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Sixth session

SUMMARY RECORD OF THE 150th MEETING

Held at Headquarters, New York,
on Thursday, 26 April 1979, at 3 p.m.

Chairman: Mr. MAVROMMATIS

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The meeting was called to order at 3.35 p.m.

STATUS OF SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT
(CCPR/C/VI/CRP.1)

1. Mr. ANABTAWI (Secretary of the Committee) said that the third reminder sent to States whose reports had been due in 1977 read:

"The Secretary-General of the United Nations presents his compliments to the Minister for Foreign Affairs of ... and has the honour to refer to his notes verbales of 30 September 1977 and 22 February 1978 concerning the report of His Excellency's Government to be submitted under article 40 of the International Covenant on Civil and Political Rights.

"At its fourth session, held in New York from 10 July to 2 August 1978, the Human Rights Committee noted that the report of ... which was due on ... had not yet been received. In accordance with rule 69 of its provisional rules of procedure, the Committee, at its 94th meeting, decided to transmit through the Secretary-General to His Excellency's Government a further reminder concerning the submission of its initial report, with particular reference to paragraph 2 of the above-mentioned rule 69.

"Attention may be drawn to the fact that the Human Rights Committee, noting that the Economic and Social Council, by resolution 1978/20 adopted at its first regular session for 1978, exempted States Parties to the International Covenant on Civil and Political Rights from submitting reports on similar questions under the periodic reporting procedure established in Economic and Social Council resolution 1074 C (XXXIX), expressed the hope that this resolution would encourage the States Parties to that Covenant to promptly discharge their obligations under article 40 of that Covenant."

It would be seen from paragraph 42 of the annual report of the Committee for 1978 (A/33/40) that the text had been approved by the Committee at its fourth session.

2. The CHAIRMAN said that there had been two suggestions as to how the Committee should proceed. Mr. Sadi had suggested that a further reminder should be sent, quoting the text of rule 69 of the rules of procedure, while Sir Vincent Evans had suggested that the Chairman might make more official contact with the representatives of the States parties in question. It might be possible to combine the two suggestions. He might inform the representatives concerned that, if its request was not complied with, the Committee would find it extremely difficult to avoid mentioning the fact in its report which was to be adopted in August 1979. It might, however, be suggested to them that if they could give some indication as to when their reports could be expected, the Committee might find it possible to avoid such a reference.

3. A similar line might be taken in the case of the four countries from which additional information was awaited.

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4. Mr. MOVCHAN said that, in the case of initial reports, article 40 of the Covenant gave the Committee a juridical basis for sending reminders. He had no difficulty as far as the text read out by the Secretary was concerned.

5. As far as additional information was concerned, however, although the Committee might have a case for sending a reminder if the Government in question had indicated that it would send the information within a specified period and had failed to do so, there appeared to be no legal basis for sending one in the absence of such an indication.

6. The CHAIRMAN said that, although he realized that there was a difference between a case in which there was a statutory obligation and one in which a State had volunteered to give additional information, he wished to remind the Committee that States had been requested to submit information before the end of March 1979, and some form of follow-up action had to be taken. There was no urgency about the matter, however, bearing in mind that consideration of 14 reports was still outstanding. He might merely give an oral reminder to the four countries concerned.

7. Sir Vincent EVANS said that the approach outlined by the Chairman appeared to be the best procedure. He suggested, however, that when the Chairman spoke to the representatives of the States that had undertaken to provide information, he should hand them a letter or an aide-mémoire on behalf of the Committee, for transmission to their Governments.

8. The first paragraph of the reminder to the States parties that had not yet submitted their reports under article 40 of the Covenant might be strengthened, or there might be a new paragraph, referring more specifically to the obligations under article 40 of the Covenant. In handing over the communication to each of the representatives concerned, the Chairman might impress upon them that the majority of States had already submitted their reports and that the Committee would have to refer to the matter in its report to the General Assembly unless the reports of the States parties concerned were received in due time.

9. Mr. LALLAH said that he wished to know what action, if any, the Secretariat had already taken vis-à-vis the States that had undertaken to provide further information. Had the summary records of the preceding session of the Committee been transmitted to them as a means of reminding them of the questions to which replies were required?

10. Mr. MAZAUD (Assistant Director, Division of Human Rights) said that the summary records would not be transmitted in that way in the absence of an indication by the Committee that they were to be sent as reminders, since they were usually sent to all States as a matter of course.

11. Mr. LALLAH said that representatives who appeared before the Committee were frequently told that they would have the summary records to refresh their memories. They should not be expected to sift through a large assortment of United Nations documents in order to find the relevant summary records. A representative of a State party who had taken the trouble to appear before the Committee and had been co-operative enough to offer to furnish additional information should be given more help in that direction.

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12. The CHAIRMAN said that what Mr. Lallah no doubt had in mind was that the summary records should be sent to the Governments concerned, with an accompanying letter drawing their particular attention to the paragraph in which it was stated that they had undertaken to send a further report, and adding that the summary records were being dispatched to enable the Government to act in accordance with them.

13. The Secretariat might be asked to provide an aide-mémoire on the lines suggested by Sir Vincent Evans, which the Chairman could hand to the representatives of the 10 countries to which reminders had already been sent.

14. After an introductory paragraph, reference should be made to the Government's undertaking, to the reminders that had already been sent and to the fact that the whole matter would be re-examined at the next session of the Committee, when, unless replies had been received, it would be extremely difficult for the Committee to avoid mentioning the failure of the Governments concerned to comply with their contractual obligations.

15. It was so decided.

16. The CHAIRMAN suggested that he should try to obtain from the four countries from which additional information was awaited some indication as to when the reports in question could be expected, so that he could report back to the Committee in August 1979.

17. It was so decided.

18. The CHAIRMAN suggested that, in the case of Lebanon, he should hand the representative a similar letter and should explain that while it understood the reason for the delay, the Committee would nevertheless appreciate an indication as to when the report might be expected so that it could avoid including that country in the list of those which had failed to respond.

19. It was so decided.

20. Mr. TARNOPOLSKY said that, unless there was a shortage of reports, the Committee might bear in mind the suggestion of a number of members that it should avoid dealing with too many reports from one region or from countries with the same constitutional outlook.

21. The CHAIRMAN said that there had, in fact, been a good diversification at the current session, since the Committee had considered two reports from Western Europe, two from socialist countries and one from a third world country. It was also due to examine two further reports from third world countries and one from a socialist country.

22. It was even more important to adhere as closely as possible to chronological order, although he had informed one or two countries that, if they gave the Chairman or the Secretariat in advance a good and sufficient reason for wishing their reports to be postponed, that could be taken into consideration.

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(The Chairman)

23. First reports were available from Barbados, Mongolia, Poland, the Ukrainian Soviet Socialist Republic and Canada, and might be placed on the agenda, together with the unfinished part of the United Kingdom report. It was not certain whether or not they would all be full reports that could justify consideration over the usual three sessions. The Committee might begin with its second examination of three reports - those of Cyprus, Syria and Finland.

24. Mr. LALLAH said he wished to point out that the Canadian report might cover a number of provinces and might therefore amount to something like five reports.

25. The CHAIRMAN said that the Canadian report was the last report in chronological order.

26. Sir Vincent EVANS suggested that the Syrian Government might be requested to provide more information than had been given in its sparse supplementary report. The Chairman might speak to the Syrian representative on that point.

27. The CHAIRMAN said that the point had been mentioned to the Syrian Government when it had been informed of the possibility of postponement, and the Government had taken note of it. The Committee might postpone its consideration of the Syrian report for the time being.

28. Replying to a question from the CHAIRMAN, Mr. TARNOPOLSKY said that consideration of the Canadian report should proceed.

29. Mr. GRAEFRATH said that it was essential to take the time factor into consideration.

30. The CHAIRMAN said that, with the six weeks' time-limit for submission, the Committee was unlikely to have many communications to consider on their merits. New communications were more a question of concern for the Working Group than for the Committee; the latter would probably require to spend no more than two days on them. A further two days would be taken up with the adoption of the report and one day with organizational matters. The Committee would be unable to meet on the last Thursday of the session when the last summary records and copies of reports were being prepared. A further question that should go on the agenda was that of co-operation with the specialized agencies.

31. Mr. MOVCHAN said there were many communications from Uruguay which had already been brought to the attention of the State party; he suggested that at its next session, the Committee should take up consideration of the merits of those communications.

32. It was his understanding that the Committee had already decided to remove the question of co-operation with the specialized agencies from its agenda. There had been a consensus to that effect.

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33. The CHAIRMAN said that in its report to the General Assembly, the Committee had stated that its members had differed over the question of the reports to be transmitted to UNESCO and had decided, for lack of time, to revert to the matter at a future session (A/33/40, para. 606). That was what he had had in mind when referring to the specialized agencies.

34. He was sure that all members shared Mr. Movchan's concern regarding the need to expedite consideration of the communications on which the final stage would soon be reached. However, since the Government concerned had been granted a six-week extension, which would be counted from May, and the authors of the communications had another four weeks in which to respond, it would be the end of July before those communications were actually ready for examination. He suggested that approximately two thirds of the October session should be devoted to communications.

35. Mr. TOMUSCHAT said the Committee must also consider what to do with reports of States parties which had already been discussed in full, such as the report from Ecuador. The Committee would soon be reaching the final stage of consideration of many other reports and must fulfil its obligations under article 40, paragraph 4, of the Covenant.

36. Mr. LALLAH asked whether it might not be possible for the Secretariat to provide members with the documents on communications two or three days before they were to be considered. Members of the Committee who were not members of the Working Group had to rely on the documents to familiarize themselves with each case and found it very difficult to do so when they received the documents on the same day that the Committee was to consider them.

37. He had hoped that it would be possible at the current session to discuss the very important question just raised by Mr. Tomuschat. The Committee must set aside some time for discussion of that matter.

38. The CHAIRMAN said he hoped that at the next session it would be possible to leave one morning open for consultations on the issue raised by Mr. Tomuschat.

39. It would be extremely difficult to consider all of the pending reports at the next session; he therefore suggested that the Committee should take up only one or two of the new ones, in order to have a total of no more than six reports on the agenda.

40. Mr. TARNOPOLSKY said that another area in which additional Secretariat assistance was required was in connexion with the "second-round" consideration of reports. In the case of the United Kingdom report, for example, it would have been most helpful if members had had before them a single document containing a compilation of the questions raised by members together with the oral and written responses of the United Kingdom Government, instead of having the material in four separate documents.

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41. The CHAIRMAN informed members that he understood the Secretariat would make an effort to supply the documentation in the manner suggested by Mr. Tarnopolsky when similar cases came up in future.

42. Referring to the matter of consideration of the merits of communications, he said he did not think it would be very useful to have the plenary Committee perform that task. It might be possible to appoint two or three working groups, each one of which would consider and make its recommendations on a few communications. It would not be fair, in the consideration of the merits of communications, to rely entirely on the fact-sheet and the summary. In each case, at least one of the members assigned to it should know the language in which the original communications were written and go through the whole record.

43. Mr. TOMUSCHAT said he was happy to learn that the Secretariat had considered Mr. Tarnopolsky's proposal regarding documentation to be feasible.

44. The CHAIRMAN said that, if he heard no objection, he would take it that members agreed that the new working group should consider the question of how to expedite the consideration of communications, including his suggestion that there should be three or four working groups, each of which would be assigned one or two communications. The working groups would present their recommendations on the matter to the plenary Committee.

45. It was so decided.

46. Mr. DIEYE said that he felt some concern regarding the method that had been followed by the Committee in consideration of the reports. Under the current system, the State party introduced its report in the morning, members raised questions in the afternoon, and the State party replied on the following day. That took at least one and a half days. He felt it would be less time-consuming to follow with regard to new reports the same system that had been followed in the second round. It should be assumed that all members would have read the initial report before it was taken up by the Committee. Therefore, the introduction by the representative of the State party could be very brief and could then be followed by a dialogue such as that which had taken place with the representative of the United Kingdom.

47. The CHAIRMAN said he acknowledged the importance of constantly evaluating the Committee's method of work. However, he had found from experience that most of the introductory statements by representatives of States parties were succinct. The more elaborate introductions had been made on the basis of guidelines suggested by the Committee. He did not feel it was fair to limit the time allowed for the introduction of the report unless members also limited the time allowed for their questions. He did not think the dialogue method used for the second round could be useful in the initial consideration of a report because members' questions often raised very technical legal issues which could not be answered immediately.

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48. Sir Vincent EVANS said it was important to distinguish two stages in the dialogue with reporting States. During the first stage, the Committee sought to complete its information regarding the human rights situation in the country. During the second stage, the Committee's aim was to identify human rights issues that might be discussed with the representative of the State party with a view to helping it improve the human rights situation of its people. Also, that exercise often provided a valuable learning experience for members. He agreed with the Chairman that during the first stage, the State party should be given an adequate opportunity to consider the questions raised by members and to formulate its reply. That was the only way in which the Committee could obtain reliable information.

49. With regard to the introductory remarks by the representative of the State party, he pointed out that in some cases, for example, that of Spain, there had been important developments on which up-to-date information was needed. In most cases, however, it would be reasonable to inform the representative of the State party that there was no need for a long introduction.

50. Mr. LALLAH said he agreed with the Chairman and Sir Vincent Evans. If the Committee adopted the "second-round" method for initial consideration of reports, it would only make its task more difficult. He did not think the Covenant lent itself to that kind of approach, particularly in view of the many matters on which questions might be raised under article 2 of the Covenant.

51. Mr. GRAEFERATH observed that the discussion, which had originally related to the question of what reports to schedule for consideration at the next session, had turned to the more general question of the Committee's work methods. Since there was no quorum, he suggested that the question of work methods should be left aside until a meeting at which more members were present.

52. Mr. DIEYE said that the question of what reports to consider at the next session was closely linked to the question of work methods. In his view, the Committee should from time to time scrutinize its work methods and change them if necessary. If it continued to work at the same pace it would eventually be faced with a considerable backlog. He agreed that the question of work methods should be discussed fully at a future meeting when more members were present.

53. Mr. TARNOPOLSKY suggested that the Committee should schedule one or two more reports than it would actually take up, since the consideration of some reports was inevitably postponed. In that connexion, some priority should be given to reports which had already been postponed once, unless the State party concerned requested a further postponement. In addition, an effort should be made to include two second-round reports; otherwise, the Committee would be unable to meet its obligations to States parties under article 4 of the Optional Protocol with respect to communications.

54. The CHAIRMAN said that he had the impression that Syria would prefer the Committee not to consider its report at the summer 1979 session.

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55. Sir Vincent EVANS suggested that the Chairman, in consultation with the Secretariat, should exercise a degree of discretion in determining which second-round reports would be taken up at the next session.

56. The CHAIRMAN said that the agenda for the next session would be prepared having regard to the views expressed by members at the current meeting and the wishes of States parties whose reports were due to be examined.

57. Mr. MAZAUD (Assistant Director, Division of Human Rights) recalled that the Secretary-General had submitted to the Committee at its fifth session a note indicating the parts of reports from States parties which fell within the fields of competence of ILO and UNESCO and which, in accordance with the provisions of the Covenant, should be transmitted to those agencies. At that session the Committee had taken the necessary decision to transmit the relevant parts of the reports to the two specialized agencies concerned. Since that time, a number of new reports had been circulated, and the Secretary-General had prepared a further note (CCPR/C/VI/CRP.1) indicating those parts of the new reports which, in his view, fell within the fields of competence of ILO and UNESCO for decision by the Committee.

58. Mr. LALLAH said that, as the Secretary-General had followed the same procedure in respect of the new reports as he had at the preceding session, he agreed that the relevant parts of the reports could be transmitted to ILO and UNESCO.

59. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to transmit to ILO and UNESCO the parts of the new reports listed in the note by the Secretary-General (CCPR/C/VI/CRP.1).

60. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS

61. Mr. TOMUSCHAT, recalling that at a previous session one member had had to be hospitalized as a result of sudden illness and had had to pay an expensive medical bill, asked whether members were covered by any medical and accident insurance while attending the sessions of the Committee in New York and Geneva.

62. As to travel arrangements, the practice of issuing economy-class excursion tickets sometimes resulted in considerable inconvenience to members, as such tickets did not allow stopovers or changes in travel dates. It should be borne in mind that members did not travel for personal pleasure but rather to take part in the important work of the Committee. The standing of the Committee should be reflected in the arrangements made for the travel of its members, and he urged the Secretary-General to look into the matter.

63. Sir Vincent EVANS endorsed Mr. Tomuschat's comments with regard to travel arrangements. He had at times been upset and offended by the treatment he had received from the United Nations in that respect.

64. As to medical contingencies, he said that he generally took out an individual insurance policy, but such insurance was costly and had to come out of the totally inadequate honorarium which members received. The question of honoraria should be brought to the personal attention of the Secretary-General, who should make appropriate recommendations to the Fifth Committee to improve the situation.

65. Mr. MOVCHAN endorsed the views expressed with regard to medical insurance and honoraria, which bore out his contention that economic and social rights formed the material basis for the enjoyment of the human rights protected under the Covenant. Medical care was extremely expensive in New York and Geneva; members would find themselves in an entirely different situation if the Committee met in the Soviet Union, for example.

66. As to honoraria, he said that from his own experience, service in a personal capacity in the Human Rights Committee was much more demanding and time-consuming than work in a representative capacity in intergovernmental bodies.

67. Lastly, he expressed disappointment over the conference room which had been made available to the Committee for the current session. It had been difficult for members to work in such a small and poorly ventilated room, which effectively excluded attendance by the general public and the press. It was to be hoped that a more suitable conference room could be provided for future sessions.

68. Mr. LALLAH said that, in view of the high cost of medical treatment in both New York and Geneva, he hoped that it would be possible for the United Nations to provide members of the Committee with some form of health insurance. The Organization might find it very difficult to engage members of the appropriate ability if it tried to get them "on the cheap".

69. Mr. van BOVEN (Director, Division of Human Rights), replying to the questions raised, concurred with the previous speakers regarding the high cost of medical and dental treatment, and shared the view that the United Nations should ensure that the economic and social rights of the members of the Committee were protected. However, even if account was taken of the special nature of the Committee, which had been established by a binding instrument, there were numerous other United Nations expert bodies whose members served in their individual capacity, and any arrangements made in respect of health or accident insurance would also be applicable to those bodies.

70. With regard to air travel, he agreed that the recent increase in special classes of air travel had led to more and more restrictions with respect to stopovers and dates, with the result that members of the Committee had frequently found it difficult to attend some of the Committee's sessions. He had raised that issue with the travel services in Geneva, and it had sometimes been possible to make ad hoc arrangements to deal with the problem. That was an unsatisfactory state of affairs, however, and a general solution was needed. He assured the Committee that he would continue to pursue the matter.

71. Turning to the question of honoraria, he recognized that the membership of the Committee was being restricted to those who continued to receive their regular salary, either because they held a post in an academic institution or because they were in government service. That situation virtually precluded the possibility of appointing members with a private practice. That matter too, had been raised with the budgetary authorities, and the Secretary-General had made certain proposals, which again would apply to all those bodies whose members received

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(Mr. van Boven)

honoraria. Those proposals, to the effect that honoraria should be increased, had been considered by the Advisory Committee on Administrative and Budgetary Questions and were currently pending before the Fifth Committee of the General Assembly.

72. As to conference facilities, he thought that the arguments presented by Mr. Movchan were very cogent. The Committee deserved more publicity than it was receiving; there were many short-comings in the public relations aspect of its work. With specific reference to the small conference room assigned to the Committee for its current session, he reminded the Committee that, because of the reconstruction work in progress at Headquarters, certain inconveniences were unavoidable.

73. Sir Vincent EVANS, reverting to the question of honoraria, said that, in his opinion, the proposals pending before the Fifth Committee were totally inadequate to meet the situation. He expressed the wish that the Secretary-General would review his proposals, especially in the light of article 35 of the Covenant, concerning the emoluments of the members of the Committee, and would consider whether the proposals took due account of the importance of the Committee's responsibilities.

ADOPTION OF FURTHER RULES OF PROCEDURE OF THE COMMITTEE IN ACCORDANCE WITH ARTICLE 39 OF THE COVENANT (continued) (CCPR/C/3; CCPR/C/L.2/Add.1)

74. Sir Vincent EVANS said he wished to introduce a revised draft text of chapter XVI of the Committee's provisional rules of procedure (CCPR/C/3), which concerned the procedure for the consideration of communications received under article 41 of the Covenant. The new text, which was a revised version of that contained in document CCPR/C/L.2/Add.1, incorporated a number of improvements suggested by members of the Committee.

75. The main suggestion made by Mr. Lallah had been that certain provisions which had appeared in separate rules should be merged into one. They concerned questions relating to the Committee's competence to consider communications referred to it by notice given to it under article 41. In that connexion there were three matters to be considered by the Committee: first, the question whether the States concerned had made the necessary declaration under article 41 to make the Committee competent to receive and consider the communications referred to it; second, the question whether the necessary steps had been taken under article 41, paragraphs 1 (a) and 1 (b), by the two States parties concerned with a view to settling the matter between them before the Committee was empowered to intervene in accordance with article 41 of the Covenant; and, third, the question of the exhaustion of domestic remedies. Those matters, which in the earlier version had been covered by two separate rules, namely rule 72, paragraph 2, and rule 77, would be dealt with in greater detail and merged in the proposed new rule 77A.

76. Another fairly important change was based on a comment made by Mr. Movchan, who had felt that a provision included in the original version under which the Secretary-General should, when necessary, request clarification regarding certain matters of information relevant to the consideration of the communications, was putting too much responsibility on the Secretary-General. After reflection, that provision had been omitted from the new draft text. He believed that not much had been lost, and it was the general feeling of those members with whom he had

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(Sir Vincent Evans)

discussed the point that it could be reasonably expected that a communication from a State party would contain all the necessary information, in contrast to a communication from an individual, which might require a great deal of supplementary information.

77. Lastly, several minor suggestions had been made. First, Mr. Lallah had suggested - and he was inclined to agree - that, in rule 73, paragraph 2 (f), of the proposed new text the words "and have not already been submitted to the Committee" should be deleted, as being unnecessary. Second, Mr. Lallah had suggested that rule 73, paragraph 2 (g), should be amended to read "The question whether the same matter is being examined under another procedure of international investigation or settlement". That appeared to be a slight improvement in the language of the paragraph. Third, with regard to rule 75, Mr. Bouziri had suggested deletion of the words "or a summary thereof", since members of the Committee should from the outset be furnished with the full dossier on the case, and a summary would not be adequate. He was inclined to agree with that suggestion.

The meeting rose at 5.45 p.m.