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ON CIVIL AND
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SUMMARY RECORD OF THE 318th MEETING

Held at the Wissenschaftszentrum, Bonn-Bad Godesberg,
on Monday, 19 October 1981, at 3 p.m.

Chairman: Mr. MAVROMMATIS

CONTENTS

Submission of reports by States parties under article 40 of the Covenant.

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

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

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

1. Mr. ANABTAWI (Secretary of the Committee) informed members that, with the exception of the second part of the initial report of the Netherlands, no further report had been submitted under article 40 of the Covenant since the closure of the Committee's summer session. The second report of the Netherlands, covering the Netherlands Antilles, had been received at the beginning of September and sent immediately for translation and reproduction as document CCPR/C/10/Add.5.
2. It would be recalled that at the thirteenth session the Committee had been informed of a letter received from the Permanent Representative of Zaire in which it had been indicated that the report of that country, due in 1978, would be submitted in August 1981. No such report had yet been received by the secretariat.
3. Initial reports from the following States parties had not yet been received: Lebanon and Uruguay, due in 1977; Panama and Zaire, due in 1978; the Dominican Republic, due in 1979; Trinidad and Tobago, New Zealand, the Gambia and India, due in 1980; El Salvador, due on 28 February 1981; Nicaragua, due on 11 June 1981; Sri Lanka, due on 10 September 1981. The report of Australia was the only other report due before the end of 1981.
4. It would be recalled that at its twelfth session the Committee had held discussions with the representatives of Iran, Lebanon, Panama, Uruguay and Zaire concerning the submission of their countries' reports, and that no representative of Chile had been sent to discuss the same matter with the Committee. At its thirteenth session the Committee had been informed of the status of the submission of reports by States parties. With regard to those States with whose representatives the Committee had had an informal meeting at the twelfth session and which had not yet submitted their reports, members of the Committee had had an exchange of views on whether a report should not be requested forthwith in view of the time that had elapsed since the reports of those States had fallen due and on whether the request should not be extended to other States where a state of emergency prevailed. Owing to lack of time, it had not been possible to complete consideration of the matter, which the Committee had decided to take up again at its fourteenth session.
5. There were currently five initial reports pending consideration - those of Guinea, Rwanda, Guyana, Iceland and Austria - in addition to the reports scheduled for consideration at the current session.
6. The Committee might wish to decide whether reminders should be sent to those States parties whose reports had been due in 1980 and whether a third reminder should be sent to the Dominican Republic, whose report had been due in 1979.
7. The CHAIRMAN invited the Committee to consider what action should be taken in the case of Lebanon and Uruguay, whose initial reports had been due in 1977.

8. Mr. van BOVEN (Director, Division of Human Rights) said he had been informed that the report of Uruguay was now ready and would be submitted very shortly.
9. The CHAIRMAN said that he had received similar information.
10. Mr. GRAEFRATH inquired whether there was any difference between the information referred to by the previous two speakers and the information which the Committee had received two years earlier.
11. The CHAIRMAN said the difference was that in April 1981 the Uruguayan authorities had promised that their report would actually be ready by August. In the case of Lebanon, the Committee had always shown understanding, but it could not extend deadlines forever.
12. Mr. OPSAHL observed that no reminder had been sent to Lebanon since 1978 and that in 1980 the Committee had decided not to send a reminder owing to the special circumstances obtaining in that country. Such a situation could not, however, continue indefinitely.
13. Mr. SADI said it had been apparent to him during two visits which he had made to Lebanon since the previous session that the Government was far from consolidating its control over the country. It would probably not be in a position to comply with the Committee's request for a report for several years to come. There were no functioning courts, and the police and the army were disorganized. It would therefore be rather harsh to expect Lebanon to respond at an early date.
14. Sir Vincent EVANS thanked Mr. Sadi for the information which he had just given but pointed out that there had been complete silence from the Lebanese authorities. It would not be unreasonable to expect some formal communication in writing stating the Government's position on the matter.
15. Mr. ERMACORA said that Mr. Sadi's pragmatic approach had much to commend it. If, however, such an approach was accepted in the case of Lebanon, the Committee would presumably be obliged to take a similar line with regard to Iran. It would certainly be helpful if the Lebanese Government could explain the reasons for the delay in submitting its report.
16. The CHAIRMAN said he had intimated to high-ranking Lebanese officials that the Government of Lebanon might submit a short communication emphasizing the difficulties facing it in implementing the Covenant or might give some information on the laws theoretically in force in its territory, as Cyprus had done. He suggested that he should continue his contacts in New York, that the Division of Human Rights should acquaint the Government of Lebanon with the present discussion and with the Committee's appreciation of its difficulties, and that the Government should be officially requested to submit a report or at least to enumerate its difficulties before the Committee's next session.
17. It was so decided.

18. Sir Vincent EVANS, commenting on the position with regard to Uruguay, proposed that the Committee should formally take note of the information given by the Director of the Division of Human Rights and decide to put that country's report on the agenda for its next session, informing the Government of Uruguay accordingly.
19. Mr. MOVCHAN said that he had no objection to Sir Vincent Evans' proposal. He was, however, concerned over the Committee's general approach. All States parties should be treated on an equal footing, and if an exception was made in any particular case the reasons for making it should be explained. He wondered whether it had ever occurred in the past that a report had been placed on the agenda before having been received. If the Committee intended to adopt such an approach, why should the report of Chile not be placed on the agenda too? And why had consideration of Iran's failure to submit a report been postponed until the following Monday?
20. The CHAIRMAN said he took it that Sir Vincent Evans' proposal was that the report of Uruguay should be placed on the agenda provisionally. If the report did not arrive, the Committee would then have to discuss what further action to take. Consideration of Iran's failure to submit a report had been postponed because one member who was particularly interested in the case of Iran would not be in Bonn until the following week. There was no question of giving a particular State party special treatment.
21. Sir Vincent EVANS said that, since the report of Uruguay was four years overdue, the Committee had every justification for taking the decision which he had suggested. Moreover, the need to examine Uruguay's report was particularly urgent in view of the human rights situation in that country, as it had emerged from the Committee's work on communications.
22. Mr. SADI said that the Committee would have to give careful thought to the language it used in any further reminders to Uruguay. More persuasive wording was called for.
23. The CHAIRMAN said that, since the Government of Uruguay had stated that its report was ready, members should have no difficulty in accepting Sir Vincent Evans' proposal. If the Committee insisted on actually having received the report before placing it on the provisional agenda, it would not be able to consider it until July 1982, although the report was already more than four years overdue. Mr. Sadi might like to formulate a few ideas as to what kind of language could be used in any further reminders. If there was no objection, he would take it that Sir Vincent Evans' proposal that consideration of the report of Uruguay should be included in the provisional agenda for the next session was acceptable.
24. It was so decided.
25. Mr. OPSAHL recalled the case of Rwanda, which had submitted a very brief report not fully in accordance with a State party's obligations.
26. The CHAIRMAN said that the matter had been raised with the Government of Rwanda, which had failed to react. The Committee might wish to request the Secretariat to invite that Government to submit additional information before the Committee's next session.

27. He invited the Committee to consider the cases of Panama and Zaire, whose reports had been due in 1978. He pointed out that in the case of Panama a report had been promised but had not arrived. Two reminders and an aide-mémoire had been sent in 1979 and 1980. Zaire, too, had given assurances that it would submit a report. The situation regarding those two countries was rather surprising.

28. Mr. TOMUSCHAT said that it might be useful to invite the ambassadors of Panama and Zaire in Bonn to appear before the Committee at its current session.

29. Mr. SADI suggested that the Chairman might convey to the embassies of the two States parties the Committee's concern that their reports had not been submitted and ask whether they were willing to comment, either through their representatives in Bonn or in writing. However, great care would have to be taken with the form of language used.

30. Sir Vincent EVANS supported Mr. Tomuschat's suggestion. The Committee's views would be impressed much more strongly on the Governments of Panama and Zaire if direct representations could be made to them through their ambassadors in Bonn. It could be indicated that contact had been established with the ambassadors of those two countries in New York earlier in 1981 and that the Committee had been informed that it could expect their reports at an early date, but that those reports had not yet been received and the Committee hoped that they would be submitted in the very near future.

31. Mr. GRAEFRATH said that since both Panama and Zaire had promised to submit reports, those reports should be placed on the agenda for the next session.

32. The CHAIRMAN said that, if there was no objection, he would take it that the ambassadors of the countries concerned should be contacted with a view to making arrangements for holding informal meetings with the Committee.

33. It was so decided.

34. The CHAIRMAN drew attention to the case of the Government of the Dominican Republic, whose report had been due in 1979. Recalling that two reminders had already been sent to that Government, he suggested that the Committee should send an aide-mémoire drafted in language similar to that of the reminders.

35. It was so decided.

36. The CHAIRMAN recalled that the reports of the Governments of Trinidad and Tobago, New Zealand, the Gambia and India had been due in 1980. He suggested that reminders should be sent to the Governments concerned.

37. It was so decided.

38. The CHAIRMAN said that he had seen the new Permanent Representative of Chile in New York the previous week and had brought up the question of the supplementary report requested by the Committee in 1979. He had been informed that the Government of Chile was not prepared to comply with any request that singled out that country, but that it would be willing to send a further periodic report to the Committee.

39. Mr. ERMACORA said that, in his view, the Committee should request Chile to send a second periodic report, which would enable it to ascertain the situation in that country regarding the implementation of the provisions of the Covenant.

40. Mr. OPSAHL said that, in accordance with the Committee's decision on periodicity, the next regular report by Chile would be due in April 1984. That decision had, however, been taken without prejudice to the power of the Committee, under article 40, paragraph 1 (b) of the Covenant, to request a subsequent report whenever it deemed appropriate. The reasoning behind that saving clause was that in countries in which an emergency existed or where there were derogations from the provisions of the Covenant, the Committee should request reports out of turn, as it were, because of the urgent need for information on such situations. Consequently, the Committee should consider the possibility of requesting Chile to submit a further report before 1984.

41. Mr. MOVCHAN said it was clear that the Committee reserved the right to proceed in accordance with article 40, paragraph 1 (b), of the Covenant. In considering the initial reports of States parties, however, the Committee had a duty to persuade the States concerned to comply with their obligations under the Covenant. In that connection, it had to take various relevant decisions. In the case of Chile, the Committee had taken a decision by consensus that the Government's report had not been in accordance with the provisions of article 40, paragraph 1 (a). The Committee must respect the provisions of the Covenant and the terms of its own decisions. The matter was clear. The Government of Chile had submitted insufficient information and it was the duty of the Committee to remind that Government of the decision taken on the basis of article 40, paragraph 1 (a), of the Covenant.

42. Mr. GRAEFRATH said that the Committee should remind the Government of Chile of the promise made by its own ambassador regarding the submission of a further report.

43. Mr. MOVCHAN said he felt strongly that the Committee should place the question of the report of Chile and that of Uruguay on the agenda for its next session, particularly since the Ambassador of Chile had promised that a report would be submitted.

44. Sir Vincent EVANS stressed the need for the question to be considered strictly in accordance with the position adopted by the Committee at its sixth session. It had said, in the statement drafted for the Chairman to communicate to the Government of Chile, that it had found that the information provided on the enjoyment of human rights set forth in the Covenant and the impact of the state of emergency was still

insufficient. It had invited the Government of Chile to submit a report in accordance with article 40 of the Covenant and to furnish specific information on restrictions applicable to the rights and freedoms under the Covenant during the period of the state of emergency. In another reference to the Chilean report, the Committee had decided to inform the Government that it expected to receive the supplementary report requested in accordance with article 40 of the Covenant.

45. It should be noted that the case of Chile differed from that of Iran, the current Government of which had repudiated the report of the previous régime and had undertaken to furnish the Committee with a completely new report. Because of the emergency situation existing in the country, the case of Chile also differed from that of Uruguay. Moreover, Uruguay had not submitted a report to the Committee, whereas Chile had submitted a report which the Committee had examined. It had found the report by Chile to be incomplete and had therefore requested the Government to submit a supplementary report. There were other reporting States - Kenya, for instance - whose initial reports had been found inadequate by the Committee and which had been requested to supply additional information. It was on that basis that members should consider the case of Chile. A number of other Governments were in a similar situation and the Committee should not single out Chile. It should merely say that it was one of the Governments whose initial reports were inadequate in certain respects and that it required additional information prior to and apart from the submission of the second regular report.

46. Mr. MOVCHAN, referring to Sir Vincent Evans' comments concerning the need not to single out Chile, said that the Committee had in fact already singled out that country by taking a special decision in its regard. No such special decision had been taken in relation to any other State party. In his opinion, whenever the Committee took a decision, it must observe that decision. In view of the fact that a report was to be submitted by Chile, he thought that the question of Chile should be included in the agenda for the next session.

47. Mr. TOMUSCHAT said he did not think that the Committee had singled out Chile. It was true that a decision had been taken in respect of Chile and not in respect of other countries. However, the Committee had found the situation prevailing in Chile in 1979 to be particular in nature and its decision had not been discriminatory with regard to that country.

48. The report by the Government of Chile had failed to reflect the true situation in that country and had raised the complex issue of how to deal with incomplete reports. At the previous session, the Committee had considered reports from some African countries that had been far from satisfactory, for instance, the report by Kenya, which it had found to be incomplete. In his opinion, if the Committee raised the question of a supplementary report by Chile, it should also refer to the case of other countries and request additional information from them as well. It should not make such a request to Chile alone.

49. Mr. DIEYE said he thought that there was some confusion regarding the question of incomplete reports. The Committee had taken decisions which were special in nature and which it must respect. When the Committee decided that a report was incomplete, it was duty bound to request the State party concerned to supply additional information. In his opinion, however, there was no justification for making a comparison between the reports of certain States, such as Kenya, which were clearly inadequate, and reports - such as that of Chile - which it had rejected because they had not accurately described the situation in the country in question. As far as Uruguay was concerned, the Government had simply failed to submit a report. Thus, those three situations were quite different. The Committee should abide by its decision to request further information from the Government of Chile. However, it was essential to obtain the co-operation of that Government; it had stated that it was not prepared to submit the report requested but that it was willing to submit a subsequent report. That was a point which should be taken into consideration by the Committee. He stressed the need to seek the co-operation of governmental authorities in order to ascertain the situation concerning human rights in the country concerned.

50. The CHAIRMAN said he believed that consideration of the status of reports by States parties could be completed once the particular case of Iran had been examined. As far as Chile was concerned, another reminder would be drafted and sent. The case of Chile would surely come up again in connection with agenda item 4.

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

51. Mr. ANABTAWI (Secretary of the Committee) said that, in accordance with paragraph 2 (a) of the Committee's decision on periodicity (CCPR/C/19), notes verbales had been sent to all States parties whose next report would be due in 1983, informing them of that decision and of the exact date by which their subsequent report should be submitted. No such notes verbales had been sent to those States parties whose initial reports had been due in 1977 and 1978 but had not yet been submitted to the Committee, and whose subsequent report would be due in 1983 in accordance with paragraph 2 (b) of the decision on periodicity, namely Lebanon, Uruguay, Panama and Zaire, pending a decision by the Committee on those cases. As to the cases of Iran and Chile, whose initial reports had been considered at the fourth and sixth sessions respectively, but whose representatives had later promised to submit new reports which were still to be received by the Committee, the Secretariat requested instructions as to whether notes verbales should be addressed to those two States informing them of the dates on which their subsequent reports would be due.

52. The general comments adopted by the Committee at its thirteenth session had been transmitted to all States parties to the Covenant by a note verbale dated 18 September 1981. The text of that note verbale, as well as the text of the notes verbales concerning periodicity were available for consultation by members of the Committee.

53. The States whose subsequent reports were due in 1983 were Tunisia, the Libyan Arab Jamahiriya, Czechoslovakia, the German Democratic Republic, Madagascar, the Federal Republic of Germany, Yugoslavia, Ecuador, the Union of Soviet Socialist Republics, Mauritius, and the Byelorussian Soviet Socialist Republic.
54. Mr. GRAEFRATH asked whether the notes verbales containing the decision on periodicity and indicating the schedule for submission of reports had been sent only to those States whose reports were due in 1983 and not to those whose reports were due in 1984 or 1985.
55. The CHAIRMAN said that the main concern had been to give as much advance notice as possible to States whose reports were due in 1983. Similar notice would be given to States whose reports were due in 1984 and 1985, but the Committee should advise the Secretariat how to proceed in cases presenting particular difficulties.
56. Mr. GRAEFRATH asked how the annual report of the Committee was sent to States parties to the Covenant.
57. Mr. ANABTAWI (Secretary of the Committee) said that the documents of the Committee were distributed directly by the division of the Secretariat concerned with distribution of documents.
58. Mr. GRAEFRATH said he believed that the annual report of the Committee should not be transmitted to States parties to the Covenant in the same way as to other States Members of the United Nations.
59. Sir Vincent EVANS said that a distinction should be made between the annual report of the Committee to be submitted to the General Assembly under article 45 of the Covenant and the reports to be transmitted to States parties under article 40. In his view, nothing in article 45 required annual reports to be submitted to States parties in a manner different to that in which they were submitted to all States Members of the United Nations.
60. The CHAIRMAN said he believed that, in his remarks on the distribution of the Committee's annual report, Mr. Graefrath had had in mind not an obligation towards States parties but the need to make a gesture of courtesy to them.
61. Turning to the difficult cases in respect of which the Secretariat had requested guidance, he asked how the members of the Committee wished the decision on periodicity to operate in the cases of Lebanon, Uruguay, Panama and Zaïre.
62. Mr. ERMACORA asked whether Lebanon had submitted a declaration to the Secretary-General under article 4 of the Covenant.
63. The CHAIRMAN said he understood that no such declaration had been received.
64. Mr. MOVCHAN said that, in paragraph 2 (b) of its decision on periodicity, the Committee had requested States parties other than those which had submitted their initial reports or additional information relating to those reports before the end of the thirteenth session to submit subsequent reports to the Committee every five years from the date when their initial report had been due. The position in the cases under consideration was thus quite clear.

65. The CHAIRMAN said that the provisions cited by Mr. Movchan meant that those States whose initial reports had been due in 1977 would be expected to submit a subsequent report in 1982. Some countries would therefore be called upon to submit two reports in the space of a year or so.

66. Mr. TOMUSCHAT said that in his view it was absurd to ask a State party to submit two reports at virtually the same time. The material to be submitted should be consolidated in a single report; that report, however, must contain detailed and concrete information. It should, however, be made clear to the State parties in question that they were not being relieved of their obligation to submit an initial report.

67. The CHAIRMAN said that to merge two reports into one might present procedural difficulties; the Committee's guidelines, for example, called for the second report to fill in the gaps of the first. The States parties in question should not be relieved of the obligation to submit an initial report, and mentioning the approaching deadline for their second report would doubtless induce them to submit their initial report without delay.

68. Sir Vincent EVANS said that, according to his understanding the decision on periodicity was subject to review and adjustment in the light of experience gained by the Committee in its work under article 40 of the Covenant. He had always considered that decision to be too rigid, particularly in regard to States which submitted supplementary information at an early date after the examination of their initial report, and as far as the provisions of paragraph 2 (b) were concerned. It was absurd, for example, to ask Uruguay to submit a second report in 1982 when its initial report would only be considered in spring 1982.

69. Mr. GRAEFRATH said that it was not difficult, when fixing the date for submission of a State's second report, to make it clear that the State was not being relieved of its duty to deliver an initial report. In the case of a State which failed to submit either its first or its second report, publicizing that fact was a useful type of pressure available to the Committee. He believed that the Committee on the Elimination of Racial Discrimination followed the practice of informing the public whenever a State failed to submit a report.

70. Mr. OPSAHL said it should be explained to States parties which had failed to submit their initial report and were due to submit their second report in the near future that they did not have to submit two different documents but must comply with the requirements for the two types of report, as specified in the guidelines laid down by the Committee. Regarding the decision on periodicity, it was very important that the Committee should keep to the five-year rule.

71. The CHAIRMAN said that the Committee's guidelines regarding the contents of additional reports presupposed the existence of a first report. Combining two reports would defeat the purpose of the second report. While he understood the logic of what Sir Vincent Evans and Mr. Tomuschat had said, he believed that States should be required to comply with the decision on periodicity as it stood.

72. Mr. HANGA said that there was a possible contradiction between paragraph 1 (b) and paragraph 2 (a) of the decision on periodicity. He wondered whether States which had submitted initial reports before the end of the thirteenth session could be asked to submit subsequent reports before the five-year period had elapsed.

73. Mr. OPSAHL said that, in the case of States whose reports covered only the period up to 1978 or 1979, he saw no difficulty in requesting the Government concerned to present an up-to-date picture by submitting a subsequent report according to the decision on periodicity.

74. The CHAIRMAN said that the members of the Committee appeared to agree that that decision stood and that all States parties concerned should receive the appropriate information regarding the submission of reports. The problem remained how the decision should apply in the cases of Lebanon, Uruguay, Panama and Zaire.

75. Sir Vincent EVANS said that the decision on periodicity should be interpreted as a whole; in his view, paragraphs 2 (a) and 2 (b) were qualified by the final paragraph which stated that, notwithstanding the preceding provisions, the Committee could request a subsequent report whenever it deemed appropriate. That paragraph, which had been designed for cases where a subsequent report was requested at an earlier date, could also be used for cases such as that of Uruguay, which was about to submit its initial report for consideration in spring 1982. If paragraph 2 (b) were applied rigidly, Uruguay's subsequent report would also be due in March 1982, which was absurd. He suggested that the Committee should take advantage of the final paragraph in order to defer the decision concerning the date of Uruguay's subsequent report until its initial report had been considered.

76. The CHAIRMAN said that he believed Sir Vincent Evans' suggestion was a logical one. Perhaps the States parties concerned could be informed of the Committee's decision on periodicity without a specific date being mentioned. The Committee could remind them that their second report would soon be due, thus strengthening the argument for immediate submission of the initial report. The matter could then be reconsidered at the Committee's spring session.

The meeting rose at 5.50 p.m.