



**International Covenant on
Civil and Political Rights**

Distr.
GENERAL

CCPR/C/SR.1646
15 July 1998

ORIGINAL: ENGLISH

HUMAN RIGHTS COMMITTEE

Sixty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1646th MEETING

Held at Headquarters, New York,
on Monday, 23 March 1998, at 3 p.m.

Chairperson: Ms. CHANET

CONTENTS

ORGANIZATIONAL AND OTHER MATTERS (continued)

* No summary record was prepared for the second part (closed) of the meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, Office of Conference and Support Services, room DC2-750, 2 United Nations Plaza.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.20 p.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Lists of issues to be taken up in connection with the consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Fourth periodic report of Ecuador (CCPR/C/84/Add.6)

Part I of the list of issues

1. Lord COLVILLE, referring to issue 8, observed that paragraph 121 of the report made the astonishing admission that 70 per cent of detainees in Ecuador were awaiting trial or sentencing; paragraph 176, however, stipulated the permissible duration of custody. The State party should be asked what remedies were available to persons detained without trial in excess of established limits, with reference made to those two paragraphs.

2. The CHAIRPERSON noted that paragraph 122, which discussed recourse to habeas corpus, contained a reply to that question.

3. Lord COLVILLE said paragraph 176 established the length of time that a person could legally be detained pending trial. It seemed that the authorities simply ignored those limits. The remedy described in paragraph 122 was not an effective one.

4. The CHAIRPERSON suggested that the State party should be asked what was the permissible duration of pretrial detention, and what remedies existed to enforce that limit. Reference should be made to paragraph 176 as well as to all paragraphs relating to article 9, namely paragraphs 113 to 123, drawing particular attention to paragraph 121.

5. Referring to issue 10, she said that the Committee should verify its current position with regard to referring to the United Nations Standard Minimum Rules for the Treatment of Prisoners, and that the reference thereto should be retained or deleted accordingly.

6. Part I, as orally amended, was adopted.

Part II of the list of issues

7. Mr. POCAR, referring to issue 13, said that the report gave a full description of the provisions governing the careers of members of superior courts and tribunals; that issue should be deleted. Instead, the State party should be asked whether the bill establishing the National Council of the Judiciary, discussed in paragraph 157 of the report, had been enacted by Congress, and whether the Council was in operation.

8. The CHAIRPERSON suggested that the State party should be asked, more broadly, how the reorganization of the Ecuadorian judiciary, described in

paragraph 157, was proceeding, and in particular whether the National Council of the judiciary had been established.

9. Turning to issue 15, she said that she failed to see how paragraph 248 had given rise to the question whether the rights of juveniles under article 14 were protected.

10. Ms. MEDINA QUIROGA said that in Latin American countries, juveniles were rarely accorded their rights under article 14. States generally took delinquent children into their care but did not see fit to provide them with legal defence.

11. The CHAIRPERSON suggested that the word "all" could be added before the words "article 14 rights".

12. Mr. BUERGENTHAL said that the final sentence of issue 16 had been included by mistake: it had been deleted by the Working Group.

13. Mr. YALDEN proposed that the questions raised in issue 16 with regard to the Office of the Ombudsman should also be applied to the Ad Hoc Commission on Human Rights, discussed in paragraph 32 of the report, and to the Ad Hoc Commission for Truth and Justice, discussed in paragraphs 33 to 36 of the report.

14. The CHAIRPERSON said that issue 16 should accordingly be renamed "National human rights institutions".

15. Mr. POCAR said that issue 17 should be deleted: Ecuador had acceded to the Second Optional Protocol in 1993.

16. Mr. YALDEN asked why the issue of sexual relations between consenting adults had been raised in issue 19, since the report made no mention of sexuality.

17. The CHAIRPERSON explained that the question was included in the lists of issues for all country reports.

18. Mr. BUERGENTHAL said that material contained in a communication which the Committee had had before it several years previously had indicated that the issue was relevant in the case of Ecuador.

19. The CHAIRPERSON said that she recalled the case in question and that the real issue was whether homosexuality was classified as a criminal offence under Ecuadorian legislation.

20. Mr. ZAKHIA said that since most third world countries criminalized certain sexual acts, the Committee's recommendation must draw attention to the fact that homosexuality should not be classified as a criminal offence if its recommendations in that regard were to have any effect.

21. The CHAIRPERSON said that the Committee must first determine whether the sanctions against homosexuality in Ecuador were of a social or a criminal nature.

/...

22. Mr. BUERGENTHAL said that, upon reflection, he thought it would be best to delete all reference to the matter and to question the delegation directly.

23. The CHAIRPERSON said that, in fact, it might be best not to include the question systematically in the lists of issues for all country reports under article 17 of the Covenant since, depending on the situation, the problem could be one of either social discrimination or criminal legislation.

24. She also suggested that an issue on states of emergency (article 4 of the Covenant) should be added to the list. Paragraph 78 of the report stated that when a state of emergency had been declared in 1995 during the war with Peru, the situation had been brought to the attention of the Inter-American Commission on Human Rights in conformity with article 27 of the Pact of San José. The Government had apparently been unaware of its obligation to make a similar declaration to the Secretary-General under article 4 (3) of the Covenant. She suggested that the Committee, after verifying that no such declaration had been made, should add an issue addressing the matter.

25. Part II, as orally amended, was adopted.

Fourth periodic report of Finland (CCPR/C/95/Add.6; HRI/CORE/1/Add.59/Rev.1)

26. Lord COLVILLE said that he failed to understand why issue 2 mentioned domestic remedies since paragraph 19 of the report implied that discrimination had been criminalized under the Penal Code.

27. Ms. EVATT said that the domestic remedies in question concerned not only discrimination, but also other violations of the Covenant. It had been brought to the Committee's attention that in some cases, individuals wishing to lodge complaints with international bodies had been told that they must first exhaust domestic remedies, a process which had proved extremely costly and had ultimately brought them no relief.

28. Mr. KLEIN said that while he had not been present during the Committee's consideration of the previous periodic reports of Finland, he thought it likely that the status of the Covenant in the province of Åland, mentioned in issue 3, had already been addressed. However, paragraph 10 of the report stated that in 1995, when the report had been submitted, the Covenant had not yet been submitted to the Parliament of Åland; he wondered whether that had been done in the interim.

29. Ms. EVATT said that the pre-sessional Working Group had not had the core document of Finland (HRI/CORE/1/Add.59/Rev.1) before it during its deliberations and that issue 3 could probably be deleted.

30. Mr. POCAR said he would prefer that issue 3 remain on the list.

31. Ms. EVATT suggested that the reference to the Finnish and Lappish languages in issue 4 should also include Swedish and that the word "Sámi" should be placed in brackets after the word "Lappish".

32. The CHAIRPERSON said she did not understand the statement, in paragraph 65 of the report, that it was "envisioned that criminal proceedings follow the accusatory procedure" and suggested that the Committee should seek clarification of that paragraph.

33. With regard to issue 8, she suggested that the Committee should ask whether Parliament had adopted the bill on the elimination of preventive detention mentioned in paragraph 52 of the report.

34. Ms. EVATT said the Committee had received information from other sources which suggested that that bill had not yet been brought before Parliament. The report mentioned a number of bills which had not been adopted at the time of its submission. It had been suggested in the pre-sessional Working Group that since the report of Finland was extremely comprehensive and followed the Committee's guidelines closely, it might not be necessary to mention those reforms in the list of issues since the question would doubtless be addressed by the delegation during its presentation of the report.

35. The CHAIRPERSON suggested that issue 8 should be retained since a number of amendments to Finnish legislation had already been made in response to the Committee's recommendations.

36. Mr. KLEIN suggested the inclusion of a question as to whether the bill on the right of assembly and the right to demonstrate (para. 100 of the report) had been adopted. Although he had focused on the right to assembly because the report mentioned a case in which the Committee had ruled on a related matter (para. 98), the question could be extended to include all the proposed legislative reforms mentioned in the report.

37. Mr. YALDEN suggested that issue 11 should include mention of the Romani and Russian minorities.

38. He also proposed the addition of a question on the functioning and development of national institutions, including the various ombudsmen and the Advisory Boards.

39. The list of issues to be taken up in connection with the fourth periodic report of Finland was adopted.

The public part of the meeting rose at 4.15 p.m.