



International Covenant on Civil and Political Rights

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Human Rights Committee

105th session

Summary record (partial)* of the 2922nd meeting**

Held at the Palais Wilson, Geneva, on Friday, 27 July 2012, at 3 p.m.

Chairperson: Ms. Majodina

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* No summary record was prepared for the rest of the meeting.

** No summary record was issued for the 2921st meeting.

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The meeting was called to order at 3 p.m.

Organizational and other matters

Methods of work

1. **Mr. Iwasawa** said that, as the Committee's new Rapporteur on case management for communications, he had selected 20 cases for examination by the working group on communications at the Committee's 106th session. For the most part, he had used the same selection criteria as the secretariat had used previously; he would submit a paper on the selection criteria to the Committee at the next session. The secretariat had requested clarification as to whether requests for extensions would continue to be examined by the Special Rapporteur on new communications and interim measures or would be taken over by the Rapporteur on case management.
2. **Sir Nigel Rodley** said that it would be best to consider any such change in procedure at the 106th session, when a review of the functions of the Special Rapporteur on new communications and interim measures was scheduled.
3. **Mr. Kälin** agreed and said that, since the Special Rapporteur had to examine all new cases, he or she would already be familiar with them. It would therefore be more efficient if extension requests were considered by that Rapporteur.
4. **The Chairperson** said she took it that the Committee wished to continue its current practice concerning requests for extensions.
5. *It was so agreed.*
6. **Mr. Salvioli** apologized to the Committee for not having completed the paper he was preparing on remedies because of a number of difficulties he had encountered. The Committee's case law concerning individual complaints considered at its first 30 sessions was available on the Internet in English only. While the Views reached by the Committee at subsequent sessions were available in Spanish, he had found many disparities between the English and Spanish versions, making it necessary to identify which was the original version in each case. His work to date had resulted in the classification of all remedies from the Committee's beginnings to 2005. He had been surprised at the variety and wealth of remedies, given the public perception that the Committee tended not to adopt specific remedies. Generic formulas had sometimes been used, but they were by and large meaningless; the case law covered many specific remedies, including a large number of restitutions, releases of persons, measures to re-establish the right to political participation, and permits to leave the country for persons with no passport. Many cases concerned the treatment of prisoners under article 10 of the Covenant. Other remedies included measures to ensure that persons extradited were not liable to the death penalty, restitution of the right to free movement and residence, and physical and psychological rehabilitation, especially for people who had been tortured or ill-treated, and in some cases for relatives of disappeared persons.
7. Monetary compensation had first appeared in the Committee's case law in 1980; a wide variety of terms had been applied to refer to such remedies. In some cases, the Committee had found violations but had not recommended any remedies, while in others it had found no violations but had nonetheless recommended remedies. By the 106th session, he hoped to have completed his paper providing details on those and many other remedies called for throughout the history of the Committee's jurisprudence.
8. **Mr. O'Flaherty** recalled that, at the previous session, he had been mandated to draft a position paper on the Committee's relationship with national human rights institutions (NHRIs). He had been unable to complete the paper in time to have it translated for the current session. He would submit it to the secretariat within the next month, thus ensuring

that it would be available for consideration in all the working languages at the 106th session.

Announcement of Bureau decisions

9. **The Chairperson** said that, at its current session, the Committee had adopted concluding observations on five States parties – Armenia, Iceland, Kenya, Lithuania and Maldives. It had adopted lists of issues for four States parties (Angola, Germany, Macao-China and Peru) and lists of issues prior to reporting for a further five (Afghanistan, Croatia, Israel, New Zealand and San Marino). The Committee was concerned at reports it had received during the session of threats made to members of NGOs who provided information to the Committee. The Committee took such allegations extremely seriously. It reminded all States parties that it was their duty to ensure the full protection of human rights defenders in those circumstances.

10. She announced the status of the communications considered under the Optional Protocol to the Covenant as at the end of the current session. The Committee had declared 1 communication admissible and 11 inadmissible; it had reached 19 decisions on merits and had decided to discontinue consideration of 4 communications.

11. During the current session, the Committee had also adopted a statement on the process of strengthening the treaty body system in response to the High Commissioner's report. The statement had been distributed, inter alia, to the President of the General Assembly and the co-facilitators of the intergovernmental process. It had also been posted on the Committee web page.

12. The Committee had agreed that at its next session it would hold a half-day of general discussion, on 25 October 2012, to launch the process of developing a general comment on article 9 of the Covenant (liberty and security of person) to replace general comment No. 8 dating from 1982. The Committee would invite interested members of NHRIs, civil society and academia to participate and provide written information on the subject. It had adopted a note on the half-day of general discussion (CCPR/C/105/3), which set out the issues that the Rapporteur for the comment, Mr. Neuman, expected to be addressed in the comment. Information on how to participate in the discussion would be posted on the Committee's web page.

13. The Committee had made several decisions concerning methods of work. It had given the working group on communications a mandate to consider methods of work issues directly relating to the communications procedure if time permitted during the week when the group met. Any recommendations emanating from the group would be brought before the plenary during the relevant session.

14. The Committee had also decided that the secretariat should prepare an analysis of the effect of the guidelines concerning the independence and impartiality of members of the human rights treaty bodies (Addis Ababa guidelines) on the Committee's own guidelines, adopted in the 1980s, and rules of procedure. The Committee would discuss the issues highlighted in the analysis at its 106th session.

15. The Committee was grateful to Mr. Flinterman for his efforts in obtaining funding for a Committee retreat in The Hague. The majority of members had indicated that they would be available to participate in a retreat from 24 to 26 April 2013. The issues to be examined at the retreat would be confirmed at the 106th session.

16. The Committee thanked Ms. Jannie Lasimbang, a member of the Expert Mechanism on the Rights of Indigenous Peoples, for briefing the Committee on the work of that body. It was hoped that the Committee would develop stronger partnerships with the Expert Mechanism and other special procedure mandate holders working on issues relevant to the Committee's work. The Committee welcomed the excellent collaboration with NHRIs,

NGOs and representatives of United Nations specialized agencies during the session. She particularly thanked the Senior Human Rights Adviser from Nairobi, who had briefed the Committee on the situation in Kenya.

17. In the light of a request by the Office of the United Nations High Commissioner for Human Rights that the Committee should invite a particular State party to produce its late report, the Bureau had recommended that, at the 106th session, the Committee should consider establishing a mechanism to deal with emergency country situations and developing criteria to deal with State parties that were late submitting their reports.

18. With respect to a proposal by a Committee member for improving dialogue with States parties, the Bureau had recommended that the Committee should try out the proposed procedure in the examination of one State party at the 106th session. The Committee could then consider adopting the procedure for all States if it proved effective.

19. The Bureau had approved the proposal to examine one additional State party at the 106th session in order to reduce the backlog of reports. That would also alleviate pressure on the Petitions Unit, which had a limited number of weeks to prepare draft communications between the July and October sessions.

20. She said she took it that the Committee endorsed the Bureau's decisions.

21. *It was so decided.*

22. **Sir Nigel Rodley** reminded the Committee that the Bureau had recommended the deletion of the final sentence of paragraph 4 of general comment No. 25 concerning the right to participate in public affairs, voting rights and the right of equal access to public service. He read out the last two sentences of paragraph 4:

“The exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable. For example, established mental incapacity may be a ground for denying a person the right to vote or to hold office.”

23. He considered that the decision to recommend the deletion of part of a general comment after a brief discussion in the Bureau was inappropriate. At the same time, he recognized that the recommendation had been made in response to an expression of concern by the Chairperson of the Committee on the Rights of Persons with Disabilities, which deserved a positive response.

24. He suggested that the general comment should be reissued with a footnote to the offending sentence stating that the Committee had decided, at its 105th session, that it no longer considered the sentence to be operative and that it should be deleted from any revised version of the general comment.

25. **Mr. O'Flaherty** said that the Bureau had engaged in a lengthy discussion of the matter on two occasions and had recommended the deletion of the offending sentence because it merely illustrated a point and added nothing substantive to the paragraph. The Bureau felt that its technical approach was preferable to a discussion in the Committee of whether the provisions of the Covenant were consistent with the provisions of the Convention on the Rights of Persons with Disabilities. He had reservations concerning Sir Nigel Rodley's suggestion because its long-term implications would require such a discussion.

26. **Mr. Thelin** said that the Committee should respond positively to the comment by the Chairperson of the Committee on the Rights of Persons with Disabilities. At the same time, while he did not view general comments as sacrosanct, he was reluctant to support an outright deletion, even if the sentence merely presented an example. The insertion of a

footnote would not bind the Committee indefinitely. It would merely indicate that the offending sentence was currently considered to be inapplicable.

27. **Mr. Kälén** proposed that the Committee should defer consideration of the Bureau's recommendation until the following session, since it called for an in-depth discussion.

28. **Mr. Neuman** supported that proposal. The relevant sentence of the general comment was not causing any immediate harm and there was no need to delete it forthwith. A number of general comments contained material that no longer reflected the Committee's jurisprudence. It was not, however, standard practice to issue regular updates. A new general comment was usually drafted for the purpose.

29. The question that had been brought to the Committee's attention had been raised publicly in lists of issues and had been discussed in the context of State party reports. The general public could thus rest assured that the Committee was not indifferent to the matter.

30. **Mr. Rivas Posada** agreed that the Committee should merely take note of the request and state that the matter would be discussed in plenary at the next session. He was opposed to the insertion of a footnote in the general comment.

31. **Ms. Motoc** said that the Committee should draw a distinction between amendments designed to update general comments and amendments designed to rectify statements that were manifestly inconsistent with the Committee's jurisprudence and the evolution of human rights law. As the sentence in paragraph 4 of general comment No. 25 was clearly inappropriate and unacceptable to another human rights treaty body, there was no need for an in-depth discussion of the matter. She therefore supported Sir Nigel Rodley's proposal.

32. **Mr. Salvioli** said that while he would not oppose the proposal that the Bureau's recommendation should be discussed at the next session, he supported Mr. O'Flaherty's approach to the matter and the Bureau's recommendation. The points raised by Mr. Neuman had actually convinced the Bureau of the desirability of deleting the example given in the offending sentence. The substance of the general comment would not be affected.

33. **The Chairperson** suggested that the matter should be discussed at the Committee's 106th session.

34. *It was so agreed.*

The public meeting was suspended at 3.50 p.m. and resumed at 5 p.m.

Closure of the session

35. After the customary exchange of courtesies, **the Chairperson** declared the 105th session of the Human Rights Committee closed.

The meeting rose at 5.05 p.m.