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ON CIVIL AND
POLITICAL RIGHTS**



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Fourth session

SUMMARY RECORD OF THE 103rd MEETING

Held at Headquarters, New York,
on Tuesday, 1 August 1978, at 10.30 a.m.

Chairman: Mr. MAVROMMATIS

CONTENTS

Consideration of reports submitted by States parties under article 40 of the
Covenant: initial reports of States parties due in 1977 (continued)

Organizational and other matters

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The meeting was called to order at 11.05 a.m.

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

Jordan (CCPR/C/1/Add.24)

1. At the invitation of the Chairman, Mr. Gammoh (Jordan) took a place at the Committee table.
2. Mr. GAMMOH (Jordan), introducing his country's initial report (CCPR/C/1/Add.24), apologized for the brevity of the report and the fact that it did not conform to the guidelines established by the Committee. He emphasized that the short-comings of the report did not imply that Jordan took its obligations under the Covenant lightly, nor that the enjoyment of the rights guaranteed by the Covenant was in law or in fact radically at variance with those obligations. The competent authorities in Jordan were currently preparing an addendum to the initial report which would meet more fully the requirements of article 40 of the Covenant. If the members of the Committee felt that it would be better to defer certain questions until they had before them the additional report, he would convey that feeling to his Government.
3. The CHAIRMAN welcomed the intention of the Jordanian Government to prepare an addendum to the report. However, he understood that a number of members of the Committee wished to ask general questions which the Jordanian Government might find helpful in drafting the new report.
4. Mr. TOMUSCHAT thanked the Government of Jordan for being present at the meeting, through its representative, to open the dialogue with the Committee. In submitting its report, Jordan had made a commendable effort to describe the main features of its legal system. The report did not yet contain the full range of answers needed to enable the Committee to make its final assessment, but there would doubtless be further opportunities for enhancing the Committee's understanding of Jordan's particular problems in the human rights field.
5. Commenting first on the reporting system in general, he observed that there was an urgent need to make available to the outside world the experience and expertise progressively built up within the Committee. As the number of reports submitted increased, it became clear that, with regard to each article of the Covenant, there had emerged a pattern of questioning geared to a set of highly relevant issues. With regard, for instance, to the right to life, the Committee had not only asked questions about the frequency of death sentences and the number of executions reflected in a statistical breakdown, but had also made it clear that life was to be considered in respect of all the threats to which it was subjected. For that reason, questions had been asked about such matters as the use of firearms by police forces, the problem of infant mortality, and whether the Covenant had been incorporated into the legal system to become part and parcel of domestic

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legislation. What rules applied to a case of conflict between the Covenant and a later legislative act? Did individuals have the right - as many members of the Committee had stressed that they should - to invoke the Covenant in cases where it had remained a purely international instrument without any direct bearing on court proceedings?

6. Such questions already belonged to what might be regarded as the Committee's standard repertory. However, since Governments sometimes found it difficult to acquaint themselves with that knowledge, he wondered whether it would be possible to facilitate the task of Governments, when appearing before the Committee, by indicating in a consolidated repertory the questions most frequently asked with regard to individual articles of the Covenant. Such a repertory, which could be established by the secretariat, would be forwarded to States parties for the purposes of information, to be used entirely at their discretion, in preparing their observations. Thus relieved of the task of asking "standard" questions, the Committee could immediately come to grips with the more specific problems of a given country.

7. Turning to the report submitted by Jordan (CCPR/C/1/Add.24), he noted that whereas the first paragraph referred to discrimination on grounds of race, language or religion, the language employed in article 2, paragraph 1, and article 26 of the Covenant to describe specific kinds of prohibited discrimination was much broader in scope. Thus, unless it was interpreted imaginatively, the principle of equality as laid down in Jordanian legislation would have to be supplemented in order to meet the requirements of the Covenant.

8. He also noted that the report did not specify which of the remedies laid down in article 2, paragraph 3, of the Covenant were available to a person who believed that his or her rights had been violated. Although the setting up of machinery to that effect might be difficult for a developing country, especially one in such a difficult situation as Jordan, the Committee would welcome more enlightenment on that principle in the forthcoming report.

9. The report gave no information concerning article 3 of the Covenant, relating to equal protection of men and women, and article 26, which, *inter alia*, prohibited discrimination based on sex. In countries where women had traditionally been tied to the role of housewife and mother, the emancipation of women was a slow process, but the Committee should be provided with more detailed information on measures taken to improve their legal status.

10. Furthermore, the report made no mention of the rights guaranteed in article 7

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(Mr. Tomuschat)

of the Covenant concerning torture and other inhuman treatment, a basic provision in whose observance the Committee took a keen interest. Jordan might well consider the protection of the individual against such treatment as so obvious a requirement of any civilized community that it deemed it unnecessary to provide specific information. However, article 7 seemed to be more than just a prohibition with which Governments could comply by doing nothing. States parties must ensure that torture would never occur; they were therefore bound to set up machinery for strict control and monitoring of the actions of all public authorities responsible for persons deprived of their liberty. He would therefore appreciate more information on regulations, measures and procedures established to ensure full respect for article 7 of the Covenant.

11. He noted that in general the report made several references to a specific constitutional principle but added that it was subject to restrictions enacted by law. In that connexion, an important aspect of the Committee's role was to look into the daily practice of administrative and judicial authorities to ensure that the Covenant was actually implemented. Therefore, the restrictions embodied in national laws were at least as important as the principles themselves. The Committee must ascertain whether the right balance had been found among the various interests of the community to justify restriction of the interests of the individual. In all cases, therefore, detailed information should be provided on the whole range of measures which affected the substance of a right or freedom. He hoped, in the case of Jordan, that that would be done in the additional report.

12. In conclusion, he drew attention to the highly commendable constitutional provision of Jordan under which political refugees would not be surrendered. He wondered, however, whether it conferred an individual right on the refugee to seek and to be guaranteed asylum, or whether it was to be understood more as a declaration of policy. He also wondered whether the provision likewise covered persons who, for political reasons, had committed violent acts such as killings or the hijacking of aircraft.

13. Mr. OPSAHL fully associated himself with the remarks by Mr. Tomuschat. Once the dialogue had been initiated, the Jordanian Government, like other States parties, would be able to assist the Committee - and to be assisted by it - in the examination of the measures taken, or needed, to give effect to the Covenant. He welcomed Mr. Tomuschat's proposal concerning the preparation of a consolidated repertory of questions to help both States parties and the Committee.

14. With regard to the initial report of Jordan (CCPR/C/1/Add.24), he pointed out that it would have been helpful to refer in the report to the individual articles

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of the Covenant. He also noted that, although the report covered a broad range of points, information relating to certain articles was incomplete or entirely lacking. He wished to have more information as to the current status of the Constitution and the status of the Covenant itself. Furthermore, he wondered how particular remedies called for in the Covenant, for example in article 2, were implemented in Jordanian law. Moreover, since the general question of remedies was especially important to detained persons, he wished to have specific answers to the questions generally asked with regard to the implementation of article 9 of the Covenant, to which only an indirect reference was made in the first paragraph of the report.

15. He would also welcome information on the conditions for detention, as laid down in article 9, paragraph 1, and on the treatment of detainees and the remedies available to them under articles 7, 9 and 10 of the Covenant.

16. In general, the reports of States parties should concern the measures taken by them and the progress made in the enjoyment of rights by individuals. Factual background information was required, since such progress could not be measured by reference to decrees and legislation, however well-intentioned. Thus, the effects of the laws were as important a part of the reports as were the laws themselves. That included the factors affecting the implementation of the Covenant. In requesting such information, in respect of Jordan, he was fully aware of the great problems of peace and security affecting the region to which that country belonged. He looked forward to the attention which the Jordanian Government intended to give to the implementation of the Covenant and to the reporting system, and would welcome the next opportunity to ask more specific questions on the basis of the additional report.

17. Mr. HANGA, commenting on the general matters raised by the report of Jordan (CCPR/C/1/Add.24), inquired as to the way in which contradictions between the articles of the Covenant and the provisions of Jordanian legislation were resolved.

18. Noting the important role played by customary law in Jordan, as implied for instance in the fourth paragraph of the report, concerning religious freedom, he wished to know to what extent the provisions of customary law were in keeping with the articles of the Covenant.

19. Referring to the sixth paragraph of the report, he wished to know whether workers had the right to form trade unions, and which means were available to the trade unions to improve the economic and health conditions of the working

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(Mr. Hanga)

class. Could the trade unions also play a political role, for example by proposing a political candidate for election or putting forward a policy aimed at changing the labour law?

20. With reference to education, he noted from the report that elementary education was compulsory and acknowledged that Jordan had made substantial progress in that field. He wished, however, to know whether elementary education was free of charge, and whether middle-school education would also become compulsory in the future.

21. On the question of property, he noted the increasingly popular view that the ownership of property must play a political and social role in the interests of society. In that connexion, he wished to know what influence property ownership had in such matters as active and passive suffrage, and access to education and a career.

22. Lastly, noting the important role of Arab culture in the history of mankind, he wished to know whether that culture had become accessible to the broad masses of the population, and to what extent their participation was assured in the active and passive use of the mass media.

23. In conclusion, he hoped that the fruitful dialogue between Jordan and the Committee would be continued successfully.

24. Mr. KOULISHEV said the Government of Jordan had done well to submit its report. Although incomplete, it opened up a dialogue and provided an overview of the human rights situation in Jordan. Discussion of the report might give the Government of Jordan a better idea of the problems of implementation which were of interest to the Committee.

25. It would be interesting to know whether Jordan had conducted an over-all review of its legislation to determine whether it contained inconsistencies or deficiencies with respect to the Covenant, as other States had done.

26. He wished to enumerate certain points which deserved more thorough treatment in Jordan's additional report: remedies available in cases of violation of human rights and freedoms; problems relating to implementation of article 3 of the Covenant concerning equality of the sexes, and articles 7 and 8; further information regarding implementation of article 9; the question of contractual obligations under article 11; the manner of fulfilment by the State of articles 23 and 24, dealing with the rights of the family and children; the question of minorities (art. 27) and information regarding the composition of Jordan's population.

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(Mr. Koulishev)

27. He supported the proposal of Mr. Tomuschat. It would be desirable for States to have an explicit list of points to which the Committee attached special importance. Such a list could be drawn up on the basis of the provisions of the Covenant, or the questions raised at the Committee's sessions.

28. Mr. TARNOPOLSKY commended the representative of Jordan on his country's report and expressed support for the proposal of Mr. Tomuschat.

29. Certain fundamental rights and freedoms, especially those guaranteed by articles 17, 18, 19, 21 and 22 of the Covenant, were proclaimed in practically every country. However, the Covenant provided for certain exceptions to those freedoms and it was necessary to know, in each country, how much freedom was left to the individual once those exceptions had been applied. Although the Committee had never tried to define precisely the proper scope of those exceptions, a description of their application would give a picture of the degree of freedom existing in a country. The concepts of "public order" or "national security" might be interpreted somewhat differently in different countries. A country situated in an area in turmoil might impose more restrictions. He therefore wished to know what laws existed in Jordan which restricted fundamental freedoms and what their justification might be in the context of Jordanian society. Especially important in that regard was the question of implementation of articles of the Covenant which could not be derogated from. He would appreciate further information concerning the standards set in Jordan with respect to prison regulations and such measures as solitary confinement. It was important to know whether conditions in a given country met standards of dignity and humanity.

30. He would appreciate further information concerning the implementation of articles 7 and 10, relating to the treatment of prisoners, especially as it affected family rights under articles 23 and 24.

31. In connexion with article 27, it would be interesting to have more information regarding the rights of minorities under Jordanian law.

32. Mr. PRADO VALLEJO said that the current meeting might serve to indicate to the Jordanian Government those areas of concern on which it might concentrate in its future reports. He agreed, on the whole, with the questions raised by previous speakers. He would also like to know whether a Jordanian citizen could invoke the Covenant in court to defend his rights. Was there any enactment rendering the Covenant as a whole internally applicable in Jordan? If discrepancies arose between the provisions of the Covenant and those of Jordanian law, which would prevail?

33. He would appreciate further details in the additional report regarding the scope of individual freedom from detention. In the third paragraph of the report it was said that according to the Jordanian Constitution no person could be detained or imprisoned except in accordance with the provisions of the law. He wondered what those provisions were and how they affected Covenant rights.

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(Mr. Prado Vallejo)

34. With regard to the right of assembly, he noted that according to the sixth paragraph of the report Jordanians had the right to hold meetings and to form societies and political parties provided that their objects were lawful. He wished to know who judged what was lawful. If individuals wished to use their right of assembly to form a political party and alleged that that right was not being respected because of the proviso in question, what recourse did they have? Before what authority could they endeavour to demonstrate that their objectives were lawful?

35. The report indicated on page 3 that trials in Jordan were held in public unless the court decided that a trial should be held in camera in order to protect public order and morality. He could readily understand the need to protect morality, e.g. in cases involving children. However, what was the meaning of "public order" in that context and how did it accord with the Covenant?

36. He called attention to the provision, mentioned on page 3 of the report, under which the right of publication was subject to "certain other conditions". He would appreciate further details in the complementary report regarding those conditions.

37. Mr. MORA ROJAS said the report provided a useful overview of the Jordanian legal system. He would welcome the additional report mentioned by the representative of Jordan. He, too, supported the questions and observations of previous speakers, especially Mr. Tomuschat.

38. The report suggested that certain rights were subject to restrictions in Jordan. He would appreciate further information in the additional report regarding the various laws, restrictions and limitations affecting Covenant rights. Two aspects of the Jordanian legal system mentioned in the report were especially praiseworthy: the fact that new laws which modified punishment to the benefit of the convict were retroactive, and the existence of juvenile jurisdictions distinct from the ordinary penal jurisdictions. It could be said that those two measures went beyond the requirements of the Covenant. He hoped that the additional report would reveal more such welcome examples. It should also furnish further details as to the actual operation of the law and the remedies available to individuals. In considering the case of Jordan, it was necessary to keep in mind the conditions currently prevailing in that part of the world.

39. Sir Vincent EVANS noted that Jordan's Constitution contained a number of provisions aimed at establishing and protecting the rights and freedoms recognized in the Covenant and felt that it would be very helpful to have copies of it in English. The Covenant defined certain basic rights of the individual and the rights of the individual in his relationship with the State. Its aim was to promote the enjoyment of those rights and the individual was in a better position to enjoy them if he was familiar with the provisions of the Covenant. He therefore wondered whether the Covenant had been published in Arabic in Jordan and made available to the public, especially to the legal profession so that it could advise clients on the protection of those rights.

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(Sir Vincent Evans)

40. With respect to the legal status of the Covenant in Jordan's legal system, he observed that there were two ways to implement the provisions of the Covenant. In a number of States, when the Government ratified such an agreement it automatically became an integral part of that State's domestic law. The Covenant had self-executing provisions concerning the rights of the individual, and under such a system the individual could invoke its provisions and bring them to the attention of the courts as part of a demand for the implementation of domestic law. Other States took steps to ensure that domestic law and administrative measures were in conformity with the Covenant. He wanted to know which system prevailed in Jordan.

41. The purpose of article 4 of the Optional Protocol to the Covenant was to help the Committee to promote respect for the rights and fundamental freedoms defined in the Covenant. That could be best done if the reporting State engaged in a frank dialogue with the Committee so as to make it as clear as possible how the provisions of the Covenant were implemented in its domestic law. No State had a perfect record in human rights and the Committee could best supervise the implementation and promotion of the rights embodied in the Covenant if the reporting States were prepared to discuss their difficulties in implementing its provisions. States parties could learn a great deal from each other through exchanges and discussion, and discussion of difficulties was just as important as discussion of successes. In the case of Jordan, it was clear that the current situation in the Middle East was bound to affect its implementation of the Covenant, and he wondered whether Jordan had in fact been obliged to derogate from any of its provisions. It was his understanding, for example, that Parliament and elections had been suspended. He wondered what exceptional measures had been taken and why, and whether the Government foresaw the possibility of returning to a full constitutional position in the near future.

42. With respect to the remedies available within Jordan's legal system to secure the rights under the Covenant, he said that a general description of the judicial as well as the legal system was required. He wondered, for example, whether there were any special courts, such as military courts, to deal with the current situation.

43. He drew attention to article 3 of the Covenant, regarding sexual equality, and noted that that very important provision created difficulties for a number of States because it was an extremely modern idea even for the most advanced States. Attention had already been drawn to the fact that sometimes religious difficulties hindered the implementation of article 3 and the Committee must take that factor into account. States had much to learn from each other in that area and it would be helpful to know what Jordan's position was in that connexion.

44. The subject of the traditional role of married women as housewives and mothers had been raised. In many societies, there was a move away from that traditional role as women tended increasingly to take jobs outside of the home for economic and other reasons, thereby weakening the role of married women in the home and in the family. Not all of the changes in women's status had been beneficial and the Covenant also provided for the protection of the family. He wanted to know how matters stood in Jordan in that connexion.

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(Sir Vincent Evans)

45. Lastly, he wondered what restrictions had been placed in Jordan on freedom of opinion and information and how much control was exercised over the mass media.

46. Mr. GAMMOH (Jordan), referring to the suggestion made by Mr. Tomuschat, said that it would be very helpful for reporting States to have a model questionnaire from the Committee. The developing countries in particular were deluged with requests from various United Nations bodies and guidelines would help to relieve the pressure.

47. Jordan would submit an additional report dealing specifically with the matters raised in the Committee. For the time being he wished to note that Jordan did have certain difficulties in applying the Covenant because half of its territory was under foreign occupation, a situation which also explained why the Constitution and elections had been suspended. He wondered in that connexion how the Committee wanted Jordan to report with respect to the occupied area.

48. Jordan was in the process of updating its domestic legislation to bring it into conformity with current international law. Its labour legislation, for example, had been modernized with the help of the International Labour Organisation. Continuous revision of domestic legislation helped Jordan to comply with international agreements and covenants.

ORGANIZATIONAL AND OTHER MATTERS

49. The CHAIRMAN said that, if there was no objection, he would take it that the Committee decided to adopt the revised draft letter from the Chairman of the Human Rights Committee to the President of the Economic and Social Council concerning the annual report of the Committee to the General Assembly, with minor drafting changes.

50. It was so decided.

The meeting rose at 12.50 p.m.