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SUMMARY RECORD OF THE 164th MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 7 August 1979, at 3 p.m.

Chairman: Mr. MAVROMMATIS
later: Mr. KOULISHEV

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 (agenda item 5) (continued)

United Kingdom of Great Britain and Northern Ireland (CCPR/C/1/Add.37 and Corr.1; CCPR/C/1/Add.39) (continued)

1. The CHAIRMAN gave the floor to the representatives of the United Kingdom.
2. Mr. STRATTON (United Kingdom) said that the current colonial policy of the United Kingdom could be summed up in the words of Mr. Michael Stewart: "Stay if you like, go when you wish". However, things were not always that simple. It could be difficult to urge certain dependent Territories to take a decision on the next steps towards independence. It was true that, as Mr. Movchan had said, dependent status was an anomaly in 1979, but it was also true, as Mr. Opsahl had stressed, that there was a dilemma.
3. The experience acquired by the United Kingdom in that field showed that there was no over-all panacea and that each Territory must be treated individually. It should be remembered that since the adoption of General Assembly resolution 1514 (XV) in 1960, it was self-determination that had been at issue, not independence if only because there could well prove to be certain Territories, for example St. Helena, which might never be able to achieve independent status on their own.
4. He referred to the various United Kingdom Territories that were still dependent, beginning with the four "political" dependencies, Hong Kong, Gibraltar, Belize and the Falkland Islands, for which the problem of decolonization did not arise directly. He did not therefore intend to become involved in a discussion of the politics of their situations.
5. For various geographical and historical reasons, the situation in Hong Kong was special, and that explained why the members of the Executive Council and the Legislative Council were not elected but appointed by the Governor. However, at the legislative level, considerable effort was made to assess and, if possible, act upon the views of the interested parties. Furthermore, Hong Kong was obliged to take more account of public opinion, as expressed in the Executive Council, the Legislative Council, the Urban Council (which was elected) and the media than some neighbouring independent Governments. Mr. Bouziri could rest assured that the Chinese language was used in communications with the public.
6. The United Kingdom Government's position was that the wishes of the people of Gibraltar were paramount. Gibraltarians as a whole remained opposed to coming under Spanish sovereignty, as the 1976 elections had shown. There was a House of Assembly and a formal opposition.
7. The Territory of Belize had been ready for independence for several years. Only international political complications had precluded its attainment. Negotiations to resolve the difficulties continued and elections would take place in a few months' time.

8. The inhabitants of the Falkland Islands had received the assurance of the United Kingdom Government that any proposals affecting their future must be acceptable to them. The 1,800 inhabitants, who were nearly all of United Kingdom descent and 80 per cent of whom had been born in the Falkland Islands, had repeatedly stated that they wished to maintain their association with the United Kingdom and no demand for independence has been formulated. Mr. Bouziri had requested information on the system of government: it comprised, firstly, an Executive Council composed of two ex-officio members, two members appointed by the Governor and two elected members of the Legislative Council, elected by that Council's elected members and secondly, a Legislative Council composed of two ex-officio members and six members elected by universal adult suffrage. Discussions were continuing with a view to resolving the difficulties affecting the Falkland Islands. A United Kingdom Minister had recently visited Buenos Aires and the Islands themselves.

9. Turning to the dependent Territories which constituted colonies in the "normal" sense of the word, he said that he would describe the progress they had achieved towards independence.

10. In 1977, the Bermuda Government had published a Green Paper on independence; two surveys carried out in 1978 by the United Bermuda Party, which formed the Government, had concluded that the majority of Bermudians did not want independence. A White Paper would be published shortly; in his view, Bermuda would eventually become independent, but not for several years to come.

11. The people of the British Virgin Islands had shown no desire to move towards independence in the near future. The question of independence had not been raised during the last election in 1975 and it was unlikely to be an issue in the next election scheduled to be held in autumn. He had been strongly discouraged from pursuing the question during his two visits to the colony. Again, it was probable that the Territory would eventually move to independence, but probably only when, with the United Kingdom's help, its economy had been further strengthened. Until very recently, it had enjoyed grant-in-aid status.

12. The Cayman Islands were strongly opposed to any talk of independence or even any further constitutional advance which they saw, not altogether accurately, as an inevitable move in that direction. The members of the Committee had referred to the visit of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (the Committee of 24) to the Islands in 1977. It was appropriate to draw attention to the intense feelings that that visit had aroused among the population, in the media and among members of the Government. The United Kingdom Government has been blamed and the people had asked it never to subject them to that kind of experience again. In addition, the increasing instability in the region would hardly encourage the Cayman Islands or other dependencies in the region to take the plunge.

13. A general election had been held in Montserrat in November 1978, but neither of the two parties had raised the question of the Territory's future. There was no movement for independence. The United Kingdom Government respected the wishes of the people of Montserrat and left them free to determine their own future in accordance with the principles of the Charter of the United Nations. It would not force constitutional changes on the Territory at a faster rate than the population wished. In his view, it was probable that the regional pressures, for example the advance to independence of the Associated States, would eventually lead Montserrat to opt for independence, but not until its economy had been strengthened.

14. The Government of the Turks and Caicos Islands had expressed its intention of seeking further constitutional changes from the United Kingdom Government aimed at making progress towards political independence and had made it clear that it would make the matter an issue at the forthcoming election. The opposition, however, was opposed to independence for the time being. It was his impression that the party in power would like to make the constitutional changes a prelude to independence, provided that it had succeeded in strengthening the Territory's economy.

15. The Legislative Council of St. Helena from time to time reminded the United Kingdom Government that its people did not want independence. In accordance with its policy, the United Kingdom Government did not exert any pressure to make the population change its mind. No constitutional changes were foreseen, but the United Kingdom Government would continue to be guided by the wishes of the people. It was hard to see how, in the foreseeable future, the Territory could sustain independence: it had few resources and was heavily subsidized by the United Kingdom taxpayer (currently in the amount of £600 per annum and per head of the population).

16. It was surprising that several members of the Committee had referred to a Territory which was so sparsely populated as Pitcairn. Nevertheless, it was true that it was the individual human being that counted and his welfare was or should be the main concern of the authorities. The fact that the Territory had a population of only 65 did not mean that it was forgotten. In view of its geographical situation, the island constituted a very special case. Its Governor, who was also the British High Commissioner in New Zealand, lived 3,000 miles away in Wellington, with a liaison office in Auckland, the shipping centre for Pitcairn. Fewer and fewer ships were passing anywhere near the island and it was now very expensive to divert them via Pitcairn. Furthermore, they could not go alongside because of the reefs around it and supplies had to be offloaded into long boats. The obligatory public work referred to by several members of the Committee could, he thought, be largely explained by the need to man those boats. The Governor would be asked to confirm that. If ever there were not enough able-bodied men to man the boats, the islanders would almost certainly have to leave the island and emigrate to New Zealand.

17. A parliamentary form of government had existed since 1893 and the Territory currently included an Island Council of 10 members which had the authority to take decisions which were notified to the Governor, who could revoke or amend them. In practice, the Council rarely exercised its legislative functions without prior consultation with the Governor and amendments were therefore usually of a merely technical nature. A committee of the Council was responsible for arranging and supervising the performance of the traditional public work.

18. Turning to certain specific questions raised by members of the Committee, he said that Sir Michael Hogan would elaborate on the functions of the Governors of the colonies, but he could assure members of the Committee that the Governors were not the ogres they were thought by some to be and were, on the contrary, rather self-effacing. Nor were they ambassadors: they did relay the views of the United Kingdom Government to the population of the Territories and conversely put forward, at times very strongly, the views of the population of the Territories in Whitehall, but they were first and foremost administrators and their tasks were therefore different from those of diplomatic representatives.

19. Two members of the Committee had stated that the United Kingdom was not doing enough to promote self-determination. He himself had spent two years doing just that, but had never obtained a response which had led to anything. There were frequent ministerial contacts in London and in the Territories. For example, at the present time a Minister of State was visiting Antigua, where he was having discussions with the Chief Minister of Montserrat. He again emphasized that it was not the United Kingdom's policy to force the people of the Territories to do what they did not want to do.

20. Mr. Movchan and others had raised the question of the extent to which political parties could operate independently. With the exception of Hong Kong, for the reasons already explained, they could do so and they were free to criticize the Government in power and the Governor. Voluntary associations, trade unions and public meetings were allowed to flourish. There were no special provisions for maintaining traditional cultures because no attempt was made to interfere with them.

21. Turning to another question raised by Mr. Koulishév concerning the proportion of indigenous officials, he said that the majority of officials were local people from the various Territories or, in the case of the Caribbean, from neighbouring islands. Of the United Kingdom people working there, many served in an advisory rather than an executive capacity.

22. Replying to the question of assimilation raised by Mr. Movchan, he said that the formula might prove to be a solution for a very few United Kingdom dependencies but they had not yet reached that stage. For the vast majority of them, other means of self-determination still seemed far more likely.

23. On the question of the Banabans raised by Mr. Lallah, he confirmed that Ocean Island was now part of the new republic of Kiribati as a result of a decision which the United Kingdom Government had taken in order to avoid being accused by certain neighbouring countries, which were very sensitive on the subject, of having fomented fragmentation. The problem posed by Ocean Island was not comparable with that of the Gilbert and Ellice (now Tuvalu) Islands in 1975. The referendum organized at that time had shown that the Government of the Gilbert Islands had been strongly opposed to the separation of the island. Since the Republic of Kiribati had become independent, the United Kingdom was no longer directly involved in the question of Ocean Island, which was now of concern to the Banabans, the Government of Kiribati and, to some extent the Government of Fiji.

24. Lastly, his Government was conscious of its responsibility to protect the natural resources of the dependent Territories, a point raised by Mr. Lallah and other members of the Committee, and of its duty to represent the interests of those Territories in that field, for instance at the United Nations Conference on the Law of the Sea. He cited the example of the island of Anegada, one of the British Virgin Islands; where a United States company was currently prospecting for oil. If successful that could transform the economic situation of the British Virgin Islands, but the only benefit accruing to the United Kingdom would be indirect, in that it would be able to reduce its aid to the Islands.

25. Sir Michael HOGAN (United Kingdom) said that in the time available it had not been possible to carry out the research necessary in respect of certain questions. His answers should therefore be regarded as provisional and it might be necessary to supplement them at a later date.

26. Mr. Lallah had raised the question of putting the fundamental rights with which the Covenant was concerned into something in the nature of an Order in Council, to give them greater status in the United Kingdom's dependent Territories. He had also, like other members of the Committee, raised the question of the status of the Covenant in the Territories. Before adhering to the Covenant, the United Kingdom Government had satisfied itself that the laws in force in the Territories concerned were consonant with the provisions of the Covenant. The laws in force in the United Kingdom and in many overseas Territories consisted broadly of common law and equity, as well as the laws or ordinances constituting statutes. The principles of common law and equity, far from being nebulous as suggested by Mr. Movchan, were firmly established in the decisions of the courts, which over a period of many years had broadened their scope from precedent to precedent to offer an abundant number of remedies which safeguarded the rights of the citizen. In many ways those laws were fundamental rights in action. They had been refined over the years by the decisions of the judges and formed a body of law carefully attuned to needs, so that there would be some hesitancy about replacing them by something new. Nevertheless, in a number of the overseas Territories, particularly those which were moving towards independence, there were Orders in Council and other constitutional instruments which embodied the rights of the Covenant in the form of a code.

27. Mr. Lallah had asked whether the Crown Proceedings Ordinances, particularly in the British Virgin Islands, gave the subject an adequate remedy against the Crown. Section 3 of the Crown Proceedings Ordinance in the Virgin Islands abolished earlier limitations and the remedies available against the Crown were set out in section 4. Regarding limitations on time, section 26 preserved the existing limitations but did not embody any new ones.

28. Mr. Bouziri had asked whether the laws applicable in the United Kingdom applied automatically to the overseas Territories. Some of them did and some did not. Where an empty territory had been settled by subjects of the Crown, those subjects had been regarded as bringing with them the laws of the United Kingdom as they had stood at the time. Where Territories had been ceded or conquered, the broad basis was that existing laws remained in force until altered by the new authorities. Normally the principles of common law and equity had been extended, either by local enactment or more often by enactment of the metropolitan authorities, subject to any local laws or United Kingdom legislation already being applied. Metropolitan laws were not applied automatically in the Territories.

29. Mr. Bouziri had asked about the marriage laws in force in Belize. Those laws provided that parental consent was required for persons under the age of 18. The text of the relevant Ordinance was available in the Secretariat.

30. It was stated in paragraph 12 of the report by Bermuda (CCPR/C/1/Add.27, annex B) that the Criminal Code provided that sentence of death could not be pronounced against a person under 18 years of age but that the Court would sentence such person to be detained during Her Majesty's pleasure. Paragraph 13 of the same report indicated that the Criminal Code contained similar provisions concerning pregnant women and women under 18 years of age convicted of an offence punishable by death. Mr. Bouziri had asked what length of imprisonment was really involved: he thought that it was probably no more than eight or nine years. Mr. Bouziri had also asked what was contained in section 6 of the Bermuda Constitution, since it concerned articles 14, 15 and 16 of the Covenant. In response, he read out section 6 of the Bermuda Constitution, which could be consulted at the Secretariat.

31. Mr. Bouziri had also said that he had had some difficulty in understanding paragraph 41 of the British Virgin Islands report (CCPR/C/1/Add.37, annex C). It would be necessary to obtain clarification on that point from the competent authorities.

32. Mr. Bouziri had asked whether the British Virgin Islands legislation contained provision in divorce cases for alimony to be paid to the wife and for the care and custody of the children. Alimony was provided for by section 22 of the Matrimonial Causes Ordinance, section 25 of which gave the court jurisdiction to assign custody of the children.

33. Mr. Bouziri had drawn the Committee's attention to paragraph 5 of the Saint Helena report (annex K) in which it was stated that sentences of imprisonment of over three months had to be confirmed by the non-resident Chief Justice who, as indicated in paragraph 6, visited the island only every nine months. He believed that the sentence would not take effect until confirmed and that confirmation was obtained by correspondence. It would, however, be necessary to confirm the position.

34. In the Turks and Caicos Islands report (annex L), Mr. Bouziri had drawn attention to paragraph 3 of the section on article 14, the wording of which was not very felicitous. The provision in question appeared to refer to the person in authority instituting criminal proceedings maliciously and without reasonable cause, and not to the Government. Clarification would, however, be required.

35. Mr. Graefrath, Mr. Prado Vallejo and Mr. Dieye had asked whether the powers of the Governors did not make them virtually dictators and might not compromise the application of the Constitution in particular Territories. The Governor of a Territory was a symbol of the sovereignty of the Queen. As such he had to perform, or others performed in his name, a number of acts, over which he himself exercised very little power or control. His power was restricted by a number of limitations and requirements expressed in laws, conventions or Crown instructions. In many matters, he was able to act only on the advice of various people. But he did as a rule have a certain responsibility for public order and wellbeing in the Territory, and for that purpose he retained certain residuary powers. That was the reason for provisions such as that contained in article 27 of the Belize Constitution.

36. With regard to article 6 of the Covenant, Mr. Graefrath had expressed some concern about the provisions set forth in paragraph 10 of the report by Bermuda (annex B), concerning the cases in which a person's life might be taken. In Schedule section 2, paragraph 2, of the Bermuda Constitution Order 1968, the presence of the words "to such an extent and in such circumstances as are permitted by law" and of the words "of such force as is reasonably justifiable" placed the onus of determining what was reasonably justifiable in any particular case on the court.

37. Section 6, paragraph 2 (a), of the Bermuda Constitution provided that a person could be found guilty on a plea of guilty. Mr. Graefrath had expressed some concern as to whether such a provision was compatible with article 14, paragraph 2, of the Covenant, under which everyone charged with a criminal offence had the right to be presumed innocent until proved guilty. It was true that in practice judges sometimes virtually refused to accept confessions as proof, but it could also be considered that acknowledgement of guilt was in itself a proof of guilt.

38. It had also been asked whether the right of an accused to have witnesses was impaired by the fact that he might have to pay for the attendance of such witnesses. Under the relevant provisions the accused was entitled to have witnesses on the same basis as witnesses for the prosecution. To the best of his recollection, the costs of witnesses for the prosecution and the defence in criminal proceedings in Bermuda were defrayed out of public funds.

39. Mr. Graefrath had also asked whether the decision that a case should be heard in camera was left to the judge. That was in fact so, but trials in camera were extremely rare.

40. Regarding the provisions concerning release on bail, mentioned in the reports of a number of Territories, he explained that bail was a method of securing the freedom of the individual while ensuring that he would appear to stand trial. Normally bail was not paid immediately: an undertaking was given to pay if the person did not appear and it was only in that event that the question of payment arose. In the exercise of their discretionary power in the matter, judges took account of the resources of the accused and bail was not regarded as a means of keeping a person who had no resources in prison: in such cases another form of security was found.

41. Replying to the question whether a person found guilty but subsequently pardoned was entitled to compensation, he said that in practice that right was observed and the spirit of article 9 of the Covenant applied, although there should perhaps be some additional provision to give effect to the letter as well. The matter would be studied in London.

42. Several members of the Committee had expressed concern about the fact that the Covenant was "widely respected" in the Cayman Islands (CCPR/C/1/Add.37), annex D, paragraph 1) and other Territories, since that implied that in those Territories, as in the United Kingdom, the Covenant was not directly applicable. Nevertheless, everyone was free in court to refer to the existence of the Covenant and argue that, in principle, the legislature and common law did not usually run counter

to the treaty obligations of the United Kingdom Government. Moreover, before adhering to international instruments such as the Covenant, the Government endeavoured to ensure that the existing laws complied with the requirements of those instruments. It might nevertheless happen that there was a gap in the domestic legislation over a particular point or the matter might be subject to a disputed interpretation. Caution had therefore dictated the use of such words as "widely respected" or "generally observed". He did not think that those words implied any serious departure from the obligations undertaken under the Covenant.

43. With regard to a citizen's remedies against an arbitrary decision by a Government organ, it was true that neither the Territory nor the United Kingdom had developed the body of administrative law which existed in other countries. But a large number of remedies were available to ensure that officials acted strictly within the limits of the powers conferred upon them by the law. If they exceeded those limits their decisions could be contested and quashed. The courts were becoming increasingly active in that area.

44. Common law could determine the circumstances in which the death sentence was appropriate, but it rarely defined murder as such. In some Territories murder was still a common law offence but in most of them it had now been made the subject of statute. Broadly, the offences subject to capital punishment were treason, piracy and murder. In most of the Territories where murder had been statutorily defined it had been defined according to intent to kill, not according to degree (simple or premeditated).

45. In connexion with Article 14, paragraph 3 (f), of the Covenant, it had been asked whether only the evidence had to be interpreted for a defendant who did not understand English, as appeared to be the case from the reports of Belize (annex A, paragraph 39) and Gibraltar (annex F, paragraph 65). Even though in certain Territories the law prescribed interpretation only of the evidence, in practice all the relevant proceedings were interpreted for the accused.

46. Replying to the question whether the independence of judges could be jeopardized by the fact that they were appointed and could be dismissed by the Governor, he explained that as a rule the Governor appointed judges but was required to act on advice with respect to appointments and, in particular, to dismissals. In the case of dismissal of a judge the advice of the Privy Council had to be taken. In practice therefore the security of tenure of judges was amply protected. It should, however, be borne in mind that in the Territories, as elsewhere, the financial resources required for the administration of justice came from the executive and legislative authorities, and in times of inflation that could entail some danger of indirect pressure. That was an unavoidable fact of life. Usually, sufficient funds were provided but it was difficult in time of inflation to ensure that that would always be done. The matter required further thought.

47. In the event of conflict between the fundamental human rights appearing in the Constitutions of some of the Territories and other legislation, the question would be decided by a higher court, such as the Supreme Court.

48. The question had also been asked whether the burden of proof was not shifted from the prosecution to the accused, particularly in Hong Kong. In the Territories in question, the main burden of proof rested with the prosecution. There were, however, sometimes provisions in particular laws or ordinances which placed the burden on the accused on a particular point. For example, if a person was found in possession of explosives or dangerous drugs, certain inferences might be drawn, and it was for the accused to rebut them. Broadly speaking, the burden of proof in all cases remained essentially on the prosecution and could only lie with the accused in a lesser degree.

49. The reply to the question whether provisions relating to fundamental rights were protected and were effectively binding depended on the level at which the enactment had been made. If it had been made by Order in Council, it could not be altered by legislation at a lower level. Some enactments contained clauses stipulating that they could be amended only through a special process, sometimes requiring a two-thirds majority in Parliament and sometimes a referendum. Such safeguards had proved effective.

50. Mr. WATTS (United Kingdom of Great Britain and Northern Ireland), referring to the report by the Cayman Islands, which stated (CCPR/C/1/Add.37, annex D, para.1) that the Islands were bound by the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, explained that article 63 of that Convention allowed any State party to extend the application of the Convention to all its Territories or to any Territory for whose international relations it was responsible. That article had been invoked by the United Kingdom in 1953 when it had announced that the Convention would be extended to most of its dependent Territories. Since then, many of them had become independent. Of the Territories whose reports were now before the Committee, Belize, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, St. Helena and the Turks and Caicos Islands were subject to the Convention.

51. The Convention also contained optional provisions (articles 25 and 46) on the right of individual petition. Declarations accepting those optional provisions had been made in respect of Belize, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, St. Helena, and the Turks and Caicos Islands.

52. Mr. Movchan had asked what action had been taken by the United Kingdom to comply with decisions handed down under the European Convention which had found the United Kingdom to have violated article 3 of the Convention (which corresponded to article 7 of the Covenant). He presumed that the decisions in question were those referring to certain practices in Northern Ireland, and the decision handed down earlier in the year concerning corporal punishment in the Isle of Man. The United Kingdom delegation had already given an explanation in its supplementary report of 13 September 1978 (paragraphs 14-17) and at the 149th meeting (CCPR/C/SR.149, paragraph 3).

53. The question arose in that respect as to whether decisions under the European Convention concerning the meaning to be given to certain provisions in that Convention also applied to equivalent provisions in the Covenant. In his delegation's view, it would be wrong to regard decisions under the European Convention as conclusively determining, for the purposes of the Covenant, the meaning of words or phrases which appeared in both instruments. The two treaties had been concluded in different circumstances and nearly 20 years apart. Moreover, in view of the regional nature of the European Convention, it might not always be appropriate to

apply interpretations of its provisions to similar provisions in a world-wide instrument such as the Covenant. That did not mean that the decisions handed down under the European Convention should be disregarded altogether, since they were of persuasive weight for determining the meaning of equivalent terms used in the Covenant.

54. Neither the European Convention nor the Covenant expressly prohibited corporal punishment. The question hinged on the interpretation of the words "degrading treatment" in those instruments. It was true that the European Court had held that, that in certain circumstances, corporal punishment could constitute degrading treatment, and had done so in the Isle of Man case. The United Kingdom Government would carefully consider what, if any, implications that decision might have for the different circumstances prevailing in the dependent Territories, and the observations made by the members of the Committee would undoubtedly be very helpful in that connexion.

55. With regard to the specific information requested about the administration of corporal punishment in certain dependent Territories, the United Kingdom would reply in writing in due course.

56. With regard to the British Indian Ocean Territory and the Sovereign Base Areas in Cyprus, he said that his Government had not ratified the Covenant in respect of those two Territories.

57. Referring to the questions asked about the definition of the terms "blasphemy" and "sedition", in the context of articles 19-21 of the Covenant, he said that they had been defined in English law and in the laws of the dependent Territories, and the Committee would be informed of the definitions in due course. In the meantime, however, he wished to refer to the definition of the term "seditious intention" in the Sedition and Undesirable Publications Ordinance of the British Virgin Islands, the text of which had been made available to the Committee. He would also like to state in answer to Mr. Bouziri, that mere criticism of the Government was certainly not sedition.

58. He stated, for Mr. Graefrath's information, that the list of circumstances in which freedom of expression was inhibited, which was given in paragraph 58 of the report by Belize (annex A) concerning article 19 of the Covenant, was to his knowledge complete.

59. He pointed out to Mr. Hanga and Mr. Prado Vallejo, who had expressed the view that article 20 of the Covenant was not being fully complied with in the Territories, that the United Kingdom had entered a reservation to that article (CCPR/C/2).

60. With regard to the questions put by Mr. Graefrath, Mr. Tomuschat and Mr. Tarnopolsky on the qualifications required for membership of the Legislative Assembly of Belize, he said that the matter would be examined in London and drawn to the attention of the Belize authorities. However, he would like to make one preliminary remark, namely, that since Belize was an English-speaking territory, the debates in the Legislative Assembly were conducted in English, and it was therefore logical that members of the Assembly should be required to know that language.

61. Mr. Tarnopolsky had asked about the United Kingdom's responsibility for ensuring that the dependent Territories complied with the provisions of the Covenant. It was clear in principle that if there was a breach of an obligation in the Covenant by a dependent Territory the United Kingdom might be held internationally responsible

for that breach. The United Kingdom attached very great importance to the observance by all States of their international treaty obligations, and did what it could to ensure that local legislation in the dependent Territories conformed to the provisions of the Covenant. However, it was obvious that there was room for more than one view as to the precise nature of an obligation under the Covenant, that laws and practices in the dependent Territories had to be assessed in the light of all the local circumstances, and, lastly, that changes that were considered necessary in local laws and practices could not be introduced overnight.

62. In reply to the questions put by Mr. Hanga and Mr. Prado Vallojo in connexion with article 15 of the Covenant on the possibility of adopting ex post facto legislation, he said that in practice no dependent Territory had enacted legislation in violation of that article. He referred to the reply given on that point concerning the United Kingdom itself, which was to be found in paragraph 16 of document CCPR/C/SR.70 of 1 February 1978, and was relevant to the dependent Territories as well.

63. With regard to the question raised by Mr. Bouziri concerning the section of the report by the Cayman Islands relating to article 6 of the Covenant, which seemed to indicate that the death penalty could be enforced on persons of over 16 but under 18 years of age, and by Mr. Tarnopolsky, concerning the sending of children to detention centres in Hong Kong, he said he would inquire into those matters on his return to London and would inform the Committee of the results.

64. He assured Mr. Movchan that slavery did not exist in any of the dependent Territories.

65. In reply to Mr. Dicye's question about the indirect criminal responsibility of an employer which seemed to emerge from paragraph 13 of the report by Belize (annex A), he explained that what was actually referred to was a civil action in tort for damages.

66. Concerning the clarification requested by Mr. Tomuschat about the United Kingdom's declaration concerning the relationship between article 1 of the Covenant and the Charter of the United Nations (CCPR/C/1/Add.37, paragraph 7) he said that, in making that declaration, the United Kingdom had envisaged a situation in which its obligations under article 1 of the Covenant might be at variance with those which it had assumed on signing the Charter. The declaration might not have been wholly necessary, given the terms of article 103 of the Charter, but the United Kingdom had thought it wiser to make the position quite clear.

67. Mr. STRATTON (United Kingdom) assured the Committee that the United Kingdom Government would do all it could to reply to the questions which had not been covered at the present meeting, and to supplement the replies it had already made, whenever necessary.

68. He thanked the Committee for the care and the constructive spirit with which it had considered the report.

69. Mr. BOUZIRI thanked the United Kingdom delegation most warmly for the information it had provided and the details it had undertaken to submit later. He noted with regret that the replies concerning the future of certain Territories, particularly Gibraltar and Hong Kong, about which he had asked questions, would not be amplified.

70. Mr. LAHLAH inquired whether the United Kingdom, in the additional information it would be providing to the Committee, could not report on the situation of human rights in the condominium of the New Hebrides, which it administered jointly with France.

71. Mr. Koulishhev took the Chair.

72. Mr. STRATTON (United Kingdom), replying in his capacity as British High Commissioner for the New Hebrides, said that the Territory had not been made the subject of a report because the United Kingdom was not solely responsible for it. All he could say was that the New Hebrides would very shortly become independent.

73. With regard to the disappointment expressed by Mr. Bouziri, he said that the situation in Hong Kong was complex and that the position of Gibraltar was the subject of discussion between the United Kingdom and the other party concerned.

74. The CHAIRMAN requested the United Kingdom delegation to thank the Government for the constructive dialogue it had entered into with the Committee.

75. Mr. Stratton, Sir Michael Hogan and Mr. Watts (United Kingdom) withdrew.

OTHER MATTERS

76. Mr. TOMUSCHAT, noting that no answer had been given to the questions raised at the last session concerning the status of members of the Committee with regard to the United Nations social security system, said that he would like a reply to be given during the present session.

77. The CHAIRMAN said that he would refer the matter to the officers of the Committee and the Secretariat.

The meeting rose at 5.15 p.m.