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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 2nd MEETING

Held at Headquarters, New York,
on Tuesday, 23 April 1985 at 10.30 a.m.

Chairman: Mr. KORDS (German Democratic Republic)

CONTENTS

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.

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The meeting was called to order at 10.50 a.m.

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

Report of Portugal (E/1980/6/Add.35/Rev.1)

1. At the invitation of the Chairman, Miss Franco (Portugal) took a place at the table.
2. Miss FRANCO (Portugal), introducing her country's report concerning rights covered by articles 10 to 12 of the Covenant, said that the 1974 revolution in Portugal had introduced new legal, social, cultural and economic patterns with far-reaching implications for society. The process of readjustment had been most acutely felt in the social and economic spheres, as a result of the shocks to the economy caused by world oil crises, recession, decolonization and demobilization. Unemployment had reached a peak of 13 per cent in 1978, and had risen again to 10.8 per cent in 1984, after falling to 7.1 per cent in 1981. The policies implemented after 1974 had added to the strains on the economy by subsidizing consumer goods and expanding the role of the public sector, in particular through the development of a comprehensive social security system.
3. Despite the impact of economic constraints, great efforts had been made to maintain or increase benefits related to social, economic and cultural rights, in line with article 9 of the Constitution. The entry into force of the Covenant in 1978 highlighted a period in which concern to improve the material well-being of the population had been paramount. Under article 8.2 of the Constitution, the Covenant was directly applicable in domestic law. An impressive body of legislation had been enacted to implement human rights, and great material efforts had been made to translate those rights into reality. For example, expenditures on social security had increased by 150 per cent between 1978 and 1982.
4. . With regard to paragraphs 10 and 11 of the report, the number of foreigners enjoying rights and subject to duties in Portugal was 87,056. Some 37.9 per cent of them were from Portuguese-speaking African countries and benefited from the régime provided for in article 15.3 of the Constitution under specific bilateral agreements.
5. In paragraph 41 of the report, the age requirements for marriage cited for women also applied to men.
6. The voluntary social security scheme mentioned in the footnote to paragraph 46 of the report had been created in 1983 and provided disability, death and old age benefits. It was available to people over 18 years of age who were not covered by the contributory scheme for active workers or by the non-contributory scheme mentioned in paragraph 48.

(Miss Franco, Portugal)

7. Paragraph 56 of the report mentioned income-tax provisions which penalized working married couples. The Government had since decided to establish two different scales of deductions, one specifically designed for married couples, so as to ensure equality between spouses and eliminate any discrimination between single and married persons.
8. Paragraph 64 of the report mentioned the entitlement of working women to maternity leave under Act 4/84 of 5 April 1984. With reference to specific measures for self-employed mothers (para. 77 of the report) articles 9 and 19 of the same Act entitled those covered by the contributory scheme to grants equal to their average monthly income.
9. With reference to special measures for handicapped or delinquent children (paras. 92 ff.), there was a lack of information about children who were deprived of a family or otherwise handicapped, but some relevant material was to be found in paragraphs 49, 54 and 55 of the report and in paragraphs 70 to 81 of her country's report concerning rights covered by articles 13 to 15 of the Covenant (E/1982/3/Add.27/Rev.1). The Ministry of Justice had established 12 centres to take care of abandoned, battered or deprived children until they were 18 years of age.
10. With reference to paragraph 164 of the report, persons employing minors below 14 years of age were liable to fines that increased if the offence was repeated. Compliance with the law was monitored by the Government's General Inspectorate of Labour. The maximum normal hours of work mentioned in paragraph 170 for those under the age of 18 were 48 hours per week in industry and 42 hours per week in the service sector.
11. In the section of the report dealing with the right to an adequate standard of living (art. 11 of the Covenant), paragraph 184 mentioned that after the period 1974-1977, the structure of domestic demand had reverted to something like its previous state. With reference to subsection B, on the right to adequate food in 1982, 25.9 per cent of the active population had worked in the agricultural sector, 54 per cent of them women. Some 70.5 per cent of those women were farmers' wives or daughters and were not paid.
12. Further to the information in the report about measures to improve nutrition, a Programme for Nutrition Education had been in effect at the national level since 1984 and was being carried out at the regional level by teams of health, education and agricultural professionals through health centres, primary schools and grass roots activities. The media had also been involved in the programme.
13. Where right to health (art. 12 of the Covenant) was concerned, access to health care had been virtually free for all citizens since 1978. The national health system coexisted with private medical practice, and included doctors working as employees or under contract to the State. A Directorate General for Basic Health Care had been established within the Ministry of Health to co-ordinate services and programmes so as to provide the population with all basic health care

(Miss Franco, Portugal)

needs. Twenty regional health administration units had been created, and the number of health centres mentioned in paragraph 270 (a) of the report had risen to 328, with 1,811 outlets. However, it was still too early to evaluate the results of the system.

14. Mr. TEXIER (France) said that the report was an excellent one which showed the great efforts made by the Portuguese Government to implement the Covenant. Paragraph 53 of the report mentioned a number of facilities for the care of children of various ages; he wondered if more information could be given, in particular, about the system of family crèches referred to in subparagraph (c).

15. With reference to paragraph 54 (b), he would like more information about the number of adoptions, and whether it was increasing or declining. He was also interested in how lengthy and difficult the process of adoption was, and whether it had led to any abuses such as the trafficking in children from third world countries which had occurred elsewhere.

16. On the subject of the protection of minors, he wished to have more information about the Family Courts referred to in paragraph 97 and whether they dealt with all disputes concerning the young or whether other courts were also involved. He would also welcome more information about the results to date of the criminal legislation with respect to young offenders which had entered into force on 1 January 1983, and whether it was considered to have been a success. He was particularly interested in the reference in paragraph 156 to the treatment of drug addicts without the involvement of the police. Finally, table 3 in the section on statistical data implied that illiteracy had been completely overcome among the young; he wondered if that was strictly true.

17. With respect to rights under article 11 of the Covenant, paragraph 210 (g) of the report listed consumer education and protection programmes among the measures taken to improve the standard of living. He wished to know if there were also consumer protection associations and how they operated, in particular, whether they could use radio and television to campaign for consumers' rights. On a different subject, he wondered if the marked change in 1974 in the number of dwellings constructed, by source of financing, as shown in table 7 of the report, had been brought about by the political events of that time or if there was some other reason for it.

18. With regard to the right to health under article 12 of the Covenant, the figures in the report spoke for themselves and were further evidence of the considerable progress made in implementing economic, social and cultural rights since the revolution of 1974.

19. Mrs. BUTRAGUEÑO (Spain) said that the report highlighted the Portuguese Government's achievements in overcoming problems and challenges similar to those which her own country had faced.

(Mrs. Butragueño, Spain)

20. With reference to paragraphs 49 (a) and 78 of the report, she wondered if there was not an element of discrimination in the treatment of surviving spouses, since it appeared that a woman could receive a pension regardless of her economic circumstances, whereas a worker might only qualify for one by being without any other source of income.

21. Where special measures for working mothers were concerned, the entitlement of those who were breast-feeding their children to two half-hour breaks per day for that purpose mentioned in paragraph 67 might be quite inadequate unless the children were close at hand. She wondered if there was any provision like that in her own country to make it easier for such mothers to feed their children if they were some distance away. The provision mentioned in paragraph 69 that a working father was entitled to leave corresponding to any maternity leave which was unused as a result of the mother's death seemed to be a pioneering innovation, and she wished to know if such leave was granted to men on the same conditions as maternity leave was granted to women. Paragraph 71 said that workers were entitled to take 30 days off from work each year to care for their children under 10 years of age in case of illness or accident; was such leave paid or not?

22. Turning to the section on special measures for handicapped or delinquent children, she requested more information about how the system for committing children to public or private institutions as apprentices, mentioned in paragraph 105 (g) of the report, worked.

23. Finally, she would like to know more about the steps being taken to regulate rents for housing in the free market. In particular, she wished to know if the system indicated in paragraph 223 (g) of the report was already in force or only projected.

24. Mr. BEN HAMIDA (Tunisia) praised the high quality of Portugal's initial report on articles 10 to 12 of the Covenant. He had been particularly struck by the Portuguese Government's unceasing efforts to guarantee the enjoyment of human rights by its citizens and to provide constantly improving living conditions for Portuguese citizens and foreign residents alike. The Portuguese Government's candidness in acknowledging the difficulties it faced in implementing the Covenant was also commendable.

25. Turning to the report itself, he noted that, under article 8 of the Portuguese Constitution, the rules and principles of international law were an integral part of Portuguese law, and asked how those rules and principles were applied in practice. He wondered, for example, whether judges were able to invoke international law and have it upheld in a case at law and whether the common man could do likewise.

26. With regard to the difficulties faced by Portugal in implementing the Covenant (paras. 19 and 20 of the report), it would be interesting to know whether any measures other than legislation had been employed to help overcome them.

(Mr. Ben Hamida, Tunisia)

27. Paragraph 38 of the report contained a reference to the promotion of family planning. He asked what the results of that effort had been, and suggested that specific data relating to the impact of family-planning promotion on the birthrate, fertility rate and infant mortality rate would be of particular use.

28. Since a marriage contracted in Portugal without mutual consent was considered to be null and void (para. 42), he wished to know what effect that absence of legal status had on the parties involved in such a marriage, in so far as their joint property was concerned, and on any children of such a marriage, in so far as their custody, care and education were concerned. The Portuguese Constitution contained provisions dealing with non-discrimination with regard to children born out of wedlock (para. 37). He wondered whether that implied that such children had the same legal status as children born to a legally married couple, a question that might raise certain problems with regard to their education and social integration.

29. He asked what legal distinction was made in Portugal between "full adoption" and "simple adoption" (para. 88). He also wished to know what changes, if any, the education programmes in the area of food and nutrition (para. 213) had brought about in the eating habits of the Portuguese people.

30. Mr. BENDIX (Denmark) joined previous speakers in commending the report. He was especially impressed by the fact that the Portuguese Government had emphasized its difficulties in implementing articles 10 to 12 of the Covenant, something that was seldom done in such reports, and all the more impressive given that those articles were particularly difficult to implement. However, more statistical and demographic data might have given the Working Group a clearer impression of Portugal as a country; for example, the information in paragraphs 19 and 20 might have been expanded.

31. Paragraph 41 of the report, which stated that a woman could marry at age 16 if one of the parents consented, required clarification: since the vesting of that authority in one particular parent might involve some form of discrimination. He was particularly interested in obtaining further information regarding the two sets of deductions used for married and single people in paying the supplementary tax (para. 56). Many countries were currently trying to carry out tax reforms, and it would be interesting to know the extent to which the Portuguese method had been successful in equalizing the tax burden.

32. Paragraph 96 of the report summarized the role of the Juvenile Court, but seemed to emphasize its protective role while overlooking its punitive role as set out in paragraph 95 (b). He therefore wished to know the extent to which the Juvenile Court fulfilled each of those roles. Similarly, he wished to know the ratio which existed between public and private establishments in the provision of formal education and vocational training of minors (para. 124).

33. While paragraph 164 specified that only minors over 14 years of age could be employed, tables 2-4 provided employment statistics for members of the population between the ages of 10 and 14. He therefore asked what specific steps the Portuguese Government had taken to prevent such abuse of children.

(Mr. Bendix, Denmark)

34. It appeared that the measures taken by the Portuguese Government to improve nutrition differed somewhat from the recommendations made by WHO with regard to dietary composition. For example, while paragraph 216 (b) listed many foods whose consumption was to be reduced, meat was not included in that list. Was any emphasis being placed on vegetable protein as an alternative source of protein?

35. Paragraph 258 contained a list of laws relating to physical and mental health; it would be useful if, in the next report, the titles or brief descriptive summaries of their subject matter could be provided. He also wished to know whether any steps had been taken or were planned to promote dental health in the schools; such a programme had been very successful in his own country.

36. Mr. ALBORNOZ (Ecuador) commended the Portuguese Government for its excellent report, which could serve as a model of its type. The developments in international law represented by the International Covenants on Human Rights were clearly having an effect on national legislation, and article 8 of the Portuguese Constitution was a particularly telling example of that influence.

37. It would be of benefit to the Working Group to have more information regarding the supervision of free time available to youth, not only from the perspective of welfare in the family context, but from the standpoint of delinquency prevention as well. In that connection, he sought further information regarding the "period of guidance and observation outside of detention" (para. 148) imposed on juvenile offenders.

38. The commentary on article 11 of the Covenant was of particular interest, in that it related to a subject that was much discussed in the United Nations, namely the right to development. The provision in the Portuguese Constitution that one of the fundamental tasks of the State was "to create conditions permitting the promotion of the people's welfare and quality of life, especially those of the working classes" (para. 178) was of great significance to the Latin American countries, which sought to pass legislation to remedy long-standing inequities.

39. With regard to the specific measures to improve the processing and distribution of agricultural and food products enumerated in paragraph 210 of the report, he wished to know how successful those measures had been and what methods had been used to fix guaranteed producer prices and in market interventions. Such information would be of great importance for countries which were dependent upon agricultural production for national consumption or as a source of much needed export earnings.

40. Mr. HOPPE (German Democratic Republic) commended the comprehensive nature of the report; it was clear that Portugal had, in the relatively short period since its revolution, brought about many significant changes in the life of its people which were in keeping with the provisions of the Covenant.

(Mr. Hoppe, German Democratic Republic)

41. Paragraphs 19 and 20 described conditions which had led to the limitation of some rights in Portugal. He wished to know if the Portuguese Government had undertaken any programmes, activities or other measures, or had established any institutions, to control those conditions. He also wished to know what had been done to help increase women's awareness of their status.

42. In the area of family protection, he wished to know what benefits were available to persons who were unable to participate in a contributory benefit scheme to facilitate the establishment and maintenance of a family. Further details should also be provided concerning the system of pre-natal allowances for mothers listed in paragraph 76 of the report, and the options available to women who did not participate in such schemes. Moreover, were there any differences between the medical care and social assistance given to "working mothers" (para. 64) and "self-employed mothers" (para. 77)?

43. Paragraph 164 stipulated that "only minors over the age of 14 years of age possessing the required skills" could be employed. He therefore wished to know whether that implied that minors under the age of 14 were prohibited from working; if not, what criteria were used to determine whether or not a minor possessed "the required skills"? Finally, he sought clarification regarding the night work "in activities of a non-industrial character" (para. 168) and the extent to which such work was done by minors.

44. Mr. YAKOVLEV (Union of Soviet Socialist Republics) shared the satisfaction that had been expressed in the Working Group over the Portuguese Government's policy concerning the Covenant, its co-operative attitude and its comprehensive and constructive report. The discussion in the Working Group had been constructive. Portugal was a European country, but it had inherited many problems from the past, and had had to face the effects of the world economic crisis, and of decolonization. It was particularly gratifying that the Government had already incorporated the relevant articles of the Covenant in the country's fundamental law - an essential first step in fulfilling the aims and provisions of the Covenant.

45. He noted from paragraph 5 of the report that article 7 of the Constitution recognized the rights of self-determination, independence and rebellion against oppression and advocated equality and non-interference amongst States and the abolition of imperialism, colonialism and aggression. Such a policy was a basis for carrying out social reforms - such as the measures for protecting young persons referred to in article 70 (para. 161 of the report). He welcomed the information on measures taken to ensure and improve standards of living, in particular the development of the role of the public sector referred to in paragraph 176.

46. In the interests of clarification, he would like further information on certain points. In the first place, how was Portugal implementing the principles of equality, especially in respect of race and national origin. Secondly, in connection with protection of the family (art. 67 of the Constitution, para. 38 of the report), what national measures were being taken to develop networks and institutions for assistance to mothers and children? Thirdly, regarding social

(Mr. Yakovlev, USSR)

welfare schemes to assist groups of people in difficult socio-economic circumstances, he would like to know how large such groups were, whether there might be a link between such conditions and unemployment resulting from the world economic crisis, and what the Government was doing to solve the problems referred to in paragraph 51. Fourthly, regarding the right to housing (art. 65 of the Constitution) he would like to know the part played by the public sector: was the State building houses or merely providing assistance? was there a system for providing housing for different population groups? what measures were being taken or planned to solve the acute housing problems referred to in paragraphs 242 to 251? Lastly, he wished to ask what specific measures were being taken by the State and the public sector to deal with unemployment.

47. Mr. IIYAMA (Japan) commended the Government of Portugal on an excellent, comprehensive and frank report.

48. Referring to paragraph 46, he asked whether the marriage grant was provided only once, whether it was given irrespective of income level, and whether it applied to all categories of worker. Regarding the protection of minors against exploitation, he asked what penalties would be imposed on an employer who violated the provisions referred to in paragraph 164. He also asked for further information on the treatment of drug addicts referred to in paragraph 156.

49. Mrs. ADHIAMBO (Kenya) said that the members of the Working Group were obviously impressed by the excellent report. She endorsed many of the questions that had been asked, for example regarding the difference between simple and full adoption. She also wished to know whether single persons were allowed to adopt children and what was the situation if a child to be adopted by a married couple was the child of one of the spouses.

50. She noted from paragraph 41 of the report that women aged 16-18 required the consent of one parent to be married. Did that law apply if the parents were separated, and did the requirement of parental consent apply to men as well as women? She would like to have information on the practical application of the marriage grant described in paragraph 46.

51. Regarding employment of minors, she wondered whether such young people were drop-outs from school, in full employment, employed after school hours or employed in urban or rural areas.

52. The CHAIRMAN said that the representative of Portugal had asked if he could answer the questions raised during the discussion the following morning. If there was no objection, he would take it that the Working Group acceded to the request.

53. It was so decided.

The meeting rose at 12.45 p.m.