INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

CCPR

Distr.
GENERAL

CCPR/C/SR.227
22 July 1980

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Tenth session

SUMMARY RECORD OF THE 227TH MEETING

Held at the Palais des Nations, Geneva,
on Friday, 18 July 1980, at 10.30 a.m.

Chairman: Mr. MAVROMMATIS

CONTENTS

GE.80-16272

The meeting was called to order at 10.40 a.m.

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

Suriname (continued) (CCPR/C/4/Add.4)

1. At the invitation of the Chairman, Mr. Waaldÿk (Suriname) took a place at the Committee table.

2. Mr. WAALDŸK (Suriname) said that he had noted the suggestions made by members of the Committee concerning Suriname's report (CCPR/C/4/Add.4) and would convey them to his Government. In the future it might be useful for Committee members to pay a visit to the reporting State in order to obtain a broader view of the situation there.

3. The coup of 25 February 1980 had affected the maintenance of human rights in Suriname and that situation had continued until 15 March 1980 and to a lesser extent until 15 May 1980. On 14 June, the Military Council had transferred to the jurisdiction of the civilian judicial authorities all persons in its custody, including persons allegedly involved in a counter-coup. The civilian authorities had dealt leniently with those people, who had been mistreated and in some cases even tortured by the military during their detention. Most of those prisoners had now been released. In the case of those prisoners who had been brought to trial, lighter sentences than usual had been imposed in view of the punishment which they had already undergone. The principles of ne bis in idem and habeas corpus were still important in the conscience of the judiciary in Suriname. Under the Amnesty Act endorsed by Parliament, it was not possible to bring military personnel to trial for acts committed during the period 25 February-15 March 1980, when the military had held absolute power. Fortunately, that period was now over and all cases other than those involving two persons who had had to be hospitalized for illnesses from which they had been suffering before the coup were now under the jurisdiction of the civilian authorities. It had been determined that the persons taken into custody by the military because of alleged corrupt practices had not been mistreated during their captivity and the only injustice inflicted on them had been the arbitrary deprivation of freedom.

4. Commenting on the detention of persons under article 60 of the Code of Criminal Procedure, he said that the basic idea of the article was to limit the time during which an individual could be held in custody to a maximum of 180 days. However, there were a number of built-in safeguards to prevent an individual from being held in custody for longer than was absolutely necessary for the investigation of his case. A person held for questioning had to be released within six hours unless a warrant for his further detention for a period of up to seven days was issued by a public prosecutor or auxiliary prosecutor. Detention for more than seven days could be ordered only by a judge and only if the public prosecutor adduced evidence pointing to the commission of an offence. All such detention decisions were subject to appeal. An individual who did not have his own legal counsel was given legal aid; the previous year, that service had cost Suriname the equivalent of Sw.F.750,000, which was a sizable sum for a developing country. Legal counsel had free access to the suspect and could exchange uncensored correspondence with him, and speak to him in private. Moreover, the guarantee of habeas corpus had been strengthened by article 21 of the Code of Criminal Procedure, which prohibited the use of any methods intended to force a suspect to confess; the Attorney General and the Supreme Court took great care to ensure that that provision was observed by all concerned. There had been cases in which police and prison officers had been dismissed and prosecuted for abuses inflicted upon persons under detention.

5. The Constitutional Court was not yet functioning, since Parliament had failed to designate its representatives to sit on the Court although the other members had already been nominated some time previously. Nevertheless, there was still a procedure for verifying that legislation was consistent with Section I of the Constitution. Before a law could be enforced it had to be sent to the Attorney General for comments, which he had 14 days to submit. Moreover, if the President did not approve of a law he could withhold his assent, without which the law could not be implemented.

6. Commenting on the Authorization (Delegation) Statute of 20 May 1980, he said that it was a law in the formal sense as it had been approved and even amended by Parliament. The law enabled the Government to take extraordinary legislative measures with a view to carrying out the programme set forth in the Government Declaration of 1 May 1980. By that Statute, the powers delegated to the Government were subject to certain restrictions: the Government could not take any measure affecting the fundamental rights set forth in Section I of the Constitution or the law governing legislative rules, and the special powers would end on the day on which the new Parliament convened. Moreover, the power conferred by article 2 of the Statute, which authorized the Government temporarily to amend or suspend existing laws by decree, had not yet been used and Parliament could at any time revoke that delegation of powers to the Government. The sole purpose of the Statute had been to enable the Government to fulfil an enormous task under very difficult circumstances and the Statute had been approved unanimously by Parliament.

7. As that Statute was a law in the formal sense, any enactment made by virtue of the authorization conferred by that Statute would likewise be a law in the formal sense. That point was perhaps relevant to the envisaged Courts Act. If the draft provisions were incompatible with Section I of the Constitution, or with the law governing legislative rules, or again if those provisions did not receive the assent of the President, they would not become law. If, however, the Courts Act became a law in the formal sense, then it would not be in conflict with the provisions of article 10 of the Constitution. That article derived from a principle whereby a privilege could formally be accorded to the nobility, but it also served another purpose; it recognized the right of a person who was entitled to a judge not to be debarred from appearing before that judge.

8. Article 132, paragraph 4, of the Constitution referred only to prison terms. Other forms of punishment were regulated by law.

9. With regard to the right of an individual to invoke a conflict between a provision of a law and one or more provisions of Section I of the Constitution, the judge could rule that the law concerned was inapplicable to the specific case.

10. There had been no interference with the existing judiciary; in fact, judges had begun to hold sessions only three days after the coup had taken place. Ordinary judges were also competent to deal with administrative cases and frequently did so.

11. In Suriname, as indicated in the report (CCPR/C/4/Add.4, pages 14 and 15), the death penalty had not been enforced for more than 50 years and he doubted whether it ever would be again. In fact, there had been only five cases during the past decade in which a sentence of life imprisonment had been passed and that would in all these cases be reduced to either 18 or 25 years because of existing rules of common law. Moreover, the trend in new legislation dealing, for example, with genocide and hijacking was to make no provision for capital punishment. The reason why a procedure for execution still existed in article 499 (a) of the Code of Criminal Procedure was that some members of Parliament had been unwilling to abolish the death penalty, which they considered a deterrent. However, the death sentence could be imposed only for murder, first-degree manslaughter and piracy.

12. Abortion was prohibited except when recommended on medical grounds, and no case relating to unauthorized abortion had been brought to trial during the past decade. Suriname followed an enlightened policy regarding birth control, which was being promoted throughout the country by a private corporation.

13. A provision of the Civil Code still in force denied married women the right to conduct their own business affairs, but under the same Code a woman could apply to a judge for authorization to take over management of the family affairs if her husband was profligate. Nevertheless, the new Government intended to repeal that provision and had already prepared a bill for that purpose, as also legislation designed to ensure uniformity of treatment for the spouses. In that connexion, he pointed out that legislation had been enacted by the former colonial Power providing for the marriage of Hindu or Muslim children, at the age of 12 in the case of girls and 14 in the case of boys. Moreover, the Muslim law enabling men to repudiate their wives was still in force in Suriname. It could thus be seen that much remained to be done in the legislative field.

14. Since 1 July 1963, it had not been necessary for a child in Suriname to be recognized by his mother in order to inherit from her. A child would also inherit from his father if recognized by him. However, the Government planned to introduce a law eliminating the unbalanced treatment of legitimate and illegitimate children in the law of inheritance. The Committee might also be interested to learn that every child in Suriname was entitled to free education, including secondary education.

15. Health care in Suriname was excellent. The infant mortality rate was only five to ten per 1,000, there were hospitals in the interior, and major diseases were under control.

16. The new Government's legislation had only one aim - to secure the implementation of the socio-economic system and to adapt the former laws to that system and to human rights. That involved the abolition of certain abuses, for example the practice whereby political parties borrowed money before an election and, if they won the election, refused to pay it back or the practice whereby the leaders of political parties could not be removed because of the lack of internal party democracy. Moreover, in the past thousands of acres of land had been given to favourites. The new Government had ruled that any individual who acquired land with only a letter of intent could legally keep only that part of the land which had already been cultivated; the other part was given to individuals who were able to cultivate the land, up to a maximum of 120 acres.

17. The trade unions were now better organized. They had their own regulations, they held meetings, and only recently there had been strikes for better working conditions. At the moment the Government had their support.

18. The members of the Supreme Court, the ordinary judges and the Attorney General were appointed for life. Before a person could become a judge, five years of training were required. Candidates had to take a psychological test and to be of good behaviour. They also had to be masters or doctors of laws and to be at least 30 years of age. They were not allowed to belong to political parties. They were appointed by the President of the Republic on the advice of the Supreme Court. Five persons were now in training, two of whom were women.

19. Women in Suriname were entitled to hold any job. Suriname was one of the first countries in the world to have a female university rector. There were, of course, low-paid jobs which were mostly held by women, but if a man wanted to do them he would be paid the same as a woman. His delegation welcomed the suggestion that Suriname should nominate a woman as a candidate for membership of the Committee.

20. Except for the period extending approximately from 25 February 1980 to 15 May 1980, the press and mass media had not been censored. Some form of regulation seemed necessary, since the press had a responsibility to individuals and to the community, but the reform was likely to be purely technical.

21. Aliens could be expelled only when they lacked the means to support themselves or when their presence in Suriname was illegal. In order to enter the country a person had to be in possession of a valid passport, a return ticket and enough money to support himself during the time of his stay.

22. In civil cases, only foreigners were in practice imprisoned for debt; as soon as they could prove their ability to settle the debt they were released. Imprisonment for debt could not extend beyond 60 days and it had to be ordered by a judge.

23. Neither a state of emergency nor a state of siege had been officially proclaimed in Suriname, even though a de facto state of emergency had existed for one or two months after the coup. However, the present atmosphere was very tense. Thanks were due to Sir Vincent Evans and other members of the Committee for their understanding of the paradoxical nature of the situation. An additional report would be transmitted when real stability had been achieved.

24. As far as restrictions of human rights were concerned article 19 of the Constitution prohibited the restriction of human rights and freedoms more than was provided for by the Constitution and article 18 stated that the power to restrict a basic right could be exercised only in so far as the restrictions were necessary in a democratic society and did not affect the essence of the basic right. According to the jurisprudence adopted from the Netherlands, human rights could be restricted only for reasons of public order and public morality. The Government was aware of the problems involved. Unfortunately the people of Suriname had not yet been informed of their rights under the Optional Protocol because the Gazette in which treaties were to be published had been established only recently.

25. In his statement at the 223rd meeting he had mentioned the Memorandum on Human Rights and Foreign Policy of 3 May 1979 which had been prepared by the Minister for Foreign Affairs and Development Co-operation of the Netherlands only because he had felt that there was an element of truth in paragraph 32 thereof. There had been no intention to invoke that document as an excuse to evade the responsibilities incumbent upon Suriname under the Covenant.

26. Mr. Tomuschat had referred to the possibility of the elections being postponed indefinitely. In that connexion it was common knowledge that nothing was absolute and hardly anything impossible. The outcome would largely depend on the Government's assessment of the situation at the time. During his stay in Geneva he had come to learn that there were more fundamental rights than were generally accepted. One of them was the right to command confidence when one had the best of intentions.

27. The CHAIRMAN thanked the representative of Suriname for his frank statement and noted Suriname's willingness to transmit a supplementary report when normal conditions had been re-established. He also noted the suggestion that the reporting State should be visited and said that the present discussion might well have taken place more usefully in Suriname than at Geneva.

The meeting rose at 11.30 a.m.