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Thirteenth session

SUMMARY RECORD OF THE 295th MEETING

held at the Palais des Nations, Geneva,  
on Thursday, 16 July 1981, at 10.30 a.m.

Chairman: Mr. MAVROMMATIS

CONTENTS

Consideration of reports submitted by States parties under Article 40 of the Covenant

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The meeting was called to order at 10.55 a.m.

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

1. Mr. PRIETO (Representative of the Secretary-General) read out a note from the Ministry for Foreign Affairs of the Republic of Senegal, the relevant passages of which were worded as follows:

"In April 1980, on the occasion of the consideration in Geneva of the report submitted by Senegal under Article 40 of the International Covenant on Civil and Political Rights, several members of the United Nations Human Rights Committee expressed reservations on certain legislative and regulatory provisions in force in Senegal which in their view might be interpreted as being contrary to three relevant articles of the Covenant.

The provisions referred to concerned the limitation of the number of political parties to four and the obligation for Senegalese citizens wishing to go abroad to obtain an exit visa.

In this connection, the Ministry is pleased to inform the Secretary-General that these provisions have recently been repealed by constitutional amendment Act No.81-17 of 6 May 1981, which now officially authorizes an unlimited number of political parties in Senegal, and Act No.81-19 of 6 May 1981, which abolishes the exit visa requirement."

2. Mr. LALLAH considered the information should be included in the Committee's report. He noted that Sweden **also** had adopted new measures following the dialogue between its representative and the Human Rights Committee in connection with the Covenant.

3. Mr. SADI considered that the information should be given the widest possible publicity and should be transmitted to States parties to the Covenant to encourage them to improve their laws and regulations. He recalled that Canada as well as Sweden had adopted measures following the dialogue between its representative and the Committee concerning the Covenant.

4. Mr. ERMACORA agreed that the information conveyed to the Committee should be included in the report. He hoped the text of the note from the Ministry for Foreign Affairs of the Republic of Senegal would be distributed to the members of the Committee.

5. Mr. MOVCHAN said that he had been unable to attend three sessions of the Committee and wondered whether the practice of receiving information from member States in that way was a new one. He asked whether the information was classified as additional information transmitted to the Committee and, if not, what relation it bore to the periodic reports by States parties. Need a State party providing such information deal with the same question in its subsequent report?

6. Sir Vincent EVANS considered that information received should be brought to the attention of States parties as soon as possible but the provision of such information had no bearing on the periodicity of reports. Information received should be included in extenso in the summary record of the meeting, and the note sent to the Secretary-General should be distributed as a Committee document. The information should also be included in the Committee's annual report.
7. Mr. BOUZIRI remarked that the information in question had already been published in the French-language press. He wondered whether all information provided by a State party reporting changes in legislation germane to the Covenant would be transmitted to the other States parties in future. It might be worth considering what kind of information was required to be transmitted to States parties.
8. Mr. HANGA agreed that the information received should be reported in the summary record. He doubted, however, whether it need be included in the Committee's report, bearing in mind the provisions of Article 40 of the Covenant.
9. Mr. SADI considered that a distinction should be drawn between mandatory reports and any voluntary information not strictly required by the Covenant. States parties might wish to transmit to the Committee. There was no need for the Committee to decide to include all information received in its report but there was nothing to prevent it from deciding to include a particular item. It could, for instance, include the information concerning Canada and Sweden in its annual report. Article 40 of the Covenant should not prevent States parties from transmitting information to the Committee when they so desired.
10. Mr. ERMACORA thought the question might be left open until the Committee considered its annual report, since the point at issue was whether the information received should be included in the report or not.
11. Mr. BOUZIRI explained he had no objection to including the information received in the Committee's annual report. He simply wondered in what context it would appear.
12. The CHAIRMAN thought the information given should be reported in extenso in the summary record of the meeting as a matter of routine. It was up to the Rapporteur to decide whether it should be included in the Committee's annual report. When the Committee examined its draft report, it would decide whether it wished to keep the information or delete it. The information was not relevant to the periodic reports and was probably not full enough to provide a basis for discussion. The State party would no doubt report on it again to the Committee at a later stage in accordance with the prescribed procedure.
13. Mr. MOVCHAN thanked the Chairman for clarifying the matter and said that his reason for taking the floor was that he considered the Covenant to be the basis of the Committee's deliberations. Any innovation or new terminology introduced should be carefully examined to avoid creating undesirable precedents.

14. When studying the legislation of some States parties to the Covenant, he had noticed that new laws or regulations had been enacted since their reports had been examined by the Committee. If information transmitted by States parties on progress made in the enjoyment of the rights covered by the Covenant was included in the Committee's annual report, the practice would be taken by States parties as an invitation to transmit information between two reports. States parties might assume that they must inform the Human Rights Committee as soon as they enacted any new law germane to the Covenant, without waiting to submit their next report. The matter was not to be taken lightly, for the long-term effects of the Committee's decisions had to be considered as well as their short-term consequences. The question should be considered from the point of view of the general guidelines regarding the form and content of reports submitted by States parties under Article 40 of the Covenant.

15. The CHAIRMAN hoped the Committee would bear in mind the various views expressed when adopting its annual report. He invited the Committee to take up the question of the periodicity of reports by States parties and noted that a working group had been set up to make recommendations in connection with paragraph (f) of the agreed statement in document CCPR/C/XLIII/CRP.1/Add.14.

16. Mr. LALLAH (Chairman of the Working Group on follow-up) said that as many points of view had been expressed as there were members of the Working Group, which was composed of Mr. Bouziri, Mr. Graefrath, Mr. Movchan, Mr. Opsahl and himself, but that the Group had nevertheless succeeded in producing a draft decision on periodicity which it had subsequently amended. In drawing up the draft decision, the Working Group had taken into account the provisions of Article 40 of the Covenant and the request made each year to new States parties to submit a report to the Committee within one year of the entry into force of the Covenant for the States concerned and thereafter whenever the Committee so requested. In that connection, he recalled rules 66 (paragraph 2) and 70 of the rules of procedure which had been the basis of the statement adopted by consensus by the Committee in October 1980 for the purpose of organizing its ongoing and future work. He read out the relevant paragraphs of the agreed statement, with special emphasis on paragraph (f) (CCPR/C/XLIII/CRP.1/Add.14).

17. The Working Group's task had been to draw up a draft decision on the periodicity of reports while bearing in mind the working methods devised by the Committee between 1977 and 1981 in order to initiate a dialogue with States parties. The Working Group had consequently prepared a first draft (CCPR/C/XLIII/CRP.3) which had been revised the day before the meeting in the absence of Mr. Opsahl and Mr. Movchan, but with the assistance of Mr. Tarnopolsky. The revised draft read:

"Taking into account the decision of the Committee, adopted on 30 October 1980, to continue its dialogue with States parties by establishing a periodicity for submission of subsequent reports, and

Considering that the time available sets practical limitations on the number of reports which the Committee can consider during its three sessions per year, and

Considering further that some States parties have already met with the Committee more than once,

The Human Rights Committee decides that:

1. Subject to paragraph 2, every State party which has before the end of this session submitted its initial report be requested to submit to the Committee a periodic report, which takes account of the matters listed in paragraph (g) of the decision of October 1980.

(a) at a date which shall not be later than 5 years from the end of the session at which its report was last considered by the Committee or March 1983, whichever is the later; and

(b) thereafter, within a period of 5 years from the date established under subparagraph (a).

2. In the case of States parties which do not meet their reporting obligations, the Committee shall, in each case, take such decisions as may be necessary to ensure the periodicity of their reports."

18. In the first portion of the operative part, the Working Group had tried to emphasize that the decision concerned the Committee's methods of work and the dates by which States parties were required to submit their reports. The Covenant provided for a 15-month interval between a State's ratification of the Covenant and the required date of submission of the report, during which time the State was expected to take steps to enable it to discharge its responsibilities under the Covenant. The Working Group had taken the view that the Committee should not be more demanding than the Covenant and that a State should not be required to report for at least 18 to 24 months. It had therefore set March 1983 as the date for the submission of reports, making due allowance for the time needed for correspondence between the secretariat and States parties. The Committee should not take decisions with retroactive effect and States which had already submitted several reports - such as the United Kingdom - should not be asked to furnish an additional report for five years. The secretariat had drawn up a tentative time-table showing the dates by which States parties' reports were due.

19. Operative paragraph 2 was concerned with States which had not yet submitted their initial reports or the additional information requested of them. The Working Group had had some specific cases in mind. For example the new Government of Iran had asked that the initial report submitted by the former Government should be disregarded.

20. Mr. ORTEGA said that he was prevented from participating fully in the debate by linguistic difficulties since some documents were issued only in English, a language in which he was not completely at home. Commenting on Mr. Lallah's reference to the two years allowed to new States parties to submit their initial reports, he drew attention to the difficulties which might prevent countries such as Nicaragua from submitting their reports in time. Many Latin American countries had to report to more than one international forum. In the case of Nicaragua for example, the Inter-American Commission on Human Rights, which had been invited to Nicaragua by the Government to investigate the status of human rights, had drawn up

a 260-page report on which the Nicaraguan Government was required to comment, a major task for a country only just emerging from a civil war in which 50,000 people had lost their lives. The administrative and judicial machinery had been partly destroyed, and there was a shortage of jurists and other human rights specialists in Nicaragua. In addition, the Nicaraguan Government had to assign a number of persons who might have worked on other matters to drafting a reply to the Amnesty International report and preparing the initial report scheduled for submission to the Committee on 11 June 1981. The Committee should be aware of that situation.

21. The CHAIRMAN said that he appreciated Mr. Ortega's difficulties but noted that the agreed statement of October 1980 was available in Spanish (CCPR/C/XIII/CRP.1/Add.14). Unfortunately the draft decision on the periodicity of reports read out by Mr. Lallah was available **only** in English.

22. Mr. MOVCHAN supported Mr. Ortega's comments. Since not all members of the Committee were native English speakers, the secretariat should make sure that texts, particularly of draft decisions, were available in all the Committee's working languages. The various versions should of course tally.

23. Comparing the Working Group's two draft decisions on the periodicity of reports, he noted that the first paragraph of the first version had been replaced by a preamble. He did not object to that but believed it might surprise States parties which might see the decision as an initiative by the Committee whereas it was clear in the first version that the decision followed from Article 40 of the Covenant, which, it might be mentioned, made no reference to periodicity.

24. Next, he did not see any point in stating, as had been done in the third preambular paragraph, that some States parties had already met with the Committee more than once. Mention of the number of meetings might in the long run have adverse consequences for the Committee. If the October 1980 decision was mentioned, ought it not to be published for the information of States parties? In addition, it would not be easy for a State party to know what was meant by "periodic report" in the first operative paragraph. What kind of report was meant? And what had become of the general guidelines regarding the form and content of reports? Having been adopted by the Committee, should they not be taken into account?

25. The whole of the first part needed to be amended. Reference should be made to Article 40 of the Covenant and the text should explain why the Committee had seen fit to raise the question of periodicity.

26. Mr. LALLAH said that it was not the secretariat's fault that the second version of the draft decision had not been translated into the other working languages, since the Group had not been able to complete it in time. He explained that the text of the first version of the draft decision to which Mr. Movchan had referred had been issued as document CCPR/C/XIII/CRP.3.

27. Mr. TOMUSCHAT commended the Working Group for formulating the recommendations and said that he had drawn extensively on them in preparing a revised draft decision. He read out the operative part, the preamble being the same as that of the Working Group:

"The Human Rights Committee decides:

1. States parties which have already submitted their initial report shall submit a subsequent periodic report
  - (a) at a date which shall not be later than five years from the end of the session at which their report was last considered by the Committee or 31 March 1983, whichever is later;
  - (b) in case their initial report has not yet been considered by the Committee, not later than five years from the submission of the initial report.
2. Thereafter, States parties shall submit subsequent periodic reports
  - (a) not later than five years from the date established in paragraph 1 above or
  - (b) not later than five years from the date of which the initial report was due in accordance with article 40 (1)(a) of the Covenant.
3. In case a State party provides additional information after the examination of its report and such additional information is considered by the Committee with the assistance of the State party concerned, the Committee may defer the date for the submission of the next periodic report.
4. [See paragraph 2 of Working Group's text.]"

28. Explaining the reasons for his proposal, he said that he thought it would be helpful to make a clear distinction between States which had already submitted initial reports and those which had not. In addition, he considered that the Working Group's draft decision was not explicit enough with regard to States whose initial reports had not yet been examined by the Committee. It would be unfair to ask them to submit another report as early as 1983. Moreover, the Working Group's text did not give sufficient consideration to the case of countries which might ratify the Covenant in the future.

29. In operative paragraph 1 it was better to say, "States parties ... shall submit" than "every State party ... [shall] be requested to submit", because it would be difficult in practical terms to make a separate request in each case. Paragraph 3 was intended to encourage States parties to provide additional information where the content of their reports had not altogether lived up to the Committee's expectations. It consequently did not apply to the case covered by operative paragraph 2 of the Working Group's draft.

30. With regard to Mr. Movchan's comments, he agreed that the third preambular paragraph was inappropriate and that mention should be made of Article 40, paragraph 1, subparagraph (a) of the Covenant, which provided the legal basis for the Committee's action. The periodicity of reports could not, he thought, be challenged - and it was his understanding that Mr. Movchan did not do so - since it was provided for in Article 40 of the Covenant. Lastly, the October 1980 decision would obviously call for a revision of the general guidelines, although he did not consider that would be a great undertaking. A few minor amendments would, he thought, probably suffice.

31. Mr. HANGA considered that it was necessary from a legal point of view to emphasize that the five-year period provided in the Working Group's draft was a maximum and that the minimum was four years. With regard to periodicity, he noted that Mr. Tomuschat referred to a "subsequent periodic report" and the Working Group to a "periodic report". As Mr. Movchan had pointed out, that term was not used in the Covenant. In his view, it would be better to refer simply to "subsequent reports".

32. Finally, operative paragraph 1 of the Working Group's draft should be revised because there was no need to request States parties to submit reports, as they had already undertaken to do so on the basis of a decision which was entirely their own.

The meeting rose at 1 p.m.