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Human Rights Committee Seventy-first session

Summary record of the 1898th meeting

Held at Headquarters, New York, on Monday, 19 March 2001, at 10 a.m.

Temporary Chairperson: Ms. Stamatopoulou-Robbins
(Special Representative of the United Nations High Commissioner for Human Rights)

Chairperson: Mr. Bhagwati

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The meeting was called to order at 10.45 a.m.

Opening of the session by the representative of the Secretary-General

1. **The Temporary Chairperson**, speaking on behalf of the United Nations High Commissioner for Human Rights expressed her best wishes for the success of the Committee's seventy-first session. Noting some Committee members' experience as special rapporteurs of the Commission on Human Rights, she stressed the importance of cooperation between the treaty body mechanisms and the special mechanisms of the Commission on Human Rights. In that context, she said that the Committee's experience with the Optional Protocol to the Covenant would serve as an example for the secretariat of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in implementing its own Optional Protocol, which had entered into force on 26 December 2000.

2. She noted that, with the ratification by Guatemala of the Optional Protocol to the Covenant in December 2000, the total number of States parties to the Protocol currently stood at 98. Moreover, the detailed comments made by Trinidad and Tobago on the Committee's concluding observations adopted after examination of Trinidad and Tobago's report showed that those observations were in fact taken seriously by States.

3. Recalling that 23 March would mark the twenty-fifth anniversary of the Covenant, she said that the commemorative session to be held the following week would provide an opportunity to celebrate the Committee's achievements, take stock, and weigh options for the future. Challenges might include universal ratification of the Covenant and of the Optional Protocol, especially by States of the Asia-Pacific region as part of the campaign for universal ratification of major United Nations human rights instruments; streamlining of State reporting procedure; and regular and consistent follow-up to the Committee's concluding observations and views under the Optional Protocol. She also expressed appreciation for the Committee's contribution to preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which would be convened in Durban, South Africa, from 31 August to 7 September 2001, and encouraged

the Committee to continue to follow the preparatory process.

4. Turning to the substantive agenda, she expressed hope that the revised general comment on article 4 of the Covenant relating to the issue of derogation from obligations under the Covenant during states of emergencies would be adopted at the current session and that the revision of the Committee's rules of procedure, begun the previous year, would be concluded in order to streamline the State reporting procedure and to address, inter alia, the problem of non-reporting States. The amendments were balanced and should be welcomed by all States parties.

5. She reiterated the High Commissioner's commitment to the work of the Committee; the High Commissioner had continued to lobby for greater support for treaty body activities, both at bilateral consultations with ambassadors and permanent representatives in Geneva and at a detailed briefing session for members of permanent missions in Geneva on 23 February 2001. Informal consultations on treaty body reform had also been convened in London by one delegation in February, which, with other scheduled consultations, demonstrated the commitment of States parties to the future of the treaty bodies system and to its reform. The High Commissioner would do her utmost to secure additional funds for treaty body support.

6. Furthermore, the support teams for treaty bodies within the Support Services Branch had been reorganized in December 2000 to allow for better coordination. A petitions team dealing primarily with complaints under the Optional Protocol but also with complaints under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination and article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been formally established in December 2000 and was reviewing its working methods; it had already succeeded in reducing the backlog in the handling of complaints and was dealing with incoming complaints in a more timely manner. That team would soon be in a position to provide the Committee with better and more timely services with regard to Optional Protocol activities.

Solemn declaration by the newly elected members of the Committee in accordance with article 38 of the Covenant

7. *At the invitation of the Temporary Chairperson, the new members of the Committee, Mr. Glèlè Ahanhanzo, Mr. Twafik Khalil, Mr. Rivas Posada, Sir Nigel Rodley, Mr. Shearer and Mr. Vella, solemnly undertook to discharge their duties impartially and conscientiously, in accordance with article 38 of the Covenant and rule 16 of the Committee's rules of procedure.*

Election of the Chairperson and other officers of the Committee

8. **Ms. Chanet** welcomed the increased representation from Africa among the members of the Committee and, noting that the Committee had never had a Chairperson from Africa, nominated Mr. Amor as Chairperson.

9. **Mr. Glèlè Ahanhanzo** seconded the nomination.

10. **Mr. Solari Yrigoyen** also expressed support for the nomination of Mr. Amor.

11. **Mr. Yalden** nominated Mr. Bhagwati as Chairperson, noting that he was the Committee's most senior member and had never been Chairperson.

12. **Mr. Henkin** seconded the nomination.

13. **Mr. Ando** noted that in the past the Chairperson had always been elected by acclamation and suggested that the meeting should be suspended to allow members to arrive at some consensus.

The meeting was suspended at 11.05 a.m. and resumed at 11.30 a.m.

14. **The Temporary Chairperson** informed the Committee that the informal consultations had not resulted in any consensus and, in accordance with rule 58 of the Committee's rules of procedure, she therefore invited the Committee to elect a Chairperson by secret ballot.

15. *At the invitation of the Temporary Chairperson, Mr. Schmidt (Secretary of the Committee), Ms. Morales (Secretariat) and Mr. Trengove (Office of Legal Affairs) acted as tellers.*

16. *A vote was taken by secret ballot:*

<i>Number of ballot papers:</i>	17
<i>Number of valid ballots:</i>	17
<i>Number of members voting:</i>	17
<i>Required majority:</i>	9
<i>Number of votes obtained:</i>	
Mr. Bhagwati:	10
Mr. Amor:	7

17. *Having obtained the required majority, Mr. Bhagwati was elected Chairperson.*

18. *Mr. Bhagwati (Chairperson) took the Chair.*

19. **The Chairperson** thanked the Committee for the confidence it had shown in him and called for nominations for three Vice-Chairpersons and one Rapporteur to complete the Bureau.

20. **Mr. Henkin** nominated Mr. Amor, Mr. Kretzmer and Mr. Solari Yrigoyen as Vice-Chairpersons and Mr. Klein as Rapporteur.

21. **The Chairperson** said he took it that the Committee wished to elect the nominees by acclamation.

22. *It was so decided.*

Adoption of the agenda

23. **The Chairperson** noted a change in the draft programme of work, namely, that the fourth periodic report of Yugoslavia would not be considered during the current session, since the delegation was unable to attend. The Committee would review communications and the general comment on article 4 during the time allocated for that report.

24. **Mr. Amor** congratulated the Chairperson on his election and assured him of his deep respect for him. He was certain that the Chairperson would be sensitive to the various geographical, cultural, legal and other differences represented on the Committee and would view them as constructive, rather than divisive, and that he would strike a new balance in the Committee that took into account both the provisions of the Covenant and specific contexts and realities.

25. He appealed for strict adherence to the practice of circulating documents in all the working languages of Committee members, and, if possible, never in a single language only.

26. He welcomed the new members, who brought valuable experience and skills.

27. With regard to the agenda and draft programme of work, he wondered whether Yugoslavia had given official notification of its cancellation and agreed that the time should be utilized to consider communications.

28. **Ms. Chanet**, too, congratulated the Chairperson and expressed the hope that he would help to restore unity to the Committee. Noting the increase in French-speaking Committee members, she supported Mr. Amor's request for circulating documents in all the working languages.

29. The reasons given by the Yugoslav authorities for their cancellation should be enumerated in a public meeting. In view of the new procedures applicable to last-minute cancellations, it would also be important to know when notification, if any, had been given.

30. **The Chairperson** confirmed that it had become the Committee's practice to circulate documents in all the working languages of Committee members.

31. **Mr. Schmidt** (Secretary of the Committee) said that, on numerous occasions, the Secretariat had been in touch with the Permanent Mission of Yugoslavia in order to ascertain whether a delegation would be present at the current session. At the end of January, the Secretariat had received a note verbale indicating that Yugoslavia would not be available to present its report on 21 March, owing to the recent change of government. The new Yugoslav authorities hoped to submit an addendum to the fourth periodic report in the near future.

32. **Sir Nigel Rodley** said that, in the light of political developments in Yugoslavia, it was perfectly understandable that the delegation should request a postponement. He wondered whether, upon receiving notification of such postponement, the Secretariat had taken any measures to identify an appropriate State to take Yugoslavia's place.

33. **Mr. Schmidt** (Secretary of the Committee) replied that, on the very day it had received the note verbale from Yugoslavia, a note verbale had been addressed to the Permanent Mission of Guatemala, which had replied that it would not be available as it had concurrent reporting obligations with the Organization of American States.

34. **Mr. Klein** congratulated the Chairperson on his election and thanked Mr. Amor for agreeing to be a candidate for Chairperson. While the secret ballot may

have been unprecedented in the history of the Committee, it was not unusual or bad in itself, but rather demonstrated respect for democratic procedure and the Committee's ability to resolve its problems successfully. He welcomed the new members of the Committee, who clearly had much to contribute.

35. He wondered whether any proposals had already been put forward for the programme of the commemoration of the twenty-fifth anniversary of the adoption of the Covenant on the morning of 27 March or whether that would be one of the first tasks to fall to the new Chairperson and Bureau.

36. **Mr. Schmidt** (Secretary of the Committee) clarified that the commemoration would be held in the afternoon of 26 March. The previous Chairperson and Bureau had already been consulted on the programme of events, which would be one of the first items to be taken up by the new Bureau at its meeting on 21 March.

37. **Mr. Solari Yrigoyen** congratulated the Chairperson on his election and Mr. Amor on his election as Vice-Chairperson. While recognizing that Yugoslavia had undergone a drastic change of government, countries' legal obligations must continue to be fulfilled in such situations. The Yugoslav authorities should have appeared before the Committee as scheduled, just as other countries had done when their Governments had changed. The Committee was well aware that it had to make certain allowances for new Governments. Guatemala's reply to the Committee's last-minute request also illustrated that most potential "replacement countries" would not be prepared to depart from their originally scheduled date to appear before the Committee. A general criterion should be established that a change of government was not an acceptable excuse for last-minute cancellations, which hampered the Committee's work.

38. **Mr. Yalden** congratulated the Chairperson and the new Bureau, particularly, Mr. Amor, whom he was pleased to see on the new Bureau. He agreed with Mr. Klein that the first election ever held for Chairperson did not cast any aspersion on the Committee.

39. He expressed support for Ms. Chanet's and Mr. Amor's pleas to circulate documents in all working languages, and in particular, to give greater weight to languages other than English. The Committee would shortly be confronted by a problem of language,

namely, that Venezuela's written responses to the list of issues, dated 16 March, was available in Spanish only. In addition, the new Constitution of Venezuela, which would be of paramount importance in reviewing its report, also seemed to be available in Spanish only. He wondered whether the Secretariat knew of any English or French translations.

40. **The Chairperson** said that he appreciated the time constraints on the translation services. Perhaps the delegation of Venezuela could provide full oral responses to compensate.

41. **Mr. Schmidt** (Secretary of the Committee) said that there was no available English or French translation of the Venezuelan Constitution.

42. *The provisional agenda and draft programme of work, as orally amended, were adopted.*

Organizational and other matters

(a) Report(s) of the Chairperson/Rapporteur(s) of the pre-sessional working group(s)

43. Mr. Ando, speaking in his capacity as Chairperson of the Working Group, said that the Working Group, composed of Mr. Amor, Mr. Bhagwati, Mr. Henkin, Mr. Klein, Mr. Solari Yrigoyen, Mr. Yalden and himself, had held 10 meetings between 12 and 16 March. It had adopted, for the Committee's summer session, draft lists of issues relating to Azerbaijan, the Czech Republic, the Democratic People's Republic of Korea, Monaco and the Netherlands, and had heard representatives of the International Labour Organization, the Office of the United Nations High Commissioner for Refugees and three non-governmental organizations on the situation of civil and political rights in Azerbaijan, the Democratic People's Republic of Korea, the Dominican Republic, the Syrian Arab Republic and Venezuela.

44. Under the Optional Protocol, the Working Group had considered 13 draft decisions and decided to declare three communications admissible, recommend inadmissibility in four cases and review five draft Views. It had adopted one decision under rule 91, requesting additional information from the Government concerned.

45. Three cases remained pending before the Working Group — one draft of the Committee's Views and two draft decisions in favour of inadmissibility.

The Group might reconvene informally to deal with those three drafts. The Committee would also have before it three or four draft recommendations from the Special Rapporteur for New Communications, which had not been received on time for the Working Group's session.

46. The two previous Working Groups — on communications and lists of issues respectively — had now been consolidated into a single Working Group, which had been reduced from nine to seven members. The Working Group had thus been convening in both the morning and afternoon and had not had as much time to study initial drafts.

47. As the Working Group would have recommended devoting one of the meetings scheduled for the fourth periodic report of Yugoslavia to communications and one to the general comment on article 4, it supported the Chairperson's decision to utilize the time in that manner.

48. While it had been possible in some cases to condense the lists of issues, in others it had not. He therefore urged flexibility during the current and forthcoming sessions of the Committee in departing, where necessary, from the general rule of allocating three meetings for initial reports and two meetings for periodic reports.

49. In the case of the Spanish-only addendum to Venezuela's report, he urged Committee members to show understanding.

50. Lastly, the Working Group requested clarification of the new and stricter guidelines on travel arrangements. In order to economize, some Committee members had had to reschedule not only their flights but their dates of departure. While Committee members wished to cooperate with the Organization's budgetary policies, major changes in travel arrangements prevented them from making optimal use of their available time. The Bureau might wish to consider that question.

51. **Mr. Amor** requested that the issue of travel arrangements should be discussed in a closed meeting.

52. **The Chairperson** agreed.

(b) Working methods; amendments to rules of procedure

53. **Ms. Medina Quiroga** urged Committee members to agree to some minor amendments to the rules of procedure, proposed during the Committee's autumn session, in order to expedite their official publication.

54. **Mr. Scheinin** endorsed the suggestion by Ms. Medina Quiroga. He also wished to raise the issue of languages. In addition to the replies received from Venezuela to the Committee's questions, there was now an addendum to the report, in Spanish only. According to the date of the document, Venezuela had complied with the rule that reports should be submitted at least 10 weeks before the beginning of the session. If that was so, and the translation services had nevertheless found it impossible to produce a translation in time, it might be necessary to amend the guidelines, so that the legitimate expectations of States parties for the translation of their reports were not defeated.

55. **Ms. Morales** (Secretariat) said that the document in question had been treated by the previous Secretary of the Committee as a core document, rather than as an amended version of the report. Translations had been requested for 31 January, but had not yet been received, and the document had therefore been distributed in Spanish only.

56. **Mr. Solari Yrigoyen** said he sympathized with the complaints of his colleagues about the lack of translations. There was also the problem of the sheer length of the documents received from Venezuela. In addition to the third periodic report, there was now a supplementary report of over 60 pages, which the Committee hardly had time to read even in Spanish.

57. **The Chairperson** agreed that the presentation of three documents from Venezuela in Spanish only, none of which had been translated, was a real problem for the Committee, especially since consideration of Venezuela's report was due to begin at the next meeting.

58. **Mr. Amor** suggested that the Committee should deal straight away with the amendments to its rules of procedure and the new unified guidelines. As for the reports from Venezuela distributed in Spanish only, the Committee could not make use of them. It would have to rely, in its discussions with Venezuela, on the materials previously available, and turn to the new

documents if the translations were issued in the course of the session.

59. **Mr. Scheinin** said he did not object to using the reports distributed in Spanish only as supporting documentation, provided the representative of Venezuela was made aware of the situation and did not assume the Committee members were familiar with their contents.

60. **The Chairperson** agreed. He suggested that the Committee should proceed to adopt the minor amendments to the rules of procedure discussed but not yet adopted in their entirety at the seventieth session in October 2000, as set out in CCPR/C/70/INFORMAL/4/Rev.3.

61. **Ms. Medina Quiroga** said she could accept all the amendments outstanding from the Committee's previous session.

62. **Sir Nigel Rodley** pointed out that they were not all formulated as textual amendments, and more drafting was needed.

63. **Ms. Chanet** said that there were some tricky issues involved. She suggested that the Working Group, which was already dealing with the working methods of the Committee, should finalize the text of the amendments and bring it to the Committee for adoption. She asked what had happened to the revised draft of rule 1.

64. **Mr. Klein** agreed with the previous speakers; new members of the Committee needed time to absorb the basic reference documents and the changes proposed at the previous session. The Working Group had made suggestions for the concluding observations of the Committee, and its suggestions should be applied as soon as possible. However, a draft text for the amended rules of procedure must first be prepared, and the changes could then be acted upon from the second week of the Committee's session.

65. **The Chairperson** suggested that the existing Working Group, with the addition of one new member — he suggested Sir Nigel Rodley — should consider the proposed amendments and submit them to the Committee for adoption during the second week of its session.

66. *It was so decided.*

(c) World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

67. **The Chairperson** said that the Committee's contribution to the World Conference would be reflected in the report of the United Nations High Commissioner for Human Rights to the Preparatory Committee, which would begin its session on 21 May in Geneva.

68. **Mr. Schmidt** (Secretary of the Committee) explained that Mr. Solari Yrigoyen would be representing the Committee at the session of the Preparatory Committee, and by that time the Committee's contribution should be available in all the working languages.

69. **Mr. Yalden** asked why the Committee's contribution to the World Conference featured on the agenda of the current session, if it was already in final form.

70. **Mr. Schmidt** (Secretary of the Committee) said the Committee did not in fact need to consider the item further.

71. **Mr. Solari Yrigoyen** introduced his report on the Preparatory Conference of the Americas for the World Conference, held from 5 to 7 December 2000 in Santiago, Chile, which he had attended on behalf of the Human Rights Committee. The Preparatory Conference had been attended by about 500 people from 35 countries of the continent, including representatives of intergovernmental and non-governmental organizations and observers for United Nations human rights bodies. Speaking at the inaugural meeting, the United Nations High Commissioner for Human Rights had observed that the region of the Americas had many racial, ethnic, cultural and linguistic groups. In order to look positively towards the future it was important to face past and present realities, including the problems of indigenous peoples, migrant workers, and Americans of African and mixed racial origins.

72. The Conference, with a Chilean chairperson and six vice-chairpersons from Barbados, Brazil, Canada, Costa Rica, Ecuador and Peru, had discussed five topics: the sources of racism, racial discrimination, xenophobia and other forms of intolerance; victims of racism; remedies, compensation and other measures at the national, regional and international levels; preventive and protective measures to eradicate racism;

and strategies to achieve complete equality, including international cooperation and other international mechanisms to combat racism. From the perspective of the Government of Chile, the Conference had underscored its own commitment to human rights and had reflected the emergence, since the end of the cold war, of new phenomena such as globalization, which affected relations both among States and among individuals.

73. The final document and plan of action of the Conference had been the subject of heated debate in the Drafting Committee, and could not be adopted by the plenary, because of the controversy surrounding the denomination of indigenous peoples and the possible inclusion of compensation for past discrimination in the Americas. However, it was agreed that the roots of racism lay in colonialism and in the political and socio-economic structures imposed during the colonial era, and that colonialism and slavery had in turn engendered racism and racial discrimination. The value and diversity of different cultures and the heritage of the indigenous peoples had been recognized, and it had been acknowledged that persons of African origin had suffered a long history of injustice and discrimination, which now called for affirmative action as well as policy decisions. The final document and plan of action were part of the report which he was submitting.

74. **Mr. Amor**, supported by **Ms. Chanut**, said that in preparing for the forthcoming World Conference, the Committee must tackle fundamental issues such as the question of compensation. On that point, the Committee had already adopted a position.

75. **The Chairperson** observed that the Committee had previously appointed one of its members, Ms. Gaitán de Pombo, whose term had expired, as focal point for the right to development.

76. **Mr. Amor** suggested that Mr. Glèlè Ahanhanzo could act as a replacement.

77. **Mr. Glèlè Ahanhanzo** said that as a new member, and not being an expert in development, he preferred to wait until he was more familiar with the Committee's procedures before taking on such a role. Moreover, he was continuing to act as Special Rapporteur for the World Conference until the end of the year.

The meeting rose at 1 p.m.