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Eighth session

SUMMARY RECORD OF THE 181st MEETING

held at the Palais des Nations, Geneva,  
on Wednesday, 17 October 1979, at 3 p.m.

Chairman: Mr. MAVROMIATIS

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concerned (continued)

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

QUESTION OF THE CO-OPERATION BETWEEN THE COMMITTEE AND THE SPECIALIZED AGENCIES  
CONCERNED (agenda item 6) (continued)

1. Mr. BOISSON (United Nations Educational, Scientific and Cultural Organization) said that he welcomed the willingness expressed in the Committee to co-operate with UNESCO, and thought that several types of co-operation could be envisaged. One would be the exchange of general information on a regular basis, including documents and reports on UNESCO's activities in areas relevant to the Committee and resolutions adopted to promote such activities. In order to make such co-operation more effective, he proposed ad hoc consultations through an appropriate body, which could forward to UNESCO any questions or requests the Committee might have and subsequently relay the relevant information to the Committee. Another possible area of co-operation was the provision of information regarding specific subjects for which UNESCO had a special responsibility. Information regarding its efforts to combat racism in education, in particular, could be very helpful. Still another area would be technical co-operation. In the course of 30 years UNESCO had acquired an impressive record of experience and achievement which could be placed at the Committee's disposal if the Committee so requested. The unreserved co-operation of UNESCO in all areas was assured.

2. Mr. GRAEFTRATH said that he wished to emphasize that under the Covenant the Committee was not authorized to receive comments from specialized agencies either on the provisions of the Covenant or on the States' reports which the Committee transmitted to them. That must be made perfectly clear to UNESCO and all the specialized agencies. Of course, the Committee needed as much information as it could obtain from the specialized agencies and all bodies having experience in the field of human rights. It would, however, be inadmissible to allow specialized agencies, under the guise of submitting information, to accuse States of not fulfilling their obligations under the Covenant. The Committee would do well to follow the practice of the Committee on the Elimination of Racial Discrimination, which invited ILO and UNESCO to provide relevant information to members of CERD in a personal capacity and not in such a form as to require the issue of an official document of the Committee. Certainly it was the duty of the members of the Human Rights Committee as experts to keep abreast of developments in the specialized agencies concerning human rights matters and to be aware of the problem of a particular specialized agency on a specific subject - for instance, ILO's stand on forced labour - in case it received a communication involving that subject. The Committee was not bound, however, to share the view, interpretation or practice of a specialized agency. The Committee was not bound by the instruments of the agencies any more than they were bound by the Covenant and it therefore would be better to request information as needed, on an ad hoc basis, rather than to formalize an exchange. The point was to prevent comments from insinuating themselves in the guise of information, the distinction between the two being often ambiguous. The practice of ILO had been to comment on the Covenant and how States were fulfilling their obligations under it. That was completely inconsistent with the Covenant and should not be admitted in the guise of an exchange of information.

3. Mr. BOUZIRI said that he welcomed the prospect of broader and systematic co-operation with UNESCO and ILO and noted that the Committee's summary records were already available to those agencies for consultation, without financial implications. He agreed that the specialized agencies should not pass judgement on States or encroach upon the work of the Committee but felt that they could help the Committee greatly by systematically sending it information relating to those areas of human rights which might be of interest to it. The manner in which such information was provided was of secondary importance.
4. Mr. DIEYE said that the United Nations family was a whole and that its members could usefully complement each other in their various fields of competence. In areas as specialized as labour, education and science, the co-operation of the specialized agencies was particularly important. He agreed that the way in which information was provided was of secondary importance. Furthermore, any comments on the provisions of the Covenant which might be made by those agencies in the process were not binding on the Committee. It was of course for the Committee alone to consider and assess States' reports.
5. Sir Vincent EVANS said he could not agree with Mr. Graefrath that it would be out of order for the specialized agencies to comment on those parts of States' reports which were transmitted to them and which fell within their field of competence. The inclusion in the Covenant of article 40, paragraph 3, might well have been prompted by a desire to elicit such comments. He also drew attention in that connexion to rule 67, paragraph 2, of the Committee's rules of procedure. There was no question of asking the specialized agencies to substitute their judgement for the Committee's own, but comments were a different matter, and they could perhaps be taken into account by the Committee in forming its assessment. He himself was anxious to receive relevant information from such agencies in order to help him evaluate States' reports. Perhaps a general request for information from the Committee would be premature, but individual members could still receive relevant information directly from the specialized agencies concerned. In practice, the specialized agencies would have to take the initiative in that matter, since only they really knew what relevant information was available; he hoped that they would be selective in identifying what information would be useful before submitting it to members of the Committee.
6. Mr. GRAEFRATH said that there was an unfortunate tendency for the opinions of individual members of the Committee concerning particular articles of the Covenant to be taken as expressing the opinion of the Committee itself. He wished to make it quite clear that, even if they were not disputed in the Committee, individual opinions were no more than that without a formal decision by the Committee.
7. He did not share Sir Vincent Evans' views on article 40, paragraph 3, of the Covenant; that provision had been drafted before it had become clear that the reports of States parties would be given general distribution and simply with the object of keeping the specialized agencies informed. As to rule 67, paragraph 2, of the rules of procedure, he had changed his view and now thought that it went far beyond the provisions of the Covenant.

8. Mr. LALLAH said he shared Mr. Graefrath's view with respect to article 40, paragraph 3, of the Covenant. Similarly, rule 67 of the provisional rules of procedure had been drafted before the Committee had had any experience in its work. He entirely agreed with previous speakers that the Committee should not become a forum in which outside persons or bodies could pass judgement on the manner in which States parties were implementing the provisions of the Covenant. That was why it had been thought desirable for information from the specialized agencies to be sent to members of the Committee individually and not to the Committee as such. Members of the Committee themselves obviously knew that they would never be influenced by others in their judgements on matters within their responsibility. The danger lay in the possibility of confusion in the minds of others if the documents from outside bodies were to become part of the Committee's own documentation: it would be difficult, then, for members of the public, or even Governments of States parties, to distinguish opinions and judgements that were actually those of the Committee from those that were not. That would be of particular importance in relation to the Committee's conclusion of its work with respect to individual States parties. It was necessary, therefore, to be aware of the dangers and to take precautions to avoid them. That much being said, there was every reason for the Committee to welcome the collaboration offered it by the specialized agencies. The Committee needed the fullest possible information to help it properly to discharge its duties with respect to the implementation of the Covenant by States parties. He personally, therefore, would be glad to receive whatever information the specialized agencies might consider useful to the Committee.

9. Mr. TOMUSCHAT said that, while it was still his conviction that article 40, paragraph 3, of the Covenant implied a specific relationship of very close co-operation between the Committee and the specialized agencies, he was nevertheless prepared to go along with the views of the majority, since what was important was the practical outcome - the fact that the Committee should be provided with useful information by the specialized agencies - rather than the manner in which that was done.

10. Mr. PRADO VALLEJO said he had always considered that the Committee and the specialized agencies should co-operate, to the fullest extent possible, within their respective fields of competence. However, the Committee could in no way abdicate any of its responsibilities under the Covenant. In that connexion, he found certain statements in the document made available by the representative of UNESCO (108 EX/CR/SS.1) somewhat out of place, since they appeared to imply a subordinate role for the Committee with respect to supervision of the implementation of the Covenant. Thus, while the co-operation of the specialized agencies with the Committee was both useful and necessary, the Committee should remain the master of its own sphere of competence and it should seek information from the specialized agencies only as and when it needed it.

11. The CHAIRMAN said he believed that the Committee had made considerable progress towards achieving a consensus in its views on the subject. It appeared to be the general opinion that, while the Committee needed whatever useful information the specialized agencies could provide, it should not abdicate its right to judge and decide for itself.

12. Mr. MOVCHAN said he welcomed the progress made towards solving the problem of the manner of the Committee's co-operation with the specialized agencies. In the interests of further progress, he urged members of the Committee to pay very careful heed to the provisions of the Covenant, which represented, in effect, the constitution of the Committee. Mr. Tomuschat had argued that article 40, paragraph 3, of the Covenant authorized a very close relationship with the specialized agencies. However, the actual wording of that paragraph appeared to imply a limitation on the extent of the Committee's co-operation with those agencies. With respect to rule 67 of the rules of procedure, although he himself had helped to draft it, he now believed, taking a more critical and rigorous view, that it went beyond the provisions of the Covenant.

13. Mr. HANGA agreed with Mr. Movchan that the Covenant was in effect the Committee's constitution and that it ought therefore to be interpreted very strictly. In the same way, the Committee's rules of procedure ought to respect both the letter and the spirit of the Covenant: rule 67, paragraph 2, failed to do that.

14. The CHAIRMAN, summing up the debate, said that members of the Committee now appeared to be agreed on the following: firstly, the very fact that co-operation with the specialized agencies had become one of the more permanent items on the Committee's agenda showed the value it attached to that co-operation and its desire to continue and improve it; secondly, the Committee was convinced of the need for all possible information from the specialized agencies that was relevant to its work, in a relationship of mutual co-operation with those agencies; accordingly, and to that end, it was agreed that information, mainly on the specialized agencies' interpretation of and practice in relation to the corresponding provisions of their instruments, should be made available to members of the Committee on a regular basis, and that information of other kinds should be made available to them on request during meetings of the Committee which were attended by representatives of the specialized agencies; lastly, with regard to comments, it was agreed that the statement in paragraph 605 of the Committee's report to the General Assembly at its thirty-third session remained valid. If the Committee so agreed, the statement he had just made would be taken to represent the consensus of the views of its members at the present stage, it being understood that the Committee could revert to the matter at a later stage and, in the light of the experience it had gained, seek ways of enhancing its co-operation with the specialized agencies.

15. It was so decided.

16. The CHAIRMAN, replying to a question put by Mr. SADI, stated that it was his understanding that members of the Committee would be free to use the information they received from the specialized agencies in any manner they deemed fit.

The meeting rose at 4.35 p.m.