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Summary record of the 3042nd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 12 March 2014, at 3 p.m.

Chairperson: Sir Nigel Rodley

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

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Third periodic report of Latvia (CCPR/C/LVA/3; CCPR/C/LVA/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Latvia took places at the Committee table.*

2. **Mr. Makarovs** (Latvia), presenting the third periodic report of Latvia, said that it covered the period from 2004 to 2008 and was supplemented by the replies to the list of issues (CCPR/C/LVA/Q/3/Add.1), which contained information covering the period up to the end of 2013. A number of NGOs and the Ombudsman's Office had contributed to the drafting of both documents. Shortcomings with regard to the implementation of the Covenant remained, but substantial progress in several key areas had been made since the Committee had considered Latvia's second periodic report in 2003.

3. The procedures for the acquisition of Latvian nationality by children born in the State party had been simplified and the number of children whose right to Latvian nationality was being recognized at the same time as their births were registered was increasing. Steps had been taken to encourage the participation of members of ethnic minorities in public life. Criminal procedure law had been amended to address such issues as access to legal aid and health care for detainees and compensation to crime victims. Considerable resources were directed towards the improvement of conditions in places of detention. Efforts to investigate crimes such as ill-treatment by public officials, domestic violence, violence against women, human trafficking, and racially-motivated and hate crime had been stepped up. Similarly, more was being done to punish perpetrators.

4. A process of reform had been set in motion in order to guarantee the independence of bodies investigating allegations of ill-treatment committed by public officials. The legislative framework governing the treatment of mental patients had been improved and State-funded social rehabilitation services for victims of human trafficking had been broadened. The periodic report contained detailed information on asylum procedures and regulations safeguarding freedom of expression. National and international monitoring bodies such as the Ombudsman's Office and the United Nations human rights treaty bodies played an important role in identifying issues requiring improvement. Budget-tightening in the face of the economic crisis that had begun in 2008 had not dented the Government's commitment to the protection of human rights.

5. **Ms. Līce** (Latvia), presenting the State party's replies to the list of issues, said that provisions of the Covenant were regularly invoked before the courts. One court had referred specifically to the Committee's Views in the *Raihman v. Latvia* case (CCPR/C/100/D/1621/2007) and to its general comments when handing down a decision in March 2014 recognizing Mr. Raihman's right to have his name appear in its original form in official documents. The Constitutional Court referred to the Covenant and the Committee's general comments when examining complaints about the incompatibility of national legislation with the Covenant or with the Constitution, and when deciding on the admissibility of specific cases. The Court had reiterated on several occasions that the human rights provisions of the Constitution must be interpreted in line with the State party's international obligations. The Ombudsman's Office had filed four constitutional complaints with the Constitutional Court between 2010 and 2013. It received individual complaints covering a broad range of rights violations, and was preparing to apply to the International Coordinating Committee of National Human Rights Institutions for accreditation under the Paris Principles.

6. All births in Latvia were registered and a child was granted Latvian nationality if at least one parent so desired. The Office of Migration and Citizenship Affairs disseminated information regarding the acquisition of Latvian citizenship. Non-citizens (former USSR citizens left without nationality after 1991) enjoyed full access to social services and employment opportunities, except in the judiciary and national security agencies.

7. The Ombudsman's Office and the State Labour Inspectorate considered complaints of differential treatment in employment on the basis of gender and the Gender Equality Committee met on a regular basis. Persons found guilty of discriminatory acts on the basis of gender could be found administratively or even criminally liable, and victims were entitled to file civil complaints for damages. The perpetrators of domestic violence could be held liable for a variety of specific offences under criminal law. The use of violence or threat of violence against the spouse or a relative of the perpetrator was regarded as an aggravating circumstance. As of 2014, victims of violence or stalking would be able to apply to the courts for appropriate protection measures, or civil protection orders, against the perpetrators. All cases of death in custody and mental institutions, or while on military service, were systematically investigated.

8. Legislation had been amended in order to clarify the definition of torture. Training sessions for law enforcement and prison officers were designed to raise their awareness of the unacceptability of any form of ill-treatment and the need to investigate such acts. A new institution for their investigation would be established under the supervision of the Ministry of the Interior. The Office of the Prosecutor-General oversaw criminal proceedings, including those involving alleged ill-treatment by public officials.

9. Decisions to place persons involuntarily in mental institutions were reviewed by the courts and could be challenged by the patients. Physical restraints were applied only as a last resort and for the shortest time possible. The Ministry of Health, the Ombudsman's Office and health professionals were working on amendments to legislation that would expressly safeguard all the fundamental rights, including the right to privacy and to contact relatives, of patients placed in mental institutions against their will. New regulations had been introduced governing the accelerated procedure for asylum seekers, voluntary departure and deportation.

10. Domestic law included safeguards to prevent arbitrary detention. Twelve prisons in the State party had undergone renovation in the period under consideration. The findings of a commission established in 2013 to examine prison conditions would form the basis for further improvements. A series of steps had been taken to improve the provision of health care to detainees. Latvian and foreign nationals, including asylum seekers, and non-citizens and stateless persons were entitled to State-funded legal aid. The right of victims of violent crime to compensation was guaranteed by law. New legislation on the electronic media was designed to promote freedom of expression and unhindered public debate. All members of national minorities had the right to maintain and develop their own language, and ethnic and cultural identity.

11. **Ms. Seibert-Fohr** welcomed the State party's accession to the Second Optional Protocol to the Covenant in 2013. She asked whether the provisions of human rights treaties to which Latvia was a party in fact took precedence over domestic law, and what was done in practice to implement the Committee's Views on individual communications. The decision reached in the *Raihman v. Latvia* case was welcome but had come almost four years after the Views had been issued.

12. The breadth of the mandate of the Ombudsman's Office was impressive but it was difficult to see how such an institution, which employed 40 staff members and had received 2,500 complaints in 2013, could operate effectively on a budget of €1 million, which had

been cut by one third in 2010. She asked whether recommendations by the Office to remedy flaws in anti-discrimination legislation had been followed up by parliament.

13. Non-citizens made up 13 per cent of the population. They had the right of permanent residence but were excluded from holding public office, standing for election or holding jobs in some areas of the civil service such as the courts. The reduction in the number of non-citizens in the State party had in large part been due to mortality, the acquisition by some of other nationalities and emigration. Language-proficiency requirements appeared to deter many non-citizens, especially the elderly and people living in non-Latvian-speaking environments such as border areas, from attempting to obtain Latvian nationality. She asked how many minors in Latvia still had no nationality and why the State party did not automatically grant citizenship to all children born there.

14. The Committee was concerned that the State party's language policy could jeopardize the enjoyment of certain rights under the Covenant. While foreign nationals had the right to receive replies from Government bodies in the language in which they approached them, non-citizens received such communications only in Latvian. She asked whether it was true that detainees, even if non-citizens or foreign nationals, were allowed to file complaints only in Latvian, and why it was necessary to issue regulations on which languages could be employed in public events. Was it true that the Latvian language-proficiency requirement applied to almost 100 private sector professions, ranging from doctors to waiters, and that substantial fines were imposed on those whose command of the language was judged inadequate?

15. **Mr. Fathalla** asked whether any means had been found to overcome the gender earnings gap that persisted in the State party: women tended to earn between 13 and 17 per cent less than their male counterparts. Regarding complaints of unequal treatment at work, he welcomed information on labour inspections and the initiation of 18 legal cases. He wished to know whether any criminal punishment had been imposed, and whether any compensation had been paid to victims of labour discrimination. He asked whether appropriate positive measures had been taken with regard to implementation of articles 3 and 36 of the Covenant, as requested by the Committee in its previous concluding observations (CCPR/CO/79/LVA), particularly in the public sector, Government and decision-making bodies. He also wished to know how the Government dealt with complaints received by the Ombudsman. He would appreciate information on measures taken to implement the Gender Equality Action Plan 2012–2014; examples of measures in the four areas of action would be particularly welcome. He wished to know whether there was a general provision in law prohibiting incitement to hatred and, if so, what punishment that offence would incur. He would be interested to hear about examples of remedies granted in hate-related cases.

16. **Ms. Waterval** said that while she welcomed measures to combat trafficking in persons, she wondered how the State party defined vulnerable groups in its legislation. Refugees and asylum seekers should be recognized as being vulnerable to trafficking. She wished to know why there were so many more criminal proceedings initiated under article 165 of the Criminal Law on transporting persons for sexual exploitation than under article 154 on human trafficking. She would also be interested to know why there was a discrepancy between allocations for State-funded social rehabilitation to male and female applicants.

17. Law enforcement appeared weak with regard to labour trafficking, and no investigations into cases of such trafficking had been initiated in 2012, despite reports of incidences. She wondered why that was the case, and asked whether any investigations had been made in 2013. Information available to the Committee suggested that most victims of trafficking in Latvia were of Latvian nationality. Were the perpetrators also Latvian? She asked how the State party ensured that its law enforcement services were equipped with

sufficient financial and human resources to address trafficking in persons. The perpetrators of trafficking were continually inventing sophisticated methods of recruiting victims. Were the law enforcement services as adept at finding sophisticated ways of addressing the problem? She wished to know what measures the State party had taken to eliminate the cross-border trafficking of young women. She wondered how the statistics gathered on trafficking were used in efforts to combat that phenomenon.

18. She would appreciate information on the results of efforts to overcome violence against women. She asked why neither domestic violence nor marital rape was specifically categorized as a criminal offence in Latvian legislation. She wished to know how perpetrators of domestic violence were rehabilitated. Lastly, she welcomed information on the State party's intention to introduce new legal instruments to ensure safety for victims of violence or stalking.

19. **Mr. Vardzelashvili** said that in 58 cases relating to deaths in detention facilities proceedings had been terminated without judgement. He wished to know whether there had been satisfactory evidence that those deaths could not have been prevented. According to the information provided by the State party, more than half of deaths in psychiatric institutions resulted from diseases of the circulatory system. He wished to know whether records were kept of the ages of psychiatric patients who died in care institutions, and whether measures were taken to ensure proper medical treatment in those facilities. He asked whether the authorities were satisfied that the care and conditions in the facilities were adequate. Were treatment conditions monitored, problems identified and recommendations for improvement made?

20. Regarding the definition of torture in the State party's legislation, he hoped that the planned revisions would reflect the definition of torture contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He asked whether acts that constituted torture under the current definition were subject to the statute of limitations. While he welcomed efforts to improve detention conditions, he wished to know what measures had been taken to overcome the high incidence of inter-prisoner violence. International and regional organizations had reported that, although the prison authorities were aware of problems related to violence, preventive measures were not taken. During the period from 2004 to 2013 only 33 complaints had been filed on violence perpetrated by prison officers. Proceedings in those cases had been terminated. He asked to what extent the Government considered the facts of those cases to have been properly investigated. Given that so few complaints had been filed, he wondered whether prisoners had adequate opportunity to lodge complaints against prison officers. With regard to the statistics on compensation for victims of violent crime, he wished to know whether they included victims of torture or ill-treatment.

21. The Committee had been informed that dangerous prisoners and those sentenced to life imprisonment were always handcuffed when escorted inside a detention facility. He wondered why the need for handcuffing was not assessed on a case-by-case basis. He had been encouraged by information from the State party about the intention to establish an independent mechanism for investigating complaints against police and prison officers. He asked whether a single body would be established for that purpose, or whether complaints against police officers would be dealt with separately from complaints against prison officers. He would be interested to hear more about the structure of such a body. Care should be taken to avoid establishing an institutional hierarchy. He asked whether methods were in place for assessing the impact of monitoring law enforcement.

22. **Mr. Shany** requested clarification on naturalization procedures for persons with intellectual disabilities. Were they exempt from the language and history tests required? The Committee had been informed that persons who were exempt from the citizenship tests

often still did not have the legal means to complete the naturalization process. He would be interested to hear the delegation's views on that matter.

The meeting was suspended at 4.25 p.m. and resumed at 4.55 p.m.

23. **Ms. Līce** (Latvia) said that in the event that Latvia was found to be in violation of international law, her Government would consider whether the violation was the result of a problem of a systemic nature that required an amendment to domestic law, or whether it was the result of an exceptional circumstance. A decision would then be taken as to how to prevent similar cases from occurring again.

24. There had been two cases in which the Committee had found Latvia to be in violation of the Covenant. As a result of the first case, *Ignatane v. Latvia* (CCPR/C/72/D/884/1999), in which a Latvian citizen of Russian origin had been prevented from standing for election on the grounds that she did not have the required proficiency in the Latvian language, Latvia's electoral law had been amended to take account of the Committee's decision. In the second case, *Raihman v. Latvia*, regarding the complainant's right to transcribe his name in the Jewish form rather than the Latvian form as imposed by the Latvian authorities, the Constitutional Court had not refused to examine the case on the merits but had referred it to a court of general jurisdiction.

25. With regard to the impact of the Covenant on domestic jurisprudence, she said that every effort was made to ensure that the provisions of domestic law were in line with the international law to which Latvia was party. In one case, the Constitutional Court had found a domestic legal provision on the need to seek municipal permission before holding a public gathering to be incompatible with the Covenant. The Constitutional Court had deemed that provision to be an impermissible restriction on freedom of association. Domestic law had thus been amended and the requirement to seek permission to hold a public gathering had been removed.

26. **Mr. Makarovs** (Latvia) said that budget cuts to the Ombudsman's Office had been the result of an extraordinary situation and could clearly not have a positive effect on the Office's capacity to perform its work. Unfortunately, the State had been severely affected by the economic hardship and taken the necessary austerity measures. It was hoped that as Latvia emerged from economic crisis, the situation would be rectified. The Ombudsman continued to do excellent work, despite the harsh financial conditions.

27. The Government recognized the challenges relating to the naturalization of non-citizens. Surveys were being conducted with a view to determining the reasons for the reluctance of non-citizens to apply for citizenship. The results of the surveys would be used to improve the naturalization procedure.

28. The recent amendments to the Citizenship Law had greatly simplified the procedure for granting citizenship to children of non-citizens or stateless persons. Such children born after 21 August 1991 must be recognized as Latvian citizens at the time of birth registration if at least one parent wished them to be, and parents were always asked to choose their child's citizenship status at the time of registration. Children up to the age of 15 years who had not been recognized as citizens at birth could be recognized upon application by one or both parents, while those between 15 and 18 could lodge an application themselves.

29. The purpose of the Government's language policy was twofold: to preserve the Latvian language and to provide for the integration of national and linguistic minorities in society while ensuring their right to use their native language. The State funded education in seven minority languages, including Russian. While the standard procedure was for the Government to reply in Latvian to all communications it received, replies were provided in English or Russian to non-residents when needed. In practice, oral and written explanations were also provided in Russian to residents when necessary, and several Government

ministries maintained bilingual or multilingual websites. It was important to note the historical context of the language policy, as during the Soviet period there had been a persistent worry that the Latvian language would die out completely.

30. There were no restrictions on the language used in private meetings or conferences. As to public events, if anyone present required interpretation into Latvian it must be provided by the municipality or the State. Ability to communicate in the State language was one of the skills required to hold a position in the public sector. Employees in the private sector who dealt with customers were also required to speak Latvian at a certain level of proficiency, but it was not necessary to speak flawlessly or without an accent.

31. **Mr. Citskovskis** (Latvia) said that, with regard to the naturalization examination, persons classified as having a group one disability or a group two disability (which included intellectual disabilities) and persons who had received at least half of their basic education in the Latvian language were exempt from the requirement to demonstrate fluency in that language and knowledge of the Constitution, national anthem, history and culture. Persons who had passed a centralized examination in Latvian or attended higher education in that language were also exempt from the language portion of the naturalization examination. Persons over 65 years of age were required only to pass the oral portion of the examination.

32. As a result of the aforementioned changes in the procedure for granting Latvian citizenship to children of non-citizens or stateless persons, the number of such children who acquired citizenship had increased sharply. Non-citizen children enjoyed all the rights that children with citizenship enjoyed. Indeed, unlike citizens, they benefited from visa-free travel to States members of the Commonwealth of Independent States. For that reason, some parents wished to retain non-citizen status for their children, and the relevant law had been amended to accommodate their wishes. Overall, however, the number of children of non-citizens who did not hold citizenship themselves was decreasing from year to year.

33. **Ms. Līce** (Latvia) said that the Criminal Law had been thoroughly reformed in 2005 and that torture was included in that Law under several offences, such as war crimes, crimes against humanity and violence against subordinates. Torture was also included as an aggravating element in various provisions, such as the article establishing criminal responsibility for compelling an individual to give false testimony. The definition of torture itself was contained in the Criminal Procedure Law.

34. The Criminal Law classified rape as a criminal offence and established it as an aggravating circumstance in the case of an offence perpetrated against a family member or dependant. Those two provisions together ensured that marital rape was punished more severely than other rape cases. The Committee's concerns about the lack of individual risk assessment of persons serving life sentences echoed those of the European Court of Human Rights, which had found a violation by Latvia in a recent case. In response to that decision, regulations had been amended and individual risk assessments were now conducted every six months to determine whether restrictions on personal freedoms, such as handcuffs, were necessary. The Government would continue to monitor implementation of the new procedure to ensure that the assessment committees were properly funded and staffed.

35. **Mr. Makarovs** (Latvia) said that non-citizens enjoyed access to the labour market on an equal footing with citizens. They enjoyed all other rights, apart from the right to hold political office and being subject to a few narrowly-defined restrictions on holding positions in the judicial system or positions that had a bearing on national security. Given that citizenship procedures were open to non-citizens, those restrictions did not pose any insurmountable difficulties for persons who wished to enter those professions.

36. **Ms. Seibert-Fohr** asked, with regard to the *Ignatane v. Latvia* case, whether elected members of parliament could serve their term of office without having to meet further

language proficiency requirements. Regarding the *Raihman v. Latvia* case, she wished to know why the author of the communication had been required to undertake lengthy court proceedings in order to obtain a passport. She asked how the State could reconcile its policies on the status of children of non-citizens with article 24 of the Covenant, which stipulated that every child had the right to acquire a nationality.

37. **Mr. Vardzelashvili** asked whether public events included only those organized by public authorities, or whether events organized by private individuals in public spaces were also subject to the requirement to provide interpretation. He welcomed the new regulations on individual risk assessments of prisoners serving life sentences and asked whether it was possible to challenge decisions taken on the basis of such an assessment. He was concerned that, by separating the definition of torture from the provisions in a separate piece of legislation criminalizing specific acts of torture, Latvian law might allow the application of a statute of limitations to certain acts of torture.

38. **Mr. Iwasawa** asked whether Ms. Līce, in her capacity as Government representative before international human rights organizations, made a distinction between judgements and decisions of the European Court of Human Rights, on the one hand, and Views and decisions of human rights treaty bodies, on the other, in her reports to the Government.

39. **The Chairperson** welcomed the recent amendments to the Citizenship Law but wished to know whether it would be applied retroactively to persons born between 21 August 1991 and the date when the amendments had been enacted. In cases where the parents chose to retain their children's status of non-citizen or stateless person, could the children reverse that choice once they reached the age of maturity? Lastly, he asked whether there was any context in which torture might be treated as an ordinary crime rather than a most serious crime, given the separation of the definition of torture from the provisions establishing liability under Latvian law.

40. **Ms. Līce** (Latvia) said that she followed the same structure when drafting her reports and submitting them to the Government on violations found by treaty bodies and those found by the European Court of Human Rights.

41. **Mr. Makarovs** (Latvia) said that his delegation would respond to the remaining questions at the next meeting.

The meeting rose at 6 p.m.