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HUMAN RIGHTS COMMITTEE

Fifteenth session

SUMMARY RECORD OF THE 334th MEETING

Held at Headquarters, New York,  
on Monday, 22 March 1982, at 10.30 a.m.

Chairman: Mr. MAVROMMATIS

CONTENTS

Opening of the session

Adoption of the agenda

Organizational and other matters

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The meeting was called to order at 11.10 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the fifteenth session of the Human Rights Committee.

ADOPTION OF THE AGENDA

2. Mr. OPSAHL asked whether item 4 of the provisional agenda contained in document CCPR/C/23 (Consideration of reports submitted by States parties under article 40 of the Covenant) might also cover consideration of the obligation of States parties to report any derogations under article 4 of the Covenant in times of public emergency. Although several countries appeared to be applying the provisions of article 4, the Committee had never discussed such situations because States rarely reported them. Since a statement by the Permanent Representative of Poland regarding the application of article 4 in Poland had been circulated that morning, and since the Government of Nicaragua had recently declared a state of emergency, he was anxious to know whether the Committee planned to discuss those and similar situations at its current session.
3. Mr. ERMACORA observed that the Committee was the only United Nations body competent to deal with derogations under article 4 of the Covenant and their legal and human rights implications. It could not ignore action taken by States parties under that article; rather, it should recommend that such States should be required to report under article 41, paragraph 1 (b), on any action taken under article 4 as it affected human rights. In particular, the Committee should not wait until a State party referred to its application of article 4 in its regular report, but should consider the matter immediately.
4. Sir Vincent EVANS agreed that the Committee should give that very important issue further consideration at the current session. As a matter of procedure, the communication from the Permanent Representative of Poland mentioned by Mr. Opsahl should be circulated to all members of the Committee as an official Committee document. He also wished to suggest that it was not enough for the Secretariat to compile a yearly list of the latest derogations under article 4 or of reservations to the Covenant communicated by States parties; such communications should be brought to the Committee's attention in an official document as soon as they were received.
5. With regard to the annotations to the provisional agenda, he understood that, in addition to the four countries mentioned in connexion with item 4, Uruguay was in a position to present its initial report at the current session. He wondered what arrangements had been made for it to do so.
6. Finally, the Working Group which had met during the past week to discuss certain questions arising from article 40 of the Covenant had concluded, inter alia, that the Committee should take a decision on whether to change the periodicity of reports.

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7. The CHAIRMAN confirmed that the Committee would indeed be considering the report of Uruguay at the current session.
8. Mr. SADI, referring to the point raised by Mr. Opsahl, expressed the hope that the Committee was not going to single out Poland for having applied article 4 of the Covenant. The Committee should be realistic and bear in mind that few States parties even bothered to inform it when they applied article 4.
9. Mr. TARNOPOLSKY said it had not been suggested that any one country should be singled out for consideration for having applied article 4, but rather that the general issue of how to deal with such situations should be addressed. The declaration of a state of emergency by a State party should not be considered only when that State was due to report to the Committee. The present periodicity of reports was clearly inadequate to ensure that such emergencies were discussed as and when they arose. In that connexion, he noted that a study on emergency situations had been prepared for the Commission on Human Rights; it would be useful for members to have a copy of it when the Committee came to consider the general issue of how to deal with reports on derogations under article 4.
10. Mr. TOMUSCHAT recalled that there had been talk of producing a yearbook or annual report on the Committee's proceedings. He wondered what had been done in that respect and whether the question might also be included in the agenda of the current session.
11. Mr. GRAEFRATH agreed with previous speakers that the Committee could consider the matter of derogations under article 4 only in general terms and not with reference to any specific country.
12. Mr. ERMACORA also agreed that the Committee could deal only with the general issue of reports on derogations under article 4. In that connexion, he wished to point out that the communication from the Permanent Representative of Poland did not constitute formal notification to the Committee.
13. Mr. PRADO VALLEJO said it was extremely important that the Committee should discuss the question of the application of article 4 by States parties and asked what official notifications the Committee had received in that connexion from States parties through the Secretary-General. Since the Committee was to discuss the report of Uruguay, he particularly wished to know whether the Secretary-General had been formally notified by the Government of Uruguay of the declaration of a public emergency in that country in accordance with article 4, and how that notification had been worded.
14. Mr. ANABTAWI (Secretary of the Committee) read out the notification received from Uruguay regarding its application of article 4, as contained in document CCPR/C.2/Add.3 of 28 June 1979.
15. Mr. TOMUSCHAT suggested that the Committee should also devote some time to considering the summary records of the debate on the Committee's report at the thirty-sixth session of the General Assembly, in order to show that it wished to work closely with the Assembly and to take its comments into account.

16. Sir Vincent EVANS agreed with Mr. Tomuschat's suggestion. The Third Committee had devoted several meetings to considering the Committee's report, in conjunction with other human rights questions. In the past, the Secretariat had provided the Human Rights Committee with a summary of the points raised during the debate in the Third Committee, and a similar summary would be of great help in discussing the question at the current session.

17. The CHAIRMAN said that the point raised by Mr. Tomuschat could be discussed under item 2 (Organizational and other matters).

18. If there was no objection, he would take it that, with the addition of Uruguay to the list of countries whose reports were to be considered under item 4, the Committee adopted the provisional agenda as it appeared in document CCPR/C/23.

19. The agenda was adopted.

#### ORGANIZATIONAL AND OTHER MATTERS

20. The CHAIRMAN said he had been informed that the representatives of Jordan would be unable to present their country's report on 26 March as planned, since they had not finished dealing with the questions put to them at a previous session. The representatives of Uruguay had informed him that they would be in a position to present their country's report during the second or third week of the session.

21. Mr. ANABTAWI (Secretary of the Committee) said that the Secretariat had previously received a note verbale from the Permanent Mission of Jordan giving the names of the representatives who would attend the meetings of the Committee on 26 March. However, in view of the indication that those representatives might be unable to appear, the Secretariat had contacted the Mission again in order to obtain a final decision.

22. The Permanent Missions of Guinea and Rwanda had so far received no instructions concerning representation before the Committee; it was hoped that further information would be received shortly. The report of Guyana, on the other hand, was ready for the Committee's consideration.

23. The report of Uruguay had been received after issuance of document CCPR/C/23 and was now available in all languages. Uruguayan representatives were ready to attend a meeting of the Committee provided that they were given time to prepare. It would therefore appear that the report might be considered in the second or third week of the session.

24. Mr. BOUZIRI said that, in his view, there were certain cases in which it would be of little practical value to invite representatives of the State party concerned to meet with the Committee, since the reports provided were extremely brief and quite inadequate as a basis for any serious discussion of the human rights situation in those countries.

25. The CHAIRMAN suggested that the Committee should defer any final decision on its programme of work until the Secretariat had received replies from Guinea, Jordan and Rwanda.

26. It was so decided.

27. Sir Vincent EVANS, speaking as Chairman of the Working Group on communications under the Optional Protocol to the Covenant, which had met during the week preceding the Committee's session, said that the Working Group had reviewed the status of all pending communications. It had prepared draft decisions for the Committee's consideration on nine new cases and draft final views on five other cases. Those should be considered by the Committee at its current session, together with five other draft final views, two of which had been prepared by Special Rapporteurs and three by the previous Working Group. In addition, six draft decisions had been prepared on the admissibility of certain communications under the Optional Protocol, and it was hoped that three more would be ready within a few days. Thus 16, and possibly 19, draft decisions would be available for consideration by the Committee at the current session, and he wished to pay tribute to the excellent preparatory work carried out by the Secretariat which had greatly facilitated the Working Group's progress.

28. The question raised by Mr. Tomuschat concerning the production of a precedent book for communications and the publication of a selection of decisions taken by the Committee on those communications was extremely pertinent. The Secretariat had been able to prepare drafts for both those projects; he hoped that the Committee would have time to consider them at the current session, so that the work could be finalized at the sixteenth session in July with a view to publication later in 1982.

29. Mr. BOUZIRI, speaking as Chairman of the Working Group on periodic reporting and general comments, said that the Working Group had been formed at a very late stage and had therefore been able to hold only two meetings. However, as it had been an open-ended group, it had attracted the participation of many non-members, leading to a very interesting exchange of views. In general, and particularly in the case of the difficult but important question of supplementary reports, where the exchange of views had been constructive but inconclusive, it would be very useful to be able to hold one further meeting.

30. Many general comments on various articles of the Covenant had been considered. Particular attention had been given to article 6 and positive progress had been made, to the point where it had been possible to arrive at a text which embodied all the essential elements and was almost certain to be acceptable to all members of the Committee. There again, it would be useful to hold an extra meeting of the Working Group so as to be able to present a finalized document to the Committee. He wished to join Sir Vincent Evans in commending the Secretariat for its preparatory work.

31. Mr. OPSAHL said that, although priority should be given to the Committee's work on communications, the second Working Group should not be dissolved before being given the opportunity to consider other matters. For example, the point

(Mr. Opsahl)

which had raised regarding derogations might be added to its agenda, and there were proposals and comments pending on a number of other articles besides article 6.

32. The CHAIRMAN agreed that the second Working Group should hold a further meeting, preferably in the first week of the Committee's session so as to allow time for processing of the documents.

33. Sir Vincent EVANS said that he wished to express his profound dismay at the departure of Mr. van Boven from his post as Director of the Division of Human Rights. With his integrity and dedication, Mr. van Boven had made an outstanding contribution to United Nations action in the field of human rights; he had provided direction and leadership when it had been sorely needed and had been a constant source of encouragement, support and inspiration for the Committee. The press reports and comments on the fact that his appointment had not been confirmed had been extremely damaging to the United Nations as defender of human rights. In view of the continuing violations of human rights in many parts of the world, what the United Nations needed at the present time was not less but more outspokenness.

34. Mr BOUZIRI said that in Mr. van Boven the United Nations had lost a remarkable man who had made an outstanding contribution to human rights activities. He deplored his departure and the fact that the Committee had not been able to express its feelings to him in person.

35. The CHAIRMAN requested the representative of the Secretary-General to convey to Mr. van Boven an expression of the Committee's regret at his departure and gratitude for his invaluable work in the past.

The meeting rose at 12.25 p.m.