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ON CIVIL AND
POLITICAL RIGHTS**



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Sixth session

SUMMARY RECORD OF THE 149th MEETING

Held at Headquarters, New York,
on Thursday, 26 April 1979, at 10.30 a.m.

Chairman: Mr. MAVROMMATIS

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Submission of reports by States parties under article 40 of the Covenant

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The meeting was called to order at 11 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 AND 1978 (continued)

United Kingdom (CCPR/C/R/C.1/Add.35 and 39) (continued)

1. At the invitation of the Chairman, Mr. Richard and Mr. Cairncross (United Kingdom) took places at the Committee table.

2. Mr. CAIRNCROSS (United Kingdom), referring to some questions asked concerning the Isle of Man and the Channel Islands, said that those islands had their own prison system, but could not always accommodate people serving long sentences. Consequently, an arrangement had been reached with the United Kingdom whereby men sentenced to 12 or more months' imprisonment in the Isle of Man and Guernsey and to 18 or more months' imprisonment in Jersey, and women sentenced to four or more months' imprisonment, were transferred to the United Kingdom, where the facilities were more suitable.

3. With regard to corporal punishment, a case had come up in the Isle of Man as a result of an individual petition under the optional procedure laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms. The European Court had decided that the punishment given was degrading in the sense defined in article 3 of that Convention. The United Kingdom Government had transmitted the Court's decision to the Lieutenant Governor of the Isle of Man and informed him that, in the United Kingdom's opinion, the judicial use of corporal punishment violated the European Convention. Subsequently, the judicial authorities of the Isle of Man had drawn the findings of the European Court to the attention of the people empowered to pronounce such sentences. Such punishment still existed in the legislation of the Channel Islands, but, in the light of the findings of the European Court, the judicial authorities of those islands considered that such sentences could not be imposed.

4. With regard to the electoral system, he pointed out that in the Isle of Man the legislature was composed of a lower house (House of Keys), consisting of 24 members elected by universal suffrage and an upper house (Legislative Council), whose members were elected by the lower house, although some of them were members ex officio. In Jersey, there was a single house consisting of the Bailiff, the Lieutenant Governor, 12 senators and 28 members elected by universal suffrage. The other members of the State assembly were the Constables elected by the parishes and two ex officio members. The situation was very similar in Guernsey, where the Bailiff was President of the House and there were two legal officials who were members ex officio, but without a vote, 33 members elected by universal suffrage, 10 representatives of the local districts and 12 senators elected by a small electoral college.

5. With regard to the application of emergency laws in the Channel Islands, for emergencies of a civil nature, for example those affecting food distribution, the local legislation applied. United Kingdom legislation on terrorism was applied in the islands in consultation with their authorities.

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(Mr. Cairncross, United Kingdom)

6. The right of peaceful assembly was guaranteed by customary law. The law promulgated in Jersey in 1797 referred to riots and forbade disorderly meetings of 12 or more people, but that did not mean that the holding of public assemblies authorized by law and by custom was in any way forbidden, prevented or restricted; that meant that even at that time the right of peaceful assembly had been recognized, and that right had persisted unchanged.

7. Mr. RICHARD (United Kingdom) referred first of all to the question of the basis of the United Kingdom judicial system. Most criminal cases were judged by lay persons, but the judges of the higher courts were selected from the barristers. To become a member of the Bar Association, it was only necessary to pass the requisite examinations; moreover, access to the university was open to all and there was a wide system of State scholarships.

8. With regard to the question of access to public service, it should be remembered that article 25 of the Covenant granted that right to all citizens, but that could be interpreted as applying to citizens of the United Kingdom only. Nevertheless, under the nationality rule, that right was also granted to British subjects and citizens of the Irish Republic. A British subject meant any citizen of a country belonging to the Commonwealth. The requirements established in paragraph 1 of the nationality rule imposed no distinction based on birth or nationality, but were designed to ensure that the person concerned had a reasonable link with the country.

9. With regard to the functions of the political parties in the United Kingdom, he said that first, since there was no written constitution in the United Kingdom, there were also no laws to determine the functions to be carried out by the parties within the constitutional structure of the country. Second, the fact that something was not formally written down did not mean that it did not exist; although not defined, the political party system performed a fundamental function in the United Kingdom, and the same could be said of the Cabinet. Third, when mention was made of the party system, that did not refer solely to the three main parties but to all, including the Communist Party and other minor parties. It would certainly not be democratic for the legislation to attribute a specific constitutional role to any particular party. Finally, it would not be correct to consider that there were no differences between the political parties in the United Kingdom. The wide range of parties taking part in the current electoral campaign proved the contrary. Of course they all had one common characteristic, because they performed their activities within the democratic system, but the policies they advocated were fundamentally different.

10. Mr. MOVCHAN said that the replies to his questions concerning the functions of the political parties in the United Kingdom convinced him that it would be preferable for those functions to be defined in written laws, because that would avoid confusion. A written constitution or a written law was a suitable reflection of the way in which an institution was defined and established in society.

11. The non-existence of written documents gave rise to personal comments. A common characteristic of the various reports submitted by the United Kingdom was that they reflected the opinions of the people who had written them. What

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(Mr. Movchan)

interested the Committee was not individual research but the relation between an international instrument and national legal instruments and administrative measures. The Committee should know how the domestic laws of a country reflected the obligations assumed under the Covenant. Unfortunately, the reports submitted by the United Kingdom and the replies given by its representatives made it impossible to form a judgement in that respect.

12. With regard to article 2 of the Covenant, for example, he wondered whether there was any legislation in the United Kingdom which prevented discrimination in any form. He also wondered if there was any legal instrument which guaranteed equality between men and women (art. 3); there had been no reply on either of those points. Nor had there been a reply to the question whether there were laws in the United Kingdom which forbade torture and cruel, inhuman or degrading treatment. It should be remembered that in the United Kingdom, corporal punishment for children was allowed and that prison sentences could be given to children over 12 years of age, both of which appeared to constitute inhuman treatment. If the law did not forbid such treatment, it must be concluded that the provisions of article 7 of the Covenant were not applied in the United Kingdom.

13. With regard to the situation in the dependent territories, he thought that 19 years after the colonial system had collapsed, it did not seem justifiable to speak of dependence, a situation which had been basically overcome by mankind some time previously.

14. With regard to the explanation to the effect that there were no differences between the Labour Party and the Conservative Party in the United Kingdom, he said that in fact neither of the two parties had the aim of making any fundamental changes in the economic and political basis of society. With the passage of time, executive power had passed from one party to the other but the situation had not changed and there was no legislation with regard to non-discrimination.

15. It was clear that in accordance with the United Kingdom system, the party which won the elections assumed a leadership function since those directing it formed a government from the members of their own party. As a result of the electoral system in force, which was of very long standing, no party other than the Conservative or Labour Party had ever won an electoral victory.

16. In conclusion, he said that he had thought it his duty, as a member of the Committee, to put questions with regard to the legislative measures adopted by the United Kingdom to implement the provisions of the Covenant and added that the replies had not been completely convincing. Nevertheless, he recognized the efforts made by the United Kingdom delegation to dispel the doubts which had arisen and was satisfied with its co-operation and the constructive dialogue which had taken place.

17. Mr. RICHARD (United Kingdom), replying to Mr. Movchan with regard to the functioning of the party system in the United Kingdom, said that in an election in which all parties were free to participate and use the mass media, it was

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(Mr. Richard, United Kingdom)

evident that if a party did not win it was because the electorate did not wish to vote for it. In the specific case of the British Communist Party, he believed he was right in saying that only two of its members had succeeded in becoming members of Parliament. Perhaps that situation might change in the future and if it did, it would not be in spite of the party system but precisely because of it.

18. In reply to the question put by Mr. Movchan about the relationship between the functioning of institutions and the non-existence of a written constitution, he referred to the development of democratic institutions over the 900 years of United Kingdom history without a written constitution and said that as far as the implementation of the Covenant was concerned, what mattered was the treatment that people received and the way in which the law worked in practice. In that respect, anyone could ascertain in person in the United Kingdom or by reading the newspapers the position there in the field of civil and political rights.

19. Mr. Richard and Mr. Cairncross (United Kingdom) withdrew.

Chile (CCPR/C/1/Add.25 and 40) (continued)

20. At the invitation of the Chairman, Mr. Diez (Chile) took a place at the Committee table.

21. The CHAIRMAN read out the following statement on behalf of the Committee regarding the report submitted by Chile under article 40 of the Covenant on Civil and Political Rights:

"The Human Rights Committee, having studied the two reports presented by the Government of Chile (CCPR/C/1/Add.25 and 40) and having heard the answers given by its representatives during the examination of these documents, taking into account the reports of the Ad Hoc Working Group and the resolutions of the General Assembly of the United Nations on the human rights situation in Chile, finds that the information provided on the enjoyment of human rights set forth in the Covenant and the impact of the state of emergency is still insufficient.

"The Committee invites the Government of Chile to submit a report in accordance with article 40 of the Covenant and to furnish specific information on restrictions applicable to the rights and freedoms under the Covenant during the present period of the state of emergency."

22. Mr. DIEZ (Chile) said that the Government of his country had submitted the report and the corresponding additional reports in implementation of the Covenants ratified in 1972. His delegation, which had attended the Committee meeting in implementation of those Covenants, was of the firm opinion that resolutions of United Nations bodies and reports by ad hoc United Nations groups had nothing to do with the Committee because they were absolutely distinct legal entities and because such reports and resolutions had been approved by countries which were not parties to the Covenant or members of the Committee. Consequently,

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(Mr. Diez, Chile)

Chile rejected the preambular part of the statement which the Chairman had read out. Nevertheless, in implementation of the Covenant, it would submit a further report to the Committee, as requested.

23. Mr. Diez (Chile) withdrew.

24. The meeting was suspended at 11.50 a.m. and resumed at 11.55 a.m.

Iran (CCPR/C/1/Add.16 and 26 and Corr.)

25. At the invitation of the Chairman, Mr. Shemirami (Iran) took a place at the Committee table.

26. Mr. SHEMIRAMI (Iran), referring to the initial and supplementary reports submitted by Iran under article 40 of the Covenant, said that not only did they not reflect the reality of the situation regarding the status of civil and political rights but that they constituted a conscious attempt to cover up the gross and widespread violation of fundamental human rights and individual freedoms. An expert from the former régime had actively participated in that attempt and, indeed, had supervised the preparation of the report.

27. Although the former régime had tried to give a favourable picture of the situation in the country with regard to civil and political rights, evidence had now emerged of the degree of repression to which the population had been subjected and the tortures and political murders which had been committed. Now that the revolution had done away with the reign of the Pahlevi dynasty, the most urgent task was to bring about a fundamental social and economic restructuring and start moving towards the establishment of a new society based on respect for human dignity, equality, freedom and justice for all. To that end, a new constitution would be drafted and elections for a constituent assembly would be held.

28. As the Government of Iran had declared a total break with the former régime, a clear line should be drawn between a report submitted by the former régime and the obligations under the Covenant. Iran was currently passing through a revolutionary process which was laying down the foundations of a new society. As a State party to the Covenant, Iran would in due course submit its report to the Committee in conformity with article 40.

29. The CHAIRMAN, referring to the statement by the Iranian representative, said he felt that none of the members of the Committee would wish references to be made to a colleague in his absence; every member of the Committee had been elected and exercised his functions in a personal capacity as an expert and did not represent his country of origin.

30. The Committee would await with interest the new report which the Government of Iran was to submit as soon as the constitutional process had been completed.

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STATUS OF SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

31. Mr. MAZAUD (Assistant Director, Division of Human Rights) said that initial reports had so far been received from 30 States parties, including the report of Canada, which was still in the process of translation and reproduction. Additional information had also been received from six States parties. The Committee had considered the additional report of Ecuador at its last session and had completed consideration of the supplementary report of the United Kingdom at its current session. It had also been decided at the current session to postpone consideration of the supplementary reports of Cyprus and the Syrian Arab Republic. The Government of Tunisia, as it had promised when its report was considered, had sent the legislative and other texts requested, which were now available to the Committee. A list of the initial reports and additional information received from States parties had been distributed to Committee members for information.

32. Among the reports expected in 1977, those of Colombia, Costa Rica, Iraq, Jamaica, Kenya, Lebanon, Mali, Rwanda, the United Republic of Tanzania and Uruguay had not been received. In accordance with the Committee's decision in each case, one or more reminders had been sent to those States parties. The Committee had decided at its fifth session to ask the Chairman to contact the representatives of those States parties in order to call their attention to the situation.

33. Of the reports due in 1978, those of Zaire, Suriname, Guyana and Panama had not yet been received. The report of Poland was still being prepared for publication.

34. At its fifth session, the Committee had not adopted any decision concerning steps to be taken in connexion with the reports due in 1977 and 1978. He reminded the Committee that it should give the Secretariat instructions on the matter.

35. In addition to the reports of Cyprus, the Syrian Arab Republic and the United Kingdom (in connexion with Non-Self-Governing Territories), the supplementary report of Finland and four initial reports - those of Barbados, Mongolia, Poland and Canada - were ready for consideration.

36. The States parties which should submit reports in 1979 were the Dominican Republic, Guinea, Senegal, Peru, Venezuela, Portugal, Austria and Italy. Those States had been informed of their obligation to submit their reports during the current year.

37. To date, 55 States had acceded to the Covenant and 21 to the Optional Protocol. Two others (Gambia and India) had acceded only recently, and the Covenant was not yet in force in respect of those countries.

38. With reference to the deposit of instruments of ratification and accession, he drew the Committee's attention to document CCPR/C/2/Add.1 and 2, containing statements, reservations, notifications and communications relating to the Covenant and the Optional Protocol.

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39. The CHAIRMAN said that, at its fifth session, the Committee had entrusted him with the task of contacting the Permanent Representatives of the States parties which had not submitted their respective reports. He had been able to fulfil that duty with respect to Canada, Suriname and Uruguay but not with respect to the other States, since he had not had an updated list of the States parties in that position. In the interim, Canada had submitted its report, and Suriname would do so within one month; Uruguay apparently would not do so in the near future.

40. With regard to the reports due in 1977, all the States parties had been sent at least three reminders, with the exception of Tanzania, which had been sent only one. In his view, nothing would be achieved by sending an additional reminder, and he therefore suggested that the Committee should apply the relevant procedure under article 69 of the rules of procedure.

41. Mr. SADI said that, of the 10 States parties mentioned, Lebanon was a special case, because of the situation which had prevailed there for several years, and perhaps warranted making an exception.

42. The CHAIRMAN recalled that other members of the Committee had in the past expressed similar views with regard to Lebanon. Nevertheless, the representatives of that country should contact the Committee in order to indicate the difficulties which they were encountering.

43. Sir Vincent EVANS said that it was up to the Committee, under article 69 - especially paragraph 2 - of the rules of procedure, to determine the most effective and suitable way to encourage States parties to fulfil their obligations under the Covenant. In his view, the ambassadors of the States in question should be contacted. The Committee should ask the Chairman to bring to the attention of each ambassador, including the Ambassador of Lebanon, the fact that the great majority of the States parties to the Covenant had already submitted the reports required, and that the Committee hoped to receive his country's report as soon as possible.

44. Mr. GRAEFRAETH suggested that a special reminder should be sent to Uruguay, whose report was of special importance in the light of the many communications received from the citizens of that country.

45. The CHAIRMAN repeated that it was his impression that Uruguay would not submit its report. Apparently, the Ambassador had forwarded the Committee's request to his Government, but no action had followed.

46. Mr. TARNOPOLSKY said that the members of the Committee should hold consultations concerning the reports which had become due in 1977 and proposed that a decision on the matter should therefore be postponed until the following meeting.

47. The CHAIRMAN said that, if there was no objection, he would take it that the Committee agreed to adopt that proposal.

48. It was so decided.

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49. Mr. MAZAUD (Assistant Director, Division of Human Rights), referring to the reports supplementing those which had been considered at the Committee's second and third sessions, said that, in accordance with the Committee's decision, the Secretariat had sent reminders on 24 November 1978 to the State parties which should supply additional information. Hungary, Czechoslovakia, Denmark and the Libyan Arab Jamahiriya had not responded to those reminders.

50. With regard to the reports considered at the fourth and fifth sessions, the Committee had not then requested that reminders should be sent to those States parties whose supplementary reports had become due.

51. The CHAIRMAN, referring to the reports due in 1978, suggested that a reminder should be sent to the States in question, with the exception of Suriname, which had promised to submit its report within one month. If there were no objections, he would take it that the Committee agreed to adopt that suggestion.

52. It was so decided.

53. The CHAIRMAN, referring to the countries whose reports were due in 1979, said that it was not necessary for the Committee to take any steps in that regard, since the Secretariat would send reminders to the Dominican Republic and Guinea.

The meeting rose at 12.35 p.m.