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Chairperson: Mr. Iwasawa

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The meeting was called to order at 10.20 a.m.

Celebration of the 100th session of the Human Rights Committee

1. **The Chairperson** said that he was pleased to open the Human Rights Committee's celebration of its 100th session. Entitled "Human Rights Committee: Stocktaking and Prospects", it provided an opportunity to assess the Committee's work to date and consider how it could best meet current and future challenges. The Committee had been established in 1976 to interpret and monitor the implementation of the International Covenant on Civil and Political Rights by the States parties. Following its inaugural session in 1977, the Committee's work, and particularly its concluding observations, had made a significant contribution to the volume of civil and political rights jurisprudence. It was therefore fitting to mention and pay homage to the dedicated work of all the former members of the Committee who, each in their own unique way, had contributed to the development of human rights law. In addition to the Covenant, the Committee also monitored the implementation of the two optional protocols. The first of those established the individual communications procedure and the second aimed to abolish the death penalty. Although the achievements of the Committee were too numerous to mention, the fact that, to date, 166 States had ratified the Covenant, 113 had ratified the First Optional Protocol and 72 the Second Optional Protocol, provided conclusive proof of the growing willingness of States to respect civil and political rights.

2. To date, following its examination of States parties' periodic reports, the Committee had adopted thousands of concluding observations, in which it had indicated how States parties could improve the implementation of their human rights obligations by amending their legislation and adopting new public policies. In the course of the Committee's sessions, the States parties had come to accept the process and the Committee's recommendations more readily. For certain States, that process had also provided an opportunity for stocktaking and to offer their legislation, policies and practices up to public scrutiny. With the assistance of national human rights institutions, NGOs, civil society and other partners, the States parties had successfully implemented thousands of the Committee's recommendations.

3. Of all the treaty bodies, the Human Rights Committee had the most significant experience in examining individual complaints. As a quasi-judicial procedure, the Committee had described its Views as exhibiting "some important characteristics of a judicial decision". To date, it had registered around 2,000 complaints and examined the merits of more than 700 cases. Over the years, the Committee had developed a substantial body of jurisprudence, representing significant interpretations of Covenant rights. For example, it had interpreted article 26, which provided that all persons were equal before the law, and entitled to the equal protection of the law, as an independent right, extending to rights not otherwise guaranteed by the Covenant. The implementation by States of remedies recommended in the Committees' Views had produced many success stories. The positive outcomes had included: commutations of the death penalty, early releases from prison, receipt of residence permits, and compensation paid out to victims of human rights violations. The numerous amendments to legislation to which many of the Committee's Views had contributed demonstrated the positive effects that the successful implementation of Views could have on the rights holders of an entire State.

4. A further important achievement of the work of the Committee was the adoption of general comments, in which the Committee interpreted the rights set out in the Covenant. To date, it had adopted 33 such comments. At its 100th session, the Committee had completed its first reading of its 34th general comment, on article 19 of the Covenant, relating to freedom of expression. There was no doubt that the latest comment, once adopted, would contribute to a better understanding of the rights protected therein.

5. Over the course of its 100 sessions, the procedures of the Committee had developed in order to benefit the interest of the victims of human rights violations. It was proud to have been the first treaty body to implement procedures to follow up the application of its concluding observations and Views. Other treaty bodies, convinced of the usefulness of such a procedure, had later followed suit. Another important procedural development advanced by the Committee had been the practice of requesting interim protection measures to avoid irreparable damage to the author of a communication while the Committee considered the complaint.

6. The references made by national, regional and international courts to the decisions, concluding observations and general comments of the treaty bodies, and particularly those of the Committee, clearly showed that the work of those bodies was taken seriously. For example, the International Court of Justice had referred to the Committee's Views and general comments in order to interpret the Covenant in its 2004 Advisory Opinion on the legal consequences of the construction of a wall in the Occupied Palestinian Territory. The Committee's concluding observations and jurisprudence were also used in the universal periodic reporting procedures of the Human Rights Council, providing guidance for the final recommendations. The growing dialogue between national, regional and international human rights bodies could only increase the impact of the Committee's work for the promotion and protection of human rights.

7. A major challenge currently facing the Committee was how to improve its working methods and harmonize them with those of the other treaty bodies. To that end, the Committee had adopted new reporting guidelines as well as a new procedure for examining States parties' periodic reports, involving the adoption of lists of issues prior to the submission of reports. Such measures aimed to reduce the workload of the States parties and the Committee, and to contribute to the drafting of more targeted reports, to the benefit of all. In addition, the Committee, together with the other treaty bodies, had contributed in Dublin and Poznań to a number of initiatives to strengthen the system. Since its establishment, the Human Rights Committee had in several respects been a forerunner and it was determined to continue to carry out its functions to the best of its abilities.

8. **Mr. Ndiaye** (Office of the United Nations High Commissioner for Human Rights) said that, during its 30 years of existence, the Human Rights Committee had made a difference in the common endeavour to vindicate the rights of victims of human rights violations and uphold human dignity under all circumstances. Its recommendations had led States to change their legislation, policy and practice. The introduction of the follow-up procedure had made the Committee's recommendations more effective by allowing it to scrutinize their implementation. The Committee was also renowned for its jurisprudence, which it had developed by examining individual complaints at the same time providing an authoritative interpretation of the rights enshrined in the Covenant. Its Views, which were cited in case law and human rights manuals all over the world, produced tangible results. Thus, they had led to the commutation of death sentences, the release of prisoners and compensation for victims of human rights violations. The Office of the United Nations High Commissioner for Human Rights (OHCHR) was proud to service that august body. The work of the Committee was a point of reference for many of its activities, particularly in the field of training and technical assistance to States. One of OHCHR's priorities for 2010–2011 was to strengthen human rights mechanisms. Technical assistance was provided to States and other stakeholders, such as national human rights institutions and civil society, in order to help them to build on the findings and implement the recommendations of treaty bodies effectively. In that context, he welcomed initiatives by certain States to draft enabling legislation so that the Human Rights Committee's Views had a status in domestic legislation and victims were able to obtain redress in their domestic courts. In order to celebrate its 100th session, the Committee had invited several illustrious figures in the field of international law, each of whom had contributed to promoting justice and strengthening

global awareness of human rights. The debates would certainly be inspiring and informative.

9. **Mr. Phuangketkeow** (President of the Human Rights Council) thanked the Human Rights Committee for having invited him to attend the Commemoration marking its 100th session. The International Covenant on Civil and Political Rights, together with the International Covenant on Economic, Social and Cultural Rights, constituted the backbone of the International Bill of Human Rights. However, without impartial and independent monitoring by the treaty bodies, it would be difficult to assess the implementation by States parties of the standards set out in those instruments. It was therefore fitting to acknowledge the Committee's invaluable work, which by continually monitoring the implementation of the Covenant and through its jurisprudence and constructive dialogue with the States parties and other stakeholders, had made a significant contribution to the fulfilment of civil and political rights.

10. Since its establishment, the Human Rights Council had made efforts to manage its work in the same spirit of dialogue and cooperation with the member States. There would certainly be a lot to gain if all the United Nations human rights bodies pursued that objective by sharing their experiences.

11. Although there was no formal channel for dialogue and exchange of information between the Council and the Committee, the work of the Committee was in reality largely taken into account by the Council, especially within the framework of the Universal Periodic Review. In fact, the "UN compilations" drawn up by OHCHR for the purposes of the Universal Periodic Review had contributed to an improved awareness of the Committee's work, disseminated it to a wider audience and given new impetus to the Committee's recommendations. In turn, the Universal Periodic Review had led a number of States to ratify new human rights instruments or to submit their periodic reports to treaty bodies. Furthermore, the normative work undertaken by the Committee, especially through its general comments, had fed into the deliberations of the Council and helped the States to shape their positions. The forthcoming general comment on article 19 was awaited with great interest as it would help to clarify the intense debate currently taking place in the Council regarding the concept of the "defamation of religions". The members of the Committee had often provided independent expertise through their participation in various Human Rights Council panels, round tables or other events, and efforts should continue to enhance that work.

12. Given that one of the Human Rights Council's mandates was to mainstream human rights throughout the United Nations system, the synergy between the Council and all United Nations human rights mechanisms should continue to be enhanced. That would be one of the issues the Council would discuss that year, as part of the ongoing review of its work and operations. The review process, which should be finalized by the spring of 2011, would feed into the review of the status of the Council by the United Nations General Assembly in New York. The goal would be to assess what had been achieved and where improvements could be made to improve the effectiveness of the Human Rights Council in promoting and protecting human rights. The Council deeply admired the impartial and authoritative expertise of the Committee and wished it every success in its work.

13. **The Chairperson** thanked Mr. Ndiaye and Mr. Phuangketkeow and gave the floor to Mr. Badinter, former Minister of Justice and former President of the French Constitutional Council.

14. **Mr. Badinter** welcomed the Committee's tireless efforts in the service of human rights and thanked its members for honouring him with an invitation to speak on the occasion of the celebration of its 100th session. When France had abolished the death penalty in 1981, it had been the 35th State in the world to do so. Currently, 138 of the 192

United Nations Member States were abolitionist in law or in practice, reflecting the progress made over a period of 30 years towards the universal abolition of the death penalty. That encouraging result was, of course, due to the efforts of States, but also to greater international awareness, as reflected in the proliferation of the number of international instruments legally committing States to abandon the death penalty, and the actions of NGOs and abolitionist campaigners throughout the world. Among international instruments, it was worth noting in Europe the European Convention on Human Rights and Protocol No. 6, which prohibits the application of the death penalty by member States, at least during peacetime, as well as Protocol No. 13, which extends the ban to times of war. Protocol No. 6 had been ratified by all European States except Belarus, the last remaining totalitarian State in Europe, though even in that country there was a strong movement supporting a moratorium and the abolitionist cause was gaining ground. It could therefore be said that the death penalty had been banished from the European continent, which constituted a great victory for human rights, especially given that Europe's history had been tainted by countless crimes, particularly during the twentieth century. Other regional instruments provided for the abolition of the death penalty. The Protocol to the American Convention on Human Rights of 1990 had been ratified by 11 States in Latin America; in Africa, 27 States parties to the African Charter had, in law or practice, abolished the death penalty and, in 2009, Burundi and Togo had joined the abolitionist movement. In 2008, the African Commission on Human and Peoples' Rights had also adopted a resolution calling on African States to observe a moratorium on capital punishment.

15. In addition to regional instruments, international instruments also existed. Two of those were particularly important: the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aimed to abolish the death penalty and had been ratified by 72 States, and the Treaty of Rome of 1998, establishing the International Criminal Court, which had been ratified by 111 States to date. The latter had made a particular moral contribution by establishing a permanent international criminal jurisdiction, which prosecuted and punished the perpetrators of the worst crimes but refused to apply the death penalty: humankind refused to hand over even the perpetrators of crimes against humanity to the executioner. Another decisive step towards abolition had been the General Assembly's adoption in 2007 and 2008 of two resolutions calling for a moratorium on the death penalty (A/RES/62/149 and A/RES/63/168). New debates on abolition were taking place and everyone should make an effort to contribute.

16. However, there were still areas of major concern and key areas for action. Thus, of the States which continued to apply the death penalty, three had particularly been identified as targets for action. China was currently the State which carried out the greatest number of executions. As the figure was a State secret and executions were not always public, there were no statistics available on the exact number of persons executed each year. According to estimates, the figure lay somewhere between 2,000 and 10,000, and was generally thought to stand at 8,000. A determined effort was needed to support the action of the Chinese abolitionist movement, which was unfortunately too little known but which brought hope and was growing in importance, especially in academic and judicial circles.

17. The second area of major concern was the United States. That global superpower, which had fought so hard for the victory of liberty over dictatorship, still applied the death penalty. More specifically, it was the southern states, including Texas, Florida and Virginia, that continued to apply the death penalty, while 13 states out of 50 had abolished it and 3 more had just done so, namely New Jersey, New York State and New Mexico. The Supreme Court, for its part, had issued a number of rulings which had considerably reduced the scope of application of the death penalty. The abolitionist movement in the United States was gaining ground, and the number of executions had diminished significantly (having fallen by half in the space of a decade). Numerous other States were introducing a moratorium on executions. A tribute should therefore be paid to organizations in the United

States that campaigned for abolition and that country should be reminded that “soft power” implied joining the movement, since, at the moment, they were the only Western democracy that still applied the death penalty.

18. Finally, in view of the positive steps taken thus far, one particularly difficult challenge remained in the battle to abolish the death penalty throughout the world. There was one geographical area, essentially comprising Near and Middle Eastern countries, which not only resisted abolition but where the death penalty was being applied with increasing frequency. Statistics revealed that 624 executions had taken place in seven countries: Saudi Arabia, Iraq, Iran, Egypt, Libya, Syria and Yemen. In Iran, the number of death sentences passed continued to rise. In 2009, at least 388 persons, including 5 minors, had been executed, in violation of international law, as well as a significant number of women, some by lapidation. In those countries, the difficulty lay in the fact that the death penalty was applied in the name of divine law, which those in power maintained they could not disobey. However, in the opinion of eminent and enlightened Islamic theologians, while sharia permitted the death penalty, it did not make it compulsory. The same position appeared in biblical texts, not all parts of which were abolitionist. Therefore, it was necessary to appeal to those Muslims actively campaigning for abolition and to ask them to continue to show what choices an open interpretation of sharia would offer to States. The progress of the abolitionist cause in that region of the world depended on that choice.

19. He concluded by saying that all humans still harboured a killer instinct, as they were the only species, apart from rats, who killed for the sake of killing. It was precisely because the abolition of the death penalty made it possible once and for all to eradicate that instinct and to master it, that it was not only one of the great causes of human rights, but also one of the few grand and noble victories which humankind could claim over its own nature.

20. **The Chairperson** thanked Mr. Badinter and gave the floor to Mr. Bedjaoui, the former President of the International Court of Justice, former Minister of Foreign Affairs and former President of the Algerian Constitutional Council.

21. **Mr. Bedjaoui** explained that, due to the lack of time, he would omit the first half of his presentation, on the international impact of the Human Rights Committee, and would limit his speech to addressing the need to reconcile universality and diversity, with particular reference to Africa.

22. When the Universal Declaration of Human Rights had been signed in 1948, in a mood of widespread cultural diversification, it had been far from easy to develop such a concept, and that universal recognition had been, and would always remain, a challenge for humankind. Contemporary international law had come to accept as fact the existence of a universal concept of human rights, through a range of rights determined as common to all, everywhere and at all times, and which according to the 1948 Declaration constituted “a common standard of achievement for all peoples and all nations”. Compared with the traditional approach taken by international law, which had reflected the violent and aggressive foreign policies of States, basing contemporary international law on the clear and simple concept of a shared human condition had been a victory for humankind over its own nature. In order to place universality above cultural diversity it had been necessary to look for the most significant invariable factor, namely the unique and singular nature of human beings, which led to the belief that human dignity transcended all forms of cultural diversity. That modern discovery recalled the great controversy that had emerged in the fifteenth and sixteenth centuries on the Iberian peninsula regarding the nature of the “savages” of America. By stating their belief that those savages did belong to the human race, theologian-jurists and experts in canon law, including Francisco de Vitoria, Francisco Suarez and, above all, Bartolomeo de las Casas, had become the real founding fathers of the concept of universal human rights. There were therefore certain inherent fundamental rights that existed outside time and space. In that regard, it might be thought that universal

fundamental human rights had a metajuridical character. It was undeniable that the universally recognized right to life was independent of both international law and domestic law. It pre-dated the law. The logical consequence of the right to life was that all human beings had a right to live how they wished, freely and without constraints, which opened up a vast scope for human rights. However, in reality, each domestic society and social group had very different experiences with regard to both the implementation of those rights and their aspirations in terms of human rights. Each individual, community or people had different hopes, and each defined the human rights they enjoyed or aspired to differently. That was why the 1948 Declaration right at the start spoke of a “common standard of achievement” which could be achieved only through tireless effort.

23. There were in other words rights which fell outside State jurisdiction and were protected at international level, such as the rights of peoples, particularly the right to self-determination. Then there were rights which were viewed as “fundamental”, in particular primary rights relating to human dignity. In addition, it was generally agreed that cases of “gross and systematic” human rights violations lay outside State jurisdiction and justified international intervention. That having been said, it was actions, not words that embodied the law, and, while it was absolutely essential for human rights to be universal, they should be implemented on the basis of an equally essential dialogue between cultures. It was perhaps by that means that the Human Rights Committee could best address the unique and specific situation of Africa in the field of human rights. Cultural relativism must not be viewed as a mortal threat to the universality of human rights.

24. The ongoing debate on the relationship between the universal nature of human rights and cultural relativism concerned not only Africa, but also Asia and South America. Thus, at the Inter-American Court of Human Rights, judges took into account the beliefs, rites and lifestyles of traditional societies, in the belief that taking into account the sociological realities of a particular society was not incompatible with the universal nature of human rights and was an essential part of respecting that universality. The Court had thus awarded compensation for the suffering experienced by the Maya Achi community in Guatemala following the massacre of 268 persons in July 1982, because they had been unable to honour their dead in accordance with ancestral rituals. Likewise, in a case where Paraguay had sold large properties to British companies in violation of the rights of Indians, the Court had ruled that, for indigenous peoples, their relationship to the land had both a material and a spiritual dimension which they should fully enjoy in order to preserve their cultural heritage and pass it on to future generations. As far as cultural relativism in Asia was concerned, the Association of Southeast Asian Nations (ASEAN) was considering the introduction of a regional human rights protection programme in 2020. In the meantime, the Bangkok Declaration, adopted in 1993 by ministers and representatives of Asian States as part of preparations for the World Conference on Human Rights, affirmed in article 8 that, when considering the issue of human rights, it was important to take into account the “significance of national and regional particularities and various historical, cultural and religious backgrounds”.

25. In the case of Africa, the continent was first sullied by colonialism and then ruined by neocolonialism. The discourse on human rights had been associated, from both a cultural and a historical point of view, with European colonialism and capitalism. Its heavy ambiguity during the era of colonial dependence, when it had been preached but not practised, had reduced it to a sort of ideological mystification. African States, which had enjoyed independence for only 50 years, all too often experienced all the ills of underdevelopment and were all too often governed by a judicial system made up of bits and pieces. They mostly had fragile institutional structures and artificial borders enclosing several ethnic groups and fragmenting others – an obvious source of conflict. Moreover, their independence was often purely nominal and if authoritarian political regimes tended to prevail in Africa, it was because they were considered better able to ensure a degree of

security, health, solidarity and earnings, and to safeguard the sense of safety provided by a community. In Africa, the individual was nothing without the community. Finally, it was clear that the modern culture of democracy was still new to Africa. Africans only rarely enjoyed the good fortune of being able to govern themselves freely within a system of real opposition and participation. So it was only by unduly ignoring all of those penalizing factors that an impartial observer could ever expect Africa to reflect the image of a continent basking in the benefits of human rights. Africa was currently plotting its own human rights trajectory. There was extreme vitality, as well as a profusion and an outpouring of intellectual activity in the field of human rights, on the part of NGOs, intergovernmental organizations, universities, political parties and all kinds of associations. It was therefore unimaginable that all that activity could fail to produce an empirical synthesis, reflecting a deep attachment to human rights. Throughout human history, progress had been the fruit of mutual borrowing. Africa would be no exception, which provided grounds for hope and optimism. However, it needed sufficient time to gain the necessary detachment and experience. Fifty years of decolonization was but the blink of an eye in the onward march of a continent, or of the world. Human rights, conceived in Europe, were the culmination of a long period in European history, the fruit of both positive and negative experiences. In Africa, positive changes were taking place. In time, new approaches to cultural heritage would be established by the Africans themselves. Probably more than any other continent, Africa needed human rights. They provided, and would continue to provide, the best normative framework for Africans to achieve emancipation and a happier future, but for that Africans had to be the masters of their own destiny. Human rights were a weapon for Africa, a powerful force of liberation from authoritarianism and neocolonialism. However, to lead to emancipation human rights had to be the biological product of African time and space. The generations emerging from independence were undoubtedly quicker to break traditional constraints.

26. It was clear that democracy and human rights could not wait. The battle against developmental shortcomings required a common, harmonized strategy, which would also serve to promote human rights. The process of economic and social change must include and not exclude human rights. It would be a mistake to delay the promotion of human rights to later stages of development, as all areas, sectors and elements needed each other's energy to progress.

27. A thought should be given to all the victims of the constant attacks by men against their fellow men, throughout the centuries to the present day. The survivors of Indian communities were still calling for justice and the indescribable tragedy of black people was inscribed on the walls of the Gorée Island Museum in Senegal, which bore a poignant message, imbued with the spirit of humanity, by the Mauritian poet Édouard Maunick.

28. **The Chairperson** thanked Mr. Bedjaoui and said that a discussion would follow the introductory presentations, which could relate to any aspect of the Committee's work or any subjects raised by the guest speakers.

29. **Mr. Sanaguma** (Japan) said that the Committee's consideration of periodic reports had always produced innovative ideas, which brought improvements in the human rights situations in States parties. The meeting was an excellent opportunity to reflect on past practice and look at ways of achieving improved performance. Since the Human Rights Council had initiated a debate on the subject of its work, the time was right to look at ways in which the Committee could strengthen its cooperation with the Council. For example, the recommendations resulting from the Universal Periodic Review introduced by the Council could be systematically taken into account in the list of issues sent out to States parties, and especially the lists drawn up prior to the drafting of periodic reports. The Chairperson of the Committee could also provide the Council with an account of the Committee's work, as he used to in the days of the Commission on Human Rights, so that the Council would be

better informed of the Committee's activities and could take advantage of its experience and expertise. It was important, at the same time, to safeguard the Committee's independence.

30. **Mr. Jaizary** (Algeria) said that the celebration of the 100th session of the Committee provided a rare opportunity for the States parties and Committee members to hold a real, interactive dialogue. When the Committee met the States parties it was generally to elect its members, and there was no time to discuss the way the Committee worked or how things could be improved to further the cause of human rights. He therefore supported the representative of Japan in calling for strengthened relations between the Committee, through its Chairperson, and the Human Rights Council.

31. He wished to refer to a difficulty faced by the States parties in cases where they received individual communications and were asked to comment on them. The Committee's rules of procedure allowed States to respond simultaneously on the admissibility and the merits of a case. If a State considered a complaint to be inadmissible because domestic remedies had not yet been exhausted, namely because court proceedings were still under way, it was difficult for it to comment on the merits of the case, as that depended on the executive. To ask the executive of a State to take up a position on a question which fell within the sole remit of the judiciary was contrary to the constitutional principle of the separation of powers. He asked the Committee to review the question and to consider applying what was after all only an optional rule of the Committee's rules of procedure, only if the judicial system of the State concerned appeared to have broken down.

32. **Mr. Garrigues** (Spain) said that one of the fundamental principles of the Spanish democratic system was the safeguard and implementation of human rights, in the belief that they constituted a universal and inalienable right belonging to all human beings. The protection of human rights came first in the policies of the Spanish Government, which actively cooperated with all the treaty bodies.

33. Spain believed in the value of the comments and recommendations of the bodies established under the international human rights instruments, and therefore accorded great importance to the Committee's follow-up mechanisms, which had served as a model for other bodies.

34. The abolition of the death penalty, which was a cruel punishment that violated human dignity, pertained to the universality of human rights, a heritage which dated back to the lawyers of the School of Salamanca. He particularly welcomed the fact that Mr. Badinter and Mr. Bedjaoui were members of the International Commission against the Death Penalty, which had been created on 7 October 2010 at the initiative of the Spanish Government and which was made up of 10 eminent figures from all corners of the globe. The Human Rights Committee had a major role to play in the battle to abolish the death penalty, the first stage of which should be the introduction of a moratorium on executions. In that campaign, the Committee could rely on the unwavering support of the Spanish State, which was a member of the "Group of Friends" of the Second Optional Protocol to the Covenant, aimed at the abolition of the death penalty.

35. **Mr. Scharinger** (Germany) said that alongside the Universal Declaration of Human Rights, the Covenant was the central reference point for civil and political rights, and that the Human Rights Committee was the most important body responsible for its implementation. Its thorough analysis of State party periodic reports and its open discussions with the States were particularly useful and its general comments also helped States to better understand their obligations. For ordinary citizens, however, the most tangible aspect of the Committee's work was its role in examining individual complaints submitted under the First Optional Protocol, as the Committee was perceived as an appellate body whenever rights were violated. The Human Rights Committee had made an

invaluable contribution to further developing the content of civil and political rights and Germany had no doubt that the Committee would be able to cope with its heavy workload and address the need to further harmonize its work.

36. **Mr. Bichet** (Switzerland) recalled that Switzerland, both in its role as a host country and as a State party to the Covenant, attached great importance to the activities of the Human Rights Committee. It was well placed to acknowledge the vital contribution of the Committee's work and the tangible impact of its recommendations at national level. The Committee was far more than the mere body responsible for monitoring respect for the rights enshrined in the Covenant; it was the leading interpreter and promoter of those rights. Through its general comments, it had defined the content and implications of many obligations in a variety of fields. Thus, it had highlighted the principle of proportionality in the application of the derogation clause in an emergency, and had achieved significant progress in the fight against capital punishment, where its moral authority had contributed to the decision by certain countries to abolish the death penalty. It had also contributed to the extension of the extraterritorial application of the Covenant by the States parties, thereby enhancing the protection of human rights. Finally, it had established standards to guarantee the right to a fair trial.

37. The celebration of the Committee's 100th session provided an opportunity to look ahead to the future. Efforts needed to be made to increase the Committee's visibility, in order to ensure greater recognition and legitimacy for its work, which should be made more accessible to the general public and its documentation deserved to be more widely disseminated.

38. **Ms. Khanna** (United States) said that the Human Rights Committee had made a significant contribution to promoting civil and political rights, which were universal, irrespective of the culture of a given country. The Committee had tirelessly sought to protect fundamental rights, and the examination of the periodic reports had played a major role in that task. It provided the States parties with the opportunity to take stock of their own policies and practices. In so doing, they also held themselves up to scrutiny by the international community and civil society. The United States did not always agree with the recommendations, but it took them into consideration and strongly believed that the exercise permitted all States to improve their human rights performance. However, much remained to be done. Throughout the world, some women and men did not enjoy freedoms that others took for granted, such as the freedom of expression, assembly and worship, or the right to elect their own leaders. The Committee therefore continued to play a crucial role, and it was vital for it to have access to adequate resources to continue its efforts to promote dignity and ensure that all persons were free to exercise their inalienable rights.

39. **Ms. Hubert** (Norway) said that the treaty bodies had a vital role to play in the human rights system. However, their role would be strengthened if their work was made more visible and accessible. Internet broadcasts of Committee meetings convened to examine periodic reports would be an excellent means of achieving that objective. There was also a need to achieve greater coherence and harmonization in the working methods of the different treaty bodies. As Norway had recently found, when States parties were called upon, at short intervals, to submit reports to several treaty bodies, it would be good if they could be invited to treat all periodic reports and the common core document as a single whole, and could therefore refer, in their report to one body, to another report submitted under a different instrument. It would considerably ease the States' reporting burden. For its part, the Committee's workload was becoming progressively heavier and the conference services were finding it increasingly difficult to ensure that translations were provided for the State party reports. It was therefore necessary to ensure that documents respected the limits imposed on the number of pages submitted and that the drafting was of a sufficiently high quality.

40. Norway welcomed the specific initiatives introduced by certain committees to streamline their activities relating to the consideration of periodic reports, and especially the new practice introduced by the Committee against Torture, which the Human Rights Committee had decided to adopt and which consisted of establishing a list of issues to be addressed in the periodic reports, which would help States draft targeted and precise reports. In order for the new method to become truly effective, committees also needed to consider the reports thus produced within a reasonable time frame, and to avoid requesting additional information. Civil society and national human rights institutions should also be able to participate in the drafting of the list of issues prior to reporting.

41. Norway appreciated the way in which the treaty bodies interpreted the relevant human rights instruments and the States' resulting obligations under the Covenant, as well as their general comments and their Views on individual complaints. The follow-up of the implementation of those recommendations at national level was a way of gauging the effectiveness and credibility of the whole human rights system. The same applied to recommendations relating to the Universal Periodic Review, and Norway supported any initiatives which aimed to strengthen coordination between the work of the treaty bodies and the Human Rights Council.

42. **Mr. Pellet** (France) said that France welcomed the work of the Human Rights Committee, the oldest committee of the United Nations system, which played a vital role in protecting and promoting human rights, especially through its general comments and its examination of individual communications.

43. France particularly appreciated the Committee's independent status. It was important for the Committee to have access to adequate human and material resources in order to properly manage its mission under the best conditions possible, and he would like the Committee's opinion in that respect. It was also important that the recommendations of the Human Rights Council, within the framework of the Universal Periodic Review, should never undermine the concluding observations of the Human Rights Committee, but rather strengthen them, and he asked the Committee to comment on recent developments.

44. He also asked about the Committee's current thinking on the subject of the death penalty, since the adoption, in 1982, of general comment No. 6 on the right to life, and especially the definition of "most serious crimes". He wished to know the Committee's opinion on general trends in that area.

45. **Mr. Lepatan** (Philippines) asked how the Committee applied article 14 of the Covenant when examining individual complaints and issuing its Views. There had been cases where the Committee had ruled on the guilt or innocence of accused persons who had not been present to explain their case. Even the International Court of Justice, when it examined cases involving capital punishment, attempted to avoid, as much as was possible, ruling on the innocence or guilt of the persons concerned.

46. **Mr. Herzenni** (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights) thanked Mr. Badinter and Mr. Bedjaoui for their advocacy of the universal abolition of the death penalty. The Covenant highlighted many universal, fundamental values and it was right, on the occasion of the celebration of the 100th session, to acknowledge the key role of the Human Rights Committee in the implementation of the Covenant and to give a thought to all those who were still denied their fundamental rights and freedoms.

47. National institutions, which were independent bodies established under the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), aimed to reduce the gap between international human rights standards and the reality at national level. It was essential that every effort should be made to support those institutions and to enable them to play an active role in defending

and promoting human rights. He was surprised that the Committee had not yet adopted a decision, for example in the form of a general comment, regarding the role of international institutions, in spite of the fact that it made increasingly frequent references, in the concluding observations it adopted following the examination of periodic reports, to the role of national institutions and the fact that they were perceived as an authoritative source of information for the examination of country reports. For their part, national institutions regularly relied on the Committee's jurisprudence and general comments to interpret the Covenant and to check whether its provisions had been violated.

48. It was necessary, and indeed possible, to strengthen strategic cooperation between the Human Rights Committee and national institutions in order to facilitate the application of the Covenant. The Marrakech Declaration, which had been adopted in June 2010 following a meeting of experts from national institutions from across the world on ways of strengthening the treaty bodies, stressed the need to rationalize relations between the treaty bodies and the national institutions.

49. **Ms. Marshall** (Office of the United Nations High Commissioner for Refugees) said that cooperation with the Human Rights Committee was important to UNHCR, especially as the Covenant and its two optional protocols, as well as the other human rights instruments, constituted an integral part of the legal framework of UNHCR's mandate to protect asylum-seekers, refugees, stateless and internally displaced persons. UNHCR had become accustomed to sharing its concerns with the Committee regarding the risk of fundamental human rights violations arising from certain procedures and the lack of guarantees for persons in need of international protection, including the risk of being returned to a country where they could face either danger or statelessness.

50. UNHCR welcomed the fact that, in its concluding observations, the Committee had included recommendations aimed at strengthening the implementation of the Covenant with regard to persons within the scope of UNHCR's mandate. Over the years, it had increased its level of cooperation with the Committee, and the Committee's recommendations and jurisprudence provided the basis for its efforts to guarantee protection for persons within its remit, as well as for its advocacy activities with States. In that regard, the Committee could view UNHCR as an operating partner in the field. As part of steps to commemorate the sixtieth anniversary of the Convention relating to the Status of Refugees and the fiftieth anniversary of the Convention on the Reduction of Statelessness, to be held in 2011, UNHCR was redoubling its efforts to encourage States to ratify those two Conventions. The Committee could support those efforts by regularly recommending, when examining the periodic reports, that States parties ratify those Conventions and effectively implement them by adopting the relevant legislation. UNHCR would also like to encourage the Committee to take into consideration other fundamental issues not always addressed in the course of the dialogue with States parties, such as observance of the principle of non-refoulement, especially in border zones, the right to freedom of movement for refugees, internally displaced persons and stateless persons, conditions of detention for persons in need of international protection, especially in airports, the right to family reunification, effective access to the registration of births, the need for States to introduce into their legislation on citizenship guarantees to prevent child statelessness, protection for unaccompanied child asylum-seekers, the fight against human trafficking and the sexual exploitation of women and children, protection for the victims of trafficking, better access to education and employment for refugee women and girls, as well as security and protection for internally displaced persons and measures to create a suitable environment for implementing sustainable solutions. UNHCR would like to draft a general comment on the right to acquire citizenship in collaboration with the Human Rights Committee and the Committee on the Rights of the Child.

51. **Mr. Last** (United Kingdom of Great Britain and Northern Ireland) reiterated his Government's admiration for the work of the Committee. The British authorities welcomed the implementation of a follow-up procedure for concluding observations, which fostered interaction between the Committee and the States parties between considerations of periodic reports. It would be good if all the other treaty bodies implemented a similar procedure. The plan to base the examination of periodic reports on a list of issues drawn up prior to reporting was an excellent initiative, ensuring a more focused dialogue and easing the reporting burden for States parties. Great Britain welcomed the role played by NGOs which supported the Committee's work and urged it to strengthen its cooperation with civil society organizations and national human rights institutions.

52. **Mr. Lallah** thanked Mr. Badinter and Mr. Bedjaoui for their memorable presentations, which would provide a real source of inspiration for the future work of the Committee. As the most senior member of the Committee, he confirmed that, over the years, there had been a growing interest on the part of States parties in the work of the Committee. That was very encouraging and the suggestions and criticism they offered were frequently very constructive.

53. **Ms. Chanet** said that, in addition to celebrating its 100th session, the meeting should, above all, enable the Committee to look ahead, while keeping in mind the criticism offered by the States parties. The comments of the representative from Algeria had thus been duly noted. However, she was not sure whether she had understood what the representative of the Philippines had meant, as she did not know on what occasion the Committee had ever ruled on a person's guilt. The Committee never intervened in the rulings of domestic courts and its role was limited to verifying whether the procedures applied were compatible with the provisions of the Covenant.

54. The criticism regarding the lack of visibility of the Committee's work was justified. Some progress had been made but much remained to be done. The Committee was trying to improve its procedures and to cut back on red tape, but it had to be admitted that sometimes the United Nations system could be very bureaucratic. The Committee had very ambitious programmes. It would try in future to be more open to NGOs and to make its dialogue with States parties more productive.

55. Universal standards emanated from *jus cogens* and must not be undermined by attempts to defend cultural or local specificities. In article 27, the Covenant called for religious, linguistic and cultural diversity, while it permitted certain restrictions, particularly with respect to freedom of expression, particularly in order to combat religious hatred. Although it was true that the Covenant had been negotiated during the colonial era and could reflect American-European values, it was also true that later treaties, such as the Convention on the Rights of the Child, which had been prepared with States which had not negotiated the Covenant, reflected the rights enshrined in the Covenant, which confirmed the universal nature of those rights.

56. Among the positive points worth mentioning, she noted that States made use of international instruments to improve their domestic legislation, for example in Canada where, in line with the jurisprudence of the Committee, the Government had implemented the ruling whereby a State which had abolished the death penalty could not extradite persons to another country where they could face the death penalty. General comment No. 6 on the right to life would need amending to take account of the Committee's new jurisprudence and the positive developments mentioned by Mr. Badinter, which the Committee ought to support or even bring about. International courts, such as the International Court of Justice, referred to the jurisprudence of the Committee and exchanges should be encouraged between domestic and international courts and the treaty bodies.

57. The Human Rights Council and the Universal Periodic Review had become extremely important and it was necessary to ensure that the treaty bodies coordinated their procedures in order to be able to work under the best possible conditions. When it examined the human rights situation in a given State, the Human Rights Council could also take into account, in addition to the Committee's concluding observations, the findings relating to the communications received concerning the State in question. She felt that the general comment on freedom of expression (art. 19), which the Committee had decided to draft, would be taken into consideration by the Human Rights Council, whose fruitful exchanges with the Committee would continue.

The meeting rose at 1 p.m.