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HUMAN RIGHTS COMMITTEE

Sixty-fifth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1752nd MEETING

Held at Headquarters, New York,
on Thursday, 8 April 1999, at 3 p.m.

Chairperson: Ms. MEDINA QUIROGA

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* The summary record of the second part (closed) of the meeting appears
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this session will be consolidated in a single corrigendum, to be issued shortly
after the end of the session.

The meeting was called to order at 3.10 p.m.

STATEMENT BY THE REPRESENTATIVE OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

1. Mr. NDIAYE (Director, Office of the United Nations High Commissioner for Human Rights) said that the Human Rights Committee, through its jurisprudence and recommendations, had laid the groundwork for the protection of human rights worldwide and had provided support to the special rapporteurs and representatives of the Commission on Human Rights, national and international non-governmental organizations and the international community in their efforts to promote the rule of law. Praising the Committee as a model for other treaty bodies, he said that the Office of the United Nations High Commissioner for Human Rights was determined to ensure that the progress achieved by the Committee in promoting civil and political rights was paralleled in the economic and social fields. He trusted that the Committee and its secretariat had received all necessary support during the current session.

The public meeting was suspended at 3.15 p.m.
and resumed at 4.25 p.m.

DENUNCIATION OF AND RE-ACCESSION TO THE OPTIONAL PROTOCOL BY GUYANA (Depositary Notifications C.N.99.1999.TREATIES-3 and C.N.99.1999.TREATIES-4)

2. The CHAIRPERSON drew attention to two communications from the Secretary-General dated 16 February 1999, giving notification, first, of Guyana's denunciation of the Optional Protocol and, second, of that country's re-accession to the Optional Protocol with a reservation to article 6 whereby the Human Rights Committee would not be competent to receive and consider communications from any person who was under sentence of death in Guyana for the offences of murder and treason in respect of any matter relating to his prosecution, detention, trial, conviction, sentence or the execution of the death sentence and any matter connected therewith. Both those actions had been effected on 5 January 1999 and would enter into force on 5 April 1999, in accordance with articles 12 (1) and 9 (2) of the Covenant.

3. It should be noted that Guyana had not informed the Committee officially of those actions: the information had been found on the World Wide Web. The text of the communications had been provided to her in English and French only. She had requested a Spanish version from the Office of Legal Affairs but had been advised that it conducted its work in English and French only. She requested guidance from the Committee, in view of its recent discussion concerning the need for documents to be issued in all three working languages.

4. Mr. BUERGENTHAL, supported by Mr. AMOR, said that the Committee should strongly protest the Office's refusal to supply a Spanish version.

5. Ms. GAITÁN DE POMBO said that, since the unavailability of texts was a long-standing problem that was unlikely to be solved immediately, she suggested that the Chairperson should circulate the available texts to the Committee.

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ORGANIZATIONAL AND OTHER MATTERS (continued)

6. The CHAIRPERSON said that the Secretariat had informed her that the Committee's sixty-eighth session would be held one week earlier than usual, because of the special session of the General Assembly to be held in April 2000. The working groups would meet from 6 to 10 March 2000, and the plenary Committee would meet from 13 to 31 March 2000.

7. Mr. BHAGWATI inquired whether the Committee would agree to request the Secretariat to extend its plenary session by three days during either the sixty-sixth or the sixty-seventh session, to allow the Committee to handle the large backlog of communications.

8. The CHAIRPERSON said that she had received a communication from the Secretariat informing the Committee that the Secretariat was unlikely to be able to extend the amount of time allotted to the Committee's working groups. If the Committee so wished, however, she would request an extended plenary session for the purpose mentioned by Mr. Bhagwati.

9. Mr. POCAR said that, as a matter of principle, the Committee should retain its right to establish both how much time it needed to carry out its work and when to hold its sessions.

10. Mr. LALLAH said that the Committee relied in that regard on article 36 of the Covenant, which established that the Secretary-General must provide the necessary staff and services for the effective performance of the Committee's functions. Session dates were normally set two years in advance, during the session that followed elections, which was the current one. Dates tended to vary from year to year, and the Committee must show some flexibility if it was informed that certain dates were not available.

Draft consolidated guidelines for State party reports

11. Lord COLVILLE, reporting on the progress made with respect to the preparation of draft consolidated guidelines for State party reports, said that a first informal draft had been circulated in English, French and Spanish. He had taken note of the changes suggested by the members of the Committee, which would be incorporated into a second informal draft to be circulated prior to the Committee's sixty-sixth session in July 1999. It was important that the new guidelines should be issued to States parties as soon as possible in order to enable them to reduce the length of their reports and thus to facilitate their dialogue with the Committee.

Report of the special working group established to review procedures for the consideration of communications under the Optional Protocol to the Covenant

12. Mr. BHAGWATI said that the special working group had met to consider a letter dated 8 June 1998 from the Governments of Australia, Canada and New Zealand, which had contained a number of proposals aimed at improving the Committee's procedures for the consideration of communications under the Optional Protocol. The special working group was recommending on the basis of that letter that the Committee, or a working group or special rapporteur

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designated under rule 89, should have the power to extend the time limits for submissions by States parties or authors under rules 91 and 93 of the Rules of Procedure; that the Rules of Procedure should be amended to reflect the practice whereby a communication was registered only after a decision by the Special Rapporteur for New Communications; that the powers and functions of the Special Rapporteur should be defined in the Rules of Procedure; and that, when examining replies received from authors to the arguments put forward by States parties, the Committee should consider only information relating to the original communication, disregarding any new complaints made. The special working group judged impractical the proposal that the Committee should sit in chambers when examining communications, given such logistical problems as the unavailability of interpretation.

13. The CHAIRPERSON said that the Committee would consider the points raised by the special working group when the recommendations were available in the three working languages.

14. Mr. POCAR proposed that the Chairperson should write to the Governments of Australia, Canada and New Zealand acknowledging receipt of their letter and stating that the Committee would give its views and take any action which it considered appropriate in due course.

15. It was so decided.

Eleventh meeting of the persons chairing the human rights treaty bodies

16. The CHAIRPERSON drew attention to the report of the persons chairing the human rights treaty bodies on their tenth meeting, held at Geneva from 14 to 18 September 1998, which was contained in document A/53/432. The chairpersons had agreed at that meeting to bring a number of matters to the attention of the members of their respective committees and to report back on their views and comments at the eleventh meeting. The first such matter was the proposal in paragraph 29 of the report that States parties should be requested to focus in their reports on a limited range of issues, which could be identified by the committees in advance of the preparation of reports.

17. Mr. KLEIN said that the issues raised in the Committee's Concluding Observations on initial reports should form the starting point for second and subsequent periodic reports, as stated in the draft consolidated guidelines for State party reports prepared by Lord Colville. The lists of issues prepared prior to the consideration of State party reports would also benefit from being more focused.

18. Lord COLVILLE said that there was a need to address the problem of duplication of work. Currently, where rights were protected under more than one instrument, States parties might be required to report on the implementation of those rights to a number of different treaty bodies. He proposed that States parties which had recently submitted reports on specific issues to other treaty bodies should be permitted to deal more briefly with those issues in their submissions to the Human Rights Committee and to use substantially the same material.

19. Ms. CHANET expressed concern that the in absentia issue might again be raised at the chairpersons' meeting, noting that she did not support that approach. She was also opposed to the proposal in paragraph 31 that State party reports should be consolidated in a single global report covering all six human rights treaties. There was little enthusiasm for that idea, which did not deserve to be pursued. The suggestion that State party reports should be more focused was, by contrast, an excellent one.

20. Mr. LALLAH said that the Committee was qualified by virtue of its long experience to play a leading role in the reform of the reporting process. He considered that the preparation of a single global report would exacerbate, rather than lessen, the burden on States parties, and that coordination would be difficult since the treaty bodies had not taken identical stances on all human rights issues. He therefore agreed with Ms. Chanet that the idea should be abandoned.

21. Mr. WIERUSZEWSKI said that he shared the views expressed by Mr. Lallah and Ms. Chanet on the proposal in paragraph 31. He agreed with Mr. Klein that the draft consolidated guidelines prepared by Lord Colville would result in more focused State party reports.

22. Mr. BUERGENTHAL recalled that the need for a tighter focus had first been highlighted by the Task Force on Working Methods established at the Committee's sixtieth session.

23. Ms. GAITÁN DE POMBO requested the Chairperson to draw attention, at the eleventh meeting of chairpersons, to the valuable work done by the Task Force.

24. Mr. AMOR expressed concern that, if States parties were asked to focus in their reports on a limited range of issues, certain aspects of the Covenant would be marginalized and the dialogue with the Committee would be impoverished. The only acceptable way of tackling the backlog of reports would be to extend the Committee's sessions and to enhance the resources available to it. He also feared that the consolidation of State party reports in a single document would impose on the treaty bodies an unacceptable degree of rigidity and uniformity. The diversity of the treaty bodies should instead be maintained and encouraged, although clearly there must be a dialogue among them.

25. Mr. BHAGWATI agreed that reports should be more focused, but said that he was against asking States parties to concentrate on a few specific topics. All articles of the Covenant were equally important, and none could be omitted from consideration. States parties should build on previous reports and follow Committee recommendations, but they should do so by article, not by topic.

26. Ms. CHANET suggested that the Chairperson should also take with her to the eleventh meeting of chairpersons the useful document adopted in April 1998 and reproduced in the Committee's annual report (A/53/40, annex VIII), which gave a first outline of the Committee's views on the whole matter.

Draft proposal for a plan of action to strengthen the implementation of the International Covenant on Civil and Political Rights, the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination

27. The CHAIRPERSON introduced the informal paper prepared by the Secretariat containing a proposed plan of action to strengthen the servicing of the three treaty bodies - the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee against Torture - which did not as yet have their own plans of action.

28. Under the proposal, States would be approached for funds to set up a support team composed of six Professional staff members and one General Service staff member. Two Professional staff members would work full-time on the reporting process, analysing State party reports and preparing country situation reports, preparing lists of issues and recommendations, following up on recommendations and developing technical assistance programmes. Two other Professional staff members would register and summarize communications, draft decisions on them and follow up on Views. One Professional staff member would act as general team manager and coordinator while working half-time on the reporting process. One Professional programmer would expand the databases. One General Service staff member would provide secretarial services. Thus, in addition to consolidating and analysing existing information, the team would conduct new basic research and preliminary analyses for the treaty bodies, including producing background papers on selected topics and helping to formulate general comments, while identifying areas of concern and developing recommendations. It would also serve as the focal point for monitoring the follow-up to the treaty bodies' recommendations, and would help plan and coordinate advisory services for States parties and assist States with the preparation of reports and the implementation of recommendations.

29. She personally had misgivings about the huge number of objectives and priorities, and especially about expecting the same staff to work with both States parties and treaty bodies. Moreover, the draft proposal did not take account of the Human Rights Committee's immense backlog, or of the fact that servicing by non-permanent staff would never be adequate to the treaty bodies' needs.

30. Mr. YALDEN observed that the draft before the Committee was less a plan of action than a request for voluntary funds; as such, it was woefully inadequate. Merely listing the funding required for each of the seven staff members in question would never convince those in government who held the purse strings to contribute to the project. The Human Rights Committee, for example, should convey clearly to possible donor States the extent of its backlog, citing the number of outstanding reports and communications, its unregistered correspondence and so forth. Such details would convince them of the problem and allow them to make a reasoned decision.

31. Ms. EVATT said that the draft was unduly optimistic in its anticipation of voluntary funds from unspecified sources. Adequate services for the treaty bodies should come from the regular budget, not from special funds. It would

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not be difficult to specify the Committee's priorities and needs and to explain why additional competent staff were required to deal with the backlog and to assist in the reporting process.

32. Ms. CHANET agreed that all the activities outlined in the proposal ought to be funded from the regular budget. There were, however, some other areas, such as computer technology and the preparation and publication of reports, that might attract voluntary funding because they were useful to States parties themselves. She feared that the proposal as drafted would only irritate potential donors. The proposed plan would also serve to reinforce the office responsible for all six treaty bodies, including those which already had plans of action. It should instead be tailor-made for the three committees concerned.

33. The CHAIRPERSON asked whether the Committee wished a combined working group to be set up to draft a new plan of action, or simply a working group of Human Rights Committee members.

34. Mr. POCAR said that the Committee could either develop its own improved plan or work on a combined plan with the other two committees involved. The Human Rights Committee's needs were more specific, however, particularly in view of its highly developed communications procedure. Although he had not seen the plans of action of the treaty bodies that did have them, those plans had apparently attracted funding. Specific areas to be singled out for funding might include the recruitment of staff with the languages needed to deal with communications from certain parts of the world, or the expertise to handle the complexities of the follow-up to communications. The current proposal would have no impact, for it was simply a request for more all-purpose staff.

35. Mr. SCHEININ said that there was room for funding by both the United Nations and governmental and non-governmental sources, although the primary commitment must come from the United Nations. The plan of action should be funded from the budget of the Office of the United Nations High Commissioner for Human Rights, but outside funds could then be sought to supplement it. For instance, a core unit of United Nations staff could be set up to carry out the proposed activities, after which independent academic and human rights institutions could be invited to send interns or junior programme officers on 12-month or 24-month contracts to support the permanent team. Such an approach would improve the chances of bringing in qualified lawyers from different parts of the world to help in the preparation of communications and possibly also in the reporting procedure.

36. He was very suspicious of the idea of having the proposed team assist Governments in preparing their reports. The staff would be placed in a very difficult position if they had to work for both States parties and the committees. The proposals that they should assist in preparing and coordinating advisory services programmes in connection with treaty body recommendations and should serve as focal points for monitoring the follow-up to recommendations made much more sense.

37. Lord COLVILLE, agreeing particularly with Mr. Yalden, said that the plan of action before the Committee dealt with mainstream committee work and that no outside body would finance it. There were, however, two specific time-limited

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projects that could be proposed: assistance with the communications backlog and assistance with the follow-up to communications and concluding observations. The follow-up aspect would be attractive to donors because it would be a new activity.

Preparation of lists of issues relating to reports submitted by States parties under article 40 of the Covenant

38. Ms. EVATT, reporting on the work of the task force that had considered the possibility of preparing lists of issues one session ahead of the consideration of the reports in question, said that such a system would be advantageous to States parties, which would have more time to prepare their responses, and to the Committee, which would be forced to make early preparations and to have reports translated well ahead of time. It would also benefit the non-governmental organizations that would be commenting on the issues involved.

39. The task force believed that the Committee could accomplish the transition to such a system by the end of the year, and without incurring additional expense. The eight-member pre-session working group for the July 1999 session would, as usual, deal with communications and with the lists of issues for the five reports scheduled for that session, but it would also work on the lists of issues for the five reports scheduled for the October session, after assigning each report to a country rapporteur. The task force was proposing five countries for consideration at the October session. If the working group did not complete its preparation of the October lists of issues, it could continue to meet during the July session in order to finish them, so that the Committee could adopt them at that session. In future, the lists of issues would be prepared by the working group of the session preceding the one at which the reports in question were to be considered, and would be adopted by the Committee at that preceding session.

40. Ms. CHANET and Mr. POCAR expressed general support for the suggested transitional procedure.

41. The CHAIRPERSON observed that the Committee still had to take a final decision on which reports were to be considered at the October session.

Other matters

42. The CHAIRPERSON recalled that, in order to complete its Concluding Observations on the reports considered at the current session, the Committee still had to specify the dates on which the States in question would be requested to submit their subsequent reports. She suggested that Canada and Costa Rica could be asked to submit their next reports in five years, in 2004, and Chile and Lesotho in three years, in 2002.

43. It was so decided.

The meeting rose at 6.05 p.m.