

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



Distr.
GENERAL

CCPR/C/SR.260
5 November 1980

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Eleventh session

SUMMARY RECORD OF THE 260th MEETING

Held at the Palais des Nations, Geneva,
on Thursday 30 October 1980 at 10.30 a.m.

Chairman: Mr. MAVRONMATIS

CONTENTS

Consideration of reports submitted by States parties under article 40 of
the Covenant (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.6108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

The meeting was called to order at 12.05 p.m.

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

1. The CHAIRMAN read out the following draft statement that had been prepared on the Committee's work under article 40 of the Covenant, pointing out that it had already been discussed in informal meetings:

"At its tenth session the Human Rights Committee established a small working group to meet before the eleventh session in order to consider the formulation of such general comments as are likely to gather the widest support from the Committee as a whole, and to examine, in the light of all the views expressed, what further work, if any, the Committee should undertake to give effect to its duties under article 40 of the Covenant.

The Working Group met from 13 to 17 October. In the light of its consideration of the Working Group's report, the Committee has agreed, without prejudice to the further consideration of the Committee's duties under article 40, paragraph 4 of the Covenant, to proceed as follows:

(a) The Committee, having examined initial reports received from 36 States parties from different regions of the world and with widely differing political, social and legal systems, should now start to formulate general comments based on the consideration of the reports for transmission to the States parties.

(b) In formulating general comments the Committee will be guided by the following principles:

They should be addressed to the States parties in conformity with article 40, paragraph 4 of the Covenant;

They should promote co-operation between States parties in the implementation of the Covenant;

They should summarize experience the Committee has gained in considering States reports;

They should draw the attention of States parties to matters relating to the improvement of the reporting procedure and the implementation of the Covenant, and

They should stimulate activities of States parties and international organizations in the promotion and protection of human rights.

(c) The general comments could be related, inter alia, to the following subjects:

The implementation of the obligation to submit reports under article 40 of the Covenant;

The implementation of the obligation to guarantee the rights set forth in the Covenant;

Questions related to the application and the content of individual articles of the Covenant;

Suggestions concerning co-operation between States parties in applying and developing the provisions of the Covenant.

(d) The Committee confirms its aim of engaging in a constructive dialogue with each reporting State. This dialogue will be conducted on the basis of periodical reports from States parties to the Covenant.

(e) The Committee considers that the guidelines which it adopted at its second session for the preparation of initial reports under article 40, paragraph 1 (a), which have been followed by the majority of reporting States, have proved useful both to those States and to the Committee. Nevertheless, the Committee will in due course review them to see whether they can be improved.

(f) To continue the dialogue with States parties, the Committee deems it desirable to establish a three or four year periodicity for subsequent States' reports under article 40, paragraph 1 (b), of the Covenant. Because of the actual workload, the Committee will decide in principle to request a second periodic report to be submitted by any State party within four years of the date when its initial report or additional information that reached the Committee within one year of the consideration of the report was last examined by the Committee. As far as the States parties whose additional information or supplementary reports have already been considered by the Committee are concerned, these reports may be considered to be their second periodic reports.

(g) The Committee should, in the light of its experience in the consideration of the initial reports, develop certain guidelines for the purpose of such new reports. The contents of the subsequent reports should concentrate on:

The progress made in the meantime;

Changes made in laws and practices involving the Covenant;

Difficulties in the implementation of the Covenant;

The completion of the initial report, taking into account the questions raised in the Committee;

Additional information as to questions not answered or not fully answered;

Information taking into account general comments that the Committee may have made in the meantime;

Action taken as a result of the experience gained in co-operation with the Committee.

(h) For their general information, and to provide more active assistance to States parties when drawing up both initial and subsequent reports, it was considered useful as a first step to establish a digest or list of questions most frequently asked by members of the Committee, relating to the various subjects under the Covenant. Such a digest or list should be drawn up, and be up-dated from time to time, by the Secretariat on the basis of the summary records of Committee meetings and should be circulated to States parties for their information only after approval by the Committee.

(i) Prior to the meetings with representatives of the reporting States at which the second periodic report will be considered, a working group of three members of the Committee will meet to review the information so far received by the Committee in order to identify those matters which it would seem most helpful to discuss with the representatives of the reporting State. This will be without prejudice to any member of the Committee raising any other matter which appears to him to be important.

(j) The Committee will request the Secretariat to prepare after each examination of a State report an analysis of the study of that report. This analysis should set out systematically both the questions asked and the responses given with precise references to the domestic legal sources, quoting the main ones."

2. Mr. BOUZIRI said that it was extremely important to spell out the role of the Committee under article 40 of the Covenant as clearly as possible. The draft statement that the Chairman had read out could be considered as nothing more than a first step in that direction because, although it was quite useful, it had failed to stress a most essential aspect of the Committee's task, i.e., that of ensuring that each and every State party submitted a report.

3. Subsequent documents should stress that goal and the ways in which it could be attained. If a State party's second report revealed discrepancies between its constitution and legislation and the provisions of the Covenant, the Committee, while not attempting to sit in judgment as a kind of court, could perform an extremely useful service by helping the State parties remove such discrepancies.

4. Mr. PRADO VALLEJO said that the draft statement, a compromise document which he was prepared to accept, would undoubtedly be improved as the Committee gathered experience in the consideration of reports under article 40 of the Covenant.

5. The Committee's aim should be to promote co-operation with the States parties in implementing the Covenant and in overcoming any difficulties they had in that regard, and its general comments, referred to in paragraph 4 of article 40, should reflect that aim. The Committee should also urge States parties to give due consideration to economic and social rights, which were intimately connected with civil and political ones. Its general comments should also draw the attention of the State party to questions raised during consideration of its initial report, especially those which had not been answered satisfactorily.

6. States parties should be urged to follow the Committee's guidelines, especially in respect of their second reports, which should provide information on the extent to which the Covenant was being implemented and the progress being made in that direction.

7. Mr. SADI said that the draft statement represented a compromise but that it was a useful, albeit modest, measure, which the Committee could improve as it gathered experience. He agreed that the ultimate objective of article 40 was to harmonize national legislation and practice with the Covenant, and thought that it could best be achieved by concentrating initially on areas of agreement.

8. Mr. OPSAHL said that the measures proposed in the draft were steps in the right direction, but that clarification regarding their implementation was needed, particularly with respect to the way in which the general comments were to be formulated.

9. With reference to the phrase "will decide in principle" in paragraph (f), he said that he saw no reason why the Committee should not decide immediately to request a second periodic report. Similarly, with regard to paragraph (j), he thought that the Committee should request the Secretariat immediately to prepare the analysis in question.

10. Mr. TOMUSCHAT said that while the draft statement, being a compromise, was not wholly satisfactory, he accepted it in the conviction that it would promote the effective implementation of human rights and help the Committee to discharge its responsibilities.

11. Its implementation would, however, create a new and heavy workload for both the Committee and the Secretariat, and he hoped that it would prove possible for both of them to handle it satisfactorily.

12. Mr. TARNOPOLSKY said that, while the document certainly constituted a step in the right direction, he wished to stress the reference in the preliminary paragraph to the fact that the procedure agreed upon was "without prejudice to the further consideration of the Committee's duties under article 40, paragraph 4, of the Covenant", which further consideration should begin without delay at the following session of the Committee.

13. He supported Mr. Opsahl's comments regarding paragraphs (f) and (j), and would have preferred that the word "should" were used rather than the word "could" in paragraph (c), because that paragraph was more important than paragraph (b) in that it had to do with matters of substance.

14. Mr. HANGA said that he wished to congratulate the Working Group on having produced a draft statement that would enable the Committee to take a decision on a very important problem. He was confident that the new procedures would prove invaluable for the future work of the Committee.

15. Mr. KOULISHEV said that he wished to express his satisfaction at the agreement reached, an agreement that was a further demonstration of the fact that, over the past 4 years, the Committee had found it possible to reach a consensus on even the most difficult questions.

16. In respect of paragraph (j), it was his understanding that the "analysis" mentioned was intended for internal use by the Committee and would not be distributed officially.

17. Mr. GRAEFRAETH said that he was convinced that the step the Committee was taking was an important one. The draft text did not, of course, fully satisfy everyone and it was evident that the problem of the different views of the members of the Committee regarding the meaning of article 40 had not been resolved. Nevertheless, despite that divergency of views, the Committee had been able to reach a consensus. That was of the utmost importance for the Committee's future work, the success of which Committee depended on co-operation among the members of the Committee as well as between the Committee itself and the States parties to the Covenant.

18. In paragraph (f), the words "will decide in principle" were related to the fact that some technical work would be necessary to prepare such a decision. He wished to confirm that the analysis referred to in paragraph (j) would, indeed, be an internal paper and would not be circulated to the State parties.

19. Sir Vincent EVANS said that he fully agreed that the draft text before the Committee was no more than a step forward and could in no way be regarded as definitive. The Committee needed to keep its procedures under constant review and further improve and develop them in the light of experience.

20. He wished to stress, however, that he did not think that the Committee's achievements to date in the examination of reports should be underestimated. Over the last four years, it had already gone a long way towards developing effective procedures for the promotion of human rights under article 40 of the Covenant.

21. With respect to paragraph (f) of the draft statement, he thought that the Committee should have made a consequential change in the second sentence in the light of the changes made to the third sentence of that paragraph. He proposed the deletion of the phrase "or additional information that reached the Committee within one year of the consideration of the report" and the word "last" from the second sentence.

22. Mr. GRAEFRATH said that he had no objections to the deletions proposed by Sir Vincent.

23. The CHAIRMAN said that, if there were no objections, he would take it that the Committee wished to adopt by consensus the text of the draft statement, with the deletions proposed in respect of paragraph (f).

24. It was so decided.

25. The CHAIRMAN said that he was extremely pleased that the Committee had taken that extremely important decision by consensus and he wished to express his gratitude to the members of the Working Group and other members of the Committee who had made it possible to reach a consensus.

26. Mr. van BOVEN (Director, Division of Human Rights), said that the text that had been adopted by consensus entrusted two new tasks to the Secretariat. Paragraph (h) requested a digest or list of questions most frequently asked by members of the Committee, while paragraph (j) requested the Secretariat to establish after each examination of a State report an analysis of the study of that report. The Secretariat would do its best to assist the Committee in those new tasks as well as in its regular ones. His interpretation of the request in paragraph (j) was that it applied to the future and did not have a retroactive effect.

26. The CHAIRMAN said that he appreciated the readiness of the Secretariat to assist the Committee in its new tasks, which would involve more work for the Committee as well as for the Secretariat, and hoped that it would be able to obtain the facilities and staff it needed.

27. In the interval before the next session of the Committee, the Secretariat should begin its preparation of the digest or list of questions referred to in paragraph (h).

The meeting rose at 1 p.m.