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

SUMMARY RECORD OF THE 13th MEETING

Held at Headquarters, New York,
on Monday, 21 April 1980, at 3 p.m.

Chairman: Mr. NAGY (Hungary)

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by States Parties concerning rights covered by articles 6 to 9 of the Covenant
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The meeting was called to order at 4.10 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)

Report of Australia (continued) (E/1978/8/Add.15)

1. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya) observed that the introduction to the Australian report contained the statement that in the event of an inconsistency between a valid Commonwealth and an otherwise valid State law, the Commonwealth law prevailed. He asked whether there was any mechanism by which, in the event that a State law was more favourable to employees, the State law might be held to prevail.

2. Mr. SAMSON (International Labour Organisation) said that the representative of Australia, in introducing his country's report, had referred to action taken by his Government following its ratification of the Covenant and various ILO conventions, including the establishment of the national and State committees on discrimination in employment and occupation. These committees, established primarily to implement the ILO Discrimination (Employment and Occupation) Convention, provided a general system for the examination of complaints at the federal and state levels, and supplemented specific legislative enactments on particular aspects of discrimination. It was encouraging to learn that the ILO comments on the Australian report were under active consideration by the Government and that government action could be expected soon to improve the protection of the rights set forth in the relevant conventions and the Covenant.

3. He wished to make it clear that the references in the ILO report (E/1979/33) to restrictions in Australia on the right of public servants, members of the police force and members of the armed forces to form associations and to strike merely described the existing legal situation and were not intended as criticism or as a suggestion that the situation was not in accordance with the relevant ILO conventions and the Covenant. In that connexion he drew attention to the statement in paragraphs 23 and 24 of part I of the ILO report of the approach adopted to such matters by the Committee of Experts.

4. Mr. JOSEPH (Australia) said that the representative of Finland had asked whether the compulsory arbitration system in Australia restricted the right of unions to strike. He noted that once a union had voluntarily opted to register with the arbitration and conciliation machinery, it had to accept certain restrictions, chief among them the requirement that that machinery should be exhausted before a strike could legally be called. The machinery tried to produce a settlement and served also to establish a cooling-off period. A union which chose not to register with that machinery was still within the law but suffered certain disadvantages, although it could proceed to strike without inhibitions. With regard to the question about statistics on industrial accidents and occupational hazards, he agreed that the States did not always present their statistics uniformly; it was nevertheless possible to form a general picture.

(Mr. Joseph, Australia)

5. The representative of the Federal Republic of Germany had asked how long unemployment benefits were paid in Australia and on what conditions. There was no time-limit for the payment of such benefits, which could continue until work was found. In theory, an able-bodied person should accept any employment offered, unless he had compelling reasons for not doing so. An unemployed worker was, however, not expected to change his area of residence merely in order to accept employment. There was a growing sentiment among the Australian public that the requirements for the payment of unemployment benefits should be made more stringent. Although some abuses of the unemployment benefit scheme undoubtedly occurred, he believed that they were exceptions and that most of the unemployed actively sought employment. In any case, the State agencies were very active in trying to find work for the unemployed and they provided benefits ungrudgingly.

6. In reply to a question on the status of public employees, he said that the Government was not unduly vigorous in denying public employees the right to strike. Post Office employees, in particular, seemed to strike quite often, but such occurrences were extremely rare among the administrative or senior professional grades. Although members of the armed forces did not have the right of association, there were many channels for them to express their grievances. With regard to the question on minimum wage legislation, he said that more than 90 per cent of the work force was covered by wage awards or collective agreements registered with the federal or State authorities and that such awards were generally higher than the minimum wage. The remaining 10 per cent was made up of part-time workers, workers in private domestic service who received other forms of compensation and workers in sheltered factories who were often handicapped and received other non-wage benefits from the co-operatives running the factories. In reply to questions on union registration with the arbitration and conciliation machinery, he said that registration was voluntary and that most unions registered; no large union that he knew of had not registered.

7. The representative of India had asked why the reference in the report to the Racial Discrimination Act of 1975 did not include religion or sex among the grounds for discrimination prohibited by the Act. The Act had been enacted in implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, which itself made no reference to discrimination based on sex or religion. Since the Australian legislation was based on the Convention and its wording was in all probability directly borrowed from that document, it made no reference to such grounds. He could assure the representative of India that Australia did not tolerate discrimination on those grounds. The committees on discrimination in employment and occupation, which had been mentioned earlier, provided protection against discrimination on grounds of sex or religion. They generally tried to resolve complaints and allegations of discrimination by a process of conciliation and reasoned arguments, rather than by brandishing legislation, and had worked quite well. The same representative had asked about progress towards eliminating all remaining instances of inequality in pay for women. Changes had occurred since the 1972 equal pay case and the 1974 national wage case, referred to in his country's report, and he was glad to report that the same minimum wage provisions applied to both male and female workers.

(Mr. Joseph, Australia)

8. The representative of Spain had asked about the Australian health scheme. The health scheme issue had been very controversial in Australia and a number of forms had been experimented with. The funding of the scheme was placing an increasing strain on the federal budget. All Australian residents and temporary residents were entitled to free treatment in hospitals and to reimbursement of medical charges in excess of \$A20. Even the \$20 deductible could be waived for financially handicapped persons such as the elderly. There were private insurance schemes, which enabled Australians to obtain treatment in private rather than public wards, thus securing greater comfort and privacy, but the medical standard was the same as in the public wards. In reply to a question about the social services provided by the Government, he said that there was no national contribution scheme for social services, which were all funded from general revenues, i.e. taxes. The budget outlay for social security and welfare payments, including pensions, amounted to approximately one third of the federal budget, or nearly \$10 billion.

9. In reply to the question asked about migrant workers, he pointed out that there were no "guest workers" in Australia: all immigrants had the same rights and obligations as nationals and there was no discrimination against them. Immigrants were invited to participate in programmes to ease their integration into Australian society, which covered employment assistance, training, preparation for jobs and related matters. Immigrants were subject to no disabilities of a legal or constitutional nature.

10. The representative of the Soviet Union had asked about the level of unemployment in Australia. The unemployment figure for March 1980 was approximately 435,000, or 6.6 per cent of the work force. Although there had been a steady decline in the number of unemployed since mid-1979, the Government was taking steps to reduce the figure further. The main aim of the Government's policy was to combat inflation and encourage investment, and was bound to have some influence on the level of employment. The main body concerned with employment and training and retraining schemes was the Commonwealth Employment Service in the Department of Employment and Industrial Relations which was referred to in his country's report.

11. Replying to the Libyan representative's question about the situation of employees in instances in which federal legislation was less favourable than state legislation, he said that it was difficult to answer without seeing an example. The position was that federal legislation prevailed over state legislation, but the possibility of an appeal through the courts existed. In his view, only the court system could rule on whether a federal act prevailed over a state act.

12. At the previous meeting, he had stated that Australia was in favour of an open economic system, and the Indian representative had suggested that Australia should look at its own record. In reply, he wished to state that Australia was committed to removing any existing barriers to free trade, which were not excessive in any event. Australia was a large per capita importer of industrial products: for every Australian the value of industrial imports had been \$560 two years earlier and had probably risen since then. Furthermore, it did not import only

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from other developed countries but had also shown concern for developing countries: per capita imports of manufactures from developing countries amounted to \$50, which was much higher than the figure for other industrialized regions, including the United States, the EEC countries and Japan. Although Australia had its flaws, it did take its obligations seriously and tried to practise what it preached.

13. Mr. SVIRIDOV (Union of Soviet Socialist Republics) said that he was grateful to the Australian representative for his replies to various questions. His delegation had, however, asked two questions that had not been answered.

14. His delegation had noted that in the section of the Australian report that dealt with specific cases of discrimination against women in work, reference was made to the national and state committees' success in the elimination of legislative and regulatory provisions and of policies and practices inconsistent with national policy on discrimination in employment. His first question had been whether there were legislative and regulatory provisions that provided for discrimination in employment, and if so, what measures were being taken to eliminate them. Secondly, in discussing equality of minimum wage rates for male and female employees, the report stated that the principle was not applied in Western Australia. He would like to know whether the situation was still the same as in 1978, when the report had been prepared in other words, whether there were still regions where minimum wages were different for men and women.

15. Mr. JOSEPH (Australia) apologized for having overlooked the Soviet delegation's questions. With regard to the question regarding equality of minimum wage rates, he said that Tasmania had been brought into line with the national policy. He was unfortunately not in a position to say what the situation was in Western Australia, but the matter would be addressed in his Government's next report. With regard to the question on legislative provisions to prevent discrimination, he had thought that that question had been dealt with fully in his reply to the Indian delegation. There were indeed legislative provisions aimed at preventing discrimination. In particular, the Racial Discrimination Act of 1975 covered many situations under which discrimination might arise. In addition, Australia had ratified the ILO Discrimination (Employment and Occupation) Convention. As the ILO report (E/1979/33) also mentioned, a National Committee on Discrimination in Employment and Occupation and six State Discrimination Committees had been established. Those committees worked on the basis of conciliation and reasonable argument rather than by brandishing legislation. The legislation did exist and could be used if necessary, but it was felt that every effort should be made to solve problems through persuasion.

16. Mr. AL-KAISI (Iraq) said that he would like to know what the situation was with regard to equality in education, particularly as it affected foreigners. He had heard that the national committees had received complaints on that subject.

17. Mr. JOSEPH (Australia) observed that the question asked by the representative of Iraq did not relate directly to the report under consideration. Education in Australia was provided only in English. Steps were taken to help persons who had language difficulties to cope with tuition in English. Persons or communities

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English

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that wished to do so could supplement their education with week-end classes or arrange special services for ethnic communities. The Government was very willing to allowing different groups access to television and radio and they could conduct their own programmes. However, the education provided was an Australian education, designed to weld the ethnic communities into a single nation. Australia had been as successful as any other country in doing that largely because all children were educated in an Australian medium to become Australians. The former Ministry of Immigration had been replaced by the Ministry of Educational and Ethnic Affairs and was particularly diligent in promoting programmes for ethnic communities.

The meeting rose at 5.15 p.m.