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Thirteenth session

SUMMARY RECORD OF THE 312th MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 29 July 1981, at 10.30 a.m.

Chairman:

Mr. MAVROMMATIS

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The meeting was called to order at 10.50 a.m.

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

Publicity and Publication of Committee Documents

1. Mr. van BOVEN (Director, Division of Human Rights) reminded the Committee that at its tenth session it had asked the Division of Human Rights to explore the possibility of having the Committee's official records made available in annual bound volumes. At the next session, the Committee had been informed that the annual cost of publishing the Committee documents in two volumes and in four working languages on an internal basis would be approximately \$337,000. One volume would contain summary records and the other reports submitted by States parties under article 40 of the Covenant and other relevant documents. Since the estimated cost was considered high, the Division of Human Rights had been asked to request the Department of Public Information to examine whether it would be less expensive to have the Committee documents published externally on a commercial basis. Two commercial publishers had expressed an interest in publishing an annual series of volumes of Committee documents. One publisher had offered to publish in English only but the other was prepared to issue the volumes in English and in French provided the United Nations undertook to purchase each year 200 sets of the English edition at a cost of \$9,000 and 100 sets of the French edition at a cost of \$6,500. The first volume published would cover the Committee's work in 1980. Volumes covering 1977/1978 and 1979 would be added later so that the annual record would be complete from the first year of the Committee's work. The Division of Human Rights had sought the United Nations Publications Board's approval for the external publication of the Committee documents but the Board had been unwilling to see funds committed without a formal decision by the Committee requesting publication of its documentation. The Committee's decision would require approval by the General Assembly.
2. Sir Vincent EVANS said he had long believed that the Committee's public documents should be published in a permanent and convenient form for the use of the Committee itself and of others following its work. A practical way of achieving that objective at a not unreasonable cost to the United Nations appeared to have been found. He therefore urged the Committee to adopt a formal decision along the lines suggested by the Director of the Division on Human Rights.
3. The CHAIRMAN said that in the absence of objection he would take it that the Committee wished to adopt such a formal decision.
4. It was so decided.
5. The CHAIRMAN suggested that members should explain the situation to their Governments and urge them to support the Committee's proposal in the General Assembly.
6. Mr. ERMACORA referred to the matter of an article in the Human Rights Journal, which had already been raised by Mr. Sadi at a previous meeting. Pending the publication of documentation, he suggested that efforts should be made to furnish material to journals.

7. The CHAIRMAN said that documents given general distribution were available to enquirers and the secretariat was always prepared to assist potential authors with information. The author of the article in question had received such help.
8. Mr. OPSAHL asked whether the Committee could not reach a decision on the proposal which had been made in the working paper by Sir Vincent Evans, circulated at the Committee's twelfth session, for a precedents book containing the Committee's decisions under the Optional Protocol.
9. Sir Vincent EVANS recalled that the proposal had been that the Committee should make available for periodic publication selected decisions under the Optional Protocol, suitably edited in order to preserve confidentiality. Such a collection would be useful both to Governments and to individuals submitting communications by informing them about the Committee's interpretation of procedures and of the substantive provisions of the Covenant. He himself had made a start by compiling a selection of decisions which might be included in an initial volume. Although he would be ready to assist in the work by acting as a rapporteur, it was clear that the main burden would fall on the secretariat and that a person with editorial skills and an understanding of the Committee's work would be required. However, once the series had been launched, it was likely that a few months work a year by a qualified person would be sufficient to keep it up to date. If the Committee felt it desirable to proceed on those lines, the Director of the Division of Human Rights might be requested to provide a draft of the first volume for consideration by the Committee in March 1982.
10. Mr. DIEYE said he was in favour of the Committee receiving publicity of the right sort since it was clear from articles showing ignorance of its procedures and the nature of its work that far too little was generally known about it. The publication of Committee decisions was desirable as a means of bringing pressure on States to pay more attention to them.
11. Mr. TARNOPOLSKY also strongly supported the publication of decisions and considered that Sir Vincent Evans was the appropriate person to be associated with the project. He suggested that, without further discussion on matters of detail, the Committee might accept the proposal that a draft text should be submitted for consideration at its fifteenth session.
12. Mr. ERMACORA wondered whether it would be possible to reduce the cost by using a holder of a United Nations fellowship to assist Sir Vincent Evans in the preparation of the text. In any case, he hoped that the publication of the periodic volumes would not be subject to the same delay as the Human Rights Yearbook, the 1975/76 volume of which had been published in 1981.
13. The CHAIRMAN, speaking in his personal capacity, said he supported the proposal and believed the Committee was unanimous in desiring such a publication. He asked the Director of the Division of Human Rights whether the secretariat could initiate appropriate preparatory work and report progress to the Committee at its next session.

14. Mr. van BOVEN (Director, Division of Human Rights) said that he was aware from his contacts with other organizations that there would be keen interest in the publication of a precedents book and a selection of Committee decisions under the Optional Protocol, not only on matters of substance but also with regard to the admissibility of communications. However, the proposal would involve expenditure both on publication and on preparation, a work which the present staff dealing with communications could not undertake and which would require a skilled and experienced editor. In view of the financial implications, the Committee should bring the proposal to the General Assembly's attention by including it in its report.
15. Mr. GRAEFFRATH said that while he was wholly in favour of the publication of decisions, he was not sure that the time had come to publish a precedents book. It would be preferable to wait until a larger corpus of decisions had been built up and more experience accumulated, which could be drawn on in making a selection.
16. Mr. TARNOPOLSKY hoped that Mr. Graefrath would reconsider his view. Some considerable time would be bound to elapse before the publication could be prepared: the Committee's decision would have to be considered by the General Assembly, organizational arrangements would have to be made, and various tasks, including editing, completed. He was convinced that the number of decisions would be sufficient by the time the preliminary arrangements had been made.
17. It should be borne in mind that the listing of precedents would not amount to laying down principles with authoritative effect. Their purpose would be merely illustrative. He knew that the authorities in his own country, Canada, which was one of those that had ratified the Optional Protocol, would welcome the opportunity to form a clearer idea of the procedures followed by the Committee, and he was sure that the same would apply to other countries in a similar position.
18. Mr. OPSAHL thought that, in his working paper, Sir Vincent Evans had advocated the establishment of a precedents book, not its publication.
19. The CHAIRMAN said that his own impression was that what had been initially proposed was an informal, inexpensive compilation for the Committee's internal use. A more ambitious project perhaps involving the services of a consultant to be paid out of United Nations funds seemed subsequently to have emerged.
20. Sir Vincent EVANS explained that the precedents book for the internal use of the Committee, whose compilation he had originally suggested, was already in existence, and had been included in the documentation supplied to members at the previous session. What was now being discussed was the publication of selected decisions, which would require more extensive editing. It could take the form of a document for general distribution, or appear in volume form like the Human Rights Yearbook, or, again, it might be incorporated in the annual bound volumes, on which an agreement had been reached earlier in the meeting. The last mentioned possibility might make the material more attractive from the point of view of publishers as there would be a greater demand for information on decisions reached under the Optional Protocol than for other parts of the Committee's documentation.

21. Those were matters for subsequent decision. What was important at the present stage was that the Committee should take the initial steps towards such publication, bearing in mind, as Mr. Tarnopolsky had pointed out, that some considerable time would be taken up in preparation.
22. As to the number of decisions, between two and three hundred had already been adopted by the Committee, and the larger that number grew, the more formidable would be the task of preparing the first volume or volumes.
23. Mr. MOVCHAN observed that the project the Committee had begun to consider in some detail went beyond what had been agreed at the previous meeting under the heading of "general comments", which had merely referred to the desirability of publishing material bearing upon relations between States and the Committee. As far as the publication of the Committee's official records in annual bound volumes was concerned, the project had been carefully considered in all its aspects by the Committee before agreement was reached on the desirability of proceeding with it. What the Committee had done at the present meeting was merely to confirm a decision reached earlier after lengthy discussion.
24. Neither did Mr. Ermacora's suggestion create any difficulty. The press in a number of countries, for example Switzerland, gave considerable publicity to the Committee's work. In the Soviet Union much space was devoted to the matter in both official and unofficial publications, including those in foreign languages. It lay beyond the Committee's mandate to ensure such publicity, but it was free to, and should, welcome it.
25. As far as the working paper prepared by Sir Vincent Evans was concerned, the situation was very different. He had not seen the document until the present meeting, and was in no position to participate in a decision upon it. He did not wish to enter into the merits of the suggestions but merely to insist that the usual practice was followed of carefully considering and discussing a proposal before reaching a decision.
26. A precedents book for the internal use of the Committee was one thing. An official publication to be made available to the general public was another. Since a process of selection would be involved, it could be foreseen that difficulties would arise, particularly as concerned complaints from individuals.
27. Mr. HANGA fully supported the objective of ensuring that information about the Committee's activities was made available to all, whether States or individuals. On the other hand, article 5 (3) of the Optional Protocol provided that closed meetings should be held when communications were examined, and article 5 (4) that the Committee should forward its views to the State party concerned and to the individual. The question, therefore, arose whether the Committee had the right within that legal framework to give general publicity to such matters. A State which had ratified the Optional Protocol might well take exception to such a procedure. It was for that reason that the Committee's summary records covering closed meetings were treated as confidential and given only restricted distribution. While, therefore, the Committee might be at liberty to use an unofficial compilation for its own internal purposes, he wondered whether it was entitled to issue publications on such matters addressed to the general public.

28. The CHAIRMAN pointed out that the Committee regularly issued information bulletins reporting the decisions it had taken.
29. Mr. OPSAHL recalled that the Committee had considered the matter at its previous session - which Mr. Movchan had unfortunately not been able to attend - and he very much hoped that it could reach a decision at the present session on the precedents book for internal use and the publication of selected decisions for use by the general public.
30. The CHAIRMAN pointed out that Mr. Movchan was not the only member who had been unable to attend the previous session.
31. He suggested that the Committee should ask the secretariat to look into the feasibility of undertaking the publications mentioned, including the financial factors, and to report back to the Committee at its following session, or, if pressure of work did not make that possible, at the session after that.
32. Mr. GRAEFRATH pointed out that a precedents book was already in existence. He had never used it himself as its existence had not been officially taken note of by the Committee and there had been no discussion of it. The best procedure would be to place the matter on the Committee's agenda and devote the necessary time to a proper discussion of it.
33. The CHAIRMAN remarked that he had not made any use of the precedents book either. He would certainly place the matter on the agenda if requested to do so by the Committee.
34. Mr. MOVCHAN said that, quite apart from the question whether the secretariat could complete the proposed investigations in time to report on them to the following session of the Committee, it should be borne in mind that - as he understood - that session was, quite exceptionally, not to be held in New York or Geneva but at Bonn, the objective being to make the Committee's work more accessible to the public at large. In those circumstances, it would seem desirable to agree on an agenda relating to matter of wider concern. In particular, if a considerable number of the meetings were closed, the objective of holding the session outside the usual United Nations ambit would be frustrated.
35. As to the suggestion that the secretariat should be asked to report on feasibility of the publication proposed, he did not see how that could be done if the Committee had reached no previous agreement on the content and character of the document. It would be improper to place the secretariat in what might well prove to be a very delicate situation.
36. The CHAIRMAN stressed that the secretariat was merely being asked to report on the publishing options open to the Committee.
37. Mr. TARNOPOLSKY said that he agreed with Mr. Movchan that the forthcoming Bonn session should be as open as possible: the question of publicity of the Committee's work could fittingly be discussed in open meetings at that session. The document under consideration had been prepared prior to the twelfth session, and he formally requested that it should be put on the agenda of the Bonn session.

38. Mr. LALLAH urged members to bear in mind the interests of the millions of persons living in the 26 States which were signatories to the Optional Protocol: the Committee had a duty to let them know about its work. By postponing a decision on the matter, the Committee would be losing valuable time.

39. The CHAIRMAN proposed that the question of the digest or precedent book should be examined by the next working group, which could advise the Committee in plenary session on further action.

40. It was so decided.

41. The CHAIRMAN said that if he heard no objection, he would take it that the question of publicity should be placed on the agenda of the Bonn session.

42. It was so decided.

43. The CHAIRMAN said that he took it that the Committee wished to request the secretariat to explore the possibilities and options of publication.

44. It was so decided.

Establishment of a working group on communications to meet in Geneva prior to the Bonn session

45. The CHAIRMAN said that following consultations he had established the membership of the Working Group on communications, which would consist of Mr. Al Doun, Mr. Dieye, Mr. Hanga, Mr. Prado Vallejo and Mr. Tomuschat. If he heard no objection, he would take it that the Committee wished to set up the Working Group.

46. It was so decided.

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

47. Mr. ANABTAWI (Secretary of the Committee) said that since the last session Austria's initial report under article 40 of the Covenant and a supplementary report by Jordan had been received. Initial reports had not yet been received from Lebanon and Uruguay (due in 1977), Panama and Zaire (due in 1978), the Dominican Republic (due in 1980) and El Salvador and Nicaragua (due on 28 February and 11 June 1981, respectively). At its previous session the Committee had met with the representatives of Guyana, Iran, Lebanon, Panama, Uruguay and Zaire in connection with the reports due in 1977 and 1978. No representative of Chile had been sent to meet with the Committee for that purpose. The Committee had decided to postpone until the current session a decision on ways of dealing with the reports requested but not received from the States Parties whose reports were due. Eight initial reports, those of Guinea, Japan, Rwanda, Morocco, the Netherlands, Guyana, Iceland and Austria, were pending consideration, as was the supplementary report of Jordan.

48. The CHAIRMAN announced that on 28 April 1981 he had received a letter from the Permanent Representative of Zaire indicating that that country's report would be submitted during August 1981. He asked the Committee what action it wished to take with regard to reports long overdue.

49. Mr. TOMUSCHAT stressed that the Committee should take strong action. Its recent decision on periodicity had explicitly referred to the power of the Committee, under article 40 (1) (b), to request a subsequent report whenever it deemed it appropriate. What members had had in mind was the specific situation described in article 4 of the Covenant, which appeared to exist in two countries, Uruguay and Iran, both of which had failed to submit their reports under article 40. It was a specific task of the Committee to ensure that the guarantees referred to in article 4 of the Covenant were not abridged in any circumstances. The Committee should formally request the Governments of those two countries to submit their reports forthwith.
50. Mr. BOUZIRI observed that the situation in Northern Ireland was also a matter of serious concern. Perhaps the Committee should also ask the United Kingdom Government for a report on that situation.
51. Mr. TARNOPOLSKY pointed out that Mr. Tomuschat had raised the issue because of the Committee's decision on periodicity. Events in Northern Ireland might represent a similar situation, but the Committee had considered the United Kingdom report and therefore from the standpoint of periodicity the case was different. The Committee had never received a report from Uruguay, so no comparison was possible. In the case of Iran, the report submitted by the previous Government had been dismissed by the present Government as totally false. No other report had been received. Press reports concerning the treatment of religious minorities and political opponents in that country were most disturbing, and the Committee was entitled to ask for a report.
52. The CHAIRMAN pointed out that the case of Chile might also be included in that category.
53. Mr. LALLAH said that he could not agree with Mr. Tarnopolsky concerning the decision on periodicity. The Covenant allowed the Committee to ask for reports, and Iran and Uruguay were not the only countries with overdue reports: the Committee had held informal talks with representatives of several other countries. It was necessary to distinguish between the question of countries which had failed to submit reports, and reports requested as a result of the situation referred to in article 4. In his draft annual report he would give an account of the suggestions made at the informal meeting.
54. Mr. ERMACORA pointed out that it was necessary to distinguish between the question of periodicity and the Committee's authority under article 40, (1)(b). With respect to periodicity, he agreed with Mr. Tomuschat that States parties whose reports were overdue should be requested to submit those reports within a deadline to be decided by the Committee. With regard to article 40 (1) (b), Mr. Bouziri had rightly pointed out that the situation in Northern Ireland was serious, and fell under article 10 (3) of the Covenant. Other serious situations might well exist elsewhere. A very important procedural issue was involved, that of initiatives: on what basis should the Committee take the initiative to request a report? The discussion of that matter called for very thorough preparation; for the time being, it would be best to deal with problems of periodicity, and at the next session discuss the Committee's powers under article 40 (1) (b).
55. Mr. BOUZIRI said that he had referred to article 4 of the Covenant because Mr. Tomuschat had done so before him. Periodicity was indeed an entirely different matter.

56. The CHAIRMAN asked members what they wished to do about the failure of countries to submit their initial reports. The Committee could ask the Rapporteur, when referring to the New York meetings, to use strong language urging those States to submit their reports.

57. Mr. OPSAHL said that he interpreted article 40 (1) (b) of the Covenant to mean that wherever a State party was requested to submit a report it must do so. The Committee could base its decision on that article.

58. The CHAIRMAN asked whether the Committee wished to reiterate its requests for initial reports, and also to request the submission of subsequent reports.

59. Mr. DIEYE observed that it was unlikely that the Committee would receive subsequent reports when it had not yet received even the initial reports. In the past the Committee had always been very patient and its reminders to State parties concerning the submission of reports had been couched in very mild terms. In the case of countries whose reports were long overdue, it was time for the Committee to be firm. The Rapporteur should use strong language to remind those State parties of their obligation to submit an initial report. With regard to countries which were asked to submit reports because of exceptional circumstances, the case was quite different. Mr. Bouziri's proposal was justified in that the Committee had the right to ask for the submission of further reports whenever an exceptional situation existed, even if that country had recently submitted a report, as was the case of the United Kingdom. However, the situation in Iran was exceptionally serious, and objectively no comparison could be made with the situation in Northern Ireland. The situation in Iran concerned all human rights, whereas the case of Northern Ireland concerned prison conditions.

60. Mr. LALLAH drew attention to paragraphs 7 and 8 of Chapter III of the draft annual report on the submission of reports of States parties under article 40 of the Covenant (CCPR/C/XIII/CRP.1/Add.2). He thought it would perhaps be unreasonable to request at the current session that the reports in question should be provided forthwith. It appeared to him that the language of paragraph 8 was already strong but, if the Committee wished to strengthen it further, he was open to instruction. If the Committee did not receive the promised co-operation within a reasonable time, say in six months, it would not then be unreasonable for it to call for an urgent response.

61. The CHAIRMAN suggested that the views put forward during the discussion should be reflected in the annual report and the hope expressed that the reports would be submitted before the end of the year.

62. Mr. TOMUSCHAT said that a distinction must be drawn between initial reports and subsequent reports. In the case of Uruguay, which had never sent any report, a simple reminder from the secretariat would not be sufficient. The Committee was aware, from individual communications and other sources, that the situation there was very grave. The Committee should therefore take a decision and show a firm determination to tackle the problem actively.

63. In the case of Iran, an initial report had been submitted by the Government of the Shah, although it had later been repudiated by the succeeding Government. The report now being requested should be regarded as a subsequent report under article 40 (1) (b). The Committee was entitled to call for such a report because of the exceptional situation in the country. It was two years since the first report had been repudiated and a new report promised, and there had since been

protracted negotiations. According to all the information coming in through various channels, even the human rights protected under article 4 (2) of the Covenant were currently under a structural threat in Iran. It would, therefore, be legitimate for the Committee to use its reserve powers under article 40 (1) (b) and it should take a decision to do so.

64. Mr. ERMACORA said that none of the human rights instruments promulgated by the United Nations made any provision for the possible suspension of the membership of States which did not fulfil their formal obligations under those instruments. He felt that the time would come when such a possibility must be investigated, if the Covenant itself, and the Human Rights Committee as the executive organ of the State parties to the Covenant, were not to lose their credibility. The Committee might not have the power to make such a proposal, but the idea should be reflected in its records, and could perhaps be elaborated at a later stage in the General Assembly or in the Commission on Human Rights. He recalled that an alternative approach to the fulfilment of human rights had been an item under consideration in the United Nations for some 11 years.

65. Mr. BOUZIRI said that it was only a few months since the exchange of views in New York with the representatives of Iran, Lebanon and Chile. He pointed out that even countries in a normal situation had a year or more in which to prepare their reports. It was not reasonable, therefore, to expect Iran to respond in so short a time.

66. He believed that to say that the situations in Iran and Northern Ireland could not be compared was a subjective judgement. The situation regarding human rights in Northern Ireland was such as could not be neglected. There could not be two different standards where human rights and human life were concerned.

67. Mr. DIEYE said that only an objective and positive approach, independent of any influence from any direction, would advance the cause of human rights. He felt that as far as those countries which had not yet submitted an initial report were concerned, the Committee must be firm. Certain countries where there was an exceptional situation also merited a request for a report, and if the Committee were not to make one it would be failing in its duty. There were certain objective situations which it could not ignore. If its approach was too cautious, it would lose its credibility and would appear to be acting like a political rather than an expert body. In the case of Iran, he felt that the Committee must take account of the disturbing situation there. The requests to Iran, Uruguay and Chile were longstanding and the Committee should not delay further while serious violations of human rights continued.

68. The CHAIRMAN reminded the Committee that time was fast running out and it had not yet completed its work on communications or taken a decision on the amended draft report. He suggested that one whole meeting in Bonn should be devoted to the matter under discussion, and that, in the meantime, the Rapporteur should be asked to reflect the current debate in his report, and to urge those States parties which had not yet done so to submit their initial reports, stressing that they should be made available before the end of the year. He expected that in Bonn the Committee would be able to hear and comment on three to four reports of States parties. It would further discuss organizational matters in general and the question of periodicity in particular. The discussion on the status of reporting would be held on a specific day so that it would be possible to have more exhaustive debate if the Committee so wished.

The meeting rose at 12.55 p.m.