



**International Covenant on Civil and
Political Rights**

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**Human Rights Committee
Ninety-eighth session**

Summary record of the 2713th meeting

Held at Headquarters, New York, on Friday, 26 March 2010, at 10 a.m.

Chair: Mr. Iwasawa

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The meeting was called to order at 10.20 a.m.

Organizational and other matters (*continued*)

Announcement of Bureau decisions

1. **The Chair** announced the status of the communications considered under the Optional Protocol as at the end of the current session. The Committee had dealt with a total of 33 communications: it had declared 11 communications inadmissible and 17 admissible; it had found violations of the Covenant in 15 cases and had decided to discontinue consideration of five communications.

2. As part of its work under article 40 of the Covenant, the Committee had considered the reports of Mexico, Argentina, Uzbekistan and New Zealand and adopted concluding observations for each. At its next session, the Committee intended to consider the reports of Estonia, Israel, Colombia and Cameroon. The Committee also intended to adopt lists of issues for Mongolia, Slovakia, Togo, Kazakhstan, Ethiopia and one country to be considered in the absence of a report.

3. The Bureau had recommended that by October 2010, all States parties with initial reports overdue by more than 10 years should be informed that if they did not submit their reports by a specified deadline, they would be subjected to consideration in the absence of a report.

4. The Committee had made progress in its first reading of draft general comment No. 34 and hoped to finish that reading at the following session. Revisions to the reporting guidelines had also been considered and would be taken up again at the following session. Consideration of the modalities of implementation for the new system of lists of issues prior to reporting would also be resumed at the ninety-ninth session.

5. The format of the inter-committee meeting of the human rights treaty bodies had changed to focus on a specific theme. The next meeting was scheduled to take place in June and would deal with the question of focused reports on the basis of lists of issues prior to reporting. The Bureau had nominated Mr. Iwasawa, Chair of the Committee, and Ms. Keller to represent the Committee at the meeting.

6. The 100th session of the Human Rights Committee would be held in October 2010. There had been some discussion of holding an event to commemorate the anniversary on the final day of that

session. A planning committee had been formed and had held its first meeting the previous day. The plan had originally been to hold a one-day meeting on the last Friday of the session, but the planning committee had since recommended holding the event on the last Wednesday, 27 October, instead. The programme for the event would be drawn up by the planning committee.

7. **Mr. O'Flaherty** asked what was being planned for the event and why the proposal to hold it on the Friday was no longer being considered.

8. **Sir Nigel Rodley** echoed Mr. O'Flaherty's question about why the event — one that would not be advancing the Committee's regular work — could not be held on the Friday, a day on which the Committee was already scheduled to be present.

9. **The Chair** said that, as attendance was generally poor on the last Friday of a session, the planning committee had decided that it would be preferable to hold the event on a Wednesday.

10. **Mr. O'Flaherty** requested that the planning committee reconsider its decision. It would be better to hold the event on the Friday, since that would be an appropriate use of resources and would not distract from the Committee's work.

11. **Mr. Thelin** supported the request to reconsider holding the event on the Friday and also asked what the events of the day were likely to be.

12. **The Chair** said that he would transmit the Committee's views to the planning committee.

13. **Mr. Salvioli** said that it would have been helpful if the planning committee had explained the reasons for proposing to hold the event on the Wednesday rather than the Friday. Since he was usually present throughout the session, he had no particular preference for either day. However, the decision could not be delayed any further because invitations would need to be sent out.

14. **Ms. Chanet** said that she had been against holding the event on the Friday because the Committee did not usually meet in the afternoon of the final day and often had trouble achieving a quorum in the morning. The date would concern not only the members of the Committee but also high-level guests and others to whom invitations would be extended. Of course it would be impossible to suit everybody, but if

the proposed date did not suit anybody other than the Committee members themselves, there needed to be some flexibility to change it.

15. **Sir Nigel Rodley** agreed that attendance was often poor on the last Friday of a session but said he did not believe that members of the Committee would want to miss such a special event. If they were absent, they would be unable to contribute to the discussion, which would be a shame, but it would be their own decision.

16. The availability of planned invitees was important and he would have supported the idea of contacting them in advance to verify their availability if there had been more time, but it was too late for that. Perhaps the planning committee, in consultation with the Secretariat, could quickly contact potential high-level speakers by telephone to ascertain whether they would be able to attend on the Friday and if not, whether more of them could attend if the event were held on the Wednesday. In any case, it must be decided quickly so that the invitations could be sent.

17. **Mr. Fathalla** said that, since the Committee usually finalized its work on the final Friday of the session, it might not be appropriate to hold the event that day. Perhaps if the Committee could finish its work on the Wednesday, the celebration event could be held on the Thursday and then the session could close as normal on the Friday.

18. **The Chair** said that the work of considering reports and finalizing concluding observations took time, including the final Thursday.

19. **Mr. Amor** said that he did not mind which day the event was held. However, the principal goal of the event was to bring together as many people as possible to discuss the work of the Committee. In addition to the issues raised by Ms. Chanet, he noted that attendance at events held on Fridays, particularly those involving participation by representatives of States parties, was often lower than at those held on other days. Also, the last Friday of the upcoming session was the day before All Saints Day, which was an important occasion in many countries, so perhaps another day would be preferable. If the event was held on the Wednesday, no time would be wasted because Thursday and Friday morning would still be normal working days.

20. **Mr. O'Flaherty** observed that the Committee systematically wasted the resources allotted to it because it never worked until the end of the final Friday. Generally speaking, especially since the Committee often did not complete as much work as it wished to, the Committee should do a full day's work on the final day of its sessions. Since that was not the case, holding the event on the Friday would mean that the Committee could make full use of its existing resources while not affecting its normal pattern of work. It might even reintroduce the practice of working until the end of the day on final Fridays. That being said, he could see that there might be a practical impediment if the proposed day indeed coincided with a holiday weekend. If the event was to be held on a day other than Friday, thus taking up one of the Committee's precious working days, it must have some tangible relevance to the Committee's work and not just be an opportunity for an already familiar exchange of views with distinguished guests.

21. **The Chair** underscored Mr O'Flaherty's point about the Committee's obligation to make full use of existing resources.

22. **Ms. Chanet** said that contacting speakers in advance to ascertain their availability would give the event a greater chance of success. The availability of States parties and the press was also important, since they often did not attend events on Friday afternoons. With regard to the general question of working until the end of the final Friday, she stressed that many people had to travel a long way and were expected to return to work at the beginning of the following week.

23. **Ms. Motoc** said that the main purpose of the event was not to have big-name speakers whose views were already well known but rather to spend time with members of non-governmental organizations and national human rights institutions who were truly involved with the issues. If the intended guests could not be present on a certain date, others could take their place.

24. She agreed with Mr. O'Flaherty that the Committee was supposed to stay until 6 p.m. on the final day of each session. Since time was such a precious commodity, a full day's work should be planned for the final day of future sessions. However, with regard to the event under discussion, she supported the move to hold it during the week rather

than on Friday, to ensure that representatives of the States parties and the press would be able to attend.

25. **Sir Nigel Rodley** said that the task of the planning committee had been to address the content of the event; the Bureau had already unanimously decided the date. However, the question of the availability of certain people had been raised, which was an important consideration, since the occasion would have a ceremonial aspect and not be entirely academic. The proximity of All Saints Day was unlikely to be an issue, since it was not celebrated in Geneva. Although he agreed with Ms. Motoc that the presence of representatives of the human rights community would be crucial to the success of the event, their ability to attend was not likely to be an issue.

26. A consensus seemed to be emerging to hold the event on the Friday, in accordance with the Bureau's decision, subject to consultations on the availability of certain guests.

27. **Mr. Thelin** suggested that the planning committee could reconvene after the meeting to take the necessary decisions.

28. **The Chair** noted that neither Friday, 29 October, nor Monday, 1 November, was an official United Nations holiday. He asked Sir Nigel to repeat his proposal.

29. **Sir Nigel Rodley** proposed that the default option should be to hold the event on the Friday, as agreed by the Bureau, but that the planning committee, in consultation with the Chair, could decide to bring it forward if it became apparent that certain people important to the success of the event would not be able to attend on the originally scheduled date.

30. **Ms. Chanet** stressed that the Committee should consult not only potential guests but also non-governmental organizations, States parties and the press in order to ensure the success of the event.

31. **Mr. Pérez Sánchez-Cerro** recalled that, during the Bureau meeting, he had proposed that the event should have a primarily political character, providing an opportunity for States parties to reconfirm their support for the principles of the Covenant.

32. **The Chair** confirmed that the planning committee had taken that view into account. He invited the Committee to endorse Sir Nigel's earlier proposal.

33. *It was so decided.*

34. **Mr. O'Flaherty** said that it would have been helpful to know what exactly was being planned for the event, since they had all been discussing an event and its potential participants without really knowing any of the details. He requested a report from the planning committee that could be discussed before the event.

35. **The Chair** said that the names of certain guests had been proposed but it would be premature to discuss them. The event would contain a high-level component as well as an academic one. There would also be an interactive dialogue as well as input from the Committee and a general discussion on the Committee's work.

Follow-up to concluding observations

36. **Mr. Amor** noted that he had omitted one point during the Committee's examination and adoption of his report on follow-up to concluding observations. With regard to the question of diplomatic assurances in paragraph 12 of the concluding observations on the sixth periodic report of the United Kingdom, there was undeniably clear opposition between the Committee's position and that of the State party. That issue must not be overlooked, and he proposed that the Committee discuss the matter at a public meeting during its next session.

37. **The Chair** drew attention to General Assembly draft resolution A/C.3/64/L.22 on International Covenants on Human Rights, which in the past had always been adopted by consensus. At the General Assembly's current session, however, a vote had been requested, resulting in the deletion of the reference to the Committee's general comments. Such action represented a break with the General Assembly's past practice and was of substantial concern to the Committee. The Bureau had recommended that the Chair should raise the issue at the next meeting of chairpersons of human rights treaty bodies.

38. **Mr. O'Flaherty** endorsed the Bureau's recommendation and suggested that the Chair should, together with the other chairpersons, decide on an appropriate action to be brought to the attention of Member States.

39. **The Chair** said he took it that the Committee wished to endorse the Bureau's recommendation.

40. *It was so decided.*

41. **The Chair** drew attention to document A/CN.4/L.744, entitled “Reservations to treaties”, and, in particular, to draft guidelines 3.2 to 3.2.4, inclusive, which had recently been adopted by the International Law Commission.

42. **Sir Nigel Rodley** said it was regrettable that the Committee had not been kept informed of such decisions by the Commission. While draft guideline 3.2.1 was drafted as agreed following the joint meeting of treaty body representatives and the Commission, the other draft guidelines mentioned by the Chair, particularly 3.2.2, were clearly an attempt by some members of the Commission to retreat from past decisions. Not only was the language unclear; he simply failed to understand how States and international organizations could specify the nature and limits of the competence of a treaty monitoring body such as the Committee to assess the validity of reservations outside the context of the treaty itself. It was even less clear, in the second sentence of draft guideline 3.2.2, what measures could be taken by States and international organizations to limit the powers of the Committee if they were exercised in accordance with draft guideline 3.2.1. Although the Committee had enjoyed a good working relationship with the Commission in the past, there had been recent changes in membership which might have altered the situation.

43. Furthermore, a number of criteria previously discussed with the Commission were not addressed in the draft guidelines: it was unclear whether those criteria were still under consideration or had simply been omitted. The inter-committee meeting of chairpersons of human rights treaty bodies should continue to monitor the actions of the Commission and should also consider reconvening the working group on reservations prior to the Commission’s next session. It would also be useful for the Secretariat to track the changes made to the draft guidelines for the purposes of the working group, which might also seek a meeting with the Commission, if necessary.

44. **Ms. Chanet** said that although the Commission’s draft guidelines were not normative, they nevertheless sent a negative signal, particularly with regard to new treaties, by appearing to invite States parties to limit the competence of treaty bodies. She endorsed the suggestions made to reconvene the working group on reservations and to monitor the work of the Commission more closely.

45. **Mr. Fathalla** said that clarification should be sought from the Commission on the implications of draft guideline 3.2.2, and in particular, whether the first sentence applied only to treaties that called for the holding of conferences of States parties to evaluate and guide monitoring bodies. If that was indeed the case, the draft guideline should not concern the Committee.

46. **Mr. Salvioli** said that draft guideline 3.2.2 clearly sought to limit the competence of treaty bodies, which was a major step backwards in terms of past practice. It was important for all treaty bodies, including regional treaty bodies, to formally inform the Commission of the guidelines’ implications.

47. **The Chair** said it was his understanding that the Commission would soon be concluding its work on reservations to treaties; given that the Commission’s next session was to begin in May 2010, it might be too late if the Committee waited until the June inter-committee meeting to reconvene the working group on reservations. He therefore suggested meeting as soon as possible with the Director of the Codification Division in New York.

48. **Mr. O’Flaherty** supported the Chair’s suggestions and proposed that the Committee should mandate the Chair to send a letter to the relevant persons indicating the Committee’s core concerns.

49. **Sir Nigel Rodley**, endorsing the suggestions made, said it was his understanding that the inter-committee meeting of chairpersons had already decided to reconvene the working group on reservations as necessary; the Secretariat would therefore not require additional powers.

50. **Ms. Chanet** said that even if it meant that the Commission would not receive the letter until after it had finalized its draft guidelines in June, it would nevertheless be useful to have the support of the other human rights treaty bodies in writing, in addition to holding the meetings proposed.

51. **The Chair** said he took it that the Committee wished to endorse his suggestion to seek a meeting with the Director of the Codification Division in the immediate future and to draft a letter if necessary.

52. *It was so decided.*

Press release on the execution of two citizens of Belarus

53. **Ms. Chanet**, speaking as Special Rapporteur on new communications and interim measures, said that, as discussed by the Committee in a closed meeting the previous week, two individual communications, the confidentiality of which was now waived, had been submitted under the Optional Protocol by two citizens of Belarus, both of whom had been sentenced to death. When the complaints were registered in 2009, the State party had agreed to suspend the sentences as requested by the Committee. Recently, however, the State party had asked permission to repeal the interim measures in both cases; the Committee had refused, citing rule 92 of the Committee's rules of procedure. According to information received by the Committee from several non-governmental organizations as well as from the families and lawyers of the parties concerned, the two individuals had been executed the previous week. As decided by the Committee, a letter had been sent to the State of Belarus, requesting a reply by 25 March 2010. No reply had been received as of yet; she would therefore welcome the other members' suggestions regarding the measures to be taken by the Committee. Given the State party's blatant violation of the Optional Protocol, she proposed that the Committee should refer to the cases at its press conference at the conclusion of the current session, or prepare a separate press release.

54. **Sir Nigel Rodley**, supported by Mr. O'Flaherty, endorsed the proposal to urgently prepare a press release on the matter. Indeed, while referring to the cases at the press conference would draw attention from the international community, it was also important for the Committee to record its response in writing: that would be best achieved through a press release.

55. **Mr. Thelin** agreed, underscoring the need to condemn the actions of the State of Belarus in the strongest of terms. The executions showed blatant disregard for the State party's obligations under the Optional Protocol and were an insult to the Committee.

56. **The Chair** took it that the Committee wished to both issue a press release and refer to the matter during its press conference.

57. *It was so decided.*

Closure of the session

58. **Mr. Thelin** expressed appreciation for the Chair's dedication to the Committee and its work, despite his family's recent loss.

59. After the customary exchange of courtesies, the Chair declared the ninety-eighth session of the Human Rights Committee closed.

The meeting rose at 11.20 a.m.