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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fortieth session

SUMMARY RECORD OF THE 935th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 20 August 1991, at 3 p.m.

Chairman: Mr. SHAHI

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The meeting was called to order at 3.40 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 3) (continued)

Fifth and sixth periodic reports of Israel (CERD/C/192/Add.2) (continued)*

1. The CHAIRMAN recalled that, in the absence of a consensus, the Committee had postponed discussion of its conclusions on the report of Israel. It now had before it a revised text, prepared by Mr. Yutzis, the country rapporteur, after consultations with members of the Committee.

2. Mr. BANTON said that it was inappropriate at the current stage to include in the Committee's conclusions any reference to Israel's accession to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or to the International Covenant on Civil and Political Rights, since the Committee had merely been informed by the Israeli representative that a bill to that effect had been introduced in Parliament. He had other reservations about the text. The Committee must be seen to be acting equitably in its consideration of reports, and the draft conclusions on Israel, as they stood, would not be interpreted as meeting that requirement. Moreover, they would have no impact on the situation in the occupied territories, upon which attention should be focused. The Committee should include in its statement on those territories a reference to the remarks made by the Israeli representatives and an explanation of why it considered them unsatisfactory.

3. The CHAIRMAN, speaking in his personal capacity, noted that the draft began by stating that the Committee expressed its appreciation for its continuing dialogue with the Government of Israel. He was not sure whether the Committee expressed its appreciation for its continuing dialogue with other countries. He suggested that further consultations should be held on the text by Mr. Aboul-Nasr, Mr. Banton, Mr. Yutzis and Mr. Wolfrum.

It was so agreed.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION (agenda item 2) (concluded)

Revised general guidelines

4. Mr. BANTON said that two points had been overlooked by Mr. Wolfrum, Mr. Ferrero Costa and himself in their consultations on the revised general guidelines. Firstly, the Committee had agreed that a request should be made for the inclusion of demographic data. Secondly, at its thirty-ninth session, the Committee had approved a recommendation concerning the definition of a minority, and that was relevant to the advice given to States on the preparation of their reports. Therefore, it had been the intention of the group of three to propose that whenever the Committee agreed upon a general recommendation relative to reporting, it should be added to the printed version of the guidelines when that document was reissued.

* Resumed from the 931st meeting.

5. The CHAIRMAN said that consideration of that question would be pursued later.

Appointment of country rapporteurs

6. Mr. BANTON, Rapporteur, announced the appointment of the following country rapporteurs: Mr. Lamptey: Cape Verde and Zambia; Mr. Ahmadu: Lesotho and Burkina Faso; Mr. Lechuga Hevia: Solomon Islands and Bolivia; Mr. de Gouttes: Lao People's Democratic Republic, Viet Nam and Costa Rica; Mr. Wolfrum: Greece; Mr. Banton: Botswana; and Mr. Ferrero Costa: Belgium.

If Mr. Ferrero Costa was not re-elected, it would be necessary to find a substitute. Country rapporteurs still needed to be appointed for Somalia, St. Vincent and the Grenadines, El Salvador and Papua New Guinea.

7. He suggested that, in writing to those States, the Chairman should use a wording that was virtually identical to that of the letter sent at the thirty-ninth session, but with the insertion of a sentence stating that, in reviewing implementation in the country concerned, the members of the Committee, as independent experts, would have access to "all other available sources of information, governmental and non-governmental".

8. Mr. ABOUL-NASR thought that reference to the Committee's use of other sources of information, including non-governmental organizations, would cause many problems. The Committee should not appear to be threatening States parties.

9. Mr. WOLFRUM agreed that the Committee should not threaten States parties, but nor should it give the wrong impression. As the letter stood, it appeared as if the Committee reviewed the implementation of the Convention solely on the basis of a country's most recent reports and the discussions on them.

10. Mr. BANTON, Rapporteur, suggested that, as an alternative to his proposed insertion, a reference might be included to the Committee's decision 1 (XL).

11. In response to a proposal by Mr. de GOUTTES, the CHAIRMAN suggested that further discussion should be postponed until the Committee had a text before it.

It was so agreed.

Question of reminders to be sent to States

12. The CHAIRMAN noted that there were no comments on that question.

Draft letter from the Chairman to States parties with regard to the Committee's consideration of the situation in non-reporting States

13. The CHAIRMAN invited comments on the draft letter the Committee had before it.

14. Mr. VIDAS, supported by Mrs. SADIQ ALI, said that the second paragraph was not clear and amounted to a repetition of what had already been stated in the previous letter. Reference must be made to the conclusions reached by the Committee following its consideration of a country's report.

15. Mr. FERRERO COSTA, supported by Mr. de GOUTTES, said he was in favour of retaining the text as it stood. It would be preferable to attach the relevant summary records of the discussion. The letter would be clearer if the order of the second and third paragraphs were reversed.

16. The CHAIRMAN said that he would reverse the order of the second and third paragraphs and would include in the body of the text a specific reference to the Committee's conclusions on each report.

REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY AT ITS FORTY-SIXTH SESSION UNDER ARTICLE 9, PARAGRAPH 2, OF THE CONVENTION (agenda item 7)

17. The CHAIRMAN said the Committee had before it a draft Letter of Transmittal addressed to the Secretary-General, to accompany its report to the General Assembly. He pointed out that, as the Committee had agreed, the fact that it had held two sessions during 1991 had been highlighted.

18. Mr. FERRERO COSTA suggested that it would be more effective if the reference to the holding of two sessions were placed at the beginning of the

paragraph concerned. He also thought it would be more positive if, before mentioning overdue reports, the letter stated that the Committee had dealt with a given number of reports. It was important to stress that some reports had been submitted.

19. Mr. de GOUTTES, agreed. He pointed out that one State submitting a late report - Côte d'Ivoire - had sent a delegation, which showed that the Committee's approach had produced a positive result.

20. In reply to a question by Mr. AHMADU, Mr. HOUSHMAND (Representative of the Secretary-General) said that letters had been sent to 13 States, of whom 5 had replied. Belgium had promised to prepare a report for the end of 1991 for examination at the next session and had therefore requested that consideration of its earlier reports should be deferred. The Committee had agreed to the Belgian request. Togo, Guinea and Zaire had also requested deferment, but the Committee had not acceded to their request. It had considered their earlier reports and had sent those States the summary records of the meetings at which the reports had been discussed to help them prepare new ones. The Permanent Mission of the Bahamas in New York had held out hope of a report being submitted, but since it had not been, the country's earlier reports had been considered.

21. Mr. BANTON, Rapporteur, thought that since the Letter of Transmittal was intended to draw attention to the main features of the Committee's work, it would be more appropriate to restrict references to individual countries to the body of the report.

22. Mr. AHMADU said it had been his understanding that the sentence referring to sources to be used in examining reports was to be deleted.

23. Mr. ABOUL-NASR agreed. The Committee as such had taken no formal decision on its use of sources, which would amount to an amendment of article 9 of the Convention, but had merely agreed that its members, as independent experts, could draw on various sources for their own information.

24. The CHAIRMAN reminded the Committee of its decision that the Committee will continue to make its suggestions and general recommendations on the basis of the examination of reports and information received from States parties as laid down in article 9, paragraph 2, of the Convention.

25. Mr. ABOUL-NASR, supported by Mr. WOLFRUM, said the fourth paragraph of the letter, which stated that the concluding observations were formulated by the Committee as a whole, should be deleted or amended to state that the observations would be agreed by consensus. The existing text implied that one member could exercise a veto over the Committee's decisions.

26. Mr. AHMADU agreed. There might in future be cases where members would not agree, in which case a majority decision should prevail.

27. Mr. BANTON, Rapporteur, said that the paragraph was significant as marking a shift in the Committee's procedures.

28. The CHAIRMAN took it that the proposal to replace the words "as a whole" by "by consensus" was acceptable. He also wondered whether the paragraph should be expanded to include a sentence about the Committee's wish to keep itself informed and maintain contacts with other human rights bodies.

29. Mr. AHMADU suggested that the paragraph dealing with the meeting with the Sub-Commission might be amplified by a sentence on the following lines: "We met to identify common concerns and to exchange views."

30. Mr. ABOUL-NASR said he was not sure whether a decision to hold further meetings had actually been taken. He suggested amending the final sentence to state that further contacts and exchanges of information were envisaged.

31. The CHAIRMAN said that a revised version of the Letter of Transmittal would be submitted to the Committee for consideration.

DRAFT DECISION BY THE COMMITTEE

32. The CHAIRMAN drew the Committee's attention to the following draft decision, which had been circulated to its members:

"The Committee on the Elimination of Racial Discrimination,

"Aware of the decision of the States parties about the place of its meetings,

"Recalling that according to article 10, paragraph 4, of the International Convention on the Elimination of All Forms of Racial Discrimination, 'the meetings of the Committee shall normally be held at United Nations Headquarters',

"1. Draws attention to the Committee's experience at its fortieth session when many States were unable to arrange representation at the consideration of their reports by the Committee;

"2. Reiterates its view that the March meeting should be held at United Nations Headquarters; and

"3. Observes that meetings in New York should improve the supply of information which competent bodies of the United Nations have to furnish the Committee in terms of article 15, paragraph 2 (b)."

33. Mr. LAMPTEY said it was for the Committee to decide when and where it would meet, the only constraint being the availability of conference services. It was up to the States parties, meeting in New York after the next session of the General Assembly, to decide on the financial implications of holding a spring session of the Committee in New York, taking into account the Committee's recommendations.

34. Paragraph 1 of the draft decision should be amended to reflect the fact that the number of States parties represented in Geneva was limited, whereas almost all had representation in New York.

35. Mr. ABOUL-NASR proposed an amended version of the operative paragraphs of the draft decision. The existing paragraph 3 would become paragraph 2 but would be otherwise unchanged. Paragraph 1 would read:

"1. Draws attention to the Committee's experience, particularly at its fortieth session, when many States were unable to arrange representation at the consideration of their reports by the Committee due to the limited number of permanent missions in Geneva."

The new paragraph 3 would read:

"3. Decides that its future March meetings should be held at United Nations Headquarters and its August meetings in Geneva."

36. The CHAIRMAN said that in earlier years the extra cost of holding a session in New York rather than Geneva had been in the region of \$50,000. The Under-Secretary-General for Human Rights could be asked to provide updated figures for the financial implications of such a session.

37. Mr. ABOUL-NASR said that he agreed with the view expressed by Mr. Lamptey with regard to the Committee's prerogatives in deciding the date and venue of its sessions.

38. The CHAIRMAN drew attention to rule 25 of the Committee's rules of procedure, which concerned the financial implications of proposals.

39. Mr. ABOUL-NASR said that the operative procedure should be that provided for in rule 2, which affirmed that the regular sessions of the Committee were to be convened at dates decided by the Committee in consultation with the Secretary-General. In addition, rule 5 affirmed that the Committee might designate a venue other than Headquarters for a session in consultation with the Secretary-General.

40. Mr. LAMPTEY said that he agreed with the previous speaker, and pointed out that, if financial considerations were to be the determining criterion, some thought might be given to the enormous sums involved in holding seminars, which, although undoubtedly important, could scarcely be regarded as taking precedence over the work of the Committee itself.

41. Mr. de GOUTTES suggested that the Bureau might first examine the question in order to achieve an initial consensus.

42. Mr. ABOUL-NASR said that if there were no objections to the draft text, with the amendments he had proposed, a Bureau meeting could be avoided.

43. Mr. GARVALOV said that it should not be taken for granted that if the Committee met in New York, all States parties with diplomatic representation in New York would send a representative to the Committee. Furthermore, if rule 25 of the rules of procedure were applicable when the Committee met in New York, it should also be applicable when it met in Geneva. It was therefore more appropriate to refer to rule 5 in the matter under discussion.

44. Mr. AHMADU, referring to Mr. Lamptey's statement, reminded the Committee that it had received guidance from the Secretariat when the question of the venue of sessions had arisen previously. Referring to the draft text before the Committee, he expressed reservations about the use of the word "Decides" proposed by Mr. Aboul-Nasr.

45. The CHAIRMAN said that it was his duty as Chairman to confirm the applicability of rule 25. The Committee was, however, master of its own procedure, and he would defer to the majority view.

46. Mr. HOUSHMAND (Representative of the Secretary-General) said that, taking into account the previous decision adopted by the meeting of States parties about the venue of the Committee's sessions and rule 25 of the rules of procedure stipulating that the Committee should be informed of the financial implications of any proposal involving expenditures, a decision such as that contained in the draft text would require approval by the General Assembly in regard to the additional cost, if any, of holding future sessions in New York. In that regard, he pointed out that the secretariat of the Committee was located in Geneva. He could provide an estimate of any additional cost before the end of the session if the Committee wished to defer its decision until then.

47. Mr. ABOUL-NASR pointed out that, under article 10, paragraph 4, of the Convention and rule 5 of the rules of procedure, the normal procedure was for the Committee's meetings to be held in New York, which meant that the question of financial implications should not arise. He was merely seeking to apply the Convention and the rules of procedure, particularly as it was in the interests of the Committee's work to revert to the normal practice.

48. Mr. HOUSHMAND (Representative of the Secretary-General) explained that, under article 8, paragraph 6, of the Convention, States parties were responsible for the expenses of the members of the Committee while they were in performance of Committee duties. All other expenses concerning the servicing of Committee meetings were met from the United Nations regular budget, and that required a General Assembly decision. Under rule 25, the Committee must be informed of any additional cost involved in any decision it took; it should also be apprised of the procedure to be followed if the decision was to be implemented as the Committee wished.

49. Mr. VIDAS, while agreeing that the Committee might await an estimate of the additional cost, said he shared Mr. Aboul-Nasr's interpretation of the Convention as meaning that the holding of sessions in Geneva was in fact contrary to the provisions of the Convention and to previous practice.

50. Mr. ABOUL-NASR pointed out that when the Committee had met in New York in the past, there had been no question of informing it of the relevant financial implications; since that was the statutory practice, sufficient allowance should have been made in the regular budget.

51. Mr. HOUSHMAND (Representative of the Secretary-General) explained that the reason why the Committee had not been asked to consider the financial implications at the time was that the secretariat of the Committee had been situated in New York, whereas it was now situated in Geneva. For the Committee's information, the Fifth Committee of the General Assembly had interpreted "United Nations Headquarters" as meaning the office where the secretariat of a committee was situated, although the General Assembly could, of course, provide for exceptions to that interpretation.

52. Mr. AHMADU and Mr. FERRERO COSTA said that it would be preferable to defer a decision until the Committee received information on the financial implications.

53. Mr. YUTZIS said that, although he sympathized with the view that it would be desirable to hold meetings in New York because of the larger number of diplomatic missions there, the Committee should be very careful about the timing of its proposal and should perhaps defer it in order to avoid another negative response.

54. Mr. ABOUL-NASR suggested that the views of the various Committee members might be reconciled by changing the word "Decides" to "Recommends" in the second operative paragraph of the draft text.

55. The CHAIRMAN said he took it that the Committee agreed with that amendment and with the other amendments proposed by Mr. Aboul-Nasr.

The draft decision was adopted.

56. In response to a question by Mr. YUTZIS, the CHAIRMAN informed the Committee that he would write a letter to the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in order to ascertain the Sub-Commission's intentions with regard to future meetings and liaison with the Committee.

57. He further suggested that Committee members should hold informal consultations about the proposed agenda for the Committee's spring session.

The meeting rose at 6.05 p.m.