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Seventieth session

SUMMARY RECORD OF THE 1878th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 23 October 2000, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

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GE.00-45256 (E)

The meeting was called to order at 10.20 a.m.

GENERAL COMMENTS OF THE COMMITTEE (agenda item 5) (continued)

Draft general comment on article 4 of the Covenant (continued)
(CCPR/C/66/R.8/Rev.1, CCPR/C/69/R.4, CCPR/C/70/Rev.5)

1. The CHAIRPERSON reminded the Committee that paragraph 13 of the second draft of the general comment (CCPR/C/66/R.8/Rev.1) had been left pending and invited Mr. Scheinin to report on the stage reached in the discussion.

2. Mr. SCHEININ said that the Committee had halted its discussion in the middle of paragraph 13. He noted that there was now a further document before the Committee (CCPR/C/69/R.4) containing his own amendments to paragraph 2 of the draft comment together with a new paragraph 15. Paragraph 13 of the second draft dealt with the subject of possible dimensions of articles 9 and 14 of the Covenant that were not subject to derogation. After a general outline of the issue, the paragraph concentrated on article 9 and the right to judicial review. A difference of opinion had arisen at that point. One proposal was that the line of argument should be strengthened on the basis of the requirement of effective remedies set forth in article 2.3 of the Covenant. He would have had no difficulty with that. Subsequently, however, some support had been voiced for the idea that there should not be a direct reference to articles 14 and 9 in the middle of the paragraph, but rather use should be made of the issues and reference made to the notion of the fundamental principle of fair trial rather than the right to fair trial expressed in article 14. On the non-derogable elements of article 9, however, in particular paragraph 4, a clear disagreement had arisen. Some speakers had emphasized that the principles of humanitarian law demanded an effective review of cases of detention even during wartime, although not necessarily judicial review. Since then, he had been able to consult the recommendation submitted by the Committee in 1994 to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which had emphasized the view that the remedies provided in articles 9.3 and 9.4, read in conjunction with article 2, were inherent to the Covenant as a whole. A very similar view was expressed in the advisory opinion of the Inter-American Court of Human Rights which he had circulated to the Committee. He would propose, therefore, that the reference to article 9 should not speak of the notion of judicial review but refer more generally to the possibility of having the lawfulness of any detention examined before a court. That would bring it closer to the actual wording of article 9, though leaving open to interpretation what was meant by “a court”.

3. Ms. EVATT said that she could agree to the proposal that whatever was said about remedies in cases of detention should build upon what had been said earlier about the need to provide recourse in all cases, as required by article 2.3. The Committee had used that approach in its recommendation to the Sub-Commission. It was difficult to comment further without an actual text and she looked forward to receiving one that would emphasize the right to the review of detention in all situations, even a state of emergency.

4. Mr. KRETZMER said that he too would like to see a text. He was concerned, however, lest situations covered by humanitarian law should be used as an excuse to do away with judicial review. Would it be possible to say that the necessary review of the lawfulness of a detention should be by a court of law or other independent mechanism, as established by humanitarian law?

5. Mr. HENKIN said it had been accepted that even a military court could constitute an independent mechanism, provided it was not part of the command structure. If that requirement was maintained, Mr. Kretzmer's point could be accommodated.

6. Mr. KLEIN said that the advisory opinion of the Inter-American Court of Human Rights was very helpful in the case of paragraph 14. Article 27 (2) of the Inter-American Convention on Human Rights, which listed a number of rights from which no derogation was possible, ended with the phrase "all of the judicial guarantees essential for the protection of such rights". The Convention, of course, had been drafted after the Covenant. He felt that, in view of the very clear formulation in the Convention, the Committee should offer a stronger argument to explain how, although the Covenant did not contain a clause of that kind, it still believed that, given the existence of other agreements dealing specially with the problem, it had reached the same conclusion. The burden lay with the Committee. It could not simply say that the actual wording of the Covenant in that connection was unimportant.

7. The CHAIRPERSON observed that the Committee obviously needed to have a text before it in order to discuss paragraph 13 further.

Paragraph 14

8. Mr. SCHEININ said that paragraph 14 continued the line of argument put forward in the previous paragraph, while taking a narrower approach to the question of whether there were elements of article 14 that were non-derogable. The first sentence simply said that the generalizing conclusion of paragraph 13 did not appear necessary under article 14. Apart from that, the paragraph made two points. The first was that access to a civil court might be legitimately limited by way of derogation in a state of emergency, but it followed from article 15 and other arguments that in a criminal case there must be a trial by a court of law. The second important point was that, wherever there was a procedure before a court, the principles of fair trial must be respected. It was generally agreed that there could never be an unfair trial.

9. Mr. KRETZMER said that while he agreed with the substance of the paragraph as far as a fair trial in criminal matters was concerned, he was not sure that there should be a positive statement to the effect that access to a court of law did not appear to be of an absolute nature. That seemed to him to be inviting a derogation. The Committee had already discussed the relationship between article 15 and fair trial in criminal matters, and several speakers had said that that was not the right way to reason. He, personally, was not convinced that the reasoning demanding a fair trial in all criminal matters flowed from article 15. He accepted the actual principle, of course, unreservedly. There could not be a criminal trial that did not meet the basic demands of a fair trial, but he did not think that that was based on article 15 in any way.

10. Ms. CHANET said that she was on the whole in favour of Mr. Scheinin's text. She was troubled by the fact that it was not feasible to expect that all provisions of article 14 could remain fully in force in any kind of emergency, and that, as the Committee had said in its recommendation to the Sub-Commission, the inclusion of article 14 as such into the list of non-derogable provisions would not be appropriate. Mr. Scheinin's current approach retreated a little from that position. Some parts of article 14 became as it were non-derogable by osmosis with article 15. She believed that the two articles were closely connected and could therefore agree to Mr. Scheinin's proposal.

11. Ms. EVATT said that she took a slightly different view. She did not consider that the principles protected by article 14 depended upon article 15; they were in fact quite independent. A State could comply with article 15 without necessarily complying with article 14. However, both articles depended on another principle not directly stated in the Covenant, the principle of legality and the rule of law. From that point of view, the essence of article 14 became a non-derogable and absolute issue; namely that part of the article relating to the right to a fair and public hearing by a competent, independent and impartial tribunal established by law and the right to be presumed innocent. She believed that that should be emphasized in the case of both criminal and civil cases in a state of emergency. The Committee must take care to see that what it said in paragraph 14 was not incompatible with paragraph 11 (b) of the draft. She would remove the link to article 15 on the grounds that both depended on another principle.

12. Mr. BHAGWATI endorsed the position taken by Ms. Evatt. The principle of legality was fundamental.

13. Mr. SCHEININ said that a solution could perhaps be reached not by deleting the reference to article 15 but rather by elaborating on its fundamental purport - the principle of legality and the rule of law. If the Committee took that course, it would mean that article 14 also had a core of non-derogability. He felt that it was easier to refer to the rule of law with the assistance of article 15, which was non-derogable. What was non-derogable in article 14, therefore, was the principle of a fair trial and the presumption of innocence. He would be reluctant to conclude, however, that some of the minimum guarantees referred to in paragraph 3 could be subject to derogation. Undue delay, although it might be the result of a state of emergency, could be non-derogable in the context of article 14 as a whole if it was preventing a fair trial. It was not necessary, therefore, to make a special pronouncement on paragraph 3. In the case of access to a court in other than criminal cases, it might be legitimate to restrict access to the court and find another way of dealing with civil disputes, perhaps by administrative decision.

14. Mr. KLEIN said that he would prefer not to base the argument in regard to article 14 on article 15 at all. To do so merely weakened it. As far as undue delay and other aspects of article 14 were concerned, the Committee should not lose sight of the fact that the situations envisaged in article 4 were those threatening the life of the nation. In such circumstances, though the notion of "undue delay" might still apply, it would have a different import. He would not like to say that all the safeguards set out in article 14 must be complied with, even in a state of emergency. He endorsed the view expressed by Ms. Evatt.

15. Mr. BHAGWATI agreed with Mr. Klein. Not all the provisions of article 14 could be of equal importance when the life of a nation was in danger. It might not be possible to avoid undue delay. The core of article 14 was the right to a fair and public hearing by an impartial tribunal established by law. Thus, he regarded article 14 as non-derogable from that point of view, though not all its provisions must necessarily apply in a state of emergency.

16. Mr. AMOR said that not only was it unnecessary to refer to article 15 but to do so would weaken the argument. There were enough elements in article 14 itself on which to base a strong argument, particularly the need to take account of due process of law in criminal cases.

17. Mr. HENKIN said that he detected a slight movement away from the arguments put forward at the previous meeting. Some of the difficulties experienced then had arisen from the fact that the Committee was not prepared to recognize that the provisions listed in article 4.2 did not constitute an exclusive list. It was now moving in that direction. He supported Ms. Evatt's suggestion that the paragraph should recognize that there were certain fundamental principles which, although not listed in article 4.2, underlay the principle of non-derogation.

18. Ms. CHANET said she was glad to see that agreement was emerging that the Committee did not need to use non-derogable rights in other articles but could consider article 14 on its own merits. On the other hand, she did not think that article 15, which was itself non-derogable, should be left out of account. It should be made clear that article 15, which forbade retroactivity, applied to the courts as well as to the law.

19. Mr. KRETZMER suggested that mention should be made of the concepts of legality underpinning the Covenant, which were given expression in many articles, including article 15. From that premise it would be self-evident that the fundamental principles of article 15 must be complied with in all criminal trials.

20. Lord COLVILLE suggested that the following wording, based on paragraph 29 of the advisory opinion issued by the Inter-American Court of Human Rights on 30 January 1987, might meet the Committee's concerns: "The concept of due process of law expressed in article 15 of the Covenant should be understood as applicable, in the main, to all the judicial guarantees referred to in the Covenant, even during the suspension governed by article 4 thereof".

21. Mr. SCHEININ said he would redraft the paragraph taking into account the suggestions made by Mr. Kretzmer and Lord Colville.

Document CCPR/C/69/R.4

22. Mr. SCHEININ introduced document CCPR/C/69/R.4, which contained a number of amendments to the second draft of the general comment made in the light of the Committee's preliminary discussion, when it had been decided to draft a comprehensive general comment on article 4 that would not be confined to the question of non-derogable rights. Paragraphs 2.1-2.3 were intended to replace paragraph 2 of the second draft.

Paragraph 2.1

23. Ms. CHANET suggested that the text of the second sentence should be aligned with that of the Covenant, the term "state of emergency" being too restrictive. She also questioned the use of the phrase "the regime of constitutionally lawful emergency powers" in the fourth sentence; emergency powers were not necessarily constitutionally lawful.

24. Lord COLVILLE endorsed the latter observation.

25. Mr. KRETZMER said it ought to be stated at the beginning of the paragraph that two basic conditions must be met in order to invoke article 4: the formal condition of the proclamation of a state of emergency; and the objective condition of a situation that threatened the life of the whole nation. As currently worded, paragraph 2.1 could be interpreted as giving the State party much more leeway than was actually allowed. Furthermore, he suggested that the order of paragraphs 2.2 and 2.3 should be reversed. It made sense to deal first with whether a state of emergency actually existed and was justifiable, and then, in the following paragraph, with the ensuing legal implications. The major issue which should be highlighted in paragraphs 2.1-2.3 was the abuse of the state of emergency by certain States parties.

26. The CHAIRPERSON said she would take it that the Committee wished to amplify paragraph 2.1 along the lines suggested by Mr. Kretzmer and to reverse the order of paragraphs 2.2 and 2.3.

27. It was so decided.

Paragraph 2.3

28. Mr. KRETZMER said there seemed to be some confusion between the two issues of when a State party could resort to a state of emergency under article 4.1 and what measures were required by the exigencies of the situation. Although he understood that the two issues were closely related, surely some kind of distinction between them needed to be drawn.

29. Ms. EVATT expressed concern about the third sentence of paragraph 2.3: there might well be natural disasters affecting a given region in a State party whose gravity might warrant some derogation of the rights enshrined in the Covenant. She wondered whether the phrase "pose a threat to the life of the nation as a whole" might not be too broad..

30. Mr. KLEIN, referring to the same sentence, asked what exactly was meant by "regional events". For instance, would a claim to secession by one region of a State party be considered a regional event that could pose a threat to the life of a nation as a whole, or would it not qualify unless an armed conflict was involved, as implied by the sixth sentence? He also queried the reference to the Geneva Conventions in the seventh sentence. He sought further clarification as to exactly what types of situations were considered to pose a threat to the life of a nation as a whole.

31. Mr. SCHEININ said he failed to see how the current formulation of the third sentence could be interpreted as excluding the possibility of invoking article 4 in the case of regional

events which posed a serious threat to the life of the nation as a whole. The statement could be reworded in a more affirmative manner if necessary. Article 4 of the Covenant made no specific reference to armed conflict, although it was understood as being the prime ground for declaring a state of emergency. In the second draft of the general comment the omission of a reference to armed conflict in paragraph 2 had prompted concerns that many different types of emergencies might legitimize derogations from the provisions of the Covenant. In new paragraph 2.3, a reference to the Geneva Conventions had been included on purpose to signal the Committee's concern that the "grey zone" between an armed conflict and what constituted a state of emergency should not be abused by States parties. It effectively narrowed the gap between the full application of the Covenant and armed conflicts in which the Geneva Conventions came into force. Although the paragraph dealt with two different issues, he did not believe that they could be separated. It was a question of what rights could be derogated from and to what extent in different circumstances. In paragraph 2.3 the scope of situations other than armed conflicts in which rights could be derogated from had been made as narrow as possible.

32. Mr. HENKIN said he believed that the term "armed conflict", used in the sixth sentence, was intended to mean external aggression. He agreed with Mr. Scheinin on the need to limit the scope of permissible derogations. However, as currently worded, the paragraph confused a number of issues and did not read clearly. He was somewhat concerned about the subject of secession raised by Mr. Klein; that led on to other issues that were difficult to handle, such as internal conflicts. The question of secession should be discussed separately in the paragraph. A distinction should also be drawn between regional threats to the nation as a whole due to military activities and those due to natural disasters.

33. Mr. SCHEININ said he did not consider it appropriate to take up the issue of secession, since that was a political aspiration; it only constituted a state of emergency in the event of armed conflict, which was already covered in the paragraph.

34. Mr. YALDEN endorsed those remarks.

35. Mr. HENKIN said that while he accepted Mr. Scheinin's point about secession, he would stress the importance of dealing separately with natural disasters, which might require the declaration of a state of emergency in a particular region.

36. Ms. EVATT said she failed to see how natural disasters could be covered by the limitations imposed by the law under article 12 of the Covenant. She suggested, by way of a solution, that the words "as a whole" should be deleted; the phrase "pose a threat to the life of the nation" would suffice. It should also be made clear that, although events such as natural disasters could result in the declaration of a state of emergency, emergency powers should be restricted to the region concerned.

37. Mr. BHAGWATI endorsed Ms. Evatt's suggestion for the deletion of the words "as a whole", and also Mr. Henkin's idea of separating the different issues at stake. In his view, the term "armed conflict" should not be confined to external aggression, but should also be understood as covering internal conflict.

38. Mr. YALDEN suppported the idea of separating the different issues dealt with in the paragraph for the sake of clarity. He agreed with Mr. Scheinin on the need to restrict the number of situations other than armed conflict in which article 4 of the Covenant could be invoked. Notwithstanding the gravity of certain natural disasters, it was very unusual that they should necessitate derogations from the rights enshrined in the Covenant.

39. Mr. ZAKHIA endorsed those comments.

40. Mr. ANDO said that the paragraph touched upon the basic assumption on which article 4 was founded, namely the need to limit certain rights such as freedom of movement and freedom of assembly; however, there were already articles in the Covenant dealing with those specific rights which contained restrictive clauses that would cover most of the situations in question. It was his understanding that article 4 should only apply to situations which posed a threat to the life of the nation, but the Committee must clarify exactly what that meant. The reference to the Geneva Conventions might imply the application of international humanitarian law in non-international matters. The Committee would need to discuss whether the scope of article 4 could be extended to that degree.

41. Mr. KLEIN cosnidered that the restrictive clauses in the relevant articles of the Covenant and the application of the principle of proportionality could be used to deal with the types of situation under discussion. He welcomed Mr. Scheinin's efforts to narrow the scope for invoking article 4 as far as possible. It had not been his aim when raising the matter of secession to suggest that it should be dealt with as a separate issue in the paragraph. He was merely curious to know how the Committee would react if confronted with such a situation. If a State party affirmed that the claim to independence by one of its regions was a threat to the life of the nation as a whole, would that be considered a legitimate ground for invoking article 4, or would the determining factor be the involvement of armed forces? That was a sensitive matter, but also a relevant one. Of course, not all such matters could be dealt with in one general comment. In the past, the Committee had tended to confine itself in its general comments to matters raised in communications or in connection with State party reports; he had the impression that with the general comment under consideration the Committee had gone a stage further.

42. Mr. HENKIN said that, in his view, article 4 had not originally been intended to deal either with the problem of secession or with the problem of natural disasters. Such situations should be handled by the limitation clauses in the Covenant rather than by its derogation clauses.

43. Ms. EVATT pointed out that there could be a risk in separating natural disasters from other types of emergency because of the need to apply the same standards to both. In the third sentence of paragraph 2.3 she would prefer to delete the words "as a whole", and to delete "very" before "rare" in the fourth sentence. It would be better to leave open the question of how the words "which threatens the life of the nation" were to be interpreted.

44. Mr. KRETZMER said he was not sure whether the third, fourth and fifth sentences of the paragraph were necessary. Mr. Klein had questioned whether the Committee should be entering into such detail regarding situations which might arise when it had never actually had to consider any of those situations either in a State report or in a communication. Because the notion of an emergency which threatened the life of the nation was a fairly narrow one, the Committee had to

demand that the State party provide it with information enabling it to verify that the situation was indeed such as to justify imposing a state of emergency. It could not do much more than that.

45. Mr. AMOR said that difficulty in paragraph 2.3 was how an emergency which threatened the life of the nation was to be defined, since the concept was an entirely relative one. It would be better not to provide examples, since the list could never be exhaustive.

46. Mr. BHAGWATI agreed that there were no absolute standards for determining what constituted a threat to the life of the nation: everything depended on the situation of the country concerned. In his view, the concept should be left flexible.

47. Mr. HENKIN said he was concerned that different members of the Committee seemed to be interpreting the word "emergency" in different ways. As he saw it, article 4 was intended to deal with national emergencies, and not merely with situations where emergency powers were needed. He would prefer a narrower definition of the words "life of the nation". The draft comment should make it clear that other kinds of deviations from normalcy could be dealt with, where necessary, under the normal provisions on limitations.

48. Mr. ZAKHIA said that the draft comment had to take into consideration both States which were highly developed and States which were still in the course of development. All the Committee could do was to make the text flexible enough to cover the wide variety of situations that might arise.

49. The CHAIRPERSON recalled that there had been a proposal by Mr. Kretzmer to delete the third, fourth and fifth sentences of the paragraph.

50. Mr. SCHEININ said he could support that proposal. The starting point for an understanding of why it was necessary to include a derogation clause in the Covenant was that the emergency par excellence was war or armed conflict. According to Mr. Kretzmer's proposal, the deleted sentences would simply be replaced by a sentence to the effect that the Committee would require justification of any other use of the notion of emergency.

51. He appreciated the point made by earlier speakers that there were a number of situations which could be seen as emergencies threatening the life of the nation: however, what concerned the Committee was whether or not they would legitimize a derogation from the provisions of the Covenant. In fact, the general comment ought not to be too flexible, since that would leave the door open to different applications of the Covenant in different circumstances. Many countries had enabling legislation to cover emergencies, which allowed measures to be taken by the executive that would normally require parliamentary approval. While such redistribution of competence in time of emergency was quite legitimate, it should be distinguished from the Committee's understanding of an emergency under article 4, which was a situation where individual rights under the Covenant became subject to derogation.

52. Mr. AMOR said he too endorsed Mr. Kretzmer's proposal.

53. Paragraph 2.3, as amended, was adopted.

Paragraph 2.2

54. Mr. KRETZMER proposed that in the first sentence the word “further” should be replaced by “fundamental”, and that the words “to those” should be replaced by “to the extent” after “limited”. The last sentence should be recast so as to separate the two different points being made.

55. Mr. KLEIN suggested that the word “concept” should be substituted for “emergency” at the end of the second sentence.

56. Ms. EVATT suggested that in the fifth sentence the words “normal limitations” should be replaced by “limitations permitted”.

57. Mr. SCHEININ agreed to those amendments.

58. Paragraph 2.2, as amended, was adopted.

New sentence and accompanying footnote to be added at the end of paragraph 4

59. Mr. SCHEININ explained that he was proposing the new sentence in response to the Committee’s wish to include more references to the practices of the Committee in the reporting procedure. It made clear that the Committee had dealt with the issue of non-derogable rights on a number of occasions.

60. The sentence was adopted.

Two new paragraphs related to article 4.3 of the Covenant

Paragraph 15.1

61. Paragraph 15.1 was adopted.

Paragraph 15.2

62. Lord COLVILLE noted that if the Committee had not yet appointed a special rapporteur on article 4, the last sentence should be amended to read “… the Committee proposes to appoint …”.

63. Mr. KRETZMER said he was not clear why in the second sentence mention was made of a request for a special report.

64. Mr. SCHEININ explained that the proposals he was making in paragraph 15.2 arose from the concern that until now the Committee had not been taking sufficient action. A situation of emergency was a prime example of an occasion when it should request a special report.

65. Ms. CHANET said the first sentence would be more appropriately placed in paragraph 15.1. In the second sentence, more details should be given of the circumstances under

which special reports could be requested. Concerning the last sentence, she was not sure whether it was appropriate in a general comment to mention the Committee's practice of appointing a special rapporteur.

66. Mr. KRETZMER endorsed that view.

67. Mr. POCAR suggested that the third sentence should read "Lack of notification does not prevent the Committee from monitoring the permissibility of derogation for undeclared emergencies". In the previous paragraph, a sentence should be added explaining the purpose of the notification.

68. Ms. EVATT said it should be emphasized that States parties which had exercised emergency powers or declared a state of emergency should cover all measures taken in that connection in their subsequent report to the Committee. It would also be appropriate to remind States of the Committee's authority under certain circumstances to request a special report.

69. Mr. LALLAH endorsed Mr. Pocar's comment on the need for stronger language in the first sentence regarding States that failed to declare or notify a state of emergency.

70. There was some justification for appointing a rapporteur (the Committee did not appoint "special rapporteurs") to examine situations in which a state of emergency had not been notified or in which emergency provisions were being applied without a declaration. There was at present no mechanism whereby the Committee could ask for a special report concerning derogations. However, a general comment was clearly not the appropriate place to announce such an innovation. It could perhaps be discussed under the heading "methods of work".

71. The CHAIRPERSON noted an emerging consensus on the desirability of deleting all but the first sentence of paragraph 15.2, which would be strengthened and moved to paragraph 15.1.

72. Mr. HENKIN stressed that the phrase concerning the Committee's attention to "compliance with article 4 as a whole" should not be omitted. He suggested that it should be inserted elsewhere as a separate sentence.

73. Mr. SCHEININ said he would produce a new draft in the light of the proposals made, particularly that of Mr. Pocar. He suggested that the Committee should revert to the question of whether it should strengthen its own procedures after adopting the general comment.

TRIBUTE TO MR. POCAR

74. The CHAIRPERSON said that the Committee deeply regretted the imminent departure of Mr. Pocar, who had been appointed to the bench of the International Criminal Tribunal on the Former Yugoslavia. He had made an enormous contribution to the Committee, not only through his knowledge and expertise but also through his aptitude for teamwork. She wished him the best of luck in his challenging new assignment, in which he would be addressing issues of the utmost gravity.

75. Mr. LALLAH thanked Mr. Pocar for his remarkable contribution to the work of the Committee, particularly during his two years as a Chairman of great distinction and ability. He had a remarkable ability to stop the Committee in its tracks when it was either overstepping the limits of the Covenant or being less than generous in its interpretation. His skills and experience would no doubt prove equally invaluable in his new office.

76. Ms. CHANET said that, on joining the Committee, she had immediately been struck by Mr. Pocar's intellectual agility, which enabled him to encompass every branch of law, moving from private to public international law, from there to human rights law and now to international criminal law. He had chaired the Committee during a difficult transitional period, skilfully steering it towards a consensus and remaining cool-headed under the most difficult circumstances. As a result, the Committee's prestige had grown under his stewardship.

77. Ms. EVATT said that Mr. Pocar had enlightened and enlivened the Committee's proceedings through his knowledge of jurisprudence and his wise counsel that had sometimes served as a deterrent to rash responses. She had particularly appreciated his solid defence at all times of the rights of the individual. She trusted that his new role would be no less satisfying than his work on the Committee.

78. Mr. SOLARI YRIGOYEN said he had the highest esteem for Mr. Pocar's intellectual and moral qualities. He had enriched every discussion with his legal erudition and his breadth of vision in the area of human rights. He was personally indebted to Mr. Pocar for his tireless assistance to an inexperienced newcomer during his early days as a member of the Committee. Although he would be sorely missed, the Committee took comfort in the knowledge that he would continue, in his new office, to serve the cause of human rights and humanitarian law.

79. Mr. ANDO said that he had served with Mr. Pocar on the Committee for 14 years and esteemed him as a man of tolerance who was open to discussion on every topic, a man of principle whose advice was based on integrity of character and mind, and a man of humour, approachable and full of charm. He had succeeded Mr. Pocar as Chairman and had sought his advice, which was always pertinent, when in difficulty. He felt sure that Mr. Pocar would make just as valuable a contribution to international criminal law in his new office as he had made to the Committee.

80. Mr. YALDEN, speaking as one of the "younger generation" of Committee members, said that he had turned to Mr. Pocar for help on assuming office and found him a most helpful guide. He had furthermore maintained a high intellectual and moral standard in his work on behalf of the Committee and would no doubt continue to do so in his new office.

81. Mr. BHAGWATI said he would greatly miss Mr. Pocar, who was leaving for a more important assignment. He was a man who combined great wisdom with a practical outlook. His approach was always objective and he was always approachable. He would be a great loss to the Committee.

82. Mr. AMOR said he recalled the warmth of Mr. Pocar's welcome on joining the Committee. He had been an inexhaustible source of good advice. The Committee was sorry to see him go and wished him every success in his new office.

83. Mr. KRETZMER said that Mr. Pocar's astonishing command of several different languages had left him feeling somewhat embarrassed at his own shortcomings in that regard. On expressing a view in the Committee, he anxiously waited to see whether Mr. Pocar would pick holes in his argument. For when he did, he often had to recognize that his view had been misguided. The entire Committee would miss him very much.

84. Mr. KLEIN said he had always appreciated Mr. Pocar's approach to legal problems: cautious and shrewd, never exceeding the bounds but always determined to protect human rights. He had always felt safe when his views coincided with those of Mr. Pocar. His contribution to the Committee would continue to inspire it in the future.

85. Mr. WIERUSZEWSKI joined in praising Mr. Pocar's personal qualities, his wisdom and his contribution to the Committee. He was glad that he had taken up the challenge of working for the International Criminal Tribunal for the Former Yugoslavia and hoped that he would assist in bringing justice and peace to a troubled region. He was confident that Mr. Pocar would remain committed to the development of international law and human rights.

86. Mr. SCHEININ said that Mr. Pocar had served as a role model in his early years on the Committee. He admired his acumen and legal insight when dealing, in particular, with individual communications. He must now survive on his own but he would always treasure the memory of their cooperation, particularly on the occasions when they both wrote individual opinions.

87. Ms. GAITAN DE POMBO thanked Mr. Pocar for devoting so much of his professional life to the Committee and for taking such an interest in Latin American affairs. She was grateful to him for making her feel welcome when she had joined the Committee and trusted that he would keep in touch with his former colleagues in the future.

88. Mr. ZAKHIA said he regretted that he had not spent enough time on the Committee to get to know Mr. Pocar as well as he would have wished. But from their very first meeting he had recognized him as one of those rare beings who combined a subtle and sparkling sense of humour with a deep and earnest sense of responsibility.

89. Lord COLVILLE wished Mr. Pocar well in his new and demanding position. Reviewing their years on the Committee together, he called to mind in particular Mr. Pocar's practical and intelligent assistance in the arduous task of drafting the guidelines for the exercise of members' functions. It was only when he had set his seal of approval on the final product that he felt the job had been done.

90. Mr. HENKIN, speaking as a representative of the generation "as yet unborn", said he had known Mr. Pocar in another capacity and wished him well in his new office.

91. Mr. POCAR said that his task of addressing the Committee for the last time had been rendered even more difficult by his colleagues' kind words, which went far beyond what he felt he deserved. His many years with the Committee had been a wonderful and rewarding experience. He did not agree that he was moving on to a "more important" assignment. His brief experience in his new office fully confirmed his view that the Covenant rights posed

difficult problems not only for States but also for international courts, especially an international tribunal that dealt with criminal cases. He had already drawn attention on several occasions to the provisions of the Covenant and the Committee's jurisprudence. The experience he had gained as a member of the Committee had so far proved extremely valuable and enlightening.

92. The Committee would remain in his thoughts and he would follow its proceedings closely, applying the Covenant principles in his daily work. He would miss the discussions, both formal and informal, but he would miss most of all the warm ties of friendship he had forged over the years. He expressed the hope that all members present - those leaving at the end of the year, those staying on and himself - would continue to promote the development of jurisprudence under the Covenant, which was and remained the most important instrument on which international and national life should be based.

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

93. The CHAIRPERSON announced that March 2001 had been set as the date for consideration of the initial report of Uzbekistan. She further announced that Mr. Amor had been appointed "focal point" for the right to development.

The meeting rose at 12.55 p.m.