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HUMAN RIGHTS COMMITTEE

Ninety-third session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)**
OF THE 2561st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 21 July 2008, at 3 p.m.

Chairperson: Mr. RIVAS POSADA

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* No summary record was prepared for the 2560th meeting.

** The partial summary record of the closed part of the meeting appears as document
CCPR/C/SR.2561/Add.1.

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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 public part of the meeting was called to order at 4.10 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3)

Revised document concerning a strategic approach to public relations, including relations with the media (Rev.2) (CCPR/C/93/CRP.1)

1. Mr. SHEARER, who had prepared the draft text submitted to the Committee for consideration, recalled that the question of relations with the media had been discussed at the ninety-first session and that a revised document on the subject had been examined at the ninety-second session. In the text before the members of the Committee, the recommendations that had not changed since the ninety-first session appeared in italics and the revisions proposed at the ninety-second session were in boldface. He invited the members of the Committee to focus their attention on recommendations 5 and 11, as consensus had already been reached concerning the rest of the text.

2. The first sentence of recommendation 5 had been modified at the ninety-second session to say, not that States parties should invite their media to film or record the proceedings of the Committee, but that they were authorized to do so. Account had thus been taken of the material or financial difficulties certain States parties might have in ensuring media coverage of the discussions devoted to the consideration of their report. He also pointed out that even if recommendations 4 and 5 did not overlap, they were complementary.

3. In recommendation 11, two options were proposed: one consisted in designating a single rapporteur for information and the other called for appointing three, one from each language group. The second solution might perhaps pose greater difficulties, especially since it would require close coordination between the three rapporteurs, and it would perhaps be best to designate only one, who, if possible, was bilingual or trilingual. He invited the members of the Committee to state their views first of all on recommendation 5.

4. Mr. LALLAH said he was of the opinion that it would be well to keep the first sentence, changing it to say that States parties should be informed that they could invite their national media to film or record the Committee's proceedings. Such information might be given by the secretariat, for example at the time when it communicated to States parties the date of consideration of their report.

5. Mr. AMOR said he feared that following such a recommendation might be possible only in the case of States parties that had sufficient material resources. Moreover, since it would be up to the State party to invite the media, its choice might be questioned. To avoid situations of that type, one solution might be to request the secretariat to issue, prior to the consideration of the State party's report, a communiqué clearly indicating that the press could attend the relevant meetings of the Committee.

6. The CHAIRPERSON pointed out that the Committee should, for one thing, determine whether the agreement of a State party was necessary in order for any of the media to film or record the proceedings of the Committee and, for another, bear in mind that a State party might view with a fairly jaundiced eye an invitation issued to the media by the secretariat without its first having been consulted.

7. Ms. WEDGWOOD said she shared Mr. Amor's concern over the choice of media a State party might make. She also understood the apprehension underlying

the Chairperson's observation, yet at the same time the possibility that only a public television channel, for example, might be authorized by a State party to film the proceedings left room to fear that censorship might be exercised over the images subsequently broadcast. In any event it might be more logical to reverse the order of the two sentences in recommendation 5 so as first to highlight the possibility offered to the media themselves.

8. Mr. BHAGWATI said he shared Mr. Amor's concern and felt it would hardly be judicious to leave the question of media participation entirely to the discretion of the States parties.

9. Mr. KHALIL added that leaving such latitude to the State party could only create problems, considering the relations which, in certain parts of the world, States parties maintain with the media. At all events the Committee must address the media directly; consequently, he suggested eliminating the first sentence of the recommendation. The national media would also have to be mentioned, in the second sentence.

10. The CHAIRPERSON pointed out that a State party could refuse to permit the presence of representatives of certain media, for example a television crew, or the media in general. In such a case, did the Committee consider that it could impose that presence? One should also take into consideration the possibility that, if the secretariat itself addressed invitations to the media, a State party might thus be led to accept the presence of one of the media against its will. The decision the Committee took on recommendation 5 would have to take into consideration all those elements.

11. Sir Nigel RODLEY emphasized that the objective of the recommendation was to promote transparency of the proceedings of the Committee. It was precisely the attitude of certain States parties and their reluctance to provide media coverage of the examination of their reports that had warranted, at least in part, the preparation of the document under consideration. Stating that account would be taken of any guidelines that might be adopted by the Committee, moreover, offered the States parties guarantees. It would also be helpful if the secretariat prepared a document laying down the principles governing relations between the Committee and the media, which would also make it possible to ensure that the work of the Committee was not disrupted by the activity of the media.

12. Ms. WEDGWOOD was of the opinion that in certain situations – for example when a State party presenting its initial report threatened not to attend if the meeting was filmed – the Committee might decide not to authorize the filming of the proceedings, but in any case one would do well not to encourage States parties to question the presence of the media and still less to consider themselves as having the right to refuse media coverage. The Committee must be clear: the consideration of the reports of States parties was public, in theory and in practice.

13. Mr. LALLAH recalled that the Committee regularly requested States parties to give broad publicity to their reports, the written replies to the list of issues to be taken up and the Committee's concluding observations. It would perhaps be useful to encourage them also to inform the media of the consideration of their reports and to disseminate the documents mentioned above in the national media. As far as the risk of a questionable choice of media by States parties was concerned, that was something that could happen even in the most advanced democracies.

14. Ms. MAJODINA was of the opinion that it should be pointed out to States parties that they could invite their national media, though there was no obligation to do so. The aim was to ensure better publicity for the Committee's work, and in that respect she subscribed to what had been said by the other the members of the Committee. In particular, it would be better to reverse the order of the sentences and state clearly that both international and national media should be invited to film the Committee's public meetings.

15. Ms. CHANET said that inasmuch as the Committee's meetings devoted to the consideration of States parties' reports were public, there was no call for inviting anyone to attend, and still less for authorizing States parties to invite their national media, since it was known that States parties sometimes maintained with the media relations that were incompatible with article 19 of the Covenant. In her opinion, therefore, it would be best to eliminate the first sentence and simply add the reference to national media in the second.

16. Mr. AMOR said he fully shared Ms. Chanet's view and called on the Committee to remain pragmatic, avoiding considerations relating to authorizations, choice of media, etc. The recommendation should consist in stating that the Committee's meetings, other than those of a private character, were open to the public and the media, in keeping with the Committee's guidelines.

17. Mr. SÁNCHEZ-CERRO noted that all the members of the Committee were aware of the importance of ensuring the presence of the media at public meetings. As he saw it, it was not the task of the Committee to encourage States parties to invite their national media, and the first sentence of the recommendation should consequently be stricken, so that all that was said was that the media – without further qualification – might attend the Committee's public meetings, subject to any guidelines that might be adopted. Such guidelines would also make it possible to take into account any unfavourable reactions that some States parties might have.

18. Mr. KHALIL said that the point of the first sentence was even less obvious when one considered that quite often it was the wish of States parties precisely not to give any publicity to their reports or to the Committee's concluding observations. In States parties where there was great freedom of expression, media that needed to do so would probably turn to the authorities to assist them in covering the proceedings of the Committee. If a State party was desirous of assisting the media, it would find a way to do so. If, on the other hand, the State party wanted to discourage the media, including media disseminated via the Internet, it would also find ways to do that. By addressing the States parties in its recommendation, the Committee would run the risk that the result might not be as desired; consequently, its recommendation should be geared towards the media only.

19. Mr. BHAGWATI subscribed to Mr. Khalil's remarks and to the suggestion that the first sentence of the recommendation should be stricken. One should indeed keep in mind that a goodly number of States parties did not desire the presence of the media, which would impart to the proceedings a publicity they dreaded. The Committee should simply say that national and international media must have the possibility of attending its public meetings.

20. Sir Nigel RODLEY noted that a consensus was forming in the Committee on that point. It would also be good to refer expressly to the visual media, the impact of which was very strong but which often tended to ignore events that did not

readily lend themselves to their work. It might also be possible to ask the Department of Public Information to promote the video recording of the Committee's public meetings, without specifying who would do it, so as to encourage that type of publicity for the work of the Committee.

21. Mr. IWASAWA said that he too was in favour of omitting the first sentence and adding a reference to national media in the second. The wording proposed by Mr. Amor would also be a solution.

22. The CHAIRPERSON noted that there was broad consensus on the principle that the Committee should reaffirm the public character of its proceedings through a reminder that the media could attend the public meetings, without evoking any intervention of the States parties. The participation of the Department of Public Information, as suggested by Sir Nigel Rodley, had yet to be defined.

23. Mr. SHEARER said that indeed no right of any kind should be granted to the States parties and that he therefore approved the changes proposed, in particular that proposed by Mr. Amor. It would be possible to speak only of the "media", without specifying "national and international", and say that they should be "encouraged" to cover the public meetings, thus steering clear of any idea of authorization or invitation. The role of the Department of Public Information might be dealt with in guidelines prepared by the secretariat.

24. Sir Nigel RODLEY noted that in the wording proposed by Mr. Amor, the possibility of filming disappeared, which was unfortunate since one of the objectives of the current recommendation had been precisely to encourage the visual dimension.

25. Mr. AMOR proposed adopting the expression "different types of media" in order to include not only television but also all new media forms.

26. Ms. MOTO pointed out that radio was still very powerful in many countries, especially in Africa, and that consequently one should not place the emphasis solely on television.

27. The CHAIRPERSON proposed entrusting to Mr. Shearer the task of synthesizing all the ideas expressed and reformulating recommendation 5 accordingly.

28. Mr. SHEARER, in response to the concerns of Mr. Amor and Ms. Motoc, recalled that the different categories of media were referred to in the paragraphs preceding recommendation 5.

29. He then presented draft recommendation 6 bis and explained that as a text, it was still quite provisional, until information could be obtained on the experience of other treaty bodies in the area in question. He himself was in favour of not revealing the identity of the rapporteurs and members of task forces, at least until the consideration of the report, so as to avoid any risk of inappropriate pressure.

30. The CHAIRPERSON said that the inter-committee meeting had discussed the question but had not reached any conclusion. The discussion, which had begun on the initiative of a sizeable group of NGOs, was likely never to end, because opinions were very divided: some committees defended confidentiality of the identity of rapporteurs, while others felt that it was not justified. The Committee's current practice was to keep that identity secret, and if the trend towards greater

transparency won out, that secrecy would have to be maintained at least up to a certain stage of the procedure. There was hardly any reason, however, not to make it public once the report had been examined, for example in information that was published following the consideration of the report.

31. Mr. AMOR said he thought that a comparative table of the practice in the various committees would be useful. The Committee had to ask itself what it had to gain or lose by revealing the identity of the rapporteurs and other members concerned. Everything depended on the timing of that information. Prior to the consideration of the report, it might be helpful for NGOs to know who the rapporteur was, in order to be able to provide him with information that might be transmitted to the task force. However, the rapporteur would then have to be accessible to all: it would not be acceptable for him to hear the NGOs and not the States parties. If, on the other hand, the rapporteur's identity was kept confidential until the examination of the report, it was hard to see what advantage there was to revealing it afterwards. To be sure, the rapporteur did speak at the press conference, but all the other members might do so as well. Thus, there were both advantages and risks to revealing rapporteurs' identities. In any case, rapporteurs knew how to resist pressure.

32. Mr. O'FLAHERTY said he was favourable to the idea of revealing the identity of the rapporteur, but also that of the members of the task force, of which the rapporteur was, in the last analysis, simply the representative. He proposed saying not that that identity should be "made known to the delegation", but more simply that it should be "made public", which should be done a reasonable time before the consideration of the report. He did not feel it would be useful to inquire about the practice of other treaty bodies.

33. Ms. WEDGWOOD said she thought that the rapporteur was still the person best placed to speak at the press conference. As to his identity, she wondered what use might be made of it. One must not rule out the possibility that States parties displeased with the Committee's criticism of them might seek to explain such criticism publicly in terms of the nationality of the rapporteur. Moreover, one must not lose sight of the web of social, personal and professional relations that anyone might have. Maintaining a degree of ambiguity might therefore constitute useful protection. Finally, distinguishing the voice of the Committee from the individual voices of its members might involve some risk: indeed, anyone might sometimes be led to subscribe to views he did not fully share, in the interest of facilitating consensus.

34. Mr. KHALIL said he unreservedly agreed with those observations. Still, he thought that all members ought to be able to address the press conference. He also feared that if the identity of rapporteurs and members of task forces was known, NGOs might focus all their attention on them, neglecting other members of the Committee who might also have something to say and might shed their own light on the situation in a country.

35. Mr. SHEARER said that the secretariat had just transmitted to him information on the practice of other treaty bodies regarding the publicity of the identity of rapporteurs. The Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women kept it confidential, as did the Human Rights Committee, whereas the Committee on Economic, Social and Cultural Rights, the Committee against Torture, the Committee on the Rights of

the Child and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families made it public before the consideration of the report.

36. The CHAIRPERSON noted that the discussion was far from closed and therefore proposed that the consideration of recommendation 6 bis should be continued at a subsequent meeting.

Draft new article of rules of procedure (*continued*)

37. Mr. SHEARER recalled that the discussion that had taken place at the 2549th meeting had shown that the members were quite divided on the question whether a deadline should be set for the submission of communications. A certain connection existed between the draft new article and draft General Comment No. 33 on the obligations of States parties. The fact was that while the Committee was not a tribunal, it exercised quasi-judicial functions since it gave opinions that had greater authority than mere recommendations. Now, all legal systems provided time limits for different procedures, for otherwise they would not be able to function. Thus, the Committee's activities, too, should be regulated, in particular to guarantee that its decisions were implemented. For that reason Mr. Shearer proposed setting a deadline of three or four years from the exhaustion of domestic remedies, which in any case was far longer than the time limit established by the European Court of Human Rights. Exceptions might still be made on a case-by-case basis, especially where the author of the communication had clearly not had access to the necessary information.

38. The CHAIRPERSON noted that the question of the introduction into the rules of procedure of a provision establishing a deadline for the submission of communications called for a thorough discussion that could not take place at the moment. He proposed that its consideration should be deferred to the next meeting.

The public part of the meeting rose at 5.30 p.m.