



# International Covenant on Civil and Political Rights

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## Human Rights Committee

106th session

### Summary record of the second part (public)\* of the 2950th meeting\*\*

Held at the Palais Wilson, Geneva, on Friday, 2 November 2012, at 5 p.m.

*Chairperson:* Ms. Majodina

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

\*\* No summary record was issued for the 2949th meeting.

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*The public part of the meeting was called to order at 5 p.m.*

**Organizational and other matters, including the adoption of the report of the pre-sessional working group on individual communications (continued)**

*Letter from the Chairperson of the Committee on the Rights of Persons with Disabilities*

1. **The Chairperson** said that the Chairperson of the Committee on the Rights of Persons with Disabilities (CRPD) had sent her a letter, dated 27 June 2012, expressing the CRPD's concern about the last sentence of paragraph 4 of the Human Rights Committee's general comment No. 25 on participation in public affairs, the right to vote and the right of equal access to public services. The sentence read: "For example, established mental incapacity may be a ground for denying a person the right to vote or to hold office." She recalled that at its previous session, in June 2012, the Committee had not come to a decision on whether to delete the sentence or review the general comment as a whole. She invited the members of the Committee to discuss the matter so that a reply could be sent to the Chairperson of the CRPD.

2. **Mr. Neuman** suggested that the Committee could wait until its March 2013 session, when the issue of the participation of persons with mental disabilities in public affairs would be discussed as part of the examination of reports submitted by States parties. The Committee would thus be able to have a substantive discussion based on specific information.

3. **Mr. O'Flaherty** said that the issue could also be discussed in the context of the relationship between the International Covenant on Civil and Political Rights and other international instruments at the retreat to be organized by the Committee in The Hague in April 2013. As a general rule, general comments should only be amended in exceptional cases as they constituted well-established jurisprudence and important reference texts. However, general comments that were considered obsolete could be suspended and the issues they dealt with given priority in the drafting of new general comments.

4. **Mr. Salvioli** said that, while he agreed that the issue should not be taken lightly, the deletion of the sentence in question would not be a sufficient ground for a review of general comment No. 25 as a whole.

5. **Mr. Ben Achour** said that general comments should not be "laws" set in stone that impeded the development of the Committee's jurisprudence. It would be useful to have a broader discussion on the nature, scope and role of general comments at the retreat in The Hague.

6. **Mr. Kälin**, supported by **Mr. Iwasawa**, said that such problems could be resolved by adding a footnote to the effect that the passage in question no longer reflected the Committee's current position.

7. **Mr. Neuman** said that the Committee would develop its jurisprudence by stating its position on matters as they arose rather than by making minor amendments to general comments which in some cases dated back several decades and could not be expected to be fully in line with the Committee's current position.

8. **The Chairperson** said that the Committee would officially consider the issue at its session in March 2013 and at its retreat in April 2013 and that information already provided by NGOs on the subject would be compiled and distributed to members. A letter would be sent to the Chairperson of the Committee on the Rights of Persons with Disabilities informing him of that decision.

*Informal meeting with the Committee against Torture*

9. **Mr. O'Flaherty** said that the informal meeting with the members of the Committee against Torture had been constructive and it would be useful to hold such meetings, including with other bodies, more often. To that end, it would be necessary to ensure that the sessions of the various bodies overlapped.

10. **The Chairperson** said that there would be an opportunity to hold another meeting with the Committee against Torture in October 2013 and asked the Secretary to make the necessary arrangements.

*Location of the Committee's 110th session*

11. **The Chairperson** recalled that the United Nations Secretary-General had decided that the Committee would henceforth hold its March session in Geneva rather than New York. The Committee was considering writing to the Secretary-General, asking him to reverse his decision and to help the High Commissioner for Human Rights make the necessary resources available for the Committee to continue to meet in New York once a year.

12. After a discussion in which **Mr. O'Flaherty**, **Mr. Iwasawa**, **Mr. Kälin**, **Mr. Sarsembayev**, **Ms. Waterval**, **Mr. Neuman**, **Mr. Ben Achour**, **Mr. Flinterman**, **Mr. Bouzid** and she herself took part, **the Chairperson** said that, as opinion was divided on the advisability of sending such a letter, the issue would be discussed again at the following session.

*Summary of the session and decisions of the Bureau*

13. **The Chairperson** said that she had taken part in the first ever interactive dialogue with the United Nations General Assembly in New York on 23 October; she hoped that would lead to further exchanges between the Committee and the Assembly in the future.

14. The Committee had adopted concluding observations on Bosnia-Herzegovina, Germany, the Philippines, Portugal and Turkey, and had adopted lists of issues for Albania, Finland, Hong Kong, Ukraine and Belize (in the absence of a report) and the list of issues prior to submission of the initial report of Australia.

15. The Committee had considered 27 communications under the Optional Protocol over the course of the session. It had declared 1 communication admissible and 5 inadmissible; it had adopted 15 decisions on merits and had decided to discontinue consideration of 6 communications.

16. The Committee had also adopted a report prepared by the Special Rapporteur for follow-up on concluding observations. It had held its first ever half-day of general discussion, on article 9 of the Covenant, in preparation for the drafting of a new general comment on that article.

17. In addition, the Committee had adopted a paper on its relationship with national human rights institutions, which had been posted on the Committee's website, and had adopted a preliminary list of issues to be considered at the retreat in The Hague in April 2013.

18. As of its 108th session, in order to allow time to consider the 29 pending reports, the Committee would no longer consider at each session the situation in one State party in the absence of a report. At the next session, the country report task forces would meet simultaneously so that a sufficient number of lists of issues could be adopted. Henceforth, two meetings rather than three would be devoted to the consideration of initial reports. States parties would be given one year to respond to lists of issues prior to reporting.

Exceptionally, as the Committee would have only 23 communications to consider at its session in March 2013, the Working Group on Communications would meet for four days rather than five.

**Closure of the session**

19. After an exchange of courtesies, **the Chairperson** declared the 106th session of the Human Rights Committee closed.

*The meeting rose at 6.05 p.m.*