

INTERNATIONAL  
COVENANT  
ON CIVIL AND  
POLITICAL RIGHTS



CCPR

Distr.  
GENERAL  
CCPR/C/SR.444  
18(July 1983)

ENGLISH  
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Nineteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)\*/ OF THE 444th MEETING

held at the Palais des Nations, Geneva,  
on Friday, 15 July 1983, at 10.30 a.m.

Chairman: Mr. MAVROMMATHIS

later: Mr. PRADO VALLEJO

CONTENTS

Submission of reports by States parties under article 40 of the Covenant (continued)

Lebanon (continued)

\*/ The summary record of the second part (closed) of the meeting appears as document CCPR/SR.444/Add.1.

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

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Lebanon (continued) (CCPR/C/1/Add.60)

1. Mr. OPSAHL said that since July 1982 when the Committee had observed a minute's silence in memory of the dead and missing in Lebanon, the world had been witness to the appalling massacres perpetrated in September of the same year. The Committee's task was to assist States parties in implementing the provisions of the Covenant, but it could not close its eyes to tragic violations of human rights. There was no denying that the Lebanese State had not been able to provide the necessary protection to persons living in its territory.

2. In his view the report submitted by Lebanon (CCPR/C/1/Add.60), was too abstract and drafted in terms which were often difficult to understand. What was one to make, as an example, of the role of law as defined in part I (chapter 2, section I, B), where it was stated that "the administrative authorities [...] must issue permission, without which the exercise of the right in question is not possible". That was a particularly obscure passage.

3. He was not clear also about the function of the legislative decrees referred to in section I, A (a). If the authority of the Executive to enact legislative decrees was restricted in time, as the report stated, were the effects of the decrees restricted to the same period? The report referred elsewhere to older legislative decrees which appeared to be still in force. In fact there were more references to legislative decrees than to laws in the strict sense. A further point was that the powers of Parliament during the period in which full powers were delegated to the Council of Ministers were also not sufficiently clearly specified. The report simply said that Parliament could not only monitor the use that was being made of those powers, but might also raise questions referred to in the enabling act. Did that mean that Parliament lost its capacity to legislate?

4. Chapter 4 dealt with derogations from public freedoms in times of exceptional circumstances. Had a state of emergency been proclaimed in the Lebanon as defined in chapter 4, B? It was known that a decree of 4 November 1982 had delegated exceptional powers to the Executive, which was no longer answerable to Parliament. The decree contained various provisions on searches of premises, persons, etc. which derogated from the provisions of the Covenant. Strictly speaking, the Lebanese Government should have notified those derogations to the United Nations.

5. Turning to part II, chapter 1 of the report dealing with the right to life, he welcomed the tendency to commute capital punishment to terms of imprisonment. Nevertheless the press had reported a hanging in 1983, said to be the first for 20 years. The Committee would like to have an assurance that death sentences would be systematically commuted in the future.

6. Chapter 2 was rather vague in regard to the question of torture and corporal punishment: it said nothing about the means of protecting individual rights, merely giving information on the state of affairs in prisons. What was the situation in the armed forces, for example, and in teaching establishments?

7. Chapter 4, section II which dealt with arrest and detention was difficult to understand, especially in regard to "preventive custody". How did the system function exactly and was it consistent in detail with the provisions of article 9, paragraph 3 of the Covenant. The report should also provide more information on the prison situation, the number of prisoners, prison conditions, etc. and indicate whether information on the identity and status of prisoners was communicated to those concerned, for example their families.

8. The penultimate paragraph of chapter 6 quoted article 816 of the Code of Civil Procedure which provided that the period of imprisonment should be proportional to the amount of the debt. That raised two questions: was such imprisonment what was referred to elsewhere in the chapter as "physical constraint" and was the provision of the Code not contrary to article 11 of the Covenant?

9. The number of aliens present in Lebanon was very large amounting to 28.7 per cent of the population and consisting chiefly of Palestinians, Syrians and Kurds. According to reports, many of the aliens were in the country illegally. What was the Government's policy in that respect and what legislation applied to them? In the case of the Palestinians, in particular, many were known not to have been registered, although a large number had been naturalized. He would welcome information about the situation of the remainder, in view of the Lebanese Government's announcement in February 1983 that it intended to deport armed, aliens and aliens illegally present in the country.

10. Chapters 16 and 17 dealt with the right of peaceful assembly and freedom of association and freedom to form and to join trade unions, but nothing was said about political parties. Was that an oversight and, if so, how, did the political parties function, especially in regard to the electoral system described in part III (chapter 2, section II, B)? The report said that trade unions "could be no more than occupational" and that they could not be formed without prior authorization. Perhaps the representative of Lebanon could provide further details. The right to strike appeared to be subject, not only in the public sector but also in a number of others, to the restrictions set out in an Act of 1974 intended to encourage arbitration. The question whether article 22 of the Covenant implicitly protected the right to strike remained, of course, to be decided.

11. He considered that the "final chapter" added to the report was a part of the report and should be examined by the Committee in the same way as the remainder of the text. The final chapter reviewed the situation following the events of April 1975, but did not mention the violations of human rights suffered by the Lebanese, in particular civilians, as a result of the breakdown of institutions. In its general observations the Committee would nevertheless have to take into account the fact that the "permanent state of war" referred to by President Gemayel in his address to the General Assembly (section I) was the root cause of the difficulties experienced by the Lebanese Government in the application of the Covenant.

12. Because of that state of affairs there was also a problem of a more general nature. Normally the Committee examined the legal regime applied by a government in full control of the situation. In some cases it considered the human rights situation in a State where the government for one reason or another was not disposed to apply the provisions of the Covenant. But there were also cases in which the government was materially unable to apply the legislative system under examination. Lebanon was an example of that situation, since the Government

exercised full authority only in the Beirut metropolitan area. It had to be accepted that in such circumstances the Covenant ceased to be a useful instrument and the Committee was not an effective organ. It might be necessary to turn, as non-governmental organizations were doing according to press reports, to the Geneva Conventions.

13. The case of Lebanon also raised the general question of the responsibility of States parties for the actions of their armed forces in foreign territory occupied by them. The problem had been raised in another context but had not been solved. The Lebanese representative would no doubt wish to provide an explanation and in particular inform the Committee of the extent to which his Government considered that it shared the responsibilities of States with which it was bound by treaty.

14. Wars were always followed by a spate of prosecutions and he hoped, from the human rights point of view that an amnesty would make it possible for the Lebanese people to return as soon as possible to peaceful conditions. If that course were followed, it could reasonably be expected that the legal regime described in the report would once again function normally. The questions he had put to the Lebanese representative were to be understood in the light of that situation.

15. Mr. DIMITRIJEVIC shared the views expressed by Mr. Opsahl in his concluding remarks regarding the problem of respect for human rights in some States. The Committee was accustomed to take as a basis an ideal situation in which the government whose report was under examination was free of constraints and responsible for its actions. Often, however, governments were exposed to external pressures and constraints. The Committee should make a practice of taking into account such extrinsic factors of which Lebanon provided a particularly striking example.

16. The Lebanese report was encouraging to the extent that it demonstrated the vitality of democracy in Lebanon. The Lebanese Constitution and system of government had survived events, as the publication of the document itself showed. The principal objection to the report was that the text was to a large extent written as if all was going well. No mention was made of problems in the application of the various articles of the Covenant or of the Government's difficulties in that connection resulting from aggression and the presence of foreign troops, as Mr. Graefrath had already pointed out.

17. It should be noted that in Lebanon many aspects of the daily life of the citizen and of the status of the family were delegated to the various religious bodies. The latter appeared to be very active in the areas with which the Covenant was specifically concerned. The Government was thereby relieved of a number of executive responsibilities, but not of its responsibility to explain to the Committee the situation in regard to all human rights, even those which it did not control directly.

18. Divorce, which was covered by articles 3 and 23 of the Covenant, was a good example, since the rules applied by the various religions were different. It would be helpful if the Lebanese representative would inform the Committee whether all Lebanese were free to divorce and whether as in many other countries there was any discrimination against women in the matter of divorce.

19. In dealing with article 6 of the Covenant, which protected the right to life, the report referred only to capital punishment. That was a rather narrow approach, having regard to the fact that some 100,000 persons had lost their lives in Lebanon for very different reasons. It would be interesting to know, from the point of view of public safety, how many cases of murder and manslaughter had not been solved by the police and whether the authorities were making any progress in that connection.

20. Part II, chapter 2 of the report, which dealt with article 7 of the Covenant, indicated that torture was prohibited in prisons. On the other hand it provided no information on the practices followed during interrogations and did not say what measures had been taken officially to ensure that inhumane methods were not used.

21. In connection with article 8 of the Covenant, which was covered by part II, chapter 3, he would like to know whether the law limited the number of hours that might be worked by children. In some countries the number of hours worked was so great as to constitute a contravention of the provisions of the Covenant.

22. Turning to article 9 of the Covenant, he said that as in the case of article 6, the rights of many inhabitants of Lebanon had been violated not by an act of government but by the actions of a wide range of groups. In more precise terms, he would like to know whether "private" camps existed in Lebanon and what measures had been taken in that connection by the authorities.

23. He asked whether any prisoners convicted of ordinary crimes had been released recently, whether the conditions of detention in prisons complied with the requirements of article 10 of the Covenant; whether Palestinian refugees were treated as refugees within the meaning of the Convention relating to the status of refugees and, if so, whether they enjoyed all the safeguards prescribed, especially in regard to the principle that they should not be expelled; what jurisdiction foreign troops installed in the Lebanon were subject to; what was the situation in the Lebanon of atheists and those who did not belong to a monotheistic religion and whether it was true that only one seat in the Chamber of Deputies was allocated to the category "others" (report, page 47).

24. In regard to freedom of the press, he asked what control the State was able to exercise over newspapers, many of which were financed from outside the country, whether the owner of a newspaper had to be of Lebanese nationality, how the courts decided whether false news was likely to disturb public order and how many convictions there had been for such offences.

25. Since personal status was subject to religious law in Lebanon, he would like to know where persons belonging to no religion were married, if civil marriages were permitted, whether it was true that only the religious authorities issued birth certificates, whether there was any discrimination in regard to divorce, and what was the confessional distribution of seats in the Chamber of Deputies.

26. Mr. Prado Vellejo took the chair.

27. Mr. AGUILAR paid tribute to the Lebanese Government which had honoured its obligation by submitting a report to the Committee despite the country's tribulations. It was of course a rather academic exercise, since a country under foreign occupation and torn by interconfessional strife, like Lebanon, could not be expected to comply with the requirements of the Covenant. How could a Government, whose authority covered only Greater Beirut, undertake in accordance with article 2 of the Covenant to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant? The Committee should nevertheless be grateful to the Lebanese Government for submitting the report, since the preparation and submission of the report required of the State party a salutary effort in appraising its own legislation.

28. The exercise was also academic in that the Committee, whose function it was to make recommendation to States parties to assist them in ensuring the proper application of the provisions of the Covenant, could do no more in the present case than formulate platonic hopes for the future of a country which, as President Gemayel had stated in his address to the General Assembly, had been before the war "a stable, peaceful and prosperous country". Lebanon had been an exemplary country from the point of view of public freedoms, and a land of asylum for refugees of all political opinions, but a country where the democratic edifice had been shattered, perhaps because as President Gemayel had said "Lebanon was too democratic, too free".

29. The report did not fully comply with requirements of article 40 of the Covenant, paragraph 2 of which required States parties to indicate the factors and difficulties affecting the implementation of the Covenant. The final chapter of the report simply provided a brief review of the situation in Lebanon since 1975. Consideration of the report had been complicated by the unusual presentation in chapters and sections and the confusion had been aggravated by the fact that the meaning of some passages was not clear, at least in the Spanish translation.

30. He agreed with previous speakers that the report had a somewhat archaic air. It gave the impression of looking back to a distant era, a world which had been miraculously spared the upheavals of the past 40 years, and it was natural to ask whether the Lebanese legal system was still adapted to the realities of the modern world. Much certainly remained to be done to bring Lebanese legislation into conformity with the requirements of the Covenant. The third paragraph of the introduction, for example, stated that Lebanese positive law made special provision for civil and political rights in Lebanon, particularly in the Lebanese Constitution of 1926, chapter II of which was concerned with "the Lebanese, their rights and their obligations" (articles 6 to 15). The provisions of the Covenant were however applicable to all persons under the jurisdiction of the State, whether citizens or aliens. Article 2 of the Code of Civil Procedure would require amendment if it was true, as stated in part I, chapter 2, section II A of the report, that it prohibited the courts from reviewing the constitutionality of laws. He asked whether any organ was responsible for reviewing the constitutionality of laws in Lebanon.

31. In regard to the provisions relating to minors in penal establishments, he drew attention to what appeared to be an error; the Spanish text stated that minors sentenced to a term in a disciplinary establishment were detained in a detention centre for adults. The error was not repeated later in the report where the same provision of article 125 of the Penal Code was again quoted.

32. His general impression was that the report said little about the theory of Lebanese law and nothing about practice. The right to life, for example, was covered in abstract terms, although it was well known that the Lebanese Government was not at present in a position to guarantee the right to life, as had been made amply clear by the massacres at Sabra and Shatila and other terrible events, reports of which had reached the members of the Committee and could not leave them unmoved. The important thing, however, was that Lebanon should rise from its ashes and that the Lebanese Government should succeed as soon as possible in re-establishing its authority over all Lebanese territory, so as to protect the rights of Lebanese citizens and thus discharge its contractual obligations.

33. Mr. COORAY reminded the Committee that Lebanon had made a remarkable contribution to the preparation of the Universal Declaration of Human Rights in 1948 and paid tribute to Lebanon for submitting a praiseworthy report to the Committee in spite of the present situation and its problems in affirming its right to self-determination.

34. In regard to supervision of the implementation of the law and of the conduct of the administrative authorities (introduction to the report), he asked what remedies were available, even against the State, to prisoners or persons subjected to cruel, inhuman or degrading treatment (article 7 of the Covenant). It would be of particular interest to know how far such remedies were available under emergency situations such as the present and whether prisoners were allowed to communicate with their families and with the lawyer of their choice. He also asked whether any institution of the ombudsman type was available in Lebanon to enable persons whose fundamental rights had been violated to obtain speedy and informal redress less expensively than by application to the courts.

35. He noted that under article 17 of the Deportation Act (part II, chapter 8, section IV), the Director of the Sûreté générale seemed to have authority to refuse to apply the principle of non-refoulement in the case of a genuine political refugee.

36. In regard to the authority to enact legislative decrees delegated by Parliament to the Executive Power for a determined period and covering specific matters (part I, chapter 2, section I), he asked whether Parliament exercised any subsequent supervision or control over the procedures adopted by the Executive before enactment. If it did not, Parliament would lose the supreme power it was supposed to possess. He asked also whether the courts had the power to set aside such delegated legislation on the grounds that it was ultra vires, on formal grounds or on the grounds of the procedures.

37. In regard to the independence of the judiciary (part II, chapter 4, section II B) he asked what limits were fixed by legislation governing the appointment, transfer and dismissal of judges in courts of different instances, whether the Executive could alter their salaries at will and whether the legal status of judges was the same in time of peace and in a state of public emergency.

38. In connection with article 2 of the Code of Civil Procedure, which prohibited the courts from reviewing the constitutionality of laws (part I, chapter 2, section II), he was surprised that no organ of State was apparently responsible for reviewing the constitutionality of laws at the time of their adoption. If that were the case, it was illusory in his view to claim that the Constitution represented the fundamental law of the State, since it would be nothing more than one law among others.

39. In conclusion, he again paid tribute to Lebanon's devotion to the cause of human rights and fundamental freedoms.

40. Mr. BOUZIRI read out paragraphs (a) and (b) of article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide which, in his view, accurately described the recent events at Sabra and Shatila. As several members of the Committee had done before him, he felt bound to refer to those two events in recent history and to denounce Israel as mainly responsible, although in all objectivity he felt bound to mention the part played in the massacres by elements subject to the jurisdiction of the Lebanese authorities. Mr. Errera had turned back the pages of history and referred to the Saida and Damour incidents while rather oddly failing to mention the Tel el Ezzaat massacre. He did not believe that it was proper to discuss the history of Lebanon and Israel, which was outside the Committee's terms of reference. The tone of the Committee's discussions had always been moderate.

In this edition of the The public meeting rose at 12.35 p.m.