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HUMAN RIGHTS COMMITTEE

Forty-ninth session

SUMMARY RECORD OF THE 1263rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 18 October 1993, at 10.30 a.m.

Chairperson: Mr. ANDO

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

OPENING OF THE SESSION

1. The CHAIRMAN declared open the forty-ninth session of the Human Rights Committee.

Tributes to the memory of Mr. Walter Tarnopolsky and Mr. Torkel Opsahl

2. The CHAIRMAN said it was with deep regret that he had to inform the members of the Committee of the deaths of Mr. Walter Tarnopolsky and Mr. Torkel Opsahl.
3. Mr. MAVROMMATIS, Mr. PRADO VALLEJO, Mr. LALLAH, Mr. SADI and Mr. EL SHAFEI paid tribute to the memory of Mr. Walter Tarnopolsky and Mr. Torkel Opsahl.
4. On the proposal of the Chairman, the members of the Committee observed a minute of silence in tribute to the memory of Mr. Walter Tarnopolsky and Mr. Torkel Opsahl.
5. The CHAIRMAN said that the Secretariat would convey the Committee's condolences to the two families.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/91)

6. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

7. Mrs. KLEIN (Centre for Human Rights) said that the serious financial crisis affecting the United Nations had led to the adoption of drastic measures. As a result, the Department of Conference Services had informed the Centre for Human Rights that the Committee could not be provided with summary records at its current session, because no funds were available for recruitment of the requisite additional help. The Assistant Secretary-General for Human Rights had drawn the Department's attention to the serious consequences of that action and had suggested that, at the least, summary records of the Committee's current session should be prepared later from the tape recordings of the meetings; but that, too, had been refused. Accordingly, she invited the members of the Committee to give their views on how to proceed, bearing in mind, for example, that the preparation of its reports had always been based on the summary records. There would likewise be restrictions on interpretation services; for that reason, too, the Committee might wish to consider whether the timetable for the consideration of State party reports and communications should be rearranged. It should be noted that no interpretation would be available for the next meeting or for the afternoon meeting on Thursday, 21 October.
8. Mrs. HIGGINS said that the Committee's reaction to the circumstances should be placed on record. The situation seemed to be yet another instance of the cynicism of States parties, which acquiesced in the huge cost of preparing and holding the Vienna Conference on Human Rights but begrudged expenditure on everyday work away from the political spotlight.

The Committee's effectiveness and credibility depended largely on the publication and dissemination of its findings; any restrictions in that regard were detrimental to the cause of human rights - a point recognized during previous financial crises, when cuts had been applied with some discretion. In addition to the question of public information, summary records were, of course, essential to the Committee's own procedures and decision-taking.

9. Mr. MAVROMMATIS said he was utterly dismayed by the decision to curtail conference services, which evinced not only the cynicism mentioned by the previous speaker but a disregard of the legal obligations deriving from international instruments. Unless everything possible was done to discharge those obligations, the United Nations would find itself abandoning global activities in the field of human rights in favour of regional arrangements. Without interpretation services, the Committee could not possibly deal with communications, and without summary records its follow-up work would be gravely impaired.

10. Mr. HERNDL said it was a matter of great concern that the decision to apply the restrictions had seemingly been taken by the United Nations Secretariat, although it was not yet clear at what level. The decision was contrary to article 36 of the International Covenant on Civil and Political Rights, as well as to rule 35 of the Committee's rules of procedure. The Committee was not a subsidiary of a principal organ of the United Nations, but a body established by a treaty requiring the Secretary-General to provide the services referred to therein. It was also a body which developed international case law; summary records of its proceedings were therefore essential. If the latter could not be provided during the session itself, they must at least be prepared subsequently from the tape recordings.

11. The restrictions on interpretation facilities amounted, in effect, to the cancellation of five meetings. The number of meetings, however, was specified in the calendar of conferences authorized by the General Assembly for the entire Organization; he failed to see how the Secretariat could take a step which curtailed what the General Assembly had authorized. A few years previously, force majeure had necessitated the shortening of a Committee session, but the relevant decision had been taken by the General Assembly; the current cuts, however, seemingly stemmed from an initiative by the Secretariat, whose authority in that regard he questioned.

12. It was also astonishing that, although that initiative had clearly been taken in New York at a high level, the task of informing the Committee had been left to the Centre for Human Rights. The Department of Conference Services should be invited to send someone of the highest rank to explain why such a step had been taken in regard to the Committee, one of the most important human rights treaty bodies. The Committee should, in any case, lodge a strong formal protest with the Secretary-General.

13. Mr. AGUILAR URBINA agreed that the Committee should voice a strenuous protest about the curtailment of services, particularly since any such decision should be taken by the General Assembly, not the Secretary-General, who in the present instance was failing to comply with his obligations pursuant to an international instrument.

14. Ms. EVATT said that the serious consequences of such cuts had already been felt by the Working Group on Communications, which, due to lack of interpretation services, had lost roughly one fifth of the time allotted to it. It was surely false economy to curtail such services; the saving would be insignificant compared to the adverse effect on the progress of work, the Committee having surely one of the best records for making good use of its time.
15. Mr. LALLAH said that the Working Group on Article 40 of the Covenant had likewise suffered from non-availability of interpretation services. He agreed that the Committee should call on the Secretary-General to fulfil his obligations pursuant to article 36 of the Covenant. The cause of human rights always suffered in the case of any cuts.
16. Mr. SADI agreed with the previous speaker. If the decision to impose the cuts was final, however, the Committee should proceed with the tasks before it and make what progress it could.
17. Mr. EL SHAFEI agreed that the Committee should proceed with its agenda as best it could. However, summary records were essential for its work, and if they could not be produced during the session they must be prepared later on the basis of the tape recordings.
18. Mr. HOUSHMAND (Centre for Human Rights) said that similar restrictions would apply until the end of the year to the meetings of other treaty bodies funded from the regular budget.
19. Mr. FRANCIS agreed that the Committee should make a strong protest and call for a review of the situation.
20. Mr. POCAR said that the resources lavished on the Vienna Conference would have enabled the Centre for Human Rights to carry on working for decades. Instead, a mere two months after that Conference, the resources available to the Centre were being reduced when they should be on the increase. He agreed with the previous speakers about the steps the Committee should take.
21. The CHAIRMAN said he took it that the Committee agreed to address an immediate appeal to the Secretary-General for the provision of summary records and ask the Secretariat to ascertain what could be done to improve the situation. In the meantime, he invited the Committee to consider the programme of work in the light of the curtailed interpretation services.
22. Following a procedural discussion in which Mrs. HIGGINS, Mr. MAVROMMATIS, Mr. LALLAH, Mr. DIMITRIJEVIC, Mr. EL SHAFEI and Mr. AGUILAR URBINA took part, the CHAIRMAN said that the Committee officers would see what could be done to improve the availability of interpretation services, inter alia by taking advantage of meeting cancellations elsewhere, trying in particular to ensure that meetings scheduled for consideration of communications received priority. On that understanding, he invited the Committee to adopt the programme of work for the session.
23. The programme of work was adopted.

24. The CHAIRMAN then invited the Committee to consider the oral report of the Chairman/Rapporteur of the Working Group on Communications.
25. Ms. EVATT (Chairman/Rapporteur of the Working Group on Communications) said that the Working Group had consisted of Mr. Herndl, Mr. Mavrommatis, Mr. Ndiaye and Mr. Prado Vallejo in addition to herself, as well as Mr. Lallah from 11 to 14 October. Interpretation services had been available only for four meetings, from 11 to 14 October; on 15 October an informal discussion had been held on follow-up issues. The Working Group had adopted 16 recommendations and decisions: 5 decisions declaring communications admissible; 2 recommendations, to be put to the plenary Committee, on inadmissible communications; and 6 recommendations concerning the adoption of views under article 5, paragraph 4, of the Optional Protocol, 4 involving a violation of provisions, 1 deemed not to be a violation, and 1 on which opinion was divided. Of the three remaining matters, one was the subject of a recommendation to the plenary Committee for an interlocutory decision; one was the subject of a decision by the Working Group under rule 91 of the rules of procedure; and one had resulted in a decision to seek further clarification from the State party and the author.
26. The Working Group had been unable to discuss follow-up activities in detail, but hoped that the plenary Committee could consider the matter more fully.
27. Mr. MAVROMMATIS, speaking on follow-up issues, said that effective follow-up was essential to the Committee's credibility, since there were still too many States parties unwilling to cooperate with it to the required degree. He hoped that, in future, more time could be found to discuss the matter in plenary Committee, perhaps under a separate sub-item of the agenda. Follow-up problems generally fell into three categories. The first related to situations in which the State party did not cooperate at all; the Secretariat would need the Committee's guidance in such instances. The second related to instances of partial cooperation but failure to cooperate in respect of particular cases which seemed serious. In such cases, the Committee should seriously consider a method of establishing effective contact with Governments in order to respond to appeals for help from victims and their lawyers by urging the authorities to comply with the Committee's decisions. In that area, too, it might be possible, by means of comments and suggestions on specific cases, to establish some precedents. The third group related to situations in which Governments stated that they were unable to take direct action because the remedies required action through the courts; in such cases, the Committee should be encouraging countries to adopt the requisite enabling legislation.
28. In all cases, the Committee, in drafting its conclusions, should take great care to avoid proposing remedies - reinstatement, for example - might not be practicable.
29. The CHAIRMAN expressed the hope that the Committee might be able to discuss the matter of follow-up action in greater detail later in the session.
30. He then invited the Chairman/Rapporteur of the Working Group on Article 40 to make an oral report.

31. Mr. LALLAH (Chairman/Rapporteur of the Working Group on Article 40) said that the Working Group, consisting of Mr. Dimitrijevic, Mr. Aguilar Urbina, Mr. Sadi and himself, had dealt with the lists of issues concerning all States parties whose reports were to be considered by the Committee at its current session. It had examined the draft general comment on article 27, and had put forward a number of suggestions for the Committee's consideration. The Working Group had also held a further discussion on methods of work, and had made some minor amendments to the paper produced at the Committee's previous session.

32. The CHAIRMAN invited the members of the Committee to adopt the lists of issues to be taken up in connection with the consideration of the periodic reports of Iceland, Norway, the Libyan Arab Jamahiriya, Japan and Romania, taking up each list section by section.

List of issues to be taken up in connection with the consideration of the second periodic report of Iceland (CCPR/C/46/Add.5; HRI/CORE/1/Add.26)

Section I

33. Section I was adopted as it stood.

Section II

34. Ms. EVATT (Chairman/Rapporteur of the Working Group on Communications) said that the Working Group felt that States parties should be specifically asked what means were available for citizens to appeal to the courts in accordance with the provisions of article 9, paragraph 5, and article 14, paragraph 6, of the Covenant. The provisions of article 2, paragraph 3, might also be referred to.

35. Mr. MAVROMMATIS said that a question of that kind should be couched in rather general terms, perhaps in more specific fashion in the case of signatories to the Optional Protocol.

36. Mr. PRADO VALLEJO said that he supported the addition of such a question, but felt that it should be included under section I. He suggested that, with the Chairman's agreement, the Working Group on Communications should prepare suitable wording.

37. Mr. EL SHAFEI said that, in general, a State's courts dealt with the remedies concerned; care must be taken, therefore, to avoid giving the impression that the Committee might be advocating some form of separate mechanism.

38. The CHAIRMAN suggested that he and the Working Group should consider the possibility of drafting a question on the lines proposed by the previous speakers; he, too, felt that section I was the appropriate place for such a question.

39. Section II was adopted on that understanding.

Section III

40. Section III was adopted as it stood.

41. The list of issues to be taken up in connection with the consideration of the second periodic report of Iceland was adopted as a whole, subject to the above-mentioned changes and reservations.

List of issues to be taken up in connection with the consideration of the third periodic report of Norway (CCPR/C/70/Add.2; HRI/CORE/1/Add.6)

Section I

42. Mrs. HIGGINS, supported by Mr. EL SHAFEI, said that question (b) of the provisional text seemed incongruous and should be deleted.

43. Miss CHANET agreed that the question should be deleted. She also thought that all lists of issues should include a question about whether consideration was being given to the withdrawal of any reservations made by the State party concerned.

44. Mr. LALLAH (Chairman/Rapporteur of the Working Group on Article 40) said that the Working Group would have no objection to the deletion of question (b) in the provisional text; it had been included, however, in view of what the State party itself had said in paragraph 10 of its report (CCPR/C/70/Add.2). He himself would be in favour of including a question, as had been done in many other cases, about the possibility of seminars for judges.

45. On the question of reservations, he suggested that members of the Committee could take up the matter in the presence of the State party's representatives.

46. Mrs. HIGGINS agreed that a State party should be asked whether it was considering the possibility of withdrawing any reservations, especially when the stage of a third periodic report had been reached.

47. Mr. MAVROMMATIS said that question (b) in the provisional text should perhaps be replaced by a more general wording, although the Committee could hardly avoid inferring, from the report, that the State party seemed to regard the Covenant, an international instrument, as secondary to the regional instrument. Perhaps it could be left to individual members to raise the point with the State party's representatives. He also took it that the matter of available remedies, mentioned with regard to the second periodic report of Iceland, would be included.

48. The CHAIRMAN said that, if there was no objection, he would take it that the Committee agreed to delete question (b) of the provisional draft and to replace it by a question on legal mechanisms available to persons who claimed that their rights and freedoms under the Covenant had been violated or who had had their claims determined by the Committee under the Optional Protocol. He would also take it that the Committee agreed to add a question about the possible withdrawal of reservations.

49. It was so decided.

50. Section I, as amended, was adopted.

Section II

51. Mr. PRADO VALLEJO proposed that paragraph (d) should be amended so as to make it clear that the United Nations Standard Minimum Rules for the Treatment of Prisoners should be not only accessible to prisoners, but applied by the prison administration, to the same extent as the European Prison Rules.

52. It was so decided.

53. Section II, as amended, was adopted.

Section III

54. Section III was adopted as it stood.

55. The list of issues to be taken up in connection with the consideration of the third periodic report of Norway was adopted as a whole, as amended.

List of issues to be taken up in connection with the consideration of the second periodic report of the Libyan Arab Jamahiriya (CCPR/C/28/Add.16)

Section I

56. Mr. LALLAH (Chairman/Rapporteur of the Working Group on Article 40), replying to a point raised by Mr. WENNERGREN, said that the use of the term “judiciary” was probably a matter of translation; in all probability, the reference was to the courts. A question on the possible withdrawal of reservations, referred to with regard to the previous lists of issues, would be added.

57. Mr. AGUILAR URBINA requested that the Spanish text should be aligned with the original English version.

58. Mr. EL SHAFEI proposed that question (h) of the provisional text should be deleted, since vague references to “culture” and “traditions” had no precise legal meaning and could lead to difficulties. Members having any questions in that regard could raise them in the presence of the State party’s representatives.

59. It was so decided.

60. Section I, as amended, was adopted.

Section II

61. Mr. WENNERGREN proposed that the word “complaints” in question (d) should be followed by “or reports”.

62. It was so decided.

63. Section II, as amended, was adopted.

Section III

64. Section III was adopted as it stood.

Section IV

65. Mrs. HIGGINS, supported by Mr. DIMITRIJEVIC, proposed that, in question (b), the phrase “how is it reconciled with article 18” should be replaced by “how is reconciliation achieved with article 18”.

66. It was so decided.

67. Section IV, as amended, was adopted.

68. The list of issues to be taken up in connection with the consideration of the second periodic report of the Libyan Arab Jamahiriya was adopted as a whole, as amended.

List of issues to be taken up in connection with the consideration of the third periodic report of Japan (CCPR/C/70/Add.1 and Corr.1 and 2)

Section I

69. The CHAIRMAN, replying to an observation by Miss CHANET, said he took it that question (b) of the provisional text was to be deleted, on the understanding that members who wished to raise the matter could put questions to the State party’s representatives.

70. It was so decided.

71. Section I, as amended, was adopted.

Sections II and III

72. Sections II and III were adopted as they stood.

73. The list of issues to be taken up in connection with the consideration of the third periodic report of Japan was adopted as a whole, as amended.

List of issues to be taken up in connection with the consideration of the third periodic report of Romania (CCPR/C/58/Add.15; HRI/CORE/1/Add.13)

Section I

74. The CHAIRMAN, replying to a point raised by Mr. WENNERGREN, said he took it that the Committee wished to add a request for supplementary information on the implementation of the Covenant between 1987 and December 1989. He also took it that a question relating to reconsideration of reservations was to be added.

75. It was so decided.

76. Section I was adopted on that understanding.

Sections II and III

77. Sections II and III were adopted as they stood.

Section IV

78. Mr. EL SHAFEI said that he was not satisfied with the wording of question (g), which might imply that the Committee was questioning the States party's constitution.

79. Mr. DIMITRIJEVIC said that the question had been included because of concern about irregularities alleged in the past, which had seemingly violated the Romanian Constitution and laws. Perhaps, however, the wording could be modified.

80. Ms. EVATT endorsed the point made by Mr. El Shafei. Perhaps the words "to guarantee the proper conduct of elections" could be used.

81. Mrs. HIGGINS said she felt that, in general, the Committee was at liberty to question the provisions of a State party's Constitution if it saw fit. In the current case, problems had indeed been observed relating to the regularity and conduct of elections. She suggested that the relevant wording should be "to ensure the regularity and conduct of elections".

82. It was so decided.

83. Section IV, as amended, was adopted.

84. The list of issues to be taken up in connection with the consideration of the third periodic report of Romania was adopted as a whole, as amended.

The meeting rose at 1.10 p.m.