japan) asked to what extent fathers in Finland exercised their right to special leave in connexion with the birth of a child, and whether maternity leave was paid leave.

26. Ms. RICO (Spain), referring to social security benefits, asked whether she was correct in assuming, from the statement that under pension schemes of Government and local government employees a widower was also considered a beneficiary (E/1978/8/Add.14, p. 14), that in private pension schemes survivors' pensions were payable only to widows and children under 18.

27. Mr. BYKOV (Union of Soviet Socialist Republics) asked whether the right to work was guaranteed in Finnish legislation and, if so, in what type of legislation was it guaranteed. Secondly, he requested clarification regarding the measures which the Government was taking to achieve full employment. Thirdly, he wondered in what cases the temporary lay-offs occurred and what provision existed to protect a worker's right to work in such cases. It would also be interesting to know what conclusions had been reached by the Committee which had been set up to discuss improvements in the position of employees (E/1978/8/Add.14, p. 2).

28. Referring to the Unemployment Benefits Society Act (E/1978/8/Add.14, p. 2) he asked whether the percentage of wage earners who were members of the Society was still 72 per cent and how non-members obtained unemployment benefits. Finally, noting that the social security system had been described in detail, he asked whether workers as well as employers contributed to the social security fund.

29. Mr. VOICU (Romania) requested a clarification of the concept of industrial democracy which was the subject of the new Co-operation in Enterprises Act. Secondly, noting that the age limit for national unemployment pensions had been temporarily lowered to 55, he asked whether the new age limit applied to all occupations or only to selected areas.

30. Mr. AL-KAISI (Iraq) pointed out that the description of how the Employment Pensions Scheme (E/1978/8/Add.14, p. 14) was financed made no mention of small businesses. He wondered whether the 12 per cent which employers contributed to the scheme was part of the income tax or any other tax.

31. Mr. RANGACHARI (India), noting that maternity leave was granted for approximately nine months and that, according to the report (E/1978/8/Add.14, p. 2), the net amount of money available to people who had employment was scarcely larger than the allowances paid to the unemployed as compensation, asked whether any study had been conducted on the impact of the benefits and privileges enjoyed by women on the unemployment level among women. He asked, furthermore, whether the fact that, as stated in the report, a person receiving unemployment benefits received almost as much as one who was employed might not discourage people from seeking work.

32. Mr. SAMSON (International Labour Organisation), referring to the second report submitted by the International Labour Organisation (E/1979/33, p. 68), drew attention to information supplied by the Government of Finland concerning various measures it had taken to lower the rate of unemployment and pointed out that the Committee of Experts had requested further information on measures taken to create additional jobs.

33. Noting that the Government of Finland had indicated its intention to adopt additional legislation on such matters as prohibition of discrimination in regard to access to employment, safety on board ships and protection against anti-union discrimination, he said that further information on the subject would be welcome. It also planned to implement additional measures to eliminate certain disparities in earnings that existed in practice between men and women.

34. In addition to the ILO Conventions concerning safe and healthy working conditions that were listed in the ILO report, Finland had ratified further instruments concerning minimum conditions in merchant shipping and protection of workers against risks arising from air pollution, noise and vibration.

35. With regard to the question raised by the representative of the United Republic of Tanzania, concerning the scope of maternity protection in general, it was ILO's intention, in view of the special provisions in article 10 of the Convention, to provide an analysis of relevant information.

36. Mr. SALMENPERÄ (Finland), replying to the questions raised by the representative of the Federal Republic of Germany, said that the unemployment situation in Finland had improved over the past two years; according to the most recent figures the unemployment rate stood at 5.5 per cent, and it might drop to 5 per cent during the current year.

37. Although collective agreements covered persons who were not members of trade unions, such persons could choose whether or not to join in a strike. Closed-shop agreements whereby employers could employ only union members, were not permitted in Finland.

(Mr. Salmenperä, Finland)

38. With regard to the temporary lay-offs, employers seldom exercised that right, in effect; they did so only if there was not sufficient work available and if the situation was not expected to last more than 75 days. If it lasted longer the labour contract was terminated. Finland's legislation concerning lay-offs in no way worsened the position of employees for it was much easier for an employee to return to work if he had been laid off than if his labour contract had been terminated. Moreover, employers were bound to give three months' notice if they thought a lay-off was likely. A satisfactory solution had yet to be found to the problem of termination of employment. In some cases the period required for notice of dismissal had been lengthened. At the same time, it was a respected principle that the employer should have a certain amount of freedom in choosing his employees.

39. With regard to the disparity in remuneration between men and women, women's average earnings were still only 70 per cent those of men because, in practice, they did not hold the same positions as men. Much still remained to be done in that regard.

40. With regard to sickness benefits, Government funds were available for compensation and sickness insurance schemes, but it had not proved possible to solve all problems by means of having the persons concerned participate in that financing scheme.

41. With regard to the Freedom of Occupation Act, there were many occupations that could not be practised freely and they were enumerated in that Act. The activities carried out by, for example, doctors or detectives called for a greater degree of surveillance than other activities. In answer to the question raised by the representative of Senegal, he said that the guarantee that each person might freely choose his occupation could not be suspended unless a bill to that effect was passed.

42. With regard to the question concerning maternity leave raised by the representative of the United Republic of Tanzania, leave began approximately 30 days prior to delivery, and the remainder of the leave could be taken after that date. The mother was not obliged to use all the maternity leave to which she was entitled and could return to work early if she wished. Maternity leave was not paid leave in the sense that it was financed by the employer. The Government was responsible for financing such leave, and the maternity benefit amounted to approximately 45 per cent of the woman's salary. Approximately 5 per cent of fathers took leave in connexion with the birth of their children.

43. With regard to the question raised by the representative of India concerning employment guarantees, there was no reason to believe that the benefits and privileges enjoyed by women put them at a disadvantage on the labour market.

44. With regard to the question raised by the representative of the Soviet Union concerning the right to work, which was laid down in Finland's Constitution, there was extensive legislation, including labour legislation that made Government authorities responsible in that regard. In addition, there was a system of loans and subsidies for enterprises employing persons who might otherwise be unemployed.

(Mr. Salmenperä, Finland)

Benefits were higher in the case of enterprises in rural areas. The legislation aimed at covering all possible employment situations. For example, his Government had recently introduced a number of additional employment funds to promote employment of young people.

45. Referring to the question raised by the representative of the Libyan Arab Jamahiriya, he said that migrant workers had the same rights as Finnish nationals. There were many instances in which the question of the protection of migrant workers had arisen, and his country's labour legislation had been enforced in all cases.

46. With regard to the question concerning social security benefits raised by the representative of Spain, only the beneficiaries of Government employees received survivor's pensions regardless of whether they were widows or widowers. In the business world survivor's pensions were paid only to widows. The Finnish authorities were conscious that action should be taken in that regard.

47. Employees did contribute to the National Basic Pensions Scheme (E/1978/8/Add.14, p. 12) though their contributions were very low. However, self-employed persons in agriculture did not make such contributions. With regard to the question raised by the representative of Romania he said that the temporary reduction in the age limit for the national unemployment pensions applied, in principle, to all occupations. However, in effect very few persons, perhaps 10,000, received such pensions.

48. With regard to the question raised by the representative of Iraq whether the pension contributions of self-employed persons came out of their taxes, he said that their pension contributions were separate from their income taxes and were deducted from the amount of their taxable income.

49. The CHAIRMAN announced that the Working Group had concluded consideration of the report submitted by Finland.

The meeting rose at 1.20 p.m.