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HUMAN RIGHTS COMMITTEE

Ninetieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 2480th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 26 July 2007, at 3 p.m.

Chairperson: Mr. RIVAS POSADA

later: Ms. PALM

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

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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 3.05 p.m.

TRIBUTE TO THE MEMORY OF SIR VINCENT EVANS

1. The CHAIRPERSON said that the Committee had received the sad news of the death of Sir Vincent Evans, who had been a founding member of the Committee and had profoundly influenced its work.
2. Mr. LALLAH said that he had been a member of the Committee during Sir Vincent Evans' two terms and remembered him as a man of outstanding intelligence and humanity who also had a keen sense of diplomacy. Sir Vincent had been a tremendous asset to the Committee at a time when everything had yet to be done and when the political context of the Cold War had not facilitated the mission that the Committee had set for itself: to promote universal respect for the rights under the Covenant. Sir Vincent had played a decisive role in laying the groundwork for the functioning of the Committee, including its rules of procedure, which had remained almost unchanged. One of Sir Vincent's many contributions to the Committee, and a telling example of the value he attached to human life, was his single-handed drafting of the Committee's general comment No. 14 on article 6, a text which strongly condemned the production, testing, possession, deployment and use of nuclear weapons and recommended their prohibition. His determination and power of persuasion had inspired the Committee to adopt the general comment, in spite of the inevitable protests from certain States. Sir Vincent had been a kind and courageous man, and his name would be indelibly etched in the Committee's history.
3. Sir Nigel RODLEY said that, although he had not known Sir Vincent Evans when he had been a member of the Committee, he was aware of his illustrious career, from the United Kingdom's Foreign Office, where Sir Vincent had been a legal adviser and had helped to draft the Universal Declaration of Human Rights, to the European Court of Human Rights, where he had participated in the adoption of many landmark decisions in the history of the protection of civil and political rights, which had served as inspiration for the Committee's case law. Sir Vincent's commitment had gone beyond the context of international organizations: he had used his skills and knowledge to teach international human rights law at the Human Rights Centre at the University of Essex, to which he had made his personal archives available.
4. Ms. PALM said that she had worked with Sir Vincent Evans for several years at the European Court of Human Rights and remembered him as an outstanding legal expert and as a man of great generosity. It had been a privilege to have worked with him.
5. The CHAIRPERSON joined in the statements of other Committee members and added that Sir Vincent's substantial contribution to the protection of human rights merited the respect and admiration of all.

FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO VIEWS UNDER THE OPTIONAL PROTOCOL (agenda item 7)

Report of the Special Rapporteur for follow-up on Views (CCPR/C/90/R.4, distributed in the meeting room in English only)

6. The CHAIRPERSON invited the Special Rapporteur to present his report.

7. Mr. SHEARER (Special Rapporteur for follow-up on Views) said that the report covered communications for which the Committee had received information between its eighty-ninth session (12-30 March 2007) and its ninetieth session (9-27 July 2007). In the Medjnoune Malik v. Algeria case (communication No. 1297/2004), the author had informed the Committee that he was still waiting to be brought before a judge. On 21 May 2007, the author's observations had been sent to the State party for comment; the State party had been given two months to reply but it had still not done so. He therefore suggested that the State party should be reminded of its obligations under the Covenant, particularly since, after eight years of detention, the author still had not been tried. In Boucherf v. Algeria (communication No. 1196/2003), the author, whose son had disappeared after having been arbitrarily arrested, had informed the Committee on 30 March 2006 that no investigation had been carried out to find him and that no criminal proceedings had been brought against those responsible for her son's disappearance. The author's submission had been sent to the State party on 14 June 2007. As the two-month deadline for the State party to respond had not yet expired, he suggested that the Committee should wait before taking any further action.

8. The cases C. v. Australia and Shafiq v. Australia (communications Nos. 900/1999 and 1324/2004) related to the detention of asylum-seekers by the State party. In both cases, the authors had been released but had not received any compensation, since the State party had not implemented the Committee's decision on the matter. He therefore suggested that the Committee should express regret that the State party had refused to comply with the Committee's Views, and that it considered the dialogue ongoing. He planned to meet with a representative of the State party before the end of the session, and he would make use of that occasion to try to obtain additional information on those cases.

9. Ominayak v. Canada (communication No. 167/1984) was a very complex case that had currently reached an impasse; negotiations had stalled, since neither party had been willing to accept the other's conditions. In its concluding observations on Canada's fifth periodic report (CCPR/C/CAN/CO/5), the Committee had already recommended that the State party should make every effort to resume negotiations, and the Committee on Economic, Social and Cultural Rights had reiterated that recommendation, with no better results. He considered that the Committee could only take note of the complexity of the issues raised by both parties, observe that they were still not in agreement, and urge them to continue their efforts to find a solution. The Committee should therefore take a decision to that effect.

10. In the case Becerra Barney v. Colombia (communication No. 1298/2004), on 2 May 2007, the author had responded to the State party's submission, noting that his right to a public hearing had been violated, as had been his right to be present during the trial held against him, and had requested an effective remedy and adequate compensation. The author's comments had been sent to the State party on 14 June 2007. Although the two-month deadline for the State party to respond had not yet expired, in view of the categorical refusal to compensate the author as indicated in a previous submission, it was highly unlikely that the author would receive a different response. The Special Rapporteur therefore recommended that the Committee should state that it regretted the State party's refusal to accept its Views and that it considered the dialogue ongoing.

11. With regard to the 11 cases against the Czech Republic (communications Nos. 516/1992, 586/1994, 857/1999, 945/2000, 1054/2000, 747/1997, 774/1997, 765/1997, 757/1997, 823/1998 and 946/2000), the Committee had received updated information on a number of those cases during its consideration of the second periodic report of the Czech Republic at its current session. The secretariat had wished to take advantage of the presence of the Czech delegation in Geneva to arrange a meeting between him and the State party's representatives to follow up on the Committee's Views, but that idea had been abandoned, since he considered that the Committee should first examine the detailed information that it had received on certain cases. He suggested recommending that the State party's submission to the Committee of 26 March 2007 should be sent to the authors, since they had not yet received it, and that a follow-up meeting should be arranged with representatives of the State party during the Committee's next session.

12. With regard to the Yassen & Thomas v. Guyana case (communication No. 676/1996), according to information received from the authors' lawyers, Mr. Yassen had died of natural causes in prison, and Mr. Thomas was still on death row. In the light of the difficulties the Committee had faced in obtaining information from Guyanese authorities, he suggested arranging a meeting with representatives of the State party, either in Geneva during the Committee's October 2007 session, or, if Guyana did not have permanent representation in Geneva, in New York during its March 2008 session.

13. As regards K.N.L.H. v. Peru (communication No. 1153/2003), on 9 August 2006, the Committee had requested the State party to provide updated information on implementation of its Views, but had received no response. On 20 April 2007, the Committee had asked the State party to recognize explicitly the existence of violations of the relevant articles of the Covenant and to provide the author with compensation. The Special Rapporteur suggested that the Committee should wait for a response from the State party before taking any further action, and return to the case at its next session.

14. In the case of Yeo-Bum Yoon and Myung-Jin Choi v. the Republic of Korea (communications Nos. 1321/2004 and 1322/2004), concerning conscientious objectors, the State party had pointed out that a law on an alternative service system was being considered. It would be useful to wait for a response from the authors before taking further action, even if the deadline that had been set had already passed. In the Alzery v. Sweden case (communication No. 1416/2005), the author had provided new information, and had insisted that it should remain confidential. The Swedish Government still had time to provide an update on the procedure under way concerning the author's request for a residence permit.

15. The CHAIRPERSON invited members of the Committee to ask questions concerning the cases.

16. Mr. O'FLAHERTY, referring to the K.N.L.H. v. Peru case, said that it should be specified that the Centre for Reproductive Rights was representing the author, and was not just a non-governmental organization whose comments would be reproduced by the Committee. Moreover, the Committee should verify the amount of compensation.

17. Mr. KÄLIN said that the Committee should take a firmer stance in the Ominayak (Lubicon Lake) case, in keeping with the position that it had adopted in its concluding

observations on Canada's fifth periodic report. Rather than ask the parties to "continue their efforts" to find a solution to the authors' claims, the Committee should urge them to "resume negotiations immediately". With regard to the K.N.L.H. case, he wished to know how much additional time past the deadline States parties were generally given to submit their comments.

18. Mr. SHEARER (Special Rapporteur for follow-up on Views) approved the changes proposed by Mr. O'Flaherty. In the Ominayak case, the Committee could consider adopting firmer language, but that was likely to be a vain exercise. With regard to additional time granted to States parties, he said that, in general, the Committee demonstrated a certain degree of tolerance towards countries that lacked resources. While that situation was not particularly relevant to Peru, the Peruvian Government was probably embarrassed about the case, which was rather sensitive, and was unlikely to respond. It was therefore in the Committee's interest to encourage the State party by giving it more time to respond.

19. The CHAIRPERSON thanked the Special Rapporteur for his report on a very important aspect of the Committee's work. If he heard no objection, he would take it that the Committee wished to adopt the report.

20. It was so decided.

21. Ms. Palm (Vice-Chairperson) took the Chair.

Report of the Special Rapporteur for follow-up on concluding observations (document without a symbol, distributed in the meeting room in Spanish only)

22. Mr. RIVAS POSADA (Special Rapporteur for follow-up on concluding observations) said that he had endeavoured to improve the content and form of his report, and had included qualitative evaluations of the responses of States parties, in accordance with the Committee's wishes. The report covered the period from the seventy-fifth session of the Committee in 2002 to its ninetieth session. Many countries had not responded to the Committee's requests for information, in spite of the many reminders that had been sent: Moldova, the Gambia, Togo, Mali, Sri Lanka, Equatorial Guinea, Suriname, Namibia, Uzbekistan, Yemen, Brazil, Paraguay, the Democratic Republic of the Congo and Kosovo (UNMIK). While the Committee should continue to send reminders to those States parties, it should also organize consultations with their representatives at its ninety-first or ninety-second session for those that were represented only in New York.

23. The Committee had received comprehensive, although often belated, responses from six States parties, for which no further action was required: Israel, Greece, Slovenia, the Syrian Arab Republic, Canada and Italy. The reply from Hong Kong had only just arrived and had therefore not been included in the report; the Committee would need to examine the reply before it took a decision on follow-up. The deadline for eight other States parties - Bosnia and Herzegovina, Honduras, the Republic of Korea, Ukraine, Barbados, Chile, Madagascar and the United States of America - to submit replies had not yet expired. In the case of the Central African Republic, it was too soon to recommend any action since the deadline had expired only the previous day.

24. In conclusion, he wished to make two observations. First, once again and in spite of the secretariat's efforts, it had not been possible to present the draft report on follow-up to concluding observations in the three working languages; that had made it difficult for members of the Committee to participate in the consideration of the draft report. Secondly, in order to improve the follow-up procedure, the Committee should consider establishing criteria to help assess the content of States parties' replies. The Working Group had welcomed that idea, and it would be up to the next Special Rapporteur to encourage further consideration of that matter.

25. Mr. O'FLAHERTY said that he fully endorsed the Special Rapporteur's second observation. It was very important to establish criteria to enable the Committee to examine the content of States parties' replies, and he suggested that the Special Rapporteur should draw up an initial draft, which the Committee would consider in the near future.

26. Ms. WEDGWOOD asked whether, in general, the Special Rapporteur would be able to draft comments on the replies submitted by States parties, particularly when replies lacked substance or circumvented the Committee's concerns. That would make it possible to avoid placing an additional burden on the plenary meetings of the Committee, and would have the advantage of indicating to States parties that the follow-up procedure did not stop once their replies had been sent.

27. The CHAIRPERSON said that the next Special Rapporteur would no doubt take all those comments into consideration.

28. Mr. RIVAS POSADA (Special Rapporteur for follow-up on concluding observations) referred to the case of the Syrian Arab Republic. While that State party's replies, submitted after the deadline, had been satisfactory on a quantitative level, they would certainly not meet qualitative criteria, and were a good example of why criteria needed to be established.

29. Ms. WEDGWOOD said that she recalled that one of the Committee's concerns with regard to the Syrian Arab Republic had been the fate of 200 persons who had disappeared. As the replies provided by the State party might contain information of interest to the families of the missing persons, she suggested that the replies should be made public, for example by posting them on the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

30. Mr. GILLIBERT (Secretary of the Committee) said that the replies from States parties in the context of follow-up to concluding observations were published as official United Nations documents and posted on the Office's website. A paragraph of the Committee's annual report to the General Assembly mentioned that fact and referred to the website.

31. Mr. BHAGWATI said that he wished to know whether the Committee, in the reminders that it sent to States parties, asked for an explanation as to why the replies were late, and whether States parties themselves indicated the reasons. That was particularly important in the cases of certain countries, such as his own, India, which were significantly late in submitting their periodic reports or replies concerning follow-up on concluding observations.

32. Mr. RIVAS POSADA (Special Rapporteur for follow-up on concluding observations) said that States parties that ignored reminders did not usually provide an explanation. They sometimes provided an explanation in the context of consultations for follow-up, but that was not the rule. He asked the secretariat when India's next periodic report had been due.

33. Mr. GILLIBERT (Secretary of the Committee) said that India's fourth periodic report - which had still not been submitted - had been due on 31 December 2001.

34. The draft report of the Special Rapporteur for follow-up on concluding observations was adopted.

ADOPTION OF THE ANNUAL REPORT TO THE GENERAL ASSEMBLY

Draft annual report of the Human Rights Committee to the General Assembly
(CCPR/C/90/CRP.1 and Add.1-6; CCPR/C/90/CRP.2 and Add.1-7)

35. The CHAIRPERSON invited the Committee to consider the draft annual report chapter by chapter.

Contents and summary (CCPR/C/90/CRP.1)

36. Mr. AMOR (Rapporteur) said that there was an error in the last sentence of document CCPR/C/90/CRP.1. Contrary to what was stated in that sentence, he had not represented the Committee at the nineteenth meeting of chairpersons of the human rights treaty bodies. On the other hand, he had represented the Committee at the sixth inter-committee meeting, together with Mr. Sanchez-Cerro. The last sentence should therefore be amended accordingly, as should the relevant paragraphs of chapter I (CCPR/C/90/CRP.1/Add.1).

37. Mr. GILLIBERT (Secretary of the Committee), replying to a question from Mr. Rivas Posada, said that, in accordance with usual practice, any factual information or elements that might change as the Committee's work progressed had been placed in brackets. That information would be updated by the end of the session.

38. The contents and summary, as amended, were adopted.

Chapter I (CCPR/C/90/CRP.1/Add.1)

39. Mr. O'FLAHERTY asked what paragraph 45, which was still incomplete, would contain. With regard to the treaty body database of the OHCHR website, mentioned in paragraph 47, he pointed out that the database was not currently accessible, which did not facilitate the work of Committee members. The Committee should urge the High Commissioner's Office to ensure that access to the database was re-established as soon as possible.

40. Mr. GILLIBERT (Secretary of the Committee) said that the Bureau of the OHCHR human rights treaty bodies had been discussing the problem of access to the database and was currently considering ways of improving the situation. Unfortunately, in addition to those difficulties, a problem involving the server had arisen in the past 48 hours.

41. Mr. SHEARER, replying to a question from Mr. O'Flaherty, said that the Bureau of the Committee had discussed the need to develop a media strategy with the OHCHR Media Unit, and that he would be presenting a report on that matter to the Committee at its ninety-first session. That would be the content of paragraph 45.

42. Mr. AMOR (Rapporteur) said that, in order to address Mr. O'Flaherty's concern about the database, the Committee might wish to recommend, in paragraph 47 of the report, that the database should not only be equipped with adequate search functions, but that it should also be made more operational.

43. It was so decided.

44. Chapter I, as amended, was adopted.

Chapters II, III and IV (CCPR/C/90/CRP.1/Add.2-4)

45. Chapters II, III and IV were adopted.

Chapter V (CCPR/C/90/CRP.1/Add.5)

46. Chapter V was adopted, on the understanding that editorial changes could still be made.

Chapter VI (CCPR/C/90/CRP.1/Add.6)

47. Chapter VI was adopted.

48. Mr. AMOR (Rapporteur) said that the Committee's annual report should include the report of the Special Rapporteur for follow-up on concluding observations. While the annexes had not been distributed in the three working languages, they could nevertheless be adopted since, according to the rule, they were not subject to consideration in a plenary meeting. In conclusion, he drew attention to the difficulties that the secretariat had faced in drawing up the draft annual report. In spite of the secretariat's considerable efforts, the draft report had been distributed to members of the Committee very late; that situation was not satisfactory.

49. The Committee's draft annual report as a whole, as orally amended and on the understanding that the secretariat could still make editorial changes, was adopted.

The public part of the meeting rose at 4.50 p.m.