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Summary record of the second part (public)* of the 1925th meeting

Held at Headquarters, New York, on Thursday, 5 April 2001, at 4.30 p.m.

Chairperson: Mr. Bhagwati

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* The summary record of the first part (closed) of the meeting appears as document CCPR/C/SR.1925.

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The public part of the meeting was called to order at 4.30 p.m.

Organizational and other matters *(continued)*

Follow-up progress report submitted by the Special Rapporteur for Follow-Up on Views (CCPR/C/71/R.13)

1. **Ms. Chanet** said that, in March 2000, she had assumed Mr. Pocar's mandate as Special Rapporteur for Follow-Up on Views. The report under consideration covered the intervening period. There had been various changes in the secretariat that had resulted in delays in the preparation of the report, but it would be completed before July, so that it could form part of the annual report of the Human Rights Committee.

2. With regard to her activities during the year since she had assumed the mandate, she had met with senior representatives of 10 States: Australia, Austria, Canada, Madagascar, Netherlands, Nicaragua, Peru, Suriname, Togo and Zambia. She intended to contact the Peruvian mission in Geneva in July, because the situation in that country had changed and there were encouraging signs, in particular a new law, which should permit the application of some of the decisions of the Committee and also of the supervisory organs of the Inter-American Convention on Human Rights. In addition, she planned to meet with the Spanish mission, because Spain had replied positively concerning its follow-up to the Committee's recommendations, and with the Czech Republic, as she had received information that some progress was being made.

3. The representatives of Angola, the Democratic Republic of the Congo and the Republic of Korea should be contacted, because there had been no communication with those countries for several years; it was also necessary to request Georgia to confirm newspaper articles according to which the author of communication No. 623/1995 had been released from prison.

4. She would appreciate the Committee's guidance with regard to *Aage Spakmo v. Norway* (No. 631/1995), and also on the various cases in Jamaica and Trinidad and Tobago, where nothing had been done since the sixtieth session, pending a mission that had never materialized. Both the latter countries had denounced

the Optional Protocol, and the situation of pending cases needed to be clarified.

5. Although the current follow-up procedure was inadequate, there were various ways in which it could be strengthened. First, meetings could be organized with senior State representatives when their country reports were submitted to the Committee; that approach had been attempted in the case of Peru and Australia with relative success.

6. Secondly, the means available to ensure that States parties heeded the Committee's views should be reinforced. At present, there was merely a phrase at the end of the communication to the effect that, as a signatory to the Optional Protocol and in accordance with article 2 of the Covenant, the State party should comply with the Committee's recommendations. In general, States parties reacted to that in three ways: either their representatives said that they were unaware of the case and requested a note verbale for the national authorities; they alleged constitutional obstacles that could not be overcome; or they disagreed with the Committee's views.

7. The Special Rapporteur was therefore very restricted in the actions she could take, and it might be necessary to change the procedure. She urged the members of the Committee to pay more attention to what it expected States parties to do in following up its recommendations, in order to prevent the communications from becoming merely an occasion for academic discussion. The delegations tended to say that the Optional Protocol was not binding and that the Committee was merely delivering an opinion; therefore, the Committee ought to discuss how to give greater legal effect to its views. One way of proceeding would be to make use of press conferences in the case of States that did not cooperate; another would be to modify the annual follow-up report to include more information on specific cases; lastly, the missions contemplated in the plan of action should be carried out. In that respect, perhaps the secretariat could provide information on why the budgeted funds had not been available for that activity.

8. **Mr. Amor** asked whether, in the case of *Waldman v. Canada* (No. 694/1996), the State had simply declared that the constitutional obstacles could not be overcome or had asserted the principle of the supremacy of the Canadian Constitution over the Covenant.

9. **Ms. Chanet** said that the problem resided in the fact that it was the Constitution of Ontario, not the Canadian Constitution, that favoured Catholic schools. Since education was the responsibility of the provinces in Canada, the Federal Government could not intervene.

10. **Mr. Shearer** said that the situation appeared to parallel a case in Australia involving Tasmanian laws on homosexuality. However, under the Australian Constitution, the Federal Government could override the powers of the States, and even their constitutions, which was not the case in Canada.

11. **Ms. Medina Quiroga** asked whether there had been any progress with regard to *García v. Ecuador*, as there was no mention of that case in the report. She had received a petition from the Ecumenical Commission requesting help to ensure compliance with the Committee's Views and had forwarded it to the secretariat for the attention of the Special Rapporteur.

12. **Ms. Morales** (Office of the United Nations High Commissioner for Human Rights) said that she would look into the matter and inform the Special Rapporteur.

13. **Mr. Ando** said that the Committee should consider how to reinforce the legal basis of its Views. In 1993, he had proposed an amendment to the Optional Protocol to give the Committee's Views binding force. However, at that time the other treaty bodies did not have optional protocols, and his proposal had not been taken up.

14. **The Chairperson** recalled that four treaty bodies now had optional protocol bodies and that the situation might have changed. He then asked the secretariat to explain what had happened to the funds that had been earmarked for the visits to Trinidad and Tobago and to Jamaica.

15. **Ms. Morales** (Office of the United Nations High Commissioner for Human Rights) said that she was not aware that funds had been specifically reserved for such visits. A plan of action had been submitted with a request for \$3.6 million; however, only \$2.5 million had been received, and priority had been given to recruiting staff to deal with the backlog of work rather than to follow-up activities. She suggested that States parties should be encouraged to contribute the full amount requested, in order to finance all the Committee's proposed activities.

16. **Ms. Chanet** said that the Special Rapporteur for Follow-Up on Views needed a fixed budget in order to carry out her task adequately and ensure that the Committee's recommendations were complied with.

The public part of the meeting was suspended at 5.20 p.m. and resumed at 6.05 p.m.

17. **The Chairperson** said that, with regard to the periodic reports, it was proposed that the Syrian Arab Republic should be asked to submit a full report in two years' time, Uzbekistan in three years, Venezuela and the Dominican Republic in four years and Croatia in five years.

18. **Ms. Chanet**, supported by **Mr. Scheinin**, said that because of the tragic experiences in the region, five years was too long for Croatia.

19. **Ms. Medina Quiroga** proposed that Croatia should be requested to submit another periodic report in four years.

20. *It was so decided.*

The public part of the meeting rose at 5.20 p.m.