

**INTERNATIONAL  
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ON CIVIL AND  
POLITICAL RIGHTS**



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HUMAN RIGHTS COMMITTEE

Tenth session

SUMMARY RECORD OF THE 235TH MEETING

held at the Palais des Nations, Geneva,  
on Thursday, 24 July 1980, at 10.30 a.m.

Chairman: Sir Vincent EVANS

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the Covenant (continued)

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

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF  
THE COVENANT (agenda item 4) (continued)

Costa Rica (CCPR/C/1/Add.46)

1. At the invitation of the Chairman, Mr. Freer-Jiménez (Costa Rica) took a place at the Committee table.
2. Mr. FREER-JIMENEZ (Costa Rica) said that in his introductory statement he would explain the historical background and socio-economic basis of Costa Rican democracy.
3. Costa Rica had been discovered by Christopher Columbus during his fourth and last voyage to America. At the beginning of the sixteenth century it had become a colony of the Spanish Crown. As it had had no important mineral resources and its only crop had been tobacco, the Spanish Crown had granted it the monopoly of tobacco production. However, the tobacco had proved to be of poor quality and therefore Costa Rica's only privilege had been taken away from it. In the sixteenth century the population had consisted of some 27,000 Indians and a few Spaniards.
4. Geographically, Costa Rica was a small country about 150 kilometres wide, situated between the Pacific and Atlantic Oceans about 10° north of the Equator and possessing two long coastlines. The coastal regions were very unhealthy because of malaria. The Atlantic coastal region was covered with tropical jungle and had a high rainfall, and after failing to grow tobacco there the settlers had turned to cocoa. They had been able to sell the cocoa abroad, but being situated near the coast the plantations had frequently been raided by pirates. The Pacific coast possessed good beaches and a dry climate. In the centre of the country, between the high mountain ranges which ran from north to south, was a lovely valley known as the Central Meseta, which possessed an ideal climate, and until the middle of the twentieth century the majority of the Costa Rican population had lived there. The indigenous inhabitants were concentrated in the coastal regions and near the borders with Nicaragua and Panama. They did not live in the central valley; ~~perhaps because they were afraid of the four active volcanoes which~~ overlooked it. The soil in the valley was fertile: maize and other grains were grown and cattle grazing was practised. Not far from the central valley was a smaller valley where the Spaniards had established the capital, San José.
5. The second conquistador, Juán Vázquez de Coronado, had been a kind-hearted person and it was perhaps due to that fact, coupled with the benign climate, that there had always been a good relationship between the Indians and the Spaniards.
6. The poverty and limited resources of Costa Rica had led to the establishment of small subsistence farms and the development of a rural democracy. The population of Costa Rica was homogeneous, frugal and hard-working and without class distinctions. No military or economic castes had developed and, as a result, Costa Rica had been called "the Switzerland of Central America".

7. Costa Rica possessed no army. Article 12 of the Constitution stated: "The Army as a permanent institution is proscribed. For vigilance and the preservation of public order, there will be the necessary police forces. Only through continental agreement or for the national defence may military forces be organized; in either case they shall always be subordinate to the civil power; they may not deliberate, nor make manifestations or declarations in individual or collective form." The only occasion on which an army had been raised had been to fight the American William Walker who had tried to establish a slave colony in Costa Rica: he had been defeated in 1856.

8. Costa Rican society had been influenced by the Roman Catholic Church and by religious orders, especially the Franciscans, whose simple way of life accorded with its own, and the Christian religion formed the basis of Costa Rican morality. The Church had never been allowed to interfere in affairs of State and article 28 of the Constitution provided that no political propaganda might be carried on by clerical or secular persons invoking religious motives.

9. The Costa Ricans had started to grow coffee in the nineteenth century on the high ground of the Central Meseta. Coffee had been the country's first remunerative export commodity. However, it had at first had to be transported in carts to the Pacific ports and then shipped round South America to Europe. Transport costs had therefore been high, but the construction of the railway to the Atlantic coast had been of great help in reducing them. There were now thousands of coffee producers working small plots. There were no mines and no large estates and a quasi family relationship existed between the plantation owners and their employees, between whom there was frequent intermarriage. That situation explained the fact that there had been few instances of political murder and violence such as had occurred in other countries.

10. In the twentieth century, the cultivation of bananas on a large scale had been introduced in to the coastal areas on each side of the country. Banana cultivation had not affected the personality of the country, which should not be considered a "banana republic".

11. During and after the Second World War advanced social legislation and guarantees of rights had been introduced. The Labour Code of 1943 had laid the basis for social progress. Large transnational corporations owned the banana plantations and such social conflicts as had occurred had been between them and their workers. The State had always tried to control the transnational corporations and it was probable that when their contracts terminated, in about 10 years' time, Costa Rica would nationalize the banana plantations.

12. Industrial growth had begun only in 1960. An effort had been made to ensure a fair distribution of the national wealth.

13. He then quoted various articles of the Political Constitution, copies and translations of which had been circulated to members. Article 7 of the Constitution provided that public treaties and international agreements duly approved by the Legislative Assembly should prevail over ordinary law. With regard to article 78 of the Constitution, he pointed out that Costa Rica had been one of the first nations in Latin America to establish free and compulsory primary education, towards the end of the nineteenth century. In connexion with article 121 (7), which dealt with the suspension by the Legislative Assembly of certain rights and guarantees, he said he had no recollection of any such suspension having occurred since 1949, when the

Constitution had been adopted. The provision in article 131 (2) that the President or Vice-President must be a layman had been included to prevent any undue political influence of the churches, especially of the Roman Catholic Church to which 90 per cent of the population belonged. Article 140 (4) which dealt with the powers of the President and Cabinet Ministers, was also important in that it provided that if, during adjournment of the Assembly, they suspended the rights and guarantees referred to in article 121 (7), the Assembly must meet within 48 hours to confirm the measure by a two-thirds vote of its entire membership, failing which the guarantees should be considered as re-established.

14. The CHAIRMAN thanked the representative of Costa Rica for his informative introductory statement, which had provided a framework for the Committee's consideration of the Costa Rican report (CCPR/C/1/Add.46).

15. Mr. PRADO VALLEJO said that the excellent report submitted by Costa Rica followed the guidelines laid down by the Committee and thus made it easy to study the country's legislative and political structure and to verify its conformity with the Covenant.

16. As he had stated during the consideration of Colombia's report, Colombia, Costa Rica and Venezuela constituted shining examples of democracy in Latin America. Costa Rica had lived in peace and under the rule of law during the major part of its existence as an independent State. It had no armed forces and no military expenditure; most of its budget was devoted to public education. That was a highly satisfactory situation. The country was naturally faced by the problems common to developing countries, but it was seeking to solve them on the basis of universal education.

17. In his view, Costa Rica's report showed that in general the legal and political order of the country was perfectly compatible with the Covenant. There were, however, one or two minor points which required clarification. Despite the fact that, as indicated in the second paragraph of the report, "the Covenant was incorporated into positive law", the right to review of a criminal conviction by a higher tribunal set out in article 14 (5) of the Covenant did not appear to be guaranteed in Costa Rica. In fact, it was indicated on page 11 of the report that, unfortunately, the Costa Rican Code of Criminal Procedure established some sentences against which there was no appeal, in other words cases which were heard in sole instance, and that, in that connexion, legislative reforms were called for. He asked how that situation could be reconciled with the safeguarding of human rights in Costa Rica, as referred to by its representative.

18. Article 75 of the Costa Rican Constitution provided that the Apostolic Roman Catholic Religion was that of the State. That provision appeared to him to concede a privileged position to the Roman Catholic religion in relation to other religions and thus to be in contravention of article 18 of the Covenant, which guaranteed freedom of religion. He pointed out that although the majority of the population in most Latin American countries was Catholic, Catholicism was not in general declared to be the official religion in those countries.

19. He inquired how article 8 (3) (a) of the Covenant, which laid down that "No one shall be required to perform forced or compulsory labour", could be reconciled with the fact, indicated on page 7 of the Costa Rican report, that article 55 of the Penal Code provided that a fine could be paid off through unremunerated work for municipal authorities, the public administration and even private enterprise.

20. He found it difficult to reconcile the provision in article 129 of the Penal Code (CCPR/C/1/Add.46, p. 5) whereby the infliction of wounds with consent was not punishable if it had been done for the benefit of the health of others with article 7 of the Covenant, which stipulated that no one should be subjected without his free consent to medical or scientific experimentation.

21. Liberty of movement, as mentioned in article 12 of the Covenant, was amply safeguarded by article 22 of the Costa Rican Constitution so far as nationals of the country were concerned, but it appeared that the Migration Regulations (*ibid.*, p. 8) established certain restrictions on the right of foreigners to move about freely. He would like fuller information on that point.

22. Commenting on article 14 (5) of the Covenant, the Costa Rican report (*ibid.*, p. 11) stated that article 472 of the Code of Criminal Procedure enumerated the kinds of sentence against which an appeal might be made, and article 474 specifically listed, as such a sentence, a decision which imposed preventive measures for two or more years, when it was considered that serving the sentence had not been effective in rehabilitating the convicted person. Did that mean that if he had not been rehabilitated the convicted person was liable to the imposition of a further sentence?

23. Referring, finally, to the last paragraph on page 11 of the report, where it was indicated that under article 498 of the Code of Criminal Procedure damages might be paid in cases of miscarriage of justice "provided the convicted person has not, by deceit or fault, contributed to the miscarriage of justice", he said it seemed rather unfair that there should be no indemnification if an error on the part of a judge or a defect in the legal procedure could be attributed to a mistake on the part of the accused.

24. Mr. TOMUSCHAT said that the report of Costa Rica, with its clear article-by-article layout, was one of the best which the Committee had received. Costa Rica had been the first country to ratify the Covenant and the Optional Protocol, thereby setting an example to the rest of the world; it had also been the first country to ratify the American Convention on Human Rights. It was actively participating in all international efforts to strengthen the machinery for the protection of human rights, and it had supported the proposal that a United Nations High Commissioner for Human Rights should be appointed.

25. A striking feature of the Costa Rican nationality rules was that, under article 13 of the Constitution, the child of a Costa Rican mother as well as of a Costa Rican father, acquired Costa Rican nationality, thereby ensuring equality of the sexes. It was also gratifying to note that article 13 (2) and (3) of the Constitution gave a prominent place to the wishes of the person concerned in the choice of nationality.

26. Article 13 (4) of the Constitution gave infants of unknown parentage the right to Costa Rican nationality, but it would be interesting to know what happened in the case of a child born in Costa Rica of Stateless parents. It was his view that States should grant their nationality to all children who were born within their territory and who had no nationality.

27. Some countries deprived their citizens of their nationality in cases of conflict between the individual and the State. Article 12 (4) of the Covenant stated that no one should be arbitrarily deprived of the right to enter his own country. Article 22 of the Costa Rican Constitution stated that no requirements could be demanded of Costa Ricans which might impede their entry into the country, and article 32 that no Costa Rican could be compelled to leave the national territory. However, did the country's legislation provide for the deprivation of nationality?

28. Article 19 of the Constitution provided, in its first paragraph, that foreigners should enjoy the same rights as Costa Ricans, subject to the restrictions indicated in the Constitution and the laws. However, the broad provisions of the second paragraph of that article, which stated that foreigners could not take part in the political affairs of the country, could be interpreted as a curtailment of the rights conferred by articles 21 and 22 of the Covenant. Although restrictions obviously had to be placed on aliens with regard to many kinds of political activity, surely they should have the right to express themselves in certain cases - for instance, when an amendment to the law on aliens or a bill to nationalize property, including their own, were being discussed. They should be allowed to voice their criticism whenever the State took or planned to take measures which directly or indirectly affected their status. The second paragraph of article 60 of the Constitution, under which foreigners were prohibited from exercising leadership or authority in unions, was also questionable. Article 22 of the Covenant guaranteed freedom of association to everyone, and participation in union activities was merely a means of protecting a person's economic and social status. Furthermore, it would be interesting to know whether the right of asylum conferred by article 31 of the Constitution was an absolute right or was subject to a discretionary act of the Government.

29. He noted from the English text of the Constitution which had been circulated that, under article 96, parties registered for national elections which did not receive 10 per cent of the votes validly cast had no right to a State contribution. In his opinion, that provision might be in conflict with article 25 of the Covenant. In any event it would appear to discriminate against new political movements, which could hardly be expected to achieve such a high percentage of votes at the start of their existence; the situation would be particularly serious in the case of new political movements supported largely by the poorer sections of the population, which would be in particular need of public subsidies. The constitutional requirement in question might therefore be considered as an obstacle to political freedom and to open political debate and as a means of conferring privileges on established parties. The issue had come before the constitutional court in his country, where the figure of 0.5 per cent had been established.

The meeting rose at 1 p.m.