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HUMAN RIGHTS COMMITTEE

Tenth session

SUMMARY RECORD OF THE 232nd MEETING (CLOSED)

Held at the Palais des Nations, Geneva,
on Tuesday, 22 July 1980, at 3 p.m.

Chairman: Sir Vincent EVANS

later: Mr. PRADO VALLEJO

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The meeting was called to order at 3.15 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

1. Mr. LALLAH stressed that one of the most important points in the Committee's mandate concerned the distinction which should be made between the Committee's reports on the reports by States Parties and the annual report it submitted to the General Assembly. Unless care was taken, two dangers could arise. The first was that, if the Committee's general comments reached States Parties only through the intermediary of its annual report to the General Assembly, there was a risk of disrupting the intimate dialogue which it had been possible to establish between the Committee and the States Parties by virtue of article 40, paragraphs 4 and 5, in which the Secretary-General was not even mentioned - a dialogue that was essential to the success of the mission entrusted to the Committee. The second danger was that the two phases of the consideration of the report might be fused into one, resulting in an overloaded exercise which would also be unfair, both to the States Parties and to the members of the Committee. In fact, he did not think that States Parties had agreed to be bound by the Covenant's provisions simply in order to hear themselves being told by members of the Committee to what extent they had or had not fulfilled the obligations they had thereby contracted. The comments made by members of the Committee might well be most useful to them; but, as could be imagined, some awkward questions might be asked which might possibly be taken as expressing the Committee's view. It was of the highest importance, therefore, that the Committee should agree as to the exact meaning to be given to article 40 of the Covenant. It was indeed true, as Mr. Graefrath had said, that the Committee could, by its comments, render great service to States Parties; but the question arose as to whether that was to be done through the annual report or through separate reports. He himself thought that it was essential to preserve the dialogue which had been established between the States Parties and the Committee and that, consequently, the annual report to the General Assembly should contain only general indications, the substance itself of the dialogue being thus protected from the disadvantages which would arise from discussion of those matters by the General Assembly.

2. In conclusion, he said he was greatly encouraged by the convergence of the viewpoints heard so far; and he hoped that, by the end of the current session, the members of the Committee would have a better idea of the direction its work was to take.

3. Mr. HANGA said that the Committee's activities raised a number of important issues relating to three types of problem: the Committee's reports, the examination of the reports by States and the general comments to be made by the Committee in that connexion.

4. With regard to the Committee's reports, the question was, in his view, to decide whether the expression related to an annual report or to reports that the Committee might be led to make on the reports from the States Parties. He himself was inclined to think, particularly in the light of article 45 of the Covenant and article 6 of the Optional Protocol, as well as of chapter X of the Committee's rules of procedure, that the expression related only to the Committee's annual report. In his view, the use of the plural in article 40, paragraph 4, was due to the fact that what was envisaged there was the current and future activities of the Committee, which submitted a yearly report which, he thought, should be communicated to all the States Parties.

5. The second problem related to the procedure for considering reports by States. He noted that the Covenant was silent on that point, but that the Committee had none the less fulfilled its mandate well, studying reports or receiving and examining communications from States Parties with the keenest sense of joint endeavour and equity. All the work of elucidation, questioning and comparison, by means of which the Committee sought to understand how States Parties' domestic legislation implemented the Covenant's provisions, should be set out in the annual report submitted to the General Assembly.

6. With regard to the third problem - that of the general comments referred to in article 40, paragraph 4 - he noted first of all that they were of an optional nature. Furthermore, they could be dealt with in a separate document or incorporated in the annual report. As general comments, they should thus, by definition, contain general information relating to the majority of the States Parties. They might relate, for example, to progress made towards the abolition of the death penalty or towards practising a system of direct democracy, or indeed to loopholes in the Covenant. The States Parties could, perhaps, be asked to state how they interpreted the Covenant's provisions, since the Committee, bound by its terms of reference, must also bear in mind the wishes of the States Parties.

7. Since each country had its own political philosophy and way of understanding and implementing the Covenant's provisions, it was for the Committee to seek some means of unifying all that diversity and thus contribute to human progress as part of a united mankind.

8. Mr. KOULISHEV said he thought that the Committee's four years of existence had given it an experience which the time had, perhaps, come to call upon in an attempt to give full effect to the Covenant's important provisions - a task which should lead to findings in conformity with the Covenant and to the chief goal of the consideration of reports, which, as stated in the general guidelines regarding the form and contents of reports, was "to develop a constructive dialogue with each State Party in regard to the implementation of the Covenant and thereby contribute to mutual understanding and peaceful and friendly relations among nations in accordance with the Charter of the United Nations."

9. The Committee's terms of reference, as defined in article 40, paragraph 4, were limited, but broad enough to allow it to fulfil its task. In that connexion, he distinguished three aspects: the study of the reports by States; the way in which that work was recorded in the Committee's reports, which, in his view, were the annual reports; and the adoption, when appropriate, of general comments. The first two had already become part of the Committee's practice - a practice deemed sound, prudent and in conformity with the Covenant, although there might be room for some improvement. In that connexion, Mr. Opsahl's proposal concerning the establishment of an ad hoc group or of the appointment of a special rapporteur did not find favour in his eyes, since he thought that the proposal, if applied to the examination of reports, would further complicate the procedure. On the other hand, the idea could be taken up for the preparation of draft general comments.

10. Turning to what he regarded as the most important and most controversial of the Committee's tasks, he said he wondered what follow-up action, if any, should be taken in pursuance of the task of clarifying the reports submitted by the States Parties.

11. Apart from the possibility of requesting fresh reports or making general comments, pursuant to article 40, he did not see what other course the Committee would be empowered to follow in its work. The Covenant did not, in fact, confer on it the power of pronouncing on the state of implementation of the Covenant in any particular country. The members of the Committee could express their opinions, but such opinions did not take on the aspect of formal decisions by the Committee. It was for the State Party concerned to draw its own conclusions. He was astonished that the point had not been expressly mentioned in the Covenant.

12. As for the general comments, they should be precisely that, addressed to all States Parties and not to any one in particular. That, moreover, was the interpretation adopted by the Secretary-General in his comments to the Third Committee of the General Assembly - an interpretation which, in his view, was very prudent and, although perhaps too restrictive, in strict conformity with the text itself of the Covenant.

13. However, the effectiveness of the existing machinery, however modest it might be, should not be underestimated. In fact, its effectiveness had been abundantly demonstrated by the Committee's action, which was not without influence on States. It would not be in conformity with the Covenant, however, to seek to apply to the study of reports from States solutions and measures stemming from radically different procedures.

14. He found interesting the idea, put forward by Mr. Opshal, that a distinction should be made between the procedure for studying reports and that for studying communications, based on the difference between violation and non-implementation. In either case, however, it was tantamount to non-observation of the obligations assumed. That distinction might perhaps be applicable to the personal rights covered by the Covenant but, however that might be, he doubted whether it could be adopted to discriminate between studying reports and studying communications.

15. With regard to the question of the Committee's reports referred to in article 40, paragraph 4, he said that his conclusions agreed with those of Mr. Graefrath and Mr. Hanga. He simply wished to add that he did not see why reports had to be addressed to all States, even if it was not necessary; why, on the other hand, the Committee was not obliged to address its special reports to the Economic and Social Council; and, lastly, why States were not entitled to submit comments on the special reports addressed to them.

16. The contents of the special reports could be envisaged in two ways: firstly there could be comments on the way in which each State had discharged its obligation to report. That practice had, incidentally, been followed at a certain period by CERD, but had later been dropped because it was deemed to give States the impression that the Committee had been making substantive judgements i.e. on the way they had been fulfilling their obligations under the Convention itself. The other possibility would be to analyse, in such reports, the implementation of the Covenant in the various States Parties. As he had already said, he did not think that the Committee was authorized to pronounce on that point.

17. While being careful not to make the differences among the members look wider than they actually were, he nevertheless felt there was a need to try to define a

middle way, and the most suitable area for progress would seem to be that of the general comments; but, there again, the members were not unanimous. Those comments should be general both in their contents and in their circulation, i.e. they should be addressed to all the States Parties. He was convinced that the Committee was in a position to draft some truly general comments along the lines of those which had enabled CERD too to make progress in its work. He was thus open to any suggestion on the subject which could enable the Committee to make progress in its work. In that connexion, he had noted with interest the proposals made by Mr. Graefrath and Mr. Opsahl. The Committee could, for example, study the position of the Covenant within States Parties' internal legal systems, or, again, the means of recourse which existed in the various State Parties. A study of the latter aspect would, moreover, be particularly useful to the Committee since it would certainly facilitate the examination of individual communications. Other procedures, of course, could be adopted as the work progressed.

18. In conclusion, he said that only a realistic attitude would enable the Committee to strengthen the States Parties' trust in its activities. He noted that only one third of the members of the international community were parties to the Covenant and that much remained to be done, therefore, in order to achieve the universality for which that instrument had been intended.

19. Sir Vincent EVANS said that the various interpretations given to article 40 of the Covenant showed once again the difficulties that the Committee encountered in determining the scope of its mandate. He referred to the observation made by Mr. Sadi, who had rightly stressed that it was not possible to interpret an article such as article 40 solely on the basis of its language, without replacing it in the broader context of the actual purpose of the Covenant of which it formed part. In so doing, Mr. Sadi had in fact expressed a cardinal rule of interpretation.

20. The purpose of the Covenant was set forth in its preamble which referred to "the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms". The functions conferred on the Committee under article 40 and the provisions of the Optional Protocol could therefore have no other possible purpose than to ensure that the goal thus established was pursued.

21. The Committee had so far fulfilled its task by establishing and maintaining "a constructive dialogue" with each reporting State. It appeared that the members of the Committee continued to believe that that was still the way to proceed. The exchange of views that the dialogue had made possible had given the members of the Committee the opportunity to draw attention to possible shortcomings they had detected in the laws and practices of the various States. Moreover - and that aspect was perhaps even more important - the Committee had endeavoured to make its meetings a forum for debate and a means of assisting and encouraging States in the promotion of respect for rights and freedoms under the Covenant. He believed that most members regarded that dialogue as a continuing necessity.

22. A first stage had thus been completed, and the Committee had then sought to supplement its work by trying to obtain the maximum information possible on the way in which the Covenant was implemented in each reporting State. That second

stage had already been completed in the case of a number of States. It had provided an opportunity to raise particular questions regarding the way in which the Covenant was implemented and to pursue that aspect further by means of an exchange of views with the representatives of the States concerned. However, it was clear that the scope of the procedure established under article 40 of the Covenant was much greater and that the Committee's action must be developed and improved.

23. He did not share the view of the members who considered ineffective the procedure followed so far for giving effect to article 40; he would refer to it rather, as incomplete. In itself, the very process of reporting made States Parties more conscious of their obligations under the Covenant, at least in the case of those States Parties that adhered to the guidelines on the submission of reports. Moreover, the questions put and the comments made by members during the oral submission of reports served to draw the attention of States Parties to areas where the practice of the State in question caused the Committee concern.

24. States had consistently co-operated well and it appeared that the characteristic restraint and lack of polemics in the Committee's proceedings had helped it gain the confidence of the States Parties, whose representatives often stated that their Governments would review their practices and their laws in the light of the comments made by members, as in the recent cases of Canada, Colombia and Suriname. He did not believe that the representatives of States Parties could have been entirely insincere in stating that they would bring the various points raised by the Committee to the notice of their Governments.

25. The annual report was a new step forward in that continuing dialogue. Experience showed that, when they received a document of that kind, the authorities of a State immediately sought out what was said about their own situation or their own reports. Such a procedure was therefore effective, and the Committee must try to improve and develop its methods of work, as all members seemed to agree.

26. He, for his part, shared the view of those members who felt that the oral exchange of views was not an adequate instrument. It was necessary to proceed further, to analyse in detail the information received and to formulate comments and recommendations to States. Naturally, it was possible to make general comments; there was, however, no doubt that under article 40 of the Covenant the Committee could address individual comments and recommendations to the various States Parties.

27. In suggesting that a distinction should be drawn between cases of non-implementation and violation of the Covenant, Mr. Opsahl had tried to demonstrate that, in order to avoid the accusation that it was using the provisions of article 40 as an indirect way of imposing on States that had not accepted the Protocol obligations similar to those that they had not wished to undertake, the Committee should not, in the exercise of its functions under article 40, deal with individual violations of the Covenant, which would come under the scope of article 41 of the Covenant and the provisions of the Protocol. He himself did not believe that article 40 laid down any restrictions whatsoever and he considered the proposed distinction rather too nice.

28. In theory, the Committee could proceed to draw up a report in respect of each reporting State and to make comments and recommendations directly to each individual State. However, the practice was more complex. The Committee had established a procedure for consideration of the initial reports of States Parties by means of questions and comments and replies made by representatives of those States. That procedure had been criticized because it encouraged repetition of the same questions by different members. However, that defect appeared to have become less pronounced during the two or three most recent sessions. In fact, what certain members referred to as a defect could, at the same time, have the advantage of giving the representative of the reporting State the impression that the concern expressed in the questions put to him or her was not a concern of a single member, but one broadly shared by the Committee as a whole. The drawback to which attention had been drawn might thus gradually appear acceptable, if not essential.

29. The members of the Committee also seemed to recognize that their action could not be limited to consideration of the initial reports. At the same time, there was some disagreement with regard to the legal basis of the second examination under the provisions of the Covenant. It was unfortunate that a number of members had dissociated themselves from that action, thereby making it less effective.

30. The second examination could rest on two different legal bases. So far, the Committee had considered it legitimate that supplementary information supplied in addition to the original report, either in writing or orally, in reply to the Committee's questions should be the subject of further consideration. Moreover, article 40, paragraph 1, provided the Committee with the possibility of explicitly requesting a second report or supplementary reports on the situation concerning the Covenant in a given State. Both approaches were based on the provisions of the Covenant itself. It ought to be possible therefore to reconcile the various views expressed by members.

31. A number of members had considered that it should be possible for States Parties to make their views known. The Covenant provided explicitly that reporting States could choose to undergo a second examination and reply to questions that the Committee might have raised, or to leave the initiative to the Committee in accordance with article 40, paragraph 1 (b). It was, however, important that all States should be treated fairly in that respect. The Committee must not penalize those States that had decided to co-operate with it and accepted to undergo a second examination. It must not invite them to a third examination under article 40, paragraph 1 (b), while there were still States Parties that had not undergone a second examination on any basis at all.

32. At the end of the first consideration or prior to the second one, the Committee could meet in a closed session to review the various questions raised and to identify aspects with regard to which it wished to obtain further information. The usefulness of such a consultation, which would require the co-operation of all members, seemed obvious.

33. The third stage was that at which the Committee tried to formulate comments and recommendations which, in accordance with article 40, could take the form of general comments directed to all States Parties or comments and recommendations directed to a particular State. It could be seen from the preceding statements on that question that all members were able to agree to the preparation by the Committee of general comments directed to all States Parties. He felt that that procedure should be adopted during the eleventh session.

34. The drafting of comments and recommendations directed to individual States would open up a much greater field of action. The Committee would in fact have to study a great number of reports, since seven reports were already at the stage of the second examination. Moreover, such an enlargement of procedures under article 40 would mean that the Committee would have to be reconstituted in a different manner and that it would need to have more time at its disposal. Furthermore, a request for further assistance from the Secretariat would make it necessary to strengthen the available staff. Lastly, there was no doubt that the Committee would have great difficulty in reaching agreement on the content of its comments in respect of many aspects of the individual situations of the various States Parties. There was therefore the danger that it would restrict itself to comments of a general nature, which might in turn give the State concerned the impression that, apart from the points referred to in those general comments, the Committee endorsed the way in which it was fulfilling its obligations; an impression that would, however, often be erroneous.

35. The Committee should therefore proceed as soon as possible to formulate general comments directed to all the States Parties and to establish methods that would enable it to formulate comments and recommendations in respect of each State. However, it would first of all have to gain a clearer view of the resources at its disposal.

36. Mr. TOMUSCHAT said that, like Sir Vincent Evans, he did not think that the first phase of the Committee's work had been as ineffective as a number of members had maintained. There was no doubt that the dialogue established with reporting States was constructive, and the majority of States Parties attached great importance to their relations with the Committee.

37. The latter must, however, act as a collective body because countries were anxious to know what the position of the Committee itself was, since that position was necessarily less contestable than the individual views of the various members, which inevitably reflected personal options.

38. Article 40, paragraph 4, provided that the Committee should study the reports submitted by the States Parties to the Covenant. It was, however, necessary to establish the purpose of such a study, which had not been indicated explicitly by the drafters. In that connexion, he was unable to endorse the distinction drawn by Mr. Hanga between study and consideration. The Committee's sole mandate was to assist the States Parties in promoting universal respect for, and observance of, human rights and freedoms.

39. He did not consider it desirable to endeavour to interpret only the language of article 40, and endorsed the position of Sir Vincent Evans in that regard. He also believed that the Committee should not enlarge its mandate too far and that it was not competent to make any condemnations, but that it should nevertheless be able to express concern.

40. He did not endorse the distinction between non-implementation and violation suggested by Mr. Opsahl and believed that the Committee must be able to express any concern to which the situation in a given country gave rise. It must also study the reports and replies made in response to questions raised and, if it considered the information at its disposal incomplete, invite States Parties to supplement the documentation submitted. As far as substance was concerned, in a number of cases it could certainly establish a number of points in respect of which it was in a position to draw definitive conclusions. However, the chief thing was to demonstrate that the Committee was aware of the responsibility it had to promote respect for human rights by pointing to any deficiencies that the reports of States Parties might reveal.

41. Turning to practical considerations, he believed that he was expressing the general view in saying that the Committee was an international supervisory body and that it must discharge its responsibilities correspondingly, even if its means were limited, the most it could do being to express views on the situation in a given country. Its workload was very heavy, and the practical implications of the suggestions put forward were such that the very existence of the Committee might be at stake, in view of the fact that it was a part-time body. If the Committee planned to prepare individual reports for each country, it would be a very time-consuming process and would call for an effort that might well be too great.

42. He endorsed the view that the Committee should draw up a number of comments that were truly general in nature, but he felt that that too would be a very time-consuming process, as could be seen from the example of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which had a certain amount of experience with such questions and which normally entrusted such a task to a special rapporteur, who often needed several years to draft his or her report. With regard to the reports by individual countries, he had studied the question and had reached the conclusion that there were four categories of States. The first category was that of States that had not yet submitted a report and that might never submit one. There was little that the Committee could do in such a case. It was a clear violation of article 40, and could be denounced as such in the annual report, and that step was probably the only possible one. The second case was that of States that had appeared before the Committee but had not replied to any of the questions put to them. That was the situation of Libya, for example. In cases of that type, the Committee could simply put together in a document all the questions that had been raised and send that document to the country in question, requesting it to reply to the questions under article 40, paragraph 1 (b). Libya had promised to reply in writing and had not done so. It was therefore time to take more forceful action in respect of that country. The States in the third category were those that had appeared before the Committee and had replied orally but not supplied any supplementary information. In fact, there were no instances of countries having replied to all questions, and the Committee should identify the questions to which no reply had been received. The fourth and last category was that of States that had always co-operated with the Committee. Where those countries were concerned, he shared the view expressed by those who had said that it was necessary to establish exactly what the results of that co-operation had been. He therefore believed that the Committee would need an analytical document, which the Secretariat could draw up; such a document would not contain any evaluations but would set out article by article the questions raised and the replies received. Working groups could then be set up to assess the situation on the basis of the document in question and to ascertain whether the Committee should request supplementary information or whether, on the basis of the replies received, it was in a position to address comments to the States concerned. He would therefore like the Committee to envisage what form that document might take, at least in the case of States that had taken part in the dialogue with the Committee as early as 1977. The Committee must provide for a certain periodicity in the reports. The second report must not be a repetition of the first and reply to questions raised during consideration of the preceding report.

43. Mr. TARNOPOLSKY said that, if the Committee failed to make it clear that it expected results from its second round of consultations with States, or if it did so without showing that it was following the situation closely, it would receive fewer and fewer initial reports and fewer and fewer replies to its questions concerning those reports. One of the things that had struck him when studying

article 40 and other provisions of the Covenant stipulating the action to be taken by the Committee was that the terms used to describe the task which was indicated in the first sentence of article 40, paragraph 4, and also referred to elsewhere were interchangeable in both English and French. Article 40, paragraph 2, for example, referred to "consideration", article 41, paragraph 1 (d) to "examining" and article 41, paragraph 1 (c) to "dealing with a matter", etc. The same applied to the Optional Protocol. The dictionary definition (Dictionnaire Robert in French and the Concise Oxford Dictionary in English) showed that the terms were synonymous. It was therefore clear that the Committee's task under article 40 was similar to that under the Optional Protocol. The results of the tasks might, however, differ, since, under the Protocol, the Committee was required to "forward its views" while, under article 40, paragraph 4 of the Covenant, it was to "transmit its reports, and such general comments as it may consider appropriate". It had been stated that those reports were the same as the report transmitted to the General Assembly under article 45. He did not share that view. In the one case, reference was made to reports in the plural, and in the other to a report in the singular. Moreover, in the French text of article 40, paragraph 4, reference was made to "ses propres rapports" and that was obviously not the same thing as the annual report that the Committee was required to transmit to the General Assembly. Lastly, article 6 of the Protocol stipulated that "the Committee shall include in its annual report under article 45 ... a summary of its activities ...". Having given his views based on an analysis of the Covenant, he added that, in considering what was expected of the Committee, he personally would prefer to adopt a more pragmatic approach and simply to consider why the Committee had been established, why article 28 of the Covenant was concerned with stipulating that its members should be "persons of high moral character and recognized competence in the field of human rights" and why it emphasized "the usefulness of the participation of some persons having legal experience". The purpose of the Committee was not simply to listen to the submission of reports by States Parties but also, and primarily, to induce States to take account of the suggestions made by the Committee in the context of the dialogue it had established with the States. That was what the Committee had always done, and the case of Chile was one example. In the latter case, the Committee had not only made known its views on the country's report, but had condemned the State Party in question.

44. After the initial and very useful dialogue which had taken place during the consideration of the initial reports, the Committee, in moving to the second phase of its consideration, might ask the States Parties concerned whether they were prepared to add anything in writing to their oral replies. A date might be fixed for that second phase of the consideration of their case, and they could be invited to participate. They might, on that occasion, choose to make an oral addition to their initial replies. The Secretariat would be responsible for compiling a list of the questions asked, with references to the summary records, or written reports containing the replies that had been given.

45. With regard to the point raised by Mr. Tomuschat concerning the Committee's transmission of "its reports", he considered that that was, in fact, what was required of the Committee; however, in view of the little time available to it, the Committee would have to take a vote if it was to make its views known in its reports, since it would take too long to reach agreement by consensus. It would either have to resort to a vote or request that the Committee should become a permanent body, a request unlikely to be granted. He therefore concluded that the fact that it was stated in article 40 that the Committee should transmit its reports did not necessarily mean that it should give its views or its findings or conclusions, etc. The reports in question could be drafted so as to reflect the views of each member of the Committee during the second phase, together with the replies of States Parties if they had participated.

46. Lastly, he shared the view of other members of the Committee that the general comments referred to might, in the first instance, be truly general comments, with due regard for the fact that they might possibly be made more detailed at a later stage. The Committee should certainly first carry out an examination, a study and an evaluation, and then draw up a report which would not necessarily comprise a complete set of the conclusions or views of the Committee as a whole but which might reflect the views of its individual members. If there had been a consensus or a majority or a divergence of views, it would appear in the report.

47. Mr. JANČA said that, although he was aware of the differences which existed between certain members of the Committee concerning the interpretation of article 40, paragraph 4, of the Covenant, he had no constructive proposal to make in order to reconcile them and, consequently, had not so far participated in the discussion. He had considerable difficulty with the interpretation of those provisions of the Covenant, and he therefore proposed that a working group should be established to consider all that had been said on the question and endeavour to find solutions for submission to the Committee. The working group, which would report at the forthcoming session, could be composed of at least four members: Mr. Opsahl, Mr. Graefrath, Sir Vincent Evans and Mr. Hanga, for example.

48. Mr. LALLAH said that, in view of the importance of the discussion, he would arrange for everything that had been said to be reflected in the annual report. As for Mr. Janča's proposal, the Committee could usefully revert to the subject later in its session.

49. Mr. GRAEFRATH said that he shared Mr. Lallah's view concerning Mr. Janča's proposal. He would like to reflect on that proposal and have an opportunity to discuss it again at a later stage. That might also render it possible perhaps for Mr. Movchan to make his views known, if he returned before the end of the session.

50. Mr. OPSAHL said that, while he was not opposed to the views that had just been expressed, he wished to remind the Committee that it was already pressed for time to consider its annual report, which had to be adopted during the following week. He therefore considered that the Committee should explore the possibility of adopting some really general comments at its current session; a member of the Committee might draft a text to be studied during the following week. He hoped that the summary record of the meeting would be issued promptly so that the Committee would have it at its disposal when it reverted to the question.

51. Mr. TOMUSCHAT requested that, even though the meeting was a closed one, the relative summary record should be given general distribution.

52. The CHAIRMAN said that the Secretariat had taken note of Mr. Tomuschat's request.

53. Mr. LALLAH said that, if general comments were to be included in the annual report as Mr. Opsahl had suggested, he himself would not, unfortunately, be able to formulate them, since he had too many urgent tasks to perform elsewhere. Two or three members of the Committee, such as Mr. Graefrath, Mr. Opsahl, Mr. Bouziri and Mr. Dieye, might work on them together.

54. Mr. GRAEFRATH said that he would like to think about that proposal, and would prefer the Committee to wait a while before adopting any formal procedure, even with regard to really general comments. That expression was an unfortunate one in that it gave the impression that there were other kinds of comments and, if it were used by the proposed working group, he would have to decline to be a member of it.

55. Mr. TOMUSCHAT said that it was not easy to draft really general comments; to do so seriously, it would be necessary to define very precisely the subjects to which such comments referred. They should be selected in the light of their importance for the Committee's functioning. One such subject might, for example, be that of the problems connected with article 4, on the state of emergency, but it would be necessary, first of all, to discuss it in depth. The Committee had encountered difficulties in all such cases which it had considered. The area was one in which research would be needed, and that could not be done in haste. That was only one example, but it appeared inappropriate to proceed immediately, or with undue haste, with the formulation of comments.

56. Mr. OPSAHL said that abstract discussions would not further the Committee's work, and that was why he had made his proposal.

57. Sir Vincent EVANS said that he wished to raise two points to which he hoped he could revert during the following week. They related to the publication of the Committee's official documents in a form more satisfactory than the current one, and to the publication of certain decisions taken by the Committee under the Optional Protocol. There had already been some 140-150 such decisions, and he had selected about 50 which he thought the Committee might examine with a view to publishing them for use by anyone who wished to have access to the jurisprudence being worked out by the Committee in performing its functions under the Optional Protocol.

The meeting rose at 6 p.m.