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ON CIVIL AND
POLITICAL RIGHTS**



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HUMAN RIGHTS COMMITTEE

Eighth session

SUMMARY RECORD OF THE 178th MEETING

held at the Palais des Nations, Geneva,
on Monday, 15 October 1979, at 3 p.m.

Chairman: Mr. MAVROMMATIS
later: Sir Vincent EVANS

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The meeting was called to order at 3.20 p.m.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT
(agenda item 3)

1. Mr. ANABTAWI (Secretary of the Committee) said that, since the Committee's seventh session, Costa Rica, Kenya, Mali and the United Republic of Tanzania had submitted their initial reports under article 40 of the Covenant, thus bringing the number of initial reports submitted under that article to 30.
2. The secretariat had not yet received initial reports due in 1977 from Colombia, Jamaica, Lebanon, Rwanda and Uruguay, initial reports due in 1978 from Guyana, Panama and Zaire, and initial reports due in 1979 before the opening of the eighth session from the Dominican Republic, Guinea, Portugal and Venezuela. Two further reports were due before the end of 1979.
3. On 4 October 1979, notes verbales had been sent to the Gambia, the Netherlands, New Zealand and Trinidad and Tobago, whose reports would be due during the first half of 1980.
4. The additional information promised during the second to fifth sessions of the Committee by the representatives of Denmark, the Federal Republic of Germany, Jordan, the Libyan Arab Jamahiriya, Madagascar, Mauritius, Norway and Yugoslavia had not yet been received.
5. It would be recalled that, at its seventh session, the Committee had not taken any decision to send reminders to any of the defaulting States.
6. In addition to the two reports which were to be taken up at the present session, 11 initial reports were awaiting consideration by the Committee. They were, in the order of the dates of their receipt, the reports from Barbados, Mongolia, Canada, Suriname, Iraq, Peru, Senegal, Costa Rica, Kenya, the United Republic of Tanzania and Mali. A supplementary report from Hungary was also awaiting consideration.
7. Sir Vincent EVANS said that an initial perusal of the reports awaiting consideration by the Committee had convinced him that a number of them were not adequate for that purpose. He presumed that all Governments had received the general guidelines regarding the form and contents of reports (CCPR/C/5), but those guidelines seemed to have been disregarded in several cases. It might be useful if the Committee took a preliminary look at some of the reports and, where they were clearly inadequate, requested the Governments concerned to submit more complete information on the measures they had taken in implementation of the Covenant.
8. The Secretary of the Committee had read out a list of States parties which had failed to submit supplementary reports containing the additional information promised by their representatives. In that connexion, he wished to emphasize that the Committee was entitled to expect supplementary written information from any Government whose representatives had been unable to reply orally to questions put by members, whether or not they had given an express undertaking on that point. It was only on such a basis that the Committee could proceed rationally to the second round of its consideration of all reports from States parties.

9. Mr. GRAEFRATH expressed doubts about the wisdom of introducing a new procedure involving, as it were, a provisional examination of States parties' reports, with a judgement as to their adequacy. The general guidelines on the form and contents of reports constituted no more than an invitation from the Committee, with a view to making its work easier. If a Government did not follow those guidelines it must be that it had specifically decided not to do so. From the beginning of its work, the Committee had considered reports drafted in a variety of manners. It was its established procedure, if it felt the need, to request further information after its examination of a report as submitted. It might cause difficulty if the Committee were to change that procedure.
10. The CHAIRMAN replying to a question put by Mr. LALLAH, said that although no formal reminders had been sent after the Committee's seventh session to Governments whose representatives had promised the submission of written replies to questions they had been unable to answer orally, the Secretariat had, as suggested by members, sent copies of the relevant summary records to the Governments concerned.
11. Mr. BOUZIRI said that the question of the submission of reports by States parties was a matter for concern. As the Secretary had informed the Committee, many initial reports were long overdue. In the reports it had examined, the Committee had frequently noted inadequacies. However, the procedure followed to cope with those problems appeared insufficient. In view of the complexities and, frequently, inadequacies of government organization, it was perhaps not surprising if communications from the Committee went unanswered. Accordingly, the Committee ought perhaps to seek other and more effective ways of accomplishing its work. It would be useful, for example, if the Committee had fuller and more direct contact with the Governments concerned. The Chairman or other officers of the Committee could perhaps personally visit the appropriate members of those Governments: a friendly discussion would undoubtedly be more effective than a formal communication.
12. Mr. DIBYE agreed that there was much room for improvement in the Committee's methods with respect to reports from States parties. Since the Committee had established guidelines for the drafting of those reports, efforts should be made to persuade Governments to follow them. There was no doubt, as Mr. Bouziri had suggested, that direct contact was the best method of securing appropriate action. In view of the difficulties which it entailed, that suggestion should be approached with some caution, but it was an important one and deserved further consideration. In any event, there was clearly an urgent need for the Committee to improve its working methods, and it might perhaps set up a small working group to examine possible means of doing so.
13. Mr. OPSAHL observed that, at the Committee's seventh session, a number of suggestions concerning ways of improving its working methods had been made. At that time, the Chairman had said that those suggestions would be discussed at the current session. Further suggestions were now being made. The Committee should set aside a time for discussing all such suggestions, with a view to reaching some conclusions on them.

14. The CHAIRMAN said that the improvement of the Committee's methods regarding reports from States parties was one of the subjects which could be discussed in the proposed informal consultations among members of the Committee. It might also be useful to set up a working group on that subject as Mr. Diéye had suggested.

15. Mr. TOMUSCHAT pointed out that, under article 2, paragraph 1, of the Covenant, each State party was under an obligation to ensure to all individuals within its territory the rights recognized in the Covenant and that, under article 40, paragraph 1, States parties were obliged to report to the Committee on the measures they had adopted to give effect to and ensure enjoyment of those rights. Thus, the Committee was perfectly entitled to expect detailed reports on the measures taken to give effect to each and every article of the Covenant. Without full information, the Committee could not judge whether or not a State party was fulfilling its commitments under the Covenant. It ought not to accept reports that were incomplete and it should certainly ensure that all questions put by members during the consideration of reports were answered either orally or in writing, so that when it came to the second round of its consideration of reports from States parties it had before it reliable and complete information. It might be helpful if the Secretariat could prepare a document setting forth in detail all the questions asked by members of the Committee to which no reply had been received.

16. Mr. MOVCHAN said that, while he had no objection to discussing any subject raised by any member, he wished to point out that agenda item 3 related to the submission of reports and not to their substance. The questions raised by Mr. Tomuschat concerned not the submission of reports but the organization of the Committee's work in considering reports. Moreover, it would be difficult for the Secretariat to produce a document on the lines suggested, which could be no more than a subjective exercise. The Committee's discussion under agenda item 3 should cover aspects customarily discussed under the item, such as the desirability or otherwise of sending reminders.

17. The CHAIRMAN said that, when discussing the item in the past, the Committee had concentrated mainly on the question of delays in submission of initial or supplementary reports. There were, however, no hard and fast rules as to what the item was intended to cover. Some members had given advance notice of subjects which they wished to be discussed at the current session. Such subjects should certainly be considered at some stage; consultations might be conducted to determine the agenda item under which the discussion should be held and the form which it should take.

18. Mr. KOULISHEV said that he shared Mr. Movchan's views on the matters to be discussed under agenda item 3. The Committee should abide strictly by its terms of reference. It should not complicate its procedures by introducing a further phase in its consideration of reports. Requests for additional information from Governments should be made only at the stage when their representatives appeared before the Committee.

19. Mr. HANGA said that there was no difference in nature between the submission procedures referred to respectively in subparagraphs (a) and (b) of article 40 of the Covenant. Some members held the view that if the Committee considered a report to be incomplete it could request the submission of a new report. However, there was no provision in article 40 to require the submission of new reports. The Committee could not place obligations on States beyond those which they had entered into under the Covenant. The reporting procedure laid down in article 40 and in the Committee's rules of procedure should be followed strictly.

20. Mr. LALLAH said that there was little to be gained by going into technicalities. It had rightly been pointed out that the item under discussion was concerned with the submission of initial reports and of additional information. The Secretariat had clearly not intended to make a distinction between initial consideration and follow-up. While he agreed that it must be decided whether or not the submission of a State's report came within the terms of the Covenant, he was not prepared to enter into legal arguments as to what constituted submission. What was required was to find a practical way of ensuring that the Committee had the necessary information to enable it to begin consideration of a particular report. To hold a series of cross-examination sessions would be pointless and would raise difficulties both for the Committee and for the State party concerned. There were at least two instances in which States that had originally submitted incomplete reports had later provided more comprehensive reports which had facilitated the Committee's work.

21. There was little difference between the approaches suggested by Mr. Graefrath and Sir Vincent Evans. While the Committee could not exert compulsion on a State, it could inform it of its wishes in accordance with rule 66, paragraph 3, of its rules of procedure. Coming as he did from a third world country which had few experts to advise it, he could see no objection to the suggestion that the Secretariat should provide guidelines or information on the manner in which other States had solved their problems. The attention of States parties might be drawn to reports submitted by other countries at earlier sessions.

22. It was preferable for the question of additional information and follow-up action to be considered under agenda item 2, relating to organizational and other matters, while the submission of initial reports should be considered under item 3.

23. Mr. MOVCHAN said that he shared Mr. Lallah's views. His chief concern was that the Committee should receive initial reports that were as full as possible. While the Committee could not very well make a formal request that Governments should follow its guidelines, it would be acting entirely within its rules of procedure if it expressed a wish that they should do so. He considered that discussion of the follow-up procedure and of the views of new members should take place in informal consultations.

24. Mr. OPSAHL said that the Committee appeared to be approaching a consensus on how it should deal with the item under discussion. The questions of non-submission, late submission and submission of inadequate reports were closely related. In some cases, States parties themselves had realized that their initial reports were inadequate and had submitted more comprehensive reports without having been requested to do so, although they might have received some informal hints on the subject.

25. Defaulting States should not be sent reminders, but they might, for example, be offered the assistance of a rapporteur appointed by the Committee for the purpose. He would be willing to follow Mr. Bouziri's suggestion if it proved practicable.

26. Mr. GRAEFRATH said that, instead of informing States that their reports were not in accordance with the Committee's guidelines, it would be preferable to send them copies of some of the reports of other States parties, and of summary records, leaving them to decide whether or not they wished to amend their reports. The Committee should give Governments every possible assistance. It could not make its guidelines binding, but States should be encouraged to follow them. He welcomed Mr. Lallah's proposal, which he hoped would provide a solution to the problem.

27. The CHAIRMAN, speaking in his personal capacity, said that the selection of particular reports for transmission to defaulting States would be difficult. He fully agreed that the Committee should remain at the disposal of such States to discuss their difficulties informally. The cases of States with particular problems might be deferred for a year or so in order to avoid repeating the names of countries whose failure to submit reports was justified by their difficulties.

28. He was glad to note that a consensus was emerging on the form of submission of initial or additional reports. The second point raised by Sir Vincent Evans might usefully be discussed in informal consultations.

29. On the question of reports which failed to provide the required information, he wished to remind the Committee of rule 69, paragraph 1, of its rules of procedure. The Committee had itself violated that rule by discussing cases in which States had failed to submit additional information which they had promised but which had not been requested by the Committee. He understood that at least one State had realized that its report was inadequate and was considering the submission of a new report. The item might be kept open in order to ascertain informally whether other States intended to submit further information, in which case they should be given a reasonable time in which to do so. It would then be necessary to depart from the general rule of considering reports in chronological order. Meanwhile, the Committee would have to consider the question of the States that had failed to submit their initial reports due in 1977 or 1978. Lebanon had serious difficulties, and Uruguay, too, had certain problems. Twelve reports were ready for consideration and the Committee might also consider additional information submitted. That would provide it with sufficient work for its next two sessions. It might consider whether it wished to send fresh reminders to defaulting countries or to inform them, through the Secretariat, that it was at their disposal to discuss their difficulties with them informally.

30. Mr. SADI supported the proposal that the Committee should help States parties with the preparation of periodic reports. However, in considering periodic reports, the Committee should not confine itself to requesting further information, when necessary. If the information contained in a periodic report indicated possible violations of the Covenant the Committee should so inform the States parties concerned.

31. Sir Vincent EVANS agreed that, of the five States parties that had failed to submit initial reports due in 1977, Lebanon was a special case. However, the Committee should continue to exert moral pressure on the other four to fulfil their obligations under article 40 of the Covenant. Rather than send a formal communiqué to that effect, it might be preferable for the Committee to ask the Chairman to approach the representatives of those countries directly and impress on them that the fact that their names appeared in a formal list submitted to the Committee at each session, as well as in each report of the Committee to the General Assembly, created a very bad public image.

32. It was high time to call upon Uruguay, in particular, to comply with its obligations under article 40 of the Covenant.

33. The CHAIRMAN said that, if the Committee agreed, he would ask the Secretariat to request the representatives of the four countries in question to meet him and would report to the Committee following those consultations.

34. It was so decided.

35. Sir Vincent Evans took the Chair.

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

36. Mr. HOUSHMAND (Division of Human Rights) drew the Committee's attention to General Assembly resolution 33/171, concerning the United Nations Yearbook on Human Rights, to resolution 26 (XXXV) of the Commission on Human Rights, to which were annexed guidelines for the contents and format of the Yearbook, and to Economic and Social Council resolution 1979/37 approving those guidelines. The first issue of the Yearbook, in its new format, would relate to 1979. However, the financial implications of its publication were not yet available. The Secretariat hoped to begin collecting material for the first issue as soon as possible.

37. The CHAIRMAN said that, personally, he found the guidelines concerned disappointing. It had always been his hope that the Committee would be able to publish a yearbook similar in form to that of the International Law Commission, with one section containing the summary records of its deliberations and another section containing all other relevant documentation. Such an arrangement would provide a more permanent and valid record of the Committee's work. If the Yearbook was prepared in accordance with the suggested guidelines, much would be lost.

38. Mr. GRAEFRATH said that, since the Committee had no power to change a decision already adopted by the Commission on Human Rights and the Economic and Social Council, it would be unable to prevent the publication of extracts from its reports in the new Yearbook. Consequently, if the Committee considered that such extracts would not adequately reflect its work, it should refuse to become involved in, or to accept responsibility for, their publication.

39. The Committee should consider what kind of publication would meet its needs. Many of the terms used in the guidelines, such as "supervisory body" and "parent organ" were not relevant to the Committee.

40. Mr. OPSAHL said he shared the views expressed by the two previous speakers. Under the new guidelines, the character of the Covenant as a separate instrument for the protection of human rights would not be preserved. Moreover, the necessary links between the reports submitted by States parties, their consideration by the Committee and the Committee's conclusions would be lost. The different aspects of the Committee's work should be reflected in a more logical manner.

41. Yearbooks were intended for study, not by the public at large, but by specialists in the field concerned. Consequently, the Committee should continue to press for the publication of a yearbook edited by the Secretariat. If necessary, consideration could be given to the possibility of publication outside the United Nations system, since it was not the Committee's link with the United Nations, but the Covenant that constituted the basis for its work.

42. Mr. LALLAH said he shared the views expressed by Mr. Opsahl. The Yearbook, in its new format, would not meet the Committee's needs. The Covenant should be seen by the public as something separate and worthwhile. The Committee should simply take note of the decisions of the Commission on Human Rights and the Economic and Social Council and continue to hope for the publication of its own yearbook in the near future.

43. Mr. MOVCHAN endorsed the views expressed by previous speakers. The Committee should intensify its efforts to increase awareness of the International Covenants on Human Rights and, in particular, of the International Covenant on Civil and Political Rights. The Yearbook, in its new format, would not give a clear picture of the over-all human rights situation in a given country.

44. He strongly recommended the addition to the Yearbook of a number of specific subdivisions dealing with the Committee's work concerning implementation of the Covenant. It should be made clear which countries had failed to submit reports because they had never ratified the Covenant. The point was to exert pressure on countries to accept international human rights obligations, and to stress the connexion between the latter and foreign policy. He agreed that the Committee should give some thought to issuing a publication of its own with a view to familiarizing the public with its work.

45. Mr. HANGA said that the Committee had an important role to play in the implementation of human rights and must assess its own responsibility with respect to the Yearbook. He disagreed with the recommendation in the guidelines to the effect that the material relating to national developments should be arranged under country headings. It was far better to follow the Committee's procedure of discussing that material, as reflected in the reports, according to the articles of the Covenant. In connexion with Part Two of the guidelines, he wished to stress that the Committee was a body which aimed to promote human rights and could not properly be described as a supervisory body.

46. Finally, he was convinced that the Yearbook was needed in order to enhance public awareness of the Committee's efforts to implement human rights in accordance with the Covenant.

47. Mr. KOULISEV said he shared the concern expressed by some members regarding the guidelines for the Yearbook, especially the procedure of using extracts. He himself would not wish to take on the delicate task of making the selection and felt that an in extenso report was far preferable. He also considered that it would be better to adopt a classification based on the articles of the Covenant rather than to arrange material on national developments under country headings, and found it regrettable that only material reflecting legislative texts, rather than the texts themselves, would be included. As for Part Two of the guidelines, the Committee was not a supervisory body at all; its function was simply to examine States' reports.

48. Finally, he said that the Committee should be provided with an advance text of the Yearbook because its scope was unclear. The Committee should also seek other ways of publicizing its work.

49. Mr. SADI said that he was opposed to any dispersal of efforts to publicize work in the field of human rights. The world was not ready to read what was already available on the subject, and it was pointless for the Committee to add its own publication. He therefore felt that a single yearbook published by the Division of Human Rights was best. The portion of the Yearbook relating to the Covenant should, however, be submitted to the Committee for approval. He was opposed to publishing extracts from States' reports. These reports were part of an on-going dialogue and of no interest to or value for readers outside the Committee. They were often extremely long, and a serious effort would be required to select extracts. Further thought should be given to the contents and format of the Yearbook, and particularly to the advisability of including subject headings.

50. Mr. TOMUSCHAT said that he welcomed the idea of familiarizing the public with the Committee's work and did not share the scepticism expressed by Mr. Sadi in that regard. People did in fact ask if and how they could obtain the Committee's documents, and making them available would therefore fill a gap. State reports were a valuable source of information not merely for lawyers but for the public at large, because they informed people of the human rights situation in their own country. The reports and the proceedings of the Committee constituted an indivisible whole, however, and he felt that the Economic and Social Council had been ill-advised to call for the preparation of extracts, a virtually impossible task. The Committee's views regarding the contents and format of the Yearbook should have been solicited in advance. Unless the Committee could obtain a very broad interpretation of the guidelines, it must try to produce its own yearbook, even if that could be done only through a private publisher. That, of course, would be an unfortunate solution.

51. Mr. DIEYE said that it was extremely important to keep in mind that Economic and Social Council resolution 1979/37 referred to a number of bodies engaged in human rights work. If the Committee attempted to produce its own yearbook it would be singling itself out, when its efforts must be included within the framework of all the human rights activities of all the human rights bodies within the United Nations.

Of course, serious thought must be given to the best way of including in the Yearbook what was most important and the Committee might set up a small informal group for that purpose. He also agreed that it was unfortunate that the Committee had not been consulted during the preparation of the resolution. It would, however, be an unduly cumbersome procedure for the Committee as a whole to be consulted on all details of the portion of the Yearbook concerning its work; the responsibility of engaging in such consultations might be delegated to the Chairman.

52. Mr. BOUZIRI said that although he was pleased that the Committee's work would be reflected in the Yearbook, adherence to the guidelines laid down by the Economic and Social Council could distort it. If extracts must be used, it was essential for the Committee to participate in choosing them. It was unfortunate that the Committee had not been consulted in advance regarding the guidelines. The financial implications would make it difficult for the Committee to produce its own yearbook.

53. In connexion with Part Two of the guidelines, he agreed that the Committee was a supervisory body, but stressed that it also had the function of promoting human rights. He was disturbed by the reference in that part to parent organs, since the Committee was an independent body and not dependent on the General Assembly. He agreed with Mr. Diéye that the Committee should not attempt to single itself out.

The meeting rose at 6 p.m.