

# 113<sup>th</sup> IPU Assembly and Related Meetings

Results of the Proceedings

Geneva (Switzerland)

14-19<sup>th</sup> October 2005



INTER-PARLIAMENTARY UNION





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## 113th Assembly of the Inter-Parliamentary Union

### 1. Opening of the proceedings

The 113th Assembly of the Inter-Parliamentary Union<sup>1</sup> opened its proceedings at the Geneva International Conference Centre in the afternoon of Monday, 17 October 2005. The President of the IPU, Mr. Sergio Pérez, welcomed the participants and declared the 113th Assembly officially open. He stated that since the start of his mandate, the IPU had gained greater respect in the international system; it had found its political voice and undertaken a much wider range of activities that served to bolster political representation in the world. Since obtaining the status of observer at the United Nations, the IPU had vastly augmented its cooperation with specialized United Nations agencies, thereby setting multilateralism on a firmer footing; it had deployed a panoply of technical assistance activities to emerging and other parliaments, and promoted democratic values and practices on every continent.

Following the official opening, the President of the IPU was elected President of the Assembly and the Vice-President of the Executive Committee, Mr. R. Salles, was elected Vice-President.

After the adoption of an emergency item by the Assembly on the subject of natural disasters, the Director-General of the World Health Organization (WHO), Mr. J.-W. Lee, delivered a speech informing the participants about the status of avian flu in the world, and the various measures to be taken in the face of a possible influenza pandemic. Mr. Lee, referring to the probability of a human influenza pandemic, stressed that legislators could play an important role, as the parliamentary community could be directly supportive of preparedness and communication plans, for example by making sure that all constituents were well-informed about the situation as it emerged.

Following his speech, the 113th Assembly unanimously adopted a statement expressing its alarm at the outbreak of avian influenza in various countries and the international propagation of the disease (see page 35).

At the start of the closing sitting of the Assembly, the President of the National Council of Switzerland, Ms. T. Meyer-Kaelin, delivered a speech in which she reiterated her country's commitment to the IPU,

of which her parliament had been a Member for 114 years, and recalled the various recommendations adopted by the IPU which should guide governments in their work. She also referred to the work of the Committee on the Human Rights of Parliamentarians and the Declaration adopted by the Second World Conference of Speakers of Parliaments.

She highlighted the division of the world between extreme poverty and relative wealth. Significant means must be made available for development assistance, and the plan for Africa, where the urgency was now recognized, must be put into action. Globalization and the market economy had brought the promise of trade and increased wealth, but also unfettered competition and alarming outsourcing, resulting in the primacy of one superpower over all others. Existing institutions - the United Nations for governments and the IPU for parliaments - must be strengthened.

### 2. Participation

Delegations of the parliaments of the following 130 countries took part in the work of the Assembly:<sup>2</sup> Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Fiji, Finland, France, Gabon, Georgia, Ghana, Greece, Guinea, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mexico, Monaco, Mongolia, Morocco, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia and Montenegro, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka,

<sup>1</sup> The resolutions and reports referred to in this document and general information on the Geneva session are available on the IPU website ([www.ipu.org](http://www.ipu.org)).

<sup>2</sup> For the complete list of IPU membership, see page 16.

Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zambia.

The following Associate Members also took part in the Assembly: the Andean Parliament, the Central American Parliament, the European Parliament, the Latin American Parliament, the Parliamentary Assembly of the Council of Europe, and the Parliament of the Economic Community of West African States (ECOWAS Parliament).

Observers included representatives of: (i) Palestine; (ii) United Nations system: United Nations, United Nations Conference on Trade and Development (UNCTAD), International Labour Organization (ILO), Food and Agriculture Organisation (FAO), United Nations Educational, Scientific and Cultural Organization (UNESCO), Office of the United Nations High Commissioner for Human Rights (OHCHR), Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Children's Fund (UNICEF), World Health Organization (WHO), World Bank, International Fund for Agricultural Development (IFAD), Organisation for the Prohibition of Chemical Weapons (OPCW); (iii) International Organization for Migration (IOM), League of Arab States, African Parliamentary Union (APU), Arab Inter-Parliamentary Union (AIPU), Assembly of the Western European Union (WEU), Confederation of Parliaments of the Americas, European Parliamentarians for Africa (AWEPA), Interparliamentary Association for the Eurasian Economic Community, Interparliamentary Assembly of the Commonwealth of Independent States, Parliamentary Assembly of the Union of Belarus and the Russian Federation, Parliamentary Union of the Organization of the Islamic Conference Members (PUOICM); (iv) International Committee of the Red Cross (ICRC), International Federation of Red Cross and Red Crescent Societies (IFRC); and (v) Global Commission on International Migration (GCIM). Furthermore, delegations from the Central African Republic and from Palau participated as observers with a view to future affiliation.

Of a total of 1,093 delegates who attended the Assembly, 548 were members of national parliaments. The parliamentarians included 48 presiding officers, 25 deputy presiding officers and 179 women parliamentarians (32.5%).

### **3. Choice of an emergency item (Item 2)**

At the beginning of the consideration of the item on 17 October, the Assembly had before it one consolidated request for the inclusion of an emergency item, presented by the delegation of Pakistan on behalf of the delegations of India, Mexico and Pakistan, under the title *Natural disasters: The role of parliaments in prevention, rehabilitation, reconstruction and the protection of vulnerable groups*. The proposal was adopted unanimously and was added to the agenda as item 7 (see page 17). The delegations of Mexico and India also spoke in support of the proposal.

### **4. Debates and decisions of the Assembly and its standing committees**

#### **(a) Debate on the emergency item**

*Natural disasters: The role of parliaments in prevention, rehabilitation, reconstruction and the protection of vulnerable groups (Item 7)*

The debate on the emergency item took place in the morning of Tuesday, 18 October and began with a presentation by Mr. T. Peter, Deputy Chief, Emergency Services Branch, Office for the Coordination of Humanitarian Affairs (OCHA). A total of 17 speakers from 14 parliamentary delegations and one observer took part in the debate, which was opened by the President of the Assembly. He subsequently invited the Vice-President to chair the sitting.

The Assembly referred the item to a working group composed of representatives of the delegations of India, Indonesia, Mexico, Pakistan, South Africa and Switzerland. The working group appointed Ms. B. Gadiant (Switzerland) as its president and rapporteur. The working group met on Tuesday, 18 October in the afternoon. It adopted a draft resolution by consensus.

On Wednesday, 19 October, the draft resolution (see page 32) was adopted unanimously by the Assembly.

#### **(b) First Standing Committee: Peace and International Security**

(i) *The respective roles of parliament and the media in providing the public with impartial, accurate and verifiable information, especially on armed conflicts and the struggle against terrorism (Item 3)*

The Committee held three sittings on 17 and 19 October, with its President, Mr. N. Al Ghanem

(Syrian Arab Republic), in the chair. In addition to a report and a draft resolution prepared by the co-Rapporteurs, Mr. Z. Szabó (Hungary) and Mr. M. Salim (India), the Committee had before it amendments and sub-amendments to the draft resolution submitted by the delegations of Algeria, Australia, Belgium, Canada, Cuba, Egypt, Finland, Indonesia, Italy, Mexico, Romania, Sweden, the United Kingdom and Venezuela.

The sitting began with the presentation of the report and the draft resolution by the two co-Rapporteurs. A total of 63 speakers from 55 countries and 2 organizations took the floor during the debate. Following the debate, the Standing Committee appointed a drafting committee composed of representatives from Algeria, Belgium, Benin, Denmark, Ghana, Israel, Japan, Pakistan, the Russian Federation, Venezuela and Zambia. Mr. Szabó and Mr. Salim were also invited to participate in the work of the drafting committee, acting in an advisory capacity.

The drafting committee met in the morning and afternoon of 18 October. At the beginning of its work, it appointed Mr. F.-X. de Donnea (Belgium) as its president and Mr. C. Achode (Benin) as rapporteur. The committee examined 112 amendments and sub-amendments to the draft resolution, and adopted 68 of them, fully or in part. A number of other amendments were accepted, if not in letter, then in spirit, as many were similar in content to those that were adopted. After a substantive discussion on the title of the resolution, and considering that the term "objective information" was not appropriate, the drafting committee decided to recommend that the title be changed to the wording that appears above.

In the morning of 19 October, the First Standing Committee considered the consolidated draft. Several delegations took the floor to express support for the text or to further clarify one of its provisions. One delegation requested further amendments to the draft resolution, but they were not accepted by the broader membership. The draft resolution as a whole, with its revised title, was subsequently adopted unanimously by the First Standing Committee.

In the afternoon of 19 October, the draft was submitted to the plenary sitting of the Assembly, which adopted it unanimously.

The text of the resolution can be found on page 18.

(ii) *Selection of subject item and co-Rapporteurs for the First Standing Committee at the 115th Assembly*

The Bureau of the First Standing Committee met on 19 October to examine nine proposals submitted by IPU Members for the subject item to be debated by the First Standing Committee at the 115th Assembly. The Bureau selected a subject item entitled *Cooperation between parliaments and the United Nations in promoting world peace, particularly from the perspectives of the fight against terrorism and energy security*, which was subsequently endorsed by the Committee and the Assembly. Upon its recommendation, the Assembly also approved the nomination of Ms. H. Mgabadeli (South Africa) and Ms. Á. Möller (Iceland) as co-Rapporteurs.

(c) Second Standing Committee: Sustainable Development, Finance and Trade

(i) *Migration and development (Item 4)*

The Committee held three sittings on 17 and 19 October, with the alternate First Vice-President, Ms. I. Udre (Latvia), in the chair. In addition to a report and preliminary draft resolution prepared by the co-Rapporteurs, Ms. G. Trujillo Zentella (Mexico) and Mr. F. Schiesser (Switzerland), the Committee had before it amendments to the draft resolution submitted by the delegations of Algeria, Canada, China, Cuba, India, Indonesia, Italy, Japan, Malta, Mexico, the Philippines, Romania, Spain, the Sudan, Sweden, Tunisia, the United Kingdom and Venezuela. A separate set of amendments was submitted by the Coordinating Committee of Women Parliamentarians.

A total of 55 speakers from 46 countries and UNHCR took the floor during the plenary debate. Much of the second sitting of the Committee session took the form of a panel discussion focusing on the report entitled *Migration in an interconnected world* prepared by the Global Commission on International Migration. Following presentation of the report by Mr. M. Ramphela, co-chair of the Commission, and Mr. R. Jenny, Executive Director, a stimulating exchange of views took place.

Following the debate, the Standing Committee appointed a drafting committee composed of representatives from Cameroon, Chile, Ghana, India, Indonesia, Mexico, Morocco, Niger, Nigeria, Romania, Switzerland and United Kingdom.

The drafting committee met in the morning and afternoon of 18 October. At the beginning of its work, it appointed Lord Jopling (United Kingdom) as its president and Ms. Z. Bouayad (Morocco) as rapporteur. The committee examined 96 amendments to the preliminary draft resolution and adopted 40 of them, fully or in part. A number of other amendments were accepted, if not in letter, then in spirit, as many were similar in content to those that were adopted. In view of the political sensitivity of the subject of migration and development, the drafting committee had to resort to voting some 10 times. Moreover, one member of the drafting committee announced at the end of the meeting that he was not in a position to support the amended version of the draft resolution and, therefore, wished to dissociate himself from the consolidated draft.

In the morning of 19 October, the Second Standing Committee considered the consolidated draft. While most paragraphs of the draft were adopted without debate, others could not be agreed on the basis of consensus, and the Committee resorted to voting on two occasions. As a result, three further changes were made to the text. Following subsequent adoption of the amended draft as a whole, a number of delegations expressed their reservations about the draft resolution, which they also repeated during the final plenary session of the Assembly (see below).

In the afternoon of 19 October, the draft was submitted to the plenary sitting of the Assembly, which adopted it by consensus. Following the adoption of the resolution, the delegation of Australia expressed reservations on the tenth preambular paragraph and on operative paragraph 5. The delegations of South Africa and Suriname expressed reservations on the twenty-second preambular paragraph with regard to the spread of HIV/AIDS. In addition, the delegation of South Africa expressed a reservation on operative paragraph 16. The delegations of Iceland, Luxembourg and New Zealand expressed reservations on the second part of operative paragraph 5. The delegation of Sweden expressed a reservation on operative paragraph 5, and regretted that the paragraph had not been amended as it had proposed. The delegations of Latvia and Georgia expressed reservations on operative paragraph 4 with regard to the establishment of mechanisms for financial compensation. The delegation of Japan expressed a reservation on operative paragraph 21. Lastly, the delegation of Thailand expressed reservations on operative paragraphs 27 and 28,

citing the need to establish action plans on migration and development in all countries, with the active involvement of parliaments, and with the sponsorship of the United Nations.

The text of the resolution can be found on page 23.

(ii) *Selection of subject item and co-Rapporteurs for the Second Standing Committee at the 115th Assembly*

The Bureau of the Second Standing Committee met on 19 October with the Committee's alternate First Vice-President, Ms. I. Udre, in the chair. It examined proposals submitted by IPU Members for the items to be debated by the Second Standing Committee at the 115th Assembly. The Bureau approved the subject item entitled *The role of parliaments in overseeing the achievement of the Millennium Development Goals, in particular with regard to the problem of debt and the eradication of poverty and corruption*, which it subsequently submitted to the Second Standing Committee. The Committee agreed to propose this subject item to the Assembly for its inclusion on the agenda of the 115th Assembly, and recommended that the IPU President and the President of the Second Standing Committee be mandated to carry out consultations with the geopolitical groups with a view to appointing the co-Rapporteurs on the item as soon as possible. The item and the recommendation concerning the co-Rapporteurs were subsequently approved by the Assembly.

(d) Third Standing Committee: Democracy and Human Rights

(i) *The importance of civil society and its interplay with parliaments and other democratically elected assemblies for the maturing and development of democracy (Item 5)*

The Committee held three sittings on 17 and 19 October, with its President, Mr. J.-K. Yoo (Republic of Korea), in the chair. The Committee had before it a report and a draft resolution drawn up by the co-Rapporteurs, Mr. S.J. Njikelana (South Africa) and Ms. A.M. Narti (Sweden), along with amendments to the draft resolution proposed by the delegations of the parliaments of the following countries: Algeria, Canada, Cuba, Egypt, India, Indonesia, Italy, Mexico, the Philippines, Romania, Sweden and Venezuela.

In all, 60 speakers took part in the debate. After the debate, the Committee designated a drafting committee composed of representatives of the

parliaments of the following countries: Algeria, Australia, Belgium, Canada, Egypt, Japan, Kenya, the Netherlands, Nigeria, Panama, the Russian Federation and Uruguay.

The drafting committee met on 18 October. It began its work by naming Mr. N. Kinsella (Canada) as its president and Ms. M. De Meyer (Belgium) as its rapporteur. It considered in detail the draft resolution drawn up by the co-Rapporteurs and improved the text, incorporating some of the proposed amendments.

On 19 October, the Committee considered the consolidated text of the draft resolution, having adopted further amendments to it which had been proposed by the delegations of India and Morocco. The draft resolution as a whole was subsequently adopted unanimously. The Committee took note of the proposal made by the delegation of South Africa that the IPU ensure closer cooperation with the World Social Forum.

In the afternoon of 19 October, the Assembly, meeting in plenary, adopted the resolution unanimously.

The text of the resolution appears on page 28.

(ii) *Selection of subject item and co-Rapporteurs for the Third Standing Committee at the 115th Assembly*

The Bureau of the Third Standing Committee met on 19 October to examine a number of proposals submitted by IPU Members for the subject item to be debated by the Third Standing Committee at the 115th Assembly. The Bureau selected a subject item entitled *Missing persons*, which was subsequently endorsed by the Committee and the Assembly. Upon its recommendation, the Assembly also approved the nomination of Ms. B. Gadiant (Switzerland) and Mr. L. Nicolini (Uruguay) as co-Rapporteurs.

## 177th Session of the Governing Council of the Inter-Parliamentary Union

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### 1. Election of the President of the Inter-Parliamentary Union

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The Governing Council elected Mr. Pier Ferdinando Casini (Italy) as President of the Inter-Parliamentary Union for a three-year term ending in October 2008.

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### 2. Membership of the Union

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At its sitting on 18 October, the Governing Council approved a request for affiliation from the parliament of Maldives and requests for reaffiliation from the parliaments of the Dominican Republic and Madagascar. It suspended the affiliation of Mauritania following a military coup d'état in that country. The Union currently comprises 143 Member Parliaments and seven international parliamentary associations as Associate Members.

The Governing Council also approved a request for observer status from the Organisation for the Prohibition of Chemical Weapons (OPCW).

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### 3. Financial situation of the IPU

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The Governing Council received a comprehensive written report on the financial situation of the IPU as at 30 June 2005, and a list of Members' arrears at

30 September 2005. The Secretary General gave the Council updated information on the situation as at the end of September, confirming that although the Second World Conference of Speakers of Parliaments had cost more than budgeted, the Union would end the year with a small operating surplus thanks to savings elsewhere. The Council also noted that the actuarial deficit associated with staff pensions had been fully eliminated as a result of the Governing Council's decision for the IPU to join the United Nations Joint Staff Pension Fund at the start of the year. The Union remained responsible for the payment of existing retirees' pensions, but the liability was negligible.

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### 4. Programme and budget for 2006

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The Governing Council heard a report by the Executive Committee rapporteur, Ms. K. Komi (Finland), on the draft programme and budget for 2006.

On the recommendation of the Executive Committee, the Governing Council approved the budget as submitted by the Secretary General with gross operating expenditures of 10,545,500 Swiss francs and capital expenditures of 50,000 Swiss francs. The Council approved a 3 per cent increase

in assessed contributions and the addition of the new Members, the parliaments of the Dominican Republic, Madagascar and Maldives, to the scale of assessments (see page 42).

The Governing Council noted the discussions of the Working Group set up by the Executive Committee to review the scale of assessments that had been in effect for the last 14 years. Since 1991, the Executive Committee had often considered the need to make membership more affordable for parliaments from the least developed countries and to take account of the many changes that had taken place in recent years in the economic situations of various countries. The Working Group had met on three occasions over two years, and now recommended a new scale that would reflect contemporary economic realities (see page 45). The Executive Committee had requested that the recommended revised scale be circulated to all Members, with a view to its adoption at the Nairobi Assembly.

Lastly, and following approval in principle at the 176th session, the Governing Council amended the financial regulations to enable it in exceptional cases to consider the cancellation of all or part of the debt of a former Member wishing to return to the Union. The Council noted that when considering requests from potential Members for forgiveness, particular consideration should be given to whether the parliament in question had relinquished a single-party system in favour of a multiparty one, the amount of time that had elapsed since previous membership of the Union, the severity of the economic circumstances prompting the request, and the external factors causing those circumstances, such as recent civil strife.

## **5. Cooperation with the United Nations system**

The Governing Council was given an overview of all the IPU activities carried out in cooperation with the United Nations. For a list of all such activities, see page 70. It also gave its endorsement to a Declaration of Principles for International Election Observation and a Code of Conduct for International Election Observers, submitted to the IPU jointly by the United Nations Electoral Assistance Division (UNEAD), the Carter Center and the National Democratic Institute for International Affairs (NDI) (see page 49).

### ***Second World Conference of Speakers of Parliaments***

The Governing Council received a report on the Second World Conference of Speakers of Parliaments. One hundred and fifty Speakers of national parliaments had attended the Conference at United Nations Headquarters from 7 to 9 September. The objectives of the Conference had been to air the views of parliamentarians from all regions of the world, take stock of parliamentary action in international relations in the past five years and examine how to provide more support for international cooperation and for the United Nations. The Conference had adopted a declaration at the conclusion of its proceedings, setting out its vision on how parliaments could fill the democracy gap in international relations (see page 37). One Speaker did not join the consensus, and expressed a general reservation.

Alongside the plenary debates, two panel discussions had been held. The panel entitled *Parliament's contribution to democracy* had been chaired by Ms. B. Mbete, Speaker of the National Assembly of South Africa, and the panel entitled *Role and responsibilities of parliaments vis-à-vis the United Nations* by ILO Director-General, Mr. J. Somavia. The Conference had also adopted a statement expressing outrage at the denial of visas to one delegation, and delays in granting visas to another, that had prevented them from attending the event.

Building on the IPU Speakers' Conference, the Heads of State and Government meeting in New York the following week adopted an outcome document that included a paragraph entitled *Cooperation between the United Nations and Parliaments*, which read as follows:

*"We call for strengthened cooperation between the United Nations and national and regional parliaments, in particular through the Inter-Parliamentary Union, with a view to furthering all aspects of the Millennium Declaration in all fields of the work of the United Nations and ensuring the effective implementation of United Nations reform."*

In the light of the Speakers' Declaration and the Summit outcome document, and the patent need for the Union to increase the momentum of its relations with the United Nations by holding more meetings at its Headquarters in New York, the Council agreed that every effort should be made to consolidate the status of IPU meetings in New York and thus ensure that all parliaments could be represented at such events. A draft resolution on cooperation between the United Nations and the IPU had been prepared to that effect for adoption by the General Assembly. All parliaments were urged to enlist the full support of their countries' permanent representatives in New York to ensure that negotiations on the resolution were brought to a successful conclusion.

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## **6. Recent specialized conferences and meetings**

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The Governing Council took note of the results of the seminar on freedom of expression (see page 58), the preparatory meeting of the Inaugural Session of the Parliamentary Assembly of the Mediterranean (see page 69), the regional seminar for Latin American parliaments on parliamentary oversight of the security sector (see page 61), the seminar on the implementation of legislation on indigenous peoples' rights (see page 68) and the seminar for Latin American parliaments on parliament, the budget and gender (see page 62).

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## **7. Reports of Committees and other bodies**

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At its sitting on 18 October, the Governing Council took note of the reports on the activities of the Committee on the Human Rights of Parliamentarians (see page 12), the Coordinating Committee of the Meeting of Women Parliamentarians, and the Gender Partnership Group.

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## **8. Future inter-parliamentary meetings**

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The Governing Council approved the dates for the 115th and 116th Assemblies, to be held respectively in Geneva and Bangkok. In addition to the meetings listed as previously approved, the Council approved the following events:

- Regional seminar for Asian parliaments on child protection issues, to be held in Viet Nam in January/February 2006;
- Meeting of women parliamentarians on women in politics, to be held on the occasion of the session of the United Nations Commission on the Status of Women, in New York in March 2006;
- Meeting for members of parliamentary human rights bodies, to be held in Geneva in late March 2006;
- Regional conference for women parliamentarians in the Gulf States, to be held in April 2006, at a venue to be decided;
- Regional seminar for South-East Asian parliaments on security sector reform in the national and regional context, organized jointly by the IPU and the Geneva Centre for Democratic Control of Armed Forces (DCAF), to be held in South-East Asia in late May/early June 2006;
- Seminar on international provisions regarding prison conditions and the treatment of prisoners, to be held at a date and venue to be decided;
- Regional seminar on parliament and the budgetary process, including from a gender perspective, for Europe and Central Asia, to be held in June 2006 at a venue to be decided;
- Parliamentary forum on the occasion of the sixth International Conference of New or Restored Democracies, to be held in Doha (Qatar) from 29 October to 1 November 2006;
- Regional seminar on the role of parliaments in the national reconciliation process in Latin America, in partnership with the International Institute for Democracy and Electoral Assistance (International IDEA), to be held in Latin America in early November 2006.

A full list of future events appears on page 73.

## 245th Session of the Executive Committee

The Executive Committee held its 245th session in Geneva on 14, 15, and 19 October. The President of the IPU chaired the meetings. The following members and substitutes took part in the session: Mr. J. Jorge (Brazil), Ms. J. Fraser (Canada), Mr. Lü Congmin (China), Ms. K. Serrano Puig (Cuba) Ms. K. Komi (Finland), Mr. R. Salles (France), Ms. A. Vadai (Hungary), replaced by Mr. Z. Rockenbauer on 15 and 19 October, Mr. Y. Yatsu (Japan), substituting for Mr. T. Kawara, Mr. F. Ole Kaparo (Kenya), replaced by Mr. A. Ligale on 19 October, Mr. H. Al-Hadi (Libyan Arab Jamahiriya), Mr. A. Radi (Morocco), replaced by Ms. R. Benmassaoud on 14 and 15 October, Ms. M. Mensah-Williams (Namibia), Ms. L. Lerksamran, substituting for Mr. S. Vejajiva (Thailand), Mr. O. Natchaba (Togo), Mr. I. Ostash (Ukraine) and Mr. J. Austin (United Kingdom).

The proceedings of the Executive Committee were devoted to discussing and making recommendations on agenda items to be addressed by the Governing Council. The other matters considered by the Committee are summarized below.

The Committee reviewed the situation of the transitional parliaments in Angola, Burundi, the Democratic Republic of the Congo, Liberia and Somalia. It also discussed the situations of the parliaments of Afghanistan, the Central African Republic, Iraq and Nepal.

The Committee heard a report on parliaments and modern information and communication technology (ICT). It was apprised of two United Nations initiatives in the area of parliaments and ICT, one launched by UNDP and the other by the United Nations Department of Economic and Social Affairs (DESA). It mandated the IPU President to investigate the reason for the existence of two overlapping projects, and to take action to bring about further IPU involvement in United Nations work in that area.

The Executive Committee debated a document on IPU reforms. While the reforms of the Union that had been under way for a number of years had led to the emergence of a new structure for the IPU Assemblies, there was still room for further improvement. Greater expertise had to be enlisted from among the parliamentary standing and select committees when it came to drafting the reports, and there might be a case for holding more specialized meetings during the year, and a single Assembly rather than two. The Executive

Committee debated the proposals at length, considering that - while the document might have exaggerated the shortcomings of the current system - some of the proposals were pertinent to building a stronger organization. It mandated the new IPU President to set up a small working group to review the situation and prepare practical suggestions for further action.

The Secretary General informed the Committee that he had completed the reorganization of the Union's Secretariat, and that job descriptions had been drawn up for all posts, and had been classified with the assistance of the United Nations. He had appointed three new staff members: a Programme Officer in the Programme for Partnership between Men and Women, an Administrative Assistant to work at Headquarters, and a Building Superintendent.

The Executive Committee reviewed the Staff Regulations and their Rules, which had been updated since the Union had joined the United Nations Common System of Salaries, Allowances and Benefits, in January 2005. It also held a debate on the issue of taxation of the incomes of staff members residing in France.

The Executive Committee was also informed of the deliberations of the Board of the Global Parliamentary Foundation for Democracy. The Board met on Sunday, 16 October. The meeting was chaired by Senator D. Oliver (Canada) and attended by Mr. R. Salles (France), Ms. I. Udre (Latvia), Senator F. Margáin (Mexico), Dr. M. Tjitendero (Namibia) and the Secretary General of the IPU. Senator G. Chapman (Australia) participated by conference call. The Board reviewed progress achieved since its last meeting, which included finalization of the registration process of the Foundation and the printing of a brochure presenting the Foundation. The Board was informed of the newly established Democracy Fund of the United Nations. It also examined a proposal from a professional fund raising firm and requested the Secretariat to obtain two further bids. The Board members agreed to hold a conference call later in the year to decide on the future direction of the Foundation.

Lastly, and in keeping with established practice, the Committee heard the annual report by the President of the ASGP, Mr. I. Harris.

## Coordinating Committee of Women Parliamentarians

The Coordinating Committee of Women Parliamentarians met on 16 October 2005, with its President, Ms. J. Fraser (Canada), in the chair. The session reviewed action taken to follow up on the eleventh Meeting of Women Parliamentarians (Mexico City, April 2004) and prepared the work of the forthcoming Meeting.

The Committee was briefed on the work and recommendations of the Gender Partnership Group by Ms. M. Mensah-Williams (Namibia). It welcomed the fact that in Geneva more than 30 per cent of the delegates attending the IPU Assembly were women.

Follow-up to the Manila meetings by women parliamentarians was also discussed; this included the organization of briefing sessions in parliament to inform members of the work of the IPU and gender-related issues, the organization of special events to launch IPU documents and information tools such as the IPU-United Nations map, *Women in Politics: 2005* and the IPU-UNDAW *Handbook for parliamentarians on the Convention for the Elimination of All Forms of Discrimination against Women*. Participants also presented activities that had been carried out to combat domestic violence at the local level, awareness-raising activities to combat different types of violence against women, and the drafting of legislation to enhance women's participation in politics.

The Committee prepared the hearing for candidates to the presidency of the IPU. The hearing subsequently took place in the morning of 18 October. The two candidates, Mr. P.F. Casini and Mr. G. Versnick, made presentations and each responded to six questions prepared by the Coordinating Committee.

The Committee also discussed its input into the work of the Standing Committee on Migration and Development. It drafted several amendments to submit to the Committee for inclusion in its resolution.

In preparation of the twelfth Meeting of Women Parliamentarians, scheduled to take place in Nairobi in 2006, the Committee decided that the Meeting would debate Assembly agenda item 4, entitled *The role of parliaments in environmental management and in combating global degradation of the environment*. The Committee also agreed to dedicate part of the afternoon session to a dialogue among men and women on *Women in politics: Affirmative action measures, pros and cons*.

The Committee discussed preparations for the panel discussion on HIV/AIDS and children scheduled to take place at the Nairobi Assembly. It also discussed projects to be implemented by the Programme for Partnership between Men and Women. They included the production of a database on parliamentary bodies dealing with the status of women and gender equality, a study on how women and men were contributing to gender equality in politics, and a parliamentary meeting entitled *Gender equality: Making a difference through parliament*, to be held on the occasion of the upcoming fiftieth session of the United Nations Commission on the Status of Women (March 2006).

Lastly, the Committee was apprised of the results of the seminar entitled *The roles and responsibilities of representatives*, organized by the Supreme Council for Women of Bahrain and the IPU. The objective of the seminar was to provide support to the women running for election in Bahrain in 2006.

## Subsidiary bodies and committees of the Governing Council of the Inter-Parliamentary Union

### 1. Committee on the Human Rights of Parliamentarians

The Committee on the Human Rights of Parliamentarians held its 111th session from 15 to 18 October 2005. Ms. A. Clwyd (United Kingdom), Ms. V. Nedvedová (Czech Republic), Mr. F. Margáin Berlanga (Mexico), Mr. M. Ousmane (Niger) and

Mr. F.M. Drilon (Philippines) participated in their titular capacity, whereas Ms. S. Carstairs (Canada) participated in her capacity as substitute member.

The Committee conducted eight hearings with delegations from countries where it had cases pending and with representatives of the sources. The Committee examined a total of 59 cases in

30 countries (see all resolutions on pages 79 to 143). Four cases were submitted for the first time.

The Committee submitted 31 cases to the Governing Council.

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## 2. Gender Partnership Group

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The Gender Partnership Group held its sixteenth session on 14 October 2005 in Geneva. Participants included Ms. J. Fraser (Canada), Ms. M. Mensah-Williams (Namibia), and Mr. R. Salles (France). Mr. T. Kawara (Japan) was unable to attend. Mr. Salles acted as moderator.

The Group studied the composition of delegations attending the 113th IPU Assembly in Geneva. Of the 548 delegates, 179 (32.5%) were women. In both absolute and relative terms, it was the highest number and percentage ever reached. The Gender Partnership Group welcomed this very positive development. The Group now agreed to set 40 per cent as the new target for participation by women delegates in the Assembly.

Of the 130 delegations attending the 113th Assembly, the vast majority (125) were composed of more than one delegate. Of those, just 10 were composed of men only, and one was composed solely of women. That represented the lowest percentage ever (8.8%) of single-sex delegations attending an IPU Assembly.

In conformity with Articles 10.3 and 15.2(c) of the Statutes concerning the attendance of single-sex delegations for three consecutive times at sessions of the Assembly, three delegations were subject to sanctions.

Since 2004, the Group had undertaken to analyse the IPU budget from a gender perspective. At the Manila Assembly, it had recommended the inclusion of specific gender indicators in the IPU's budget. At the Geneva Assembly, the Group studied

the proposed 2006 budget and welcomed efforts to include certain gender-specific indicators and objectives. It took note of the Secretary General's commitment to expand and develop additional gender indicators for all programmes, regardless of whether they were directly concerned with work on gender equality.

The Group discussed resources allocated to gender projects. It noted the small but steady increase in the allocation of funds from the IPU's core budget to gender-related projects. It also noted that the budget remained one of the smallest compared to other programmes. However, 18 per cent of extrabudgetary funds were allocated to gender activities, thereby forming the majority of the operational budget for the gender programme. That allowed the programme to carry out a vast array of activities, but raised the question of sustainability of the programme should extrabudgetary funds decrease in the future.

The Group continued its debate on progress made in countries where parliaments did not include women. It regretted the fact that the United Arab Emirates had not responded to its invitation to take part in a dialogue session to discuss the status of women's political participation in that country. The Group noted encouraging progress and developments in several Gulf countries. In particular, it highlighted the positive developments that had taken place in Kuwait, with the granting to women of the rights to vote and to stand for election in May 2005. It also welcomed the political commitment to support women's political participation in both Kuwait and Bahrain. It reiterated its hope to see similar developments in the other countries concerned. Lastly, it supported the IPU's engagement in developing assistance activities for women in those two countries and in the region in general.

## Other meetings

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### Panel discussion on nationality and statelessness

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A panel discussion on nationality and statelessness took place on 18 October 2005, organized jointly by the IPU and UNHCR. It provided the opportunity to launch a new handbook for parliamentarians on the question of statelessness and nationality.

Participants heard from the newly-appointed High Commissioner for Refugees, Mr. A. Guterres; Mr. A. Navarro Brain, First Vice-President of the Chamber of Deputies of Chile; Professor G.-R. de Groot, Expert on Nationality Law at the University of Maastricht, the Netherlands, and Ms. M. Santos Pais, Director of the UNICEF Innocenti Research Centre.

The panel discussed current challenges, case studies, issues related to state succession, discrimination and birth registration, as well as concrete ways to protect stateless persons. Participants highlighted the fact that citizenship was the right to have rights. With citizenship, an individual had the right to vote, to own property, to go to school, to obtain medical care, to work and to travel. Nationality was granted by States, yet there were millions of stateless people around the world. A person could become stateless through such factors as the transfer of territory, conflicts of law,

marriage or dissolution of marriage, failure to register children at birth, deprivation of nationality or gender discrimination.

Discussions highlighted the need to ratify the two main international conventions related to statelessness, to legislate to resolve statelessness problems and to raise awareness and give visibility to the problem which was more often than not absent from national and international agendas.

## Other events

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### 1. *Launch of Human rights: A handbook for parliamentarians*

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In recent years, the IPU has carried out an ever increasing number of activities aimed at strengthening the role of parliament as guardian of human rights. Parliaments and their members must fully play their role and exercise their specific powers in order for civil, political, economic, social and cultural rights to become a reality for everyone. However, parliamentarians often know little about the international and regional legal human rights framework that has been put in place since the adoption of the Universal Declaration of Human Rights in 1948 and the obligations their countries have entered into by becoming a party to human rights treaties. Hence the suggestion that the IPU and the Office of the United Nations High Commissioner for Human Rights (OHCHR) should publish a handbook with basic information about human rights and the international and regional systems designed to promote and protect them. The task of drawing up the handbook was entrusted to a renowned human rights expert, Mr. M. Nowak, currently the United Nations Special Rapporteur on torture. In carrying out his task, he received input and guidance from the IPU Committee on the Human Rights of Parliamentarians and officials of both

OHCHR and the IPU. On 19 October 2005 the handbook was officially launched by Ms. M. Khan Williams, Deputy High Commissioner for Human Rights, and Mr. S. Páez, President of the IPU, who expressed the hope that this latest in the series of parliamentary handbooks would be widely used by parliaments and translated into as many languages as possible.

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### 2. *Mémoire du Grand-Saconnex exhibit on the IPU*

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*La Mémoire du Grand-Saconnex*, the local historical society, staged an exhibit for the general public on the IPU from 7 to 16 October 2005 at the *Ferme Sarasin* in Grand-Saconnex (Geneva). With a wealth of texts and images, the exhibit depicted the history and work of the oldest international political organization and presented its new Headquarters, the House of Parliaments.

The public and the parliamentarians were able to become acquainted with the world organization of parliaments through archive documents and images, posters, books, photos, stamps and other objects that explained its work to strengthen democracy, promote gender partnership in politics, ensure respect for the human rights of elected representatives and foster parliamentary diplomacy.

## Elections and appointments

### 1. Presidency of the IPU

At the last sitting of the Governing Council, Mr. Pier Ferdinando Casini (Italy) was elected President of the IPU for a three-year term ending in October 2008. Mr. Casini received 230 votes, and the other candidate, Mr. G. Versnick (Belgium), received 107. There were three invalid ballots.

### 2. Office of the President of the 113th Assembly of the Inter-Parliamentary Union

Mr. S. Páez, President of the IPU, was elected President of the Assembly.

### 3. Executive Committee

The Governing Council elected Ms. E. Papadimitriou (Greece) and Mr. A. Kozlovskiy (Russian Federation) for terms of office ending in October 2009, and Ms. L. Lerksamran (Thailand) to replace Mr. S. Vejjajiva (Thailand), who was no longer a parliamentarian, until October 2007.

The Executive Committee elected Ms. M. Mensah-Williams (Namibia) to the post of Vice-President for a one-year term.

### 4. Rapporteurs of the Standing Committees for the 115th Assembly

#### *Standing Committee on Peace and International Security*

Ms. H. Mgabadeli (South Africa)  
Ms. Á. Möller (Iceland)

#### *Standing Committee on Sustainable Development, Finance and Trade*

[to be appointed]

### *Standing Committee on Democracy and Human Rights*

Ms. B. Gadiant (Switzerland)  
Mr. L. Nicolini (Uruguay)

Appointments to fill remaining vacancies for the 115th Assembly will be done by the President of the IPU acting in consultation with the Presidents of the Standing Committees.

### 5. Committee on the Human Rights of Parliamentarians

Mr. K. Jalali (Islamic Republic of Iran) was elected substitute member for a five-year term of office ending in October 2010.

### 6. Committee on Middle East Questions

Mr. K. Sairaan (Mongolia) was elected titular member for a four-year term of office ending in October 2009.

### 7. Auditors for the 2005 accounts

The Governing Council appointed Mr. I. Ouedraogo (Burkina Faso) and Ms. A. Ben Daly (Tunisia) as auditors for the 2005 financial year, and Mr. D. Oliver (Canada) and Mr. A. Quawas (Jordan) as auditors for the 2006 financial year.

### 8. External auditor for the 2005 to 2007 accounts

The Governing Council appointed Mr. L.C. Møller, Deputy Director General of the Auditor General of Norway, to the office of external auditor for the 2005 to 2007 accounts.

## Membership of the Union\*

### Members (143)

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia and Montenegro, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe

### Associate Members (7)

Andean Parliament, Central American Parliament, East African Legislative Assembly, European Parliament, Latin American Parliament, Parliament of the Economic Community of West African States, and the Parliamentary Assembly of the Council of Europe

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\* At the closure of the Assembly.

## Agenda, Resolutions, Decisions and other texts of the 113th Assembly of the Inter-Parliamentary Union

### AGENDA OF THE 113th ASSEMBLY OF THE INTER-PARLIAMENTARY UNION

1. Election of the President and Vice-Presidents of the 113th Assembly
2. Consideration of possible requests for the inclusion of an emergency item in the Assembly agenda
3. The respective roles of parliament and the media in providing the public with objective information, especially on armed conflicts and the struggle against terrorism  
*(Standing Committee on Peace and International Security)*
4. Migration and development  
*(Standing Committee on Sustainable Development, Finance and Trade)*
5. The importance of civil society and its interplay with parliaments and other democratically elected assemblies for the maturing and development of democracy  
*(Standing Committee on Democracy and Human Rights)*
6. Approval of the subject items for the 115th Assembly and appointment of the Rapporteurs
7. Natural disasters: The role of parliaments in prevention, rehabilitation, reconstruction, and the protection of vulnerable groups  
*(Emergency item)*

**THE RESPECTIVE ROLES OF PARLIAMENT AND THE MEDIA IN PROVIDING THE PUBLIC WITH IMPARTIAL, ACCURATE AND VERIFIABLE INFORMATION, ESPECIALLY ON ARMED CONFLICTS AND THE STRUGGLE AGAINST TERRORISM\***

*Resolution adopted unanimously by the 113th IPU Assembly  
(Geneva, 19 October 2005)*

The 113th Assembly of the Inter-Parliamentary Union,

*Observing* that armed conflicts and terrorism constitute serious threats to international peace and security,

*Recognizing* the need to prevent and counter terrorism in all its forms and manifestations,

*Underlining* the need for increased cooperation and common understanding in the fight against terrorism, and *noting* the call made by United Nations Secretary-General Kofi Annan, in his March 2005 report entitled *In larger freedom: towards development, security and human rights for all (A/59/2005)* for the conclusion of a comprehensive convention on terrorism before the end of the sixtieth session of the United Nations General Assembly,

*Further recalling* the conclusions of the Declaration entitled Bridging the democracy gap in international relations: A stronger role for parliaments, adopted by consensus at the Second World Conference of Speakers of Parliaments (New York, 7 to 9 September 2005), on the need to conclude a comprehensive convention on terrorism and to agree upon an internationally accepted definition of terrorism,

*Recalling* that the IPU, through the resolutions it adopted at the 95th Inter-Parliamentary Conference held in Istanbul in 1996, at the 105th Inter-Parliamentary Conference held in Havana in 2001, and at the 107th Inter-Parliamentary Conference held in Marrakech in 2002, has inter alia condemned international terrorism as a danger to the social and political stability of States, a threat to the global development of democratic structures, and an assault on the safety and individual freedoms of citizens, and has called upon all States to adopt appropriate measures to tackle the problem of terrorism and its social, political and economic causes,

*Recalling further* United Nations Security Council resolutions on threats to international peace and security caused by terrorist acts,

*Stressing* the need to combat the threat posed by international terrorism to world peace and international security by all means, and in conformity with the United Nations Charter, the Universal Declaration of Human Rights and applicable United Nations human rights conventions,

*Acknowledging* the need to respect international law and the inviolability of life, including the need to guard against suicide bombers,

*Recognizing* that it is every bit as imperative to prevent the causes of terrorism as it is to combat it, and that this is the role of governments, parliaments and, indirectly, of the media,

*Conscious* that terrorist acts are largely intended to shatter the structures and cohesion of civil society, which must respond to this assault on its values without compromising its openness, its humanity, or its commitment to human rights and individuals' rights and freedoms,

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\* Resolution adopted unanimously, with the revised title, as proposed by the Standing Committee.

*Encouraging* the governments and parliaments of countries confronted with internal armed conflicts or situations of terrorism to take all the constitutional measures necessary in order to halt the violence, restore social cohesion and consolidate peace and reconciliation within their populations, and *welcoming* the initiatives already taken to this effect in some countries,

*Recognizing* that the struggle against the new kind of pandemic that terrorism represents for humankind must be global, and must involve the entire international community as a community of values and hope, for if terrorism no longer has any frontiers, and if it has applied to its benefit the very principles of globalization, the strategy to combat it must also be global, involving close cooperation between governments that must act in concert, between parliaments and between civil society actors,

*Noting* that the attitude of parliaments to combating domestic and international terrorism must be firm and rigorous, and that no cause can justify the use of terrorism, which, as it targets innocent people, is a crime against humanity, and *calling upon* parliamentarians to abstain from any action in their official or personal capacity likely to promote, support or assist in terrorists' attempts to obtain publicity and further their causes,

*Also drawing attention* to the fact that parliaments, by enacting the necessary legislation, overseeing its implementation and allocating adequate financial resources, play a crucial role in the prevention and avoidance of armed conflict and terrorism,

*Convinced* that the world's parliaments and parliamentarians can make a major contribution through national as well as international cooperation to the promotion of the objective of reporting information to the public, especially on armed conflict and the struggle against terrorism,

*Encouraging* parliaments to promote the broadcasting of parliamentary debates and discussions,

*Recalling* the Universal Declaration on Democracy adopted at the 161st session of the Inter-Parliamentary Council held in Cairo in 1997, which stressed, "The state of democracy presupposes freedom of opinion and expression; this right implies freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers",

*Drawing attention* to the fact that parliaments are accountable to the people and need to convey positions on terrorism or armed conflict based on their assessments, and that they play a major role in determining the parameters within which a free press and the media should operate in their coverage of information relating to terrorism and armed conflict,

*Recognizing* that the media plays an especially important role at both the international and the national levels, and that this role must be adequately considered by policy-makers and parliaments,

*Reiterating* that freedom of the press is one of the pillars of democracy, and that the media must not forget its role in society and in democratic life, providing impartial, accurate and verifiable information to citizens, thereby helping parliamentarians and the public to make well-informed decisions,

*Underscoring*, however, that freedom of expression is not an absolute right that can justify inciting hatred, racism, xenophobia and the violation of human rights,

*Underlining* the importance of respect for the rights of dissidents,

*Recognizing* that in addition to its legal rights and obligations, the media has an ethical responsibility to citizens and society, at a time when information and communication play an important role in the development of society and democratic life,

*Reaffirming* that the media can be a recognized forum for non-violent dialogue and an effective channel of communication,

*Convinced* that parliaments and the media can help to facilitate understanding and cooperation among peoples and in promoting dialogue, tolerance and understanding among civilizations, thus contributing to the prevention and countering of armed conflicts and terrorism,

*Acknowledging* the need for informed public debate on the issues of armed conflict and terrorism, in order to build consensus on the multifaceted and long-term strategies necessary to address them,

*Aware* of the unprecedented use of the media, particularly the Internet, made by terrorists in order to obtain the strongest possible impact and maximum attention around the world,

*Expressing deep concern* at the attacks perpetrated against journalists who cover situations of armed conflict and terrorism, and also at the wrongful detention of many such journalists, and stressing that these actions violate freedom of expression and freedom of information,

*Strongly deploring* the killing of many journalists and the imprisonment of many more in various armed conflicts and terrorist activities all over the world,

*Recognizing* the courage shown by journalists, both male and female, in high-risk situations,

### **Role of parliaments in providing impartial, accurate and verifiable information**

1. *Urges* parliaments to explore ways and means to enhance impartial, accurate and verifiable coverage of armed conflict and terrorism by the media, while limiting the gains uninhibited coverage may provide to terrorists, by carefully ensuring that terrorists' declared causes are not extolled, glorified or idealized directly or indirectly;
2. *Urges* parliaments that have not already done so to provide their legislation with strong provisions to prevent and combat terrorism, in particular in its transnational financial ramifications, and to combat money-laundering, drug trafficking, illegal trade in arms and organized crime that often provide resources for it, with particular attention paid to international cooperation through judicial assistance and the exchange of information between countries, organizations and authorities responsible for similar activities;
3. *Strongly urges* all Member Parliaments of the IPU to assume, before their States and citizens, in conformity with their national legislation and the international obligations of States, responsibility for overseeing the implementation and enforcement of national laws and international agreements that have been concluded to combat and prevent armed conflict and terrorism;
4. *Further urges* parliaments to make use of committees and other mechanisms to monitor closely whether government bodies act properly in protecting citizens during armed conflicts and situations involving terrorism;
5. *Calls upon* parliaments to take, in consultation with the media fraternity, the appropriate legislative measures so that media programmes and advertising content do not incite hatred, racism, xenophobia and the violation of human rights, nor violate standards of law and order;
6. *Also calls upon* parliaments to ensure that governments fulfil their responsibility to disseminate impartial, accurate and verifiable information about incidents involving terrorism and armed conflicts;
7. *Emphasizes* the need to make human rights a "living reality", thereby enlightening public opinion and helping people to take cognizance of their rights, especially in situations involving terrorism and armed conflict;

### **Role of the media in providing impartial, accurate and verifiable information**

8. *Urges* the media to provide an impartial, accurate and verifiable picture of the events in situations of armed conflict and terrorism;
9. *Recommends* that the media consider adopting a voluntary code of conduct or appropriate guidelines for reporting on armed conflict and terrorism;
10. *Emphasizes* that freedom of information must be exercised with the strictest possible respect for the human dignity of the victims of armed conflict and terrorism;
11. *Condemns* the broadcasting of extremely violent images, where human mistreatment or deaths are shown on the Internet or in the media;
12. *Urges* the media to carefully verify its sources when confronted with unconfirmed information relating to armed conflicts and the struggle against terrorism;
13. *Also urges* the media to refuse to highlight the statements of terrorists and terrorist organizations that are aimed at gaining broader publicity and inciting people;
14. *Further recommends* that the media should play a role in peace-building activities, by making use of anything that may foster such activities, advocating reconciliation and upholding the values of tolerance and non-violence and the call for human communities to live together, for example by developing innovative programmes that allow peoples affected by armed conflict or terrorism to express themselves, and which can create a space for dialogue by highlighting mutual respect, collaboration and reconciliation;
15. *Emphasizes* that in order for society to address the issues that create an environment conducive to terrorism, the media should play a role in facilitating the open debates and discussions that are fundamental elements of democracy;
16. *Stresses* the need to promote educational programmes, targeting in particular young people and aimed at enabling a critical and informed reception of media content on armed conflicts and terrorist acts;
17. *Invites* governments, parliaments and the media to help young people to protect themselves from being drawn into terrorist activities;
18. *Urges* the media as well as parliaments to inform the public that when a State proclaims a state of emergency, such action must comply with the principles of the rule of law, and must thus respect international law and humanitarian rights;

### **Inter-parliamentary cooperation to combat armed conflict and terrorism**

19. *Calls upon* parliamentarians the world over, in conformity with United Nations Security Council resolutions on threats to international peace and security caused by terrorist acts, to play their part in promoting international cooperation in counter-terrorism efforts;
20. *Emphasizes* the need for regular debates in parliaments on armed conflict and international terrorism, and the need for appropriate media coverage of these debates;
21. *Expresses* the need for a more intensive inter-parliamentary exchange of information and experience in respect of the implementation of effective legislative measures in this field, and stresses the supportive role played by the IPU to enhance media objectivity on issues relating to armed conflict and terrorism;

22. *Reaffirms* that parliament is the institution par excellence that embodies the diverse attributes and opinions of society and reflects and channels this diversity in the political process, and that one of its objectives is to defuse tensions and maintain a balance between the rival aspirations of diversity and uniformity, and of the individual and the collective, with the aim of strengthening social cohesion and solidarity;
23. *Reiterates* the call on parliaments made at the 109th IPU Assembly held in Geneva in 2003 to do everything possible “at the national level to facilitate the establishment of standing mechanisms for conflict prevention and resolution, as a way to promote action geared to achieving real peace”;
24. *Calls upon* parliaments to support governmental and inter-governmental structures, mechanisms, instruments and processes that promote stability, reconciliation and peaceful development at the national, regional and subregional levels, and to enhance their parliamentary dimension.

## MIGRATION AND DEVELOPMENT

### *Resolution adopted by consensus\* by the 113th IPU Assembly (Geneva, 19 October 2005)*

The 113th Assembly of the Inter-Parliamentary Union,

*Recalling* the Programme of Action of the International Conference on Population and Development adopted in Cairo in 1994, in particular chapter X on international migration, the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development adopted in 1995, the Platform for Action adopted by the Fourth World Conference on Women in 1995, and the outcome documents of the twenty-fourth and twenty-fifth special sessions of the United Nations General Assembly,

*Recalling* all relevant resolutions of the United Nations General Assembly, including resolution 59/241 on international migration and development, resolution 58/143 on violence against women migrant workers, resolution 59/262 on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, resolution 59/203 on respect for the right to universal freedom of travel and the vital importance of family reunification, resolution 59/194 on protection of migrants, resolution 59/145 on modalities, format and organization of the high-level plenary meeting of the sixtieth session of the General Assembly, as well as resolutions 57/270B, 58/190 and 58/208, in which it was decided to devote a high-level dialogue of the United Nations General Assembly to international migration and development, in order to discuss the multidimensional aspects of international migration and development and identify appropriate ways and means to maximize its development benefits and minimize its undesirable impacts,

*Recognizing* that international migration requires a holistic and coherent approach based on shared responsibility, which also and concurrently addresses the root causes and consequences of migration,

*Recalling* the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which deals with the violation of the human rights of trafficked persons, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, which deals with the need to punish smugglers, both of which supplement the United Nations Convention against Transnational Organized Crime,

*Reaffirming* the obligation of all States to promote and protect basic human rights and fundamental freedoms for all migrants and their families regardless of their migrant status, *reaffirming also* the principles contained in the Universal Declaration of Human Rights, and *recalling* the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, as well as the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143),

*Recalling* the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

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\* The delegation of Australia expressed reservations on the tenth preambular paragraph and on operative paragraph 5. The delegations of South Africa and Suriname expressed reservations on the twenty-second preambular paragraph with regard to the spread of HIV/AIDS. In addition, the delegation of South Africa expressed a reservation on operative paragraph 16. The delegations of Latvia and Georgia expressed reservations on operative paragraph 4 with regard to the establishment of mechanisms for financial compensation. The delegations of Iceland, Luxembourg, New Zealand and Sweden expressed reservations on the second part of operative paragraph 5. The delegation of Japan expressed a reservation on operative paragraph 21. The delegation of Thailand expressed reservations on operative paragraphs 27 and 28, citing the need for the establishment of action plans on migration and development in all countries, with the active involvement of parliaments, and with the sponsorship of the United Nations.

*Reaffirming* the principles contained in the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967, and the need to strengthen the protection of refugees,

*Reaffirming* the need, on the one hand, to strengthen the international protection regime providing protection and durable solutions for refugees and other persons of concern, including asylum-seekers, returnees and stateless people, which is of concern to the Office of the United Nations High Commissioner for Refugees (UNHCR), and on the other hand, to strengthen the protection capacity of refugee-receiving countries,

*Also recognizing* that irregular migration is often caused by several different factors which demand special attention,

*Noting*, however, that in the framework of globalization, while various multilateral trade initiatives are deepening free-market integration, opening commercial borders and eliminating or reducing trade barriers to flows of goods, capital and investments, some geographical borders are becoming increasingly closed, which in turn results in the restriction of people's rights and options for circulation, and for movement from one country to another,

*Recognizing* that the developed nations are ageing and experiencing lower fertility rates and that migration can be an important factor in ensuring their future economic well-being,

*Emphasizing* that the emergent paradigms of migration, namely circular and transnational migration, represent a potential lever for development for sending and receiving countries,

*Recognizing* that among other important domestic and international factors, the widening economic and social gap between and among many countries and the marginalization of some countries due in part to the uneven impact of the benefits of globalization and liberalization have contributed to the growth of regular and irregular flows of people between countries,

*Acknowledging* the important contribution provided by migrants to development, and aware of the complex interrelationship between migration and development,

*Stressing* that the global dimension of international migration calls for dialogue and cooperation aimed at improving the understanding of the migration phenomenon and at identifying appropriate ways and means to maximize its benefits and minimize its negative impacts,

*Acknowledging* the growth in the number of female and child migrants and their particular vulnerability to exploitation and abuse,

*Recognizing* the need for countries of origin, transit and destination to ensure that all migrants are not subjected to any kind of exploitation or discrimination and that the basic human rights and dignity of all migrants and their families, in particular of women migrant workers and migrant children, are respected and protected,

*Recognizing* the negative effects that extreme forms of xenophobia and racism bring about, such as the emergence of groups applying murderous violence to migrants, as well as elements trafficking in drugs with connections to organized crime, and *deploring* these developments,

*Acknowledging* that international migration has brought great benefits to migrants and their families, as well as to receiving countries and many communities of origin,

*Noting* the importance of remittances transferred by migrant workers, which are one of the major sources of foreign exchange for many countries and which make an important contribution to the reduction of poverty and increase their development potential, albeit without constituting a substitute for endogenous development policies and international cooperation,

*Noting also* that a general commitment to tolerance and mutual recognition facilitates the effective integration of migrants, helps to prevent and combat discrimination, xenophobia and violence against migrants and promotes respect, solidarity and tolerance in receiving societies,

*Recognizing* that special attention should be paid to the linkages between migration and health issues, especially in relation to the spread of HIV/AIDS and other infectious diseases, and that the lack of access to health services and treatment for migrants increases health risks both for migrants and for receiving societies,

*Taking note* of the report of the Global Commission on International Migration to the United Nations Secretary-General, as well as of the Secretary-General's own report on international migration and development (A/59/325), and *welcoming* the decision of the United Nations General Assembly to hold a high-level dialogue on migration and development in 2006,

*Welcoming* the informal organization of the Geneva Migration Group for regular discussions of the migration phenomenon by the heads of six international organizations, namely, the United Nations Office on Drugs and Crime (UNODC), the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Conference on Trade and Development (UNCTAD), and the International Labour Organization (ILO),

*Welcoming* the initiatives taken by States to create regional and multilateral frameworks of cooperation in the field of migration which could serve as platforms for non-binding interstate consultative processes on migration issues,

*Acknowledging* that interaction with key social actors, such as non-governmental organizations (NGOs) and other actors of civil society, enriches immigration policies and programmes,

*Recognizing* that, in terms of migration flows, any country can concurrently fall into the categories of country of origin, transit and/or destination, and that governments and parliaments play a primary role in establishing migration policies,

1. *Urges* governments, in cooperation with the international community, to reinvigorate their efforts aimed at achieving the Millennium Development Goals (MDGs), thus contributing to the elimination of conditions that force people to migrate, such as poverty, the negative impact of human activities on the environment, the failure to apply international law, the continued existence of agricultural subsidies, the lack of official development assistance, and the deficit of good governance and of the rule of law;
2. *Invites* parliaments to support the elaboration and implementation of migration policies that address circular and transnational migratory movements, so as to ensure that the financial, human and social capital gained abroad benefits the home country;
3. *Calls upon* parliaments to ensure that migration policies are coordinated at the national level, between the relevant ministries and other government bodies and agencies;
4. *Invites* governments to address, with the assistance of the international community, the issue of the migration of skilled workers from developing countries (the brain drain) in view of its impact on prospects for achieving the MDGs, especially those relating to health and education, and to explore the possibility – both bilaterally and multilaterally – of establishing mechanisms for financial compensation or for development aid;
5. *Also invites* governments, in keeping with the increasing openness and liberalization of the world economy, to explore possibilities to open up their labour markets by increasing legitimate channels of access to them for migrants, for instance by considering temporary and circular

- migration schemes, when appropriate with the involvement of supervised employment agencies; and *encourages* governments to provide amnesties for irregular migrants, in accordance with national law, and to facilitate the situation of returning migrants and to assist them;
6. *Reaffirms* that more systematic and comprehensive migration policies are needed to prevent irregular migration;
  7. *Acknowledges* that the problems faced by the migrant population at the global level have three dimensions, namely: a political one, which recognizes such groups as minorities entitled to the rights of expression and participation; an economic one, whereby their contribution to the growth of receiving economies is acknowledged; and a cultural one, whereby they contribute to the creation of new patterns of socialization and expression;
  8. *Encourages* parliaments and governments to persuade countries of destination to adopt policies aimed at integrating all migrants into their new communities, especially by helping them to learn the local language and preventing the creation of ghettos where dissent, discrimination and despair are likely to flourish;
  9. *Reaffirms* that governments must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular with regard to international instruments relating to human rights law, migration law, refugee law and international humanitarian law;
  10. *Also reaffirms* that governments must guarantee the respect of basic human rights for all migrants and their families, regardless of their migrant status;
  11. *Demands* that receiving countries maintain all persons belonging to the same family together in the repatriation process whenever possible;
  12. *Stresses* that the increasing feminization of migration at the global level needs to be adequately reflected in migration-related policies, with a view to ensuring that the migration of women does not result in their disempowerment and exploitation;
  13. *Calls upon* migrants' countries of origin, transit and destination to cooperate in managing migratory flows to combat trafficking and smuggling in humans, which are among the worst forms of exploitation and violations of the fundamental rights of migrants, in particular women and children, so as to identify policies and practices that are discriminatory against women and ensure that gender inequalities are not reproduced or exacerbated in the migration process;
  14. *Encourages* governments and parliaments in countries of origin and destination to take into account the higher levels of illiteracy among women and to facilitate the integration of women migrants, whether workers or caregivers, by developing programmes of language training aimed at improving their communication skills;
  15. *Calls upon* governments to promote a gender-sensitive approach to migration and trafficking and to take the necessary actions to address specific aspects of women's migration in general, and trafficking in women and girls in particular;
  16. *Calls upon* governments and parliaments, especially those of countries of origin and destination, to enact laws that put an end to exploitation and abuse of foreign workers, in particular women migrants, and put in place criminal sanctions to punish perpetrators of violence against women migrant workers, and provide victims of violence with full assistance and protection;
  17. *Further calls upon* governments to pay special attention and provide appropriate assistance and protection to migrant children, especially unaccompanied minors and trafficked children;

18. *Encourages* governments to draw up and implement campaigns to combat xenophobia and violence against migrants, highlighting the positive contributions made by migrants in receiving societies;
19. *Calls upon* the media to report in a responsible manner on migration-related issues, avoiding the promotion of false images and negative stereotypes of migrants;
20. *Calls upon* governments to increase the coherence of their policies and step up cooperation on migration issues, including by holding meetings and conferences on migration and development, with an emphasis on bilateral, regional and global cooperation, particularly in the context of irregular migration;
21. *Encourages* States to ratify and adhere to the international legal instruments relating to migration, in particular the International Convention on the Protection of the Rights for all Migrant Workers and Their Families;
22. *Calls upon* governments to involve key social actors such as NGOs and other actors of civil society to participate in the drawing up and implementation of migration policies;
23. *Encourages* governments to prevent situations in which persons who are not authorized by law to do so participate in the detention and expulsion of migrants;
24. *Reaffirms* the need to adopt policies and undertake measures aimed at ensuring the safe, unrestricted and undelayed transfer of migrants' remittances to their countries of origin at reduced cost;
25. *Also reaffirms* the need for governments, the donor community and all stakeholders to respect international aid commitments and address the issue of international migration and development in a more coherent way, within the broader context of the implementation of agreed economic and social development goals and respect for all human rights;
26. *Calls upon* governments, the United Nations Secretary-General and all relevant bodies, agencies, funds and programmes of the United Nations system and other relevant intergovernmental, regional and subregional organizations, within their continuing mandated activities, to respect the distinction between the international refugee protection regime and international migration policies, so as to address the issue of international migration and development in a more holistic and coherent way;
27. *Also calls upon* the United Nations Secretary-General and relevant bodies, agencies, funds and programmes of the United Nations system as well as other relevant intergovernmental regional and subregional organizations to provide continued funding for research into the many dimensions of migration and development, including the analysis of current statistical data and future trends; and *stresses* in this respect the importance of ensuring data comparability at the international level;
28. *Requests* the IPU Secretary General to transmit this resolution to the United Nations high-level dialogue on international migration and development, to be held in 2006, as the Union's contribution to its deliberations.

## THE IMPORTANCE OF CIVIL SOCIETY AND ITS INTERPLAY WITH PARLIAMENTS AND OTHER DEMOCRATICALLY ELECTED ASSEMBLIES FOR THE MATURING AND DEVELOPMENT OF DEMOCRACY

*Resolution adopted unanimously by the 113th IPU Assembly  
(Geneva, 19 October 2005)*

The 113th Assembly of the Inter-Parliamentary Union,

*Recognizing* that a sincere and active commitment to interplay between civil society and parliaments and other democratically elected assemblies is a long-term political investment that, if properly managed, will contribute to ensuring peace, justice and prosperity, increase civic participation, and enhance the effectiveness of representative institutions and the legitimacy of governments,

*Underscoring* the close link between democracy and civil society, as well as the role of the latter in developing and strengthening democracy, and in introducing change required for development processes,

*Aware* that among democratic institutions parliament is a privileged forum for a transparent and free dialogue with the different forms of civil society,

*Acknowledging* that there will always be an essential difference between positive and constructive interplay, and relations that are or become confrontational, manipulative or inspired by hidden motives,

*Noting* that the articulation of this interplay must take into account both national and international dimensions, and with this the need for States to be committed not only to ensuring but also to promoting ongoing collaboration with civil society, with the aim of developing and consolidating democracy, and *recognizing* that the dynamic links between the maturing of democracy as a political process and its participatory nature can be strengthened by such interplay,

*Recognizing* the importance of building the capacity of citizens through education, as human and social capital are the driving forces and key elements in the democratization process, and are as important as financial and physical capital,

*Acknowledging* that parliaments around the world have a responsibility to provide a foundation for people-oriented social and economic policies which enhance bonds of trust, mutual confidence and reciprocity among citizens, and ensure appropriate, transparent and legally verifiable funding, whose sole objective should be the promotion of democracy and not the subversion of legitimately constituted governments,

*Reaffirming* the IPU's Universal Declaration on Democracy adopted at the 161st Session of the Inter-Parliamentary Council (Cairo, September 1997) and the Resolution entitled Ensuring lasting democracy by forging close links between Parliament and people, adopted at the 98th Inter-Parliamentary Conference (Cairo, September 1997),

*Recalling* the Beijing Declaration and Platform for Action, which encouraged governments to take measures to ensure women's full participation in power structures and decision-making and to increase women's capacity to participate in decision-making and leadership, and in this connection *acknowledging* the important contribution to the development of participatory democracy that

women's popular movements such as non-governmental organizations (NGOs) make at the local and international levels,

*Convinced* that an enabling environment for civil society, ensured through legal provisions that guarantee the basic freedoms of assembly, association and expression in accordance with the Universal Declaration of Human Rights and other international and regional covenants and conventions, should be the cornerstone and basis of interplay between parliaments and civil society,

*Stressing* the need to establish a balanced partnership between the State and civil society that ensures transparency and accountability and the right of governments to enact laws governing the activities of civil society organizations,

*Underlining* the grass-roots-based and voluntary aspect of civil society, and *noting* the great differences in the structure of civil society in the various regions,

*Stressing* the fact that civil society is currently developing into a major global, social and economic force, and that its activities cover a very wide field, such as social services, education, health, human rights, communication and information,

*Emphasizing* the need to preserve the independence of civil society organizations and the importance of preventing them from being co-opted by foreign interests to advance illegal agendas,

*Recognizing* the importance of creative interplay between parliaments and civil society, especially in bridging gaps between various local groups and government bodies, public sector organizations, private business enterprises and the public,

*Affirming* that the financial relationships between civil society organizations and governments must be structured to provide needed support while avoiding co-optive pressures or the breakdown of ties between organizations and their constituencies that could compromise the independence and diversity of civil society organizations,

*Conscious* of forces that can undermine democracy by suppressing or manipulating civil society and that may emanate from intolerant governments or ideologies,

*Conscious* that poverty, unemployment, corruption and lack of opportunity limit the freedom of citizens, thus undermining the democratic system as a whole by inhibiting the integration of social organizations that foster democratic rights,

1. *Asserts* that the articulation of the interplay between civil society and parliaments and other democratically elected assemblies will not only contribute to the eradication of poverty, but also empower even the poorest of the poor to engage in general democratic life in their respective countries and, in so doing, will enhance the richness and credibility of political representation and strengthen the legitimacy of democratic institutions and processes, and in this connection, *calls upon* parliaments to assist the efforts of NGOs to intensify the fight against poverty, so that all people have practical opportunities to participate in the development of civil society;
2. *Emphasizes* that only the full affirmation of political and social pluralism can ensure for all citizens the enjoyment of fundamental rights and freedoms;

3. *Calls upon* all parliaments and governments to promote constructive interplay with their respective civil societies, with a view to optimizing the participatory character of their democracies, inter alia through the effective use of information technology and by bridging the digital divide between regions, and through the involvement of civil society organizations in gender-sensitive budgeting processes;
4. *Calls upon* the world's parliamentarians to initiate and implement projects to facilitate public participation and education for youth, women and men, thereby training civil society in the operations and functions of legislatures and in the importance of civic participation in sustaining democracies;
5. *Invites* parliaments and the IPU to set up mechanisms for the exchange of information, experience and best practices on the implementation and results of such projects;
6. *Further calls upon* parliaments to put forward flexible social policies pursuant to prevailing national laws, and to adopt legislation to promote civil society interactions and make it easier for voluntary organizations to register or to be incorporated, while at the same time guaranteeing the independence and diversity of NGOs, and ensuring that civil society organizations, whose support stems from ideologies based on fundamentalism and intolerance, are not encouraged;
7. *Also calls upon* parliaments to regularly review legislation relating to civil society organizations in order to guarantee their right to be registered and incorporated as legally independent entities;
8. *Emphasizes* that fair funding of civil society is necessary to consolidate democracies, and that this need gives both the public and private sectors a great opportunity to contribute by collaborating with civil society in ways that do not create co-optive pressures or erode the ties between such organizations and those they represent, and thus to sustain the independence and diversity of civil society organizations;
9. *Urges* all States to protect not only old, well-established organizations, but also new, democratic movements and associations in the most marginalized neighbourhoods and villages, and to support the struggle for tolerance and coexistence in those environments;
10. *Strongly urges* parliaments to support and where necessary enhance all constructive channels of political expression, the promotion of human rights and investment in human capital, through legislation, policies and regulations that promote civil society;
11. *Reiterates* that transparency and accountability are vital to civil society and that the establishment of mechanisms for control and self-discipline, and also of national and international codes of conduct, can bring about great improvements in this regard;
12. *Calls upon* parliaments to enact legislation and, in cooperation with civil society, to adopt all measures incumbent upon them in order to counter corruption, which poses an internal threat to democracy, and to promote discussions on anti-corruption measures, including through negotiations related to the United Nations Convention against Corruption;

13. *Urges* parliaments to promote conditions for the representatives of the corporate sector and NGOs to engage in a policy dialogue aimed at exploring avenues of increased collaboration, especially with regard to long-term commitments in areas such as the pursuit of the Millennium Development Goals, environmental protection and debt relief, and also aimed at identifying and removing impediments preventing NGOs from participating in and contributing to various fields of development;
14. *Invites* parliaments and governments to support, consistent with the national policies, the role played by civil society organizations in job creation and economic development, and to draw upon their expertise in this field;
15. *Urges* parliaments and governments to encourage the development and strengthening of civil society by providing the necessary support, training and technical assistance, and by organizing open hearings and other activities that promote a permanent dialogue with civil society;
16. *Invites* parliaments to create ongoing contacts with NGOs, including those that represent marginalized groups, with a view to encouraging a greater level of popular advocacy in political life, providing (and encouraging NGOs to seek from governments) systematic responses to advocacy, including both actions taken and clear explanations of inaction, so as to strengthen incentives for participation, and educating their constituents about the importance of civic participation at all levels;
17. *Calls upon* parliaments to adopt rules and procedures capable of ensuring an effective dialogue with civil society in the performance of parliamentary functions;
18. *Stresses* the importance of parliamentarians' developing direct contacts with civil society actors and citizens in general, both at the electoral district level, by establishing a parliamentary presence there where constituents can be received, and at the national or international level, by using information and communications technologies, for example;
19. *Recommends* that the IPU develop closer links with civil society and project itself as a global actor in the promotion of civil society by adopting a new comprehensive media strategy to make the Union better-known to the general public;
20. *Urges* parliaments to encourage active interaction among civil society groups through the sharing of experiences and exchange of views, to ensure best practices;
21. *Invites* parliaments to design, jointly with their governments, programmes that promote the teaching of democratic values such as freedom, equality before the law, and freedom of association, and *emphasizes* that these values are best defended and respected in an organized and well-informed society;
22. *Invites* parliaments and governments to ensure that legislation is worded in a manner that is clear and comprehensible for the citizen, and to ensure also that citizens and civil society actors are aware of their legal and constitutional rights and their responsibilities in the democratic process;
23. *Encourages* parliaments to ensure that their relations with the media and their information and communication policies for civil society and the public in general are development-focused, transparent and based on truth as well as mutual respect and the best interests of society.

**NATURAL DISASTERS: THE ROLE OF PARLIAMENTS IN PREVENTION,  
REHABILITATION, RECONSTRUCTION AND THE PROTECTION OF  
VULNERABLE GROUPS**

*Resolution adopted unanimously by the 113th Assembly  
(Geneva, 19 October 2005)*

The 113th Assembly of the Inter-Parliamentary Union,

*Expressing* deep concern at the recurrence of natural disasters and their increasing impact in recent years, which have resulted in massive loss of life and long-term adverse social, economic and environmental consequences throughout the world,

*Recalling* the resolutions adopted by the Inter-Parliamentary Union (IPU) on natural disasters at its 108th Conference, held in Santiago, Chile and at its 112th Assembly, held in Manila, the Philippines,

*Aware* that it is essential to ensure human safety, and also that there is an urgent need to continue developing and using existing scientific and technical knowledge to reduce vulnerability to natural disasters, and *emphasizing* the need for developing countries to have access to related technologies so that they are able to deal effectively with natural disasters,

*Distressed* that over 50,000 people were killed in South Asia as a result of a major earthquake which took place on 8 October 2005, and which has left thousands with serious injuries and has resulted in massive loss of property,

*Also distressed* at the loss of life and destruction of property in the wake of the hurricanes that hit several states of the United States of America and the typhoons that affected Japan in August and September 2005, and the hurricanes that ravaged Mexico and some countries in Central America in early October 2005,

*Also distressed* at the loss of life and destruction caused by famine and other natural disasters in parts of Africa,

*Expressing* sincere condolences to the bereaved families as well as to the people, parliaments and governments of the affected countries,

*Appreciating* the efforts of the affected nations to respond to the destruction caused by the earthquake, and the cooperation extended by the international community in relief and rescue efforts,

*Also appreciating* the role of the United Nations and its specialized agencies and international organizations in providing humanitarian assistance to the victims,

*Emphasizing* that disaster preparedness and management, including the reduction of vulnerability to natural disasters, is an important element that contributes to the achievement of sustainable development,

*Stressing* the importance of the Hyogo Declaration and Framework for Action 2005 - 2015 of the World Conference on Disaster Reduction, held in Kobe, Japan from 18 to 22 January

2005, in developing effective disaster reduction strategies at the national level, and *also stressing* the importance of capacity-building to achieve this objective,

*Recognizing* that women, children and other vulnerable groups are seriously affected by natural disasters, and that there is a need to pay special attention to alleviating the pain and suffering of these persons in post-disaster situations,

*Emphasizing* the need for psychological assistance and counselling to eliminate mental trauma, particularly among children affected by natural disasters, through various kinds of support provided by governments, the World Health Organization (WHO), the United Nations Children's Fund (UNICEF) and non-governmental organizations (NGOs),

*Also emphasizing* that the commitment of the international community, including States and international organizations, is vital in helping States to build their disaster management capacities and is crucial in rehabilitation and reconstruction in post-disaster situations,

*Stressing* the need for continued commitment by the international community to provide assistance for relief, rehabilitation and reconstruction of areas and communities in South Asia affected by the earthquake,

1. *Expresses* its solidarity with the people and communities affected by natural disasters, particularly those affected by the devastating earthquake that struck South Asia on 8 October 2005;
2. *Affirms* the need for an effective international disaster reduction strategy, as well as for commitment and efforts to assist in rescue, relief, rehabilitation and reconstruction activities in post-disaster situations;
3. *Calls upon* all Member Parliaments of the IPU and relevant international organizations to consider establishing databases of the human and material resources that are available to countries to effectively deal with natural disasters;
4. *Calls upon* parliaments to urge their governments to build capacity through the establishment of early warning systems, setting up evacuation centres and disaster prevention measures to facilitate quick and efficient disaster reporting mechanisms;
5. *Stresses* the need for timely, concerted and focused rehabilitation and reconstruction efforts in the aftermath of disasters to mitigate the suffering of the affected populations;
6. *Emphasizes* that parliaments can play an important role in mobilizing national resources for reconstruction and development efforts in disaster-affected areas;
7. *Also emphasizes* that international assistance can effectively supplement national resources in rehabilitation, reconstruction and development efforts in disaster-affected areas;
8. *Emphasizes* that relief, rehabilitation and reconstruction efforts should place particular emphasis on projects devoted to the care and development of women, children and other vulnerable groups;
9. *Appreciates* the important contribution made by NGOs in relief and rescue work, as well as in the long-term rehabilitation and reconstruction phase in disaster-affected areas;

10. *Calls upon* States to recognize the interrelationship between the various climatic phenomena throughout the world and environmental protection, and the responsibility of all countries to carry out actions and global programmes to reduce environmental impacts such as those caused by high emissions and the release of pollutants into the atmosphere and water bodies, deforestation and the wasteful use of natural resources;
11. *Expresses support* for the endeavours of the Senior United Nations System Coordinator for Avian and Human Influenza, and *urges* Member Parliaments to play their part in ensuring that the necessary funds are made available and that information and guidance is adequately disseminated among populations;
12. *Also calls upon* States to recognize the importance of developing an international framework to govern the provision of humanitarian assistance in accordance with the principles of neutrality and impartiality, and with full respect for the sovereignty, territorial integrity and national unity of States;
13. *Invites* all Member Parliaments of the IPU to take urgent action to follow up on the recommendations contained in this resolution.

## STATEMENT ON AVIAN INFLUENZA

*Adopted by the 113th IPU Assembly  
(Geneva, 19 October 2005)*

The 113th Assembly of the Inter-Parliamentary Union, meeting in Geneva in October 2005, wishes to express its alarm at the outbreak of avian influenza in various countries and the international propagation of the disease. While official estimates of the potential human casualty rates of a pandemic caused by avian influenza may differ, we believe that even the most modest predictions would severely disrupt our societies and trigger crises of the utmost gravity. We are aware that this disease has already destroyed many livelihoods in different parts of the world.

In the light of the foregoing, we exhort all parliaments to do everything within their power to ensure that governments treat this new crisis with foresight and resolute action in order to contain its effects while they can still be controlled. We express our support for the endeavours of the United Nations Coordinator for avian and human influenza and urge our Member Parliaments to play their part in ensuring that the necessary funds are made available and that information and guidance is adequately disseminated among populations.

## Amendments to the Statutes and Rules of the Inter-Parliamentary Union

### **Amendment to the Financial Regulations**

The Governing Council approved the following new rule to be added to the Financial Regulations:

- 11. Notwithstanding the terms of the foregoing paragraph, a former Member of the Union that has been suspended from membership of the Union for non-payment of its contributions and which requests reaffiliation to the Union may in special extenuating circumstances be forgiven a part or all of its previous debt. The Governing Council shall decide on each case on an individual basis after receiving the detailed report of the Executive Committee.**

**Reports, Decisions, Resolutions and other texts  
of the 177th Session of the Governing Council of the  
Inter-Parliamentary Union**

**BRIDGING THE DEMOCRACY GAP IN INTERNATIONAL RELATIONS:  
A STRONGER ROLE FOR PARLIAMENTS**

*Declaration adopted by consensus by the Second World  
Conference of Speakers of Parliaments  
(New York, 7 - 9 September 2005)*

Parliament embodies democracy. Parliament is the central institution through which the will of the people is expressed, laws are passed and government is held to account. On the eve of the High-Level Meeting of Heads of State and Government, we, the Speakers of the world's parliaments, have met at United Nations Headquarters in New York. We have convened to express the views of peoples' representatives in parliament, take stock of action effected by parliaments since our first Conference in 2000, examine how we can provide more support for international cooperation and the United Nations, and thus help bridge the democracy gap in international relations.

As we adopt the present Declaration, we are mindful of the urgent need for the world community to work in concert in tackling the daunting challenges that face it. We believe that the world has reached a fork in the road, and that the global community must not miss this opportunity to take drastic action. While perceptions of the gravest threats may differ, they will be tackled effectively only if they are addressed concurrently and within the United Nations system. We reaffirm the will of national parliaments to engage wholeheartedly in this effort.

**International cooperation**

We are convinced that the United Nations must remain the cornerstone of global cooperation. The United Nations Secretary-General should therefore be encouraged to pursue the current reform process vigorously. We commend him for his comprehensive package of valuable reform proposals set out in his report *In larger freedom: towards development, security and human rights for all* (A/59/2005). We urge all parliaments to debate these proposals and engage with their respective governments to create the momentum for action on the clear understanding that democracy, security, development and human rights are intrinsically linked.

There is indeed an urgent need for Member States, including their parliaments, to demonstrate leadership and political will to provide the Organization with more efficient mechanisms and appropriate human and financial resources in all areas, and with a sound basis for effective management reform. Equipping the United Nations to address economic and social development problems more adequately is one such task. In order to reduce poverty and ensure sustainable development, countries need forums in which they can simultaneously negotiate across different sectors, including foreign aid, technology, trade, environmental protection, financial stability and development policy.

The report *Investing in Development: A Practical Plan to Achieve the Millennium Development Goals* argues that development is within the reach of many nations, and gives extensive examples of action countries can take, individually and collectively, to come closer to the fulfillment of the

Millennium Development Goals. Development must remain high on the agenda. We are determined to build the necessary political support for change and action. States must live up to the commitments they have already made to provide development assistance, in line with the Monterrey Consensus and the Millennium Declaration. We welcome the discussion on new and innovative forms of financing for development, which we hope will provide much needed additional resources.

Global security issues should also be tackled more vigorously at the United Nations. Nuclear-weapon States should meet their obligations in nuclear disarmament, and States must make new efforts in all areas of non-proliferation and arms control. Action already taken by the United Nations and its Member States to fight international terrorism is encouraging, but much more can be done, including by concluding a comprehensive convention on terrorism and agreeing upon an internationally accepted definition of terrorism that includes any action which is intended to cause death or serious bodily harm to civilians or non-combatants, for whatever purpose.

We reaffirm that the promotion and protection of human rights and fundamental freedoms for all, in particular for women and children, are essential to development, peace and security. We also emphasize that good governance and the rule of law at the national and international levels are key to sustainable development and world peace. We call upon the United Nations to integrate more fully all three dimensions into its work, and we urge member States to take resolute action to that end.

### **Parliaments and the United Nations**

We reaffirm the Declaration of the first Conference of Speakers of Parliaments (2000) in which we called on all parliaments and their world organization – the Inter-Parliamentary Union (IPU) – to provide a parliamentary dimension to international cooperation. We welcome the progress that has been made by many parliaments to achieve this objective, as evidenced by the *IPU Report on parliamentary involvement in international affairs*. At the same time, we recognize that much remains to be done.

We welcome the United Nations decision to grant observer status to the IPU. This is a first step that opens channels for the Organization to convey the views of the parliamentary community to the United Nations. The time has come for a strategic partnership between the two institutions. We would greatly welcome more substantive interaction and coordination with the United Nations, and call upon the world body to resort more frequently to the political and technical expertise which the IPU together with its Member Parliaments can provide, particularly in areas relating to post-conflict institution building.

We emphasize that parliaments must be active in international affairs not only through inter-parliamentary cooperation and parliamentary diplomacy, but also by contributing to and monitoring international negotiations, overseeing the enforcement of what is adopted by governments, and ensuring national compliance with international norms and the rule of law. Similarly, parliament must be more vigilant in scrutinizing the activities of international organizations and providing input into their deliberations.

We therefore welcome the current debate on how best to establish more meaningful and structured interaction between the United Nations and national parliaments. We reaffirm the recommendations relating to this subject that were contained in our Declaration of the year 2000, and assert that much of this interaction must be firmly rooted in the daily work of our national parliaments. At the international level, we propose to work ever more closely with the IPU, which we consider to be a unique global parliamentary counterpart of the United Nations.

To this end, we encourage the IPU to ensure that national parliaments are better informed on the activities of the United Nations. Moreover, we invite the IPU to avail itself more frequently of the expertise of members of standing and select committees of national parliaments in dealing with specific issues requiring international cooperation. We also encourage the IPU to develop further parliamentary hearings and specialized meetings at the United Nations, and to cooperate more closely with official regional parliamentary assemblies and organizations, with a view to enhancing coherence and efficiency in global and inter-regional parliamentary cooperation.

The IPU is the primary vehicle for strengthening parliaments worldwide, and thus promoting democracy, and we pledge to further consolidate it. We welcome the IPU's report on *Parliaments' contribution to democracy*. We intend to reinforce the IPU human rights machinery so that the world's 40,000 parliamentarians can do the job they were elected to do in greater freedom and safety. We will also continue to support IPU efforts to see that both genders are represented within the ranks of parliamentarians in a more equitable way, and to take action where necessary.

In all of these ways, we will increase the capacity of our parliaments to bring their influence to bear on the work of the United Nations, enhance the transparency and accountability of that world Organization and thus provide an impetus to the reforms under way at the United Nations.

### **Follow-up and implementation**

We resolve to convey this Declaration to our parliaments and urge them to do everything within their powers to ensure that it is followed up in an effective manner. We encourage every parliament to organize, at around the same time each year, "an International Day of Parliaments" and to hold a parliamentary debate on one of the recommendations included in this Declaration. We invite the IPU to forward this Declaration to the United Nations Secretary-General and the President of the United Nations General Assembly with a request that it be circulated as an official document of the United Nations. We also decide to convene future meetings of Speakers of Parliaments to review progress in implementing this Declaration, and invite the IPU to make the necessary preparations, in close cooperation with the United Nations.

**BUDGET OF THE INTER-PARLIAMENTARY UNION FOR THE YEAR 2006**

*Approved by the IPU Governing Council at its 177<sup>th</sup> Session  
(Geneva, 19 October 2005)*

**GROSS SPENDING ESTIMATES BY COST CENTRE**  
(in CHF, Swiss francs)

<b>DESCRIPTION</b>	<b>2004 ACTUAL</b>	<b>2005 REVISED</b>	<b>2006 PROPOSED</b>
Direction	875,429	859,000	935,700
Assembly Affairs and Relations with Member Parliaments	2,395,385	3,006,810	2,609,200
Promotion of Democracy	2,271,079	2,553,100	2,690,900
External Relations	1,525,044	1,609,900	1,930,000
Support Services	2,567,762	2,066,100	2,114,700
Transfers of Funds	143,710	162,000	265,000
<b>TOTAL</b>	<b>9,778,409</b>	<b>10,256,910</b>	<b>10,545,500</b>

## SPENDING ESTIMATES BY OBJECT OF EXPENDITURE

EXPENDITURE ITEM	2004 ACTUAL	2005 REVISED	2006 PROPOSED
Regular staff salaries	3,915,796	4,305,000	4,462,900
Benefits	1,852,218	1,691,700	1,818,300
Staff overheads	37,165	95,900	95,900
Overtime payments	55,773	58,000	60,500
Temporary and contract employees	389,494	321,400	305,600
Interpreters	514,538	714,400	615,800
Translations and editing	214,698	220,000	290,300
Other purchased services	370,313	239,500	276,200
Honorariums	30,000	30,000	30,000
Duty travel - transportation	366,882	554,300	462,000
Duty travel - allowances	153,605	202,600	172,400
Duty travel - incidentals	1,628	4,600	3,300
Rent	57,839	70,200	166,900
Heating	24,917	24,000	26,000
Electricity	22,679	28,000	26,000
Water	1,946	3,000	2,400
Buildings and grounds	29,571	24,300	32,300
Cleaning supplies and services	12,788	12,400	14,500
Security	7,421	8,000	8,000
Insurance	42,539	45,200	42,200
Office vehicles	9,793	5,000	10,000
Office furniture and equipment purchases	3,902	2,000	4,400
Equipment maintenance and repair	3,375	3,300	6,400
Equipment rental/leasing	166,772	163,000	167,600
Conference venue services	32,653	93,600	46,500
Stationery	53,181	51,100	47,900
Miscellaneous office supplies	22,393	34,100	30,200
Sundry expenses	3,347	11,200	15,300
Telephone/Telefax	78,185	64,700	78,500
Postage	119,456	106,500	113,300
Courier services	32,002	31,700	29,000
Freight	42,712	33,310	30,000
Internet connection	45,286	50,000	38,000
Computer hardware maintenance	18,920	15,000	15,000
Computer software/supplies/service	31,434	32,600	32,600
Publishing	169,757	184,000	159,500
IPU web site	2,275	7,500	7,500
Online databases	37,690	40,500	27,500
Library acquisitions	3,777	21,000	16,000
Information activities	4,874	22,300	18,400
Official hospitality	89,005	95,100	108,400
Bank charges	42,328	4,000	4,000
Audit costs	4,441	5,000	5,000
ASGP	43,583	100,000	100,000
Amortization	565,327	375,900	358,000
Allowance for Doubtful Accounts	50,127	112,000	115,000
Working Capital Fund/Reserves	189,138	-50,000	50,000
<b>TOTAL EXPENSES</b>	<b>9,967,547</b>	<b>10,256,910</b>	<b>10,545,500</b>
<b>RECOVERIES</b>	<b>-152,017</b>	<b>-100,000</b>	<b>-50,000</b>
<b>NET COST</b>	<b>9,815,530</b>	<b>10,156,910</b>	<b>10,495,500</b>

**APPROVED PROGRAMME AND BUDGET FOR 2006**  
**TABLE OF CONTRIBUTIONS TO THE BUDGET OF THE**  
**INTER-PARLIAMENTARY UNION FOR THE YEAR 2006**  
*Approved by the IPU Governing Council at its 177<sup>th</sup> Session*  
*(Geneva, 19 October 2005)*

Members and Associate Members	Points	Amount of the contribution for 2006 (Swiss francs)
Albania	0.20	CHF 23,370
Algeria	0.33	CHF 38,560
Andorra	0.20	CHF 23,370
Angola	0.20	CHF 23,370
Argentina	0.69	CHF 80,640
Armenia	0.26	CHF 30,390
Australia	1.50	CHF 175,310
Austria	0.84	CHF 98,180
Azerbaijan	0.35	CHF 40,910
Bahrain	0.22	CHF 24,970
Bangladesh	0.20	CHF 23,370
Belarus	0.48	CHF 56,100
Belgium	1.11	CHF 129,730
Benin	0.20	CHF 23,370
Bolivia	0.20	CHF 23,370
Bosnia and Herzegovina	0.23	CHF 26,880
Botswana	0.20	CHF 23,370
Brazil	1.57	CHF 183,490
Bulgaria	0.30	CHF 35,060
Burkina Faso	0.20	CHF 23,370
Burundi	0.20	CHF 23,370
Cambodia	0.20	CHF 23,370
Cameroon	0.20	CHF 23,370
Canada	2.89	CHF 337,760
Cape Verde	0.20	CHF 23,370
Chile	0.26	CHF 30,390
China	0.86	CHF 100,510
Colombia	0.30	CHF 35,060
Congo	0.20	CHF 23,370
Costa Rica	0.20	CHF 23,370
Côte d'Ivoire	0.20	CHF 23,370
Croatia	0.29	CHF 33,900
Cuba	0.27	CHF 31,550
Cyprus	0.21	CHF 24,530
Czech Republic	0.50	CHF 58,430
Democratic People's Republic of Korea	0.23	CHF 26,880
Democratic Republic of the Congo	0.20	CHF 23,370
Denmark	0.75	CHF 87,650
Djibouti	0.20	CHF 23,370
Dominican Republic	0.22	CHF 25,720
Ecuador	0.22	CHF 25,720
Egypt	0.25	CHF 29,220
El Salvador	0.20	CHF 23,370
Estonia	0.25	CHF 29,220
Ethiopia	0.20	CHF 23,370
Fiji	0.20	CHF 23,370
Finland	0.69	CHF 80,640

<b>Members and Associate Members</b>	<b>Points</b>	<b>Amount of the contribution for 2006 (Swiss francs)</b>
France	5.39	CHF 629,940
Gabon	0.20	CHF 23,370
Georgia	0.29	CHF 33,900
Germany	7.93	CHF 926,790
Ghana	0.20	CHF 23,370
Greece	0.49	CHF 57,270
Guatemala	0.21	CHF 24,530
Guinea	0.20	CHF 23,370
Hungary	0.35	CHF 40,910
Iceland	0.22	CHF 25,720
India	0.50	CHF 58,430
Indonesia	0.33	CHF 38,560
Iran (Islamic Republic of)	0.86	CHF 100,510
Ireland	0.35	CHF 40,910
Israel	0.39	CHF 45,580
Italy	3.91	CHF 456,970
Japan	10.55	CHF 1,232,990
Jordan	0.20	CHF 23,370
Kazakhstan	0.45	CHF 52,590
Kenya	0.20	CHF 23,370
Kuwait	0.41	CHF 47,930
Kyrgyzstan	0.22	CHF 25,720
Lao People's Democratic Republic	0.20	CHF 23,370
Latvia	0.28	CHF 32,730
Lebanon	0.20	CHF 23,370
Liberia	0.20	CHF 23,370
Libyan Arab Jamahiriya	0.40	CHF 46,750
Liechtenstein	0.20	CHF 23,370
Lithuania	0.30	CHF 35,060
Luxembourg	0.24	CHF 28,050
Madagascar	0.20	CHF 23,370
Malaysia	0.30	CHF 35,060
Maldives	0.20	CHF 23,370
Mali	0.20	CHF 23,370
Malta	0.20	CHF 23,370
Mauritius	0.20	CHF 23,370
México	0.95	CHF 111,030
Monaco	0.20	CHF 23,370
Mongolia	0.20	CHF 23,370
Morocco	0.22	CHF 25,720
Mozambique	0.20	CHF 23,370
Namibia	0.20	CHF 23,370
Nepal	0.20	CHF 23,370
Netherlands	1.49	CHF 174,130
New Zealand	0.40	CHF 46,750
Nicaragua	0.20	CHF 23,370
Niger	0.20	CHF 23,370
Nigeria	0.30	CHF 35,060
Norway	0.67	CHF 78,300
Pakistan	0.24	CHF 28,050
Panama	0.20	CHF 23,370
Papua New Guinea	0.20	CHF 23,370

<b>Members and Associate Members</b>	<b>Points</b>	<b>Amount of the contribution for 2006 (Swiss francs)</b>
Peru	0.24	CHF 28,050
Philippines	0.25	CHF 29,220
Poland	0.60	CHF 70,120
Portugal	0.36	CHF 42,080
Republic of Korea	0.79	CHF 92,330
Republic of Moldova	0.30	CHF 35,060
Romania	0.34	CHF 39,730
Russian Federation	5.50	CHF 642,800
Rwanda	0.20	CHF 23,370
Samoa	0.20	CHF 23,370
San Marino	0.20	CHF 23,370
Sao Tome and Principe	0.20	CHF 23,370
Saudi Arabia	1.02	CHF 119,340
Senegal	0.20	CHF 23,370
Serbia and Montenegro	0.33	CHF 38,560
Singapore	0.30	CHF 35,060
Slovakia	0.28	CHF 32,730
Slovenia	0.27	CHF 31,550
South Africa	0.54	CHF 63,110
Spain	1.91	CHF 223,220
Sri Lanka	0.20	CHF 23,370
Sudan	0.20	CHF 23,370
Suriname	0.20	CHF 23,370
Sweden	1.15	CHF 134,400
Switzerland	1.20	CHF 140,260
Syrian Arab Republic	0.23	CHF 26,880
Tajikistan	0.21	CHF 24,530
Thailand	0.29	CHF 33,900
The FYR of Macedonia	0.20	CHF 23,370
Togo	0.20	CHF 23,370
Tunisia	0.22	CHF 25,720
Turkey	0.43	CHF 50,250
Uganda	0.20	CHF 23,370
Ukraine	0.60	CHF 70,120
United Arab Emirates	0.37	CHF 43,240
United Kingdom	4.54	CHF 530,590
United Republic of Tanzania	0.20	CHF 23,370
Uruguay	0.23	CHF 26,880
Uzbekistan	0.37	CHF 43,240
Venezuela	0.62	CHF 72,460
Viet Nam	0.20	CHF 23,370
Yemen	0.20	CHF 23,370
Zambia	0.20	CHF 23,370
Zimbabwe	0.20	CHF 23,370
Andean Parliament	0.02	CHF 2,340
Central American Parliament	0.01	CHF 1,200
ECOWAS	0.01	CHF 1,200
East African Legislative Assembly	0.01	CHF 1,200
European Parliament	0.10	CHF 11,690
Latin American Parliament	0.02	CHF 2,340
Parliamentary Assembly of the Council of Europe	0.06	CHF 7,020
<b>TOTAL</b>	<b>90.23</b>	<b>CHF 10,544,590</b>

## **FUTURE SCALE OF ASSESSMENTS PROPOSED BY THE WORKING GROUP**

1. The current IPU scale of assessments is based on that in use at the United Nations in 1992, and reflects the paying capacity of United Nations Member States at that time. For many years, IPU Members have recognized the need to update the scale so that it reflects current economic realities. Moreover, the Executive Committee has long felt the need to make participation in the IPU more affordable to parliaments that are not yet Members, and which represent countries with small or weak economies.
2. In order to achieve these two objectives, the Executive Committee set up a Working Group to review the scale of contributions and to make recommendations. The Working Group met on three occasions, most recently on 16 October 2005, when it recommended the introduction of a new scale of assessments.
3. The proposed scale of assessments is based on the United Nations scale of assessments for 2004, 2005 and 2006, and therefore takes account of the economic conditions prevailing up to that time, and of the tremendous economic growth that has taken place in some countries. In the proposed scale of assessments, Members' contributions are directly proportional to their national contributions to the United Nations ordinary budget.
4. The proposed scale of assessments has a minimum contribution of 0.10 per cent of the budget, compared to a current minimum contribution of 0.22 per cent. The maximum contribution is unchanged from 2005, at 11.75 per cent of the total budget.
5. The proposed scale would be introduced over a period of six years through six gradual adjustments in order to reduce the immediate impact on Members' budgets. It would be reviewed every three years, starting in 2006, to take account of changes in economic conditions, and it would be adjusted annually to take account of changes in the membership base of the IPU.

### PROPOSED SCALE OF ASSESSMENTS

Member/Associate Member	UN Scale	Old Scale (2005)		New Scale (First Year)		Target Per cent
		Points	Per cent	Per cent	CHF	
Albania	0.005%	0.20	0.22%	0.20%	CHF 21,490	0.12%
Algeria	0.076%	0.33	0.37%	0.35%	CHF 36,950	0.28%
Andorra	0.005%	0.20	0.22%	0.20%	CHF 21,490	0.12%
Angola	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Argentina	0.956%	0.69	0.76%	0.88%	CHF 92,190	1.45%
Armenia	0.002%	0.26	0.29%	0.26%	CHF 27,070	0.11%
Australia	1.592%	1.50	1.66%	1.74%	CHF 183,050	2.15%
Austria	0.859%	0.84	0.93%	1.00%	CHF 104,760	1.33%
Azerbaijan	0.005%	0.35	0.39%	0.34%	CHF 36,030	0.12%
Bahrain	0.030%	0.22	0.24%	0.23%	CHF 24,640	0.19%
Bangladesh	0.010%	0.20	0.22%	0.21%	CHF 21,780	0.14%
Belarus	0.018%	0.48	0.53%	0.47%	CHF 49,330	0.16%
Belgium	1.069%	1.11	1.23%	1.29%	CHF 135,170	1.58%
Benin	0.002%	0.20	0.22%	0.20%	CHF 21,260	0.11%
Bolivia	0.009%	0.20	0.22%	0.21%	CHF 21,730	0.13%
Bosnia and Herzegovina	0.003%	0.23	0.25%	0.23%	CHF 24,250	0.11%
Botswana	0.012%	0.20	0.22%	0.21%	CHF 21,890	0.14%
Brazil	1.523%	1.57	1.74%	1.80%	CHF 188,530	2.08%
Bulgaria	0.017%	0.30	0.33%	0.30%	CHF 31,830	0.16%
Burkina Faso	0.002%	0.20	0.22%	0.20%	CHF 21,260	0.11%
Burundi	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Cambodia	0.002%	0.20	0.22%	0.20%	CHF 21,260	0.11%
Cameroon	0.008%	0.20	0.22%	0.21%	CHF 21,670	0.13%
Canada	2.813%	2.89	3.20%	3.24%	CHF 339,770	3.41%
Cape Verde	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Chile	0.223%	0.26	0.29%	0.33%	CHF 34,340	0.52%
China	2.053%	0.86	0.95%	1.23%	CHF 129,520	2.64%
Colombia	0.155%	0.30	0.33%	0.35%	CHF 36,410	0.42%
Congo	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Costa Rica	0.030%	0.20	0.22%	0.22%	CHF 22,700	0.19%
Côte d'Ivoire	0.010%	0.20	0.22%	0.21%	CHF 21,780	0.14%
Croatia	0.037%	0.29	0.32%	0.30%	CHF 31,700	0.21%
Cuba	0.043%	0.27	0.30%	0.29%	CHF 29,990	0.22%
Cyprus	0.039%	0.21	0.23%	0.23%	CHF 24,030	0.21%
Czech Republic	0.183%	0.50	0.55%	0.54%	CHF 56,550	0.46%
Democratic PR of Korea	0.010%	0.23	0.25%	0.24%	CHF 24,690	0.14%
Democratic Republic of the Congo	0.003%	0.20	0.22%	0.20%	CHF 21,340	0.11%
Denmark	0.718%	0.75	0.83%	0.89%	CHF 93,120	1.17%
Djibouti	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Dominican Republic	0.035%		0	0.24%	CHF 24,840	0.20%
Ecuador	0.019%	0.22	0.24%	0.23%	CHF 24,170	0.16%
Egypt	0.120%	0.25	0.28%	0.29%	CHF 30,550	0.36%
El Salvador	0.022%	0.20	0.22%	0.21%	CHF 22,360	0.17%
Estonia	0.012%	0.25	0.28%	0.25%	CHF 26,740	0.14%
Ethiopia	0.004%	0.20	0.22%	0.20%	CHF 21,420	0.12%
Fiji	0.004%	0.20	0.22%	0.20%	CHF 21,420	0.12%
Finland	0.533%	0.69	0.76%	0.79%	CHF 83,330	0.94%
France	6.030%	5.39	5.97%	6.03%	CHF 632,710	6.30%
Gabon	0.009%	0.20	0.22%	0.21%	CHF 21,730	0.13%
Georgia	0.003%		0	0.29%	CHF 30,070	0.11%
Germany	8.662%	7.93	8.79%	8.69%	CHF 912,490	8.22%
Ghana	0.004%	0.20	0.22%	0.20%	CHF 21,420	0.12%
Greece	0.530%	0.49	0.54%	0.61%	CHF 63,880	0.94%

Member/Associate Member	UN Scale	Old Scale (2005)		New Scale (First Year)		Target
Guatemala	0.030%	0.21	0.23%	0.23%	CHF 23,670	0.19%
Guinea	0.003%	0.20	0.22%	0.20%	CHF 21,340	0.11%
Hungary	0.126%	0.35	0.39%	0.39%	CHF 40,420	0.37%
Iceland	0.034%	0.22	0.24%	0.24%	CHF 24,800	0.20%
India	0.421%	0.50	0.55%	0.59%	CHF 62,400	0.80%
Indonesia	0.142%	0.33	0.37%	0.37%	CHF 38,950	0.40%
Iran (Islamic Republic of)	0.157%	0.86	0.95%	0.86%	CHF 90,740	0.42%
Ireland	0.350%	0.35	0.39%	0.44%	CHF 46,200	0.70%
Israel	0.467%	0.39	0.43%	0.50%	CHF 52,780	0.86%
Italy	4.885%	3.91	4.33%	4.50%	CHF 472,400	5.34%
Japan	19.468%	10.55	11.69%	11.70%	CHF 1,228,520	11.75%
Jordan	0.011%	0.20	0.22%	0.21%	CHF 21,840	0.14%
Kazakhstan	0.025%	0.45	0.50%	0.45%	CHF 46,730	0.18%
Kenya	0.009%	0.20	0.22%	0.21%	CHF 21,730	0.13%
Kuwait	0.162%	0.41	0.45%	0.45%	CHF 47,260	0.43%
Kyrgyzstan	0.001%	0.22	0.24%	0.22%	CHF 23,080	0.10%
Lao People's Democratic Republic	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Latvia	0.015%	0.28	0.31%	0.28%	CHF 29,800	0.15%
Lebanon	0.024%	0.20	0.22%	0.21%	CHF 22,450	0.18%
Liberia	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Libyan Arab Jamahiriya	0.132%	0.40	0.44%	0.43%	CHF 45,450	0.38%
Liechtenstein	0.005%	0.20	0.22%	0.20%	CHF 21,490	0.12%
Lithuania	0.024%	0.30	0.33%	0.31%	CHF 32,150	0.18%
Luxembourg	0.077%	0.24	0.27%	0.27%	CHF 28,260	0.29%
Madagascar	0.003%		0	0.20%	CHF 21,340	0.11%
Malaysia	0.203%	0.30	0.33%	0.36%	CHF 37,700	0.49%
Maldives	0.001%		0	0.20%	CHF 21,130	0.10%
Mali	0.002%	0.20	0.22%	0.20%	CHF 21,260	0.11%
Malta	0.014%	0.20	0.22%	0.21%	CHF 21,990	0.15%
Mauritius	0.011%	0.20	0.22%	0.21%	CHF 21,840	0.14%
México	1.883%	0.95	1.05%	1.29%	CHF 135,140	2.46%
Monaco	0.003%	0.20	0.22%	0.20%	CHF 21,340	0.11%
Mongolia	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Morocco	0.047%	0.22	0.24%	0.24%	CHF 25,290	0.23%
Mozambique	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Namibia	0.006%	0.20	0.22%	0.21%	CHF 21,550	0.12%
Nepal	0.004%	0.20	0.22%	0.20%	CHF 21,420	0.12%
Netherlands	1.690%	1.49	1.65%	1.75%	CHF 183,910	2.26%
New Zealand	0.221%	0.40	0.44%	0.46%	CHF 47,870	0.52%
Nicaragua	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Niger	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Nigeria	0.042%	0.30	0.33%	0.31%	CHF 32,870	0.22%
Norway	0.679%	0.67	0.74%	0.81%	CHF 84,550	1.12%
Pakistan	0.055%	0.24	0.27%	0.26%	CHF 27,520	0.24%
Panama	0.019%	0.20	0.22%	0.21%	CHF 22,230	0.16%
Papua New Guinea	0.003%	0.20	0.22%	0.20%	CHF 21,340	0.11%
Peru	0.092%	0.24	0.27%	0.27%	CHF 28,740	0.31%
Philippines	0.095%	0.25	0.28%	0.28%	CHF 29,800	0.32%
Poland	0.461%	0.60	0.66%	0.70%	CHF 73,000	0.85%
Portugal	0.470%	0.36	0.40%	0.48%	CHF 49,940	0.86%
Republic of Korea	1.796%	0.79	0.88%	1.12%	CHF 118,030	2.37%
Republic of Moldova	0.001%	0.30	0.33%	0.29%	CHF 30,830	0.10%
Romania	0.060%	0.34	0.38%	0.36%	CHF 37,390	0.25%
Russian Federation	1.100%	5.50	6.10%	5.35%	CHF 561,330	1.61%
Rwanda	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%

Member/Associate Member	UN Scale	Old Scale (2005)		New Scale (First Year)		Target
Samoa	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
San Marino	0.003%	0.20	0.22%	0.20%	CHF 21,340	0.11%
Sao Tome and Principe	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Saudi Arabia	0.713%	1.02	1.13%	1.14%	CHF 119,190	1.16%
Senegal	0.005%	0.20	0.22%	0.20%	CHF 21,490	0.12%
Serbia and Montenegro	0.019%	0.33	0.37%	0.33%	CHF 34,830	0.16%
Singapore	0.388%	0.30	0.33%	0.40%	CHF 42,250	0.75%
Slovakia	0.051%	0.28	0.31%	0.30%	CHF 31,250	0.24%
Slovenia	0.082%	0.27	0.30%	0.30%	CHF 31,330	0.29%
South Africa	0.292%	0.54	0.60%	0.60%	CHF 63,230	0.62%
Spain	2.520%	1.91	2.12%	2.28%	CHF 239,650	3.12%
Sri Lanka	0.017%	0.20	0.22%	0.21%	CHF 22,130	0.16%
Sudan	0.008%	0.20	0.22%	0.21%	CHF 21,670	0.13%
Suriname	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Sweden	0.998%	1.15	1.27%	1.31%	CHF 137,630	1.50%
Switzerland	1.197%	1.20	1.33%	1.39%	CHF 146,410	1.72%
Syrian Arab Republic	0.038%	0.23	0.25%	0.25%	CHF 25,920	0.21%
Tajikistan	0.001%	0.21	0.23%	0.21%	CHF 22,110	0.10%
Thailand	0.209%	0.29	0.32%	0.35%	CHF 36,890	0.50%
The FYR of Macedonia	0.006%	0.20	0.22%	0.21%	CHF 21,550	0.12%
Togo	0.001%	0.20	0.22%	0.20%	CHF 21,130	0.10%
Tunisia	0.032%	0.22	0.24%	0.24%	CHF 24,720	0.19%
Turkey	0.372%	0.43	0.48%	0.52%	CHF 54,480	0.73%
Uganda	0.006%	0.20	0.22%	0.21%	CHF 21,550	0.12%
Ukraine	0.039%	0.60	0.66%	0.59%	CHF 61,830	0.21%
United Arab Emirates	0.235%	0.37	0.41%	0.43%	CHF 45,320	0.54%
United Kingdom	6.127%	4.54	5.03%	5.26%	CHF 551,680	6.38%
United Republic of Tanzania	0.006%	0.20	0.22%	0.21%	CHF 21,550	0.12%
Uruguay	0.048%	0.23	0.25%	0.25%	CHF 26,300	0.23%
Uzbekistan	0.014%	0.37	0.41%	0.37%	CHF 38,470	0.15%
Venezuela	0.171%	0.62	0.69%	0.65%	CHF 67,860	0.44%
Viet Nam	0.021%	0.20	0.22%	0.21%	CHF 22,320	0.17%
Yemen	0.006%	0.20	0.22%	0.21%	CHF 21,550	0.12%
Zambia	0.002%	0.20	0.22%	0.20%	CHF 21,260	0.11%
Zimbabwe	0.007%	0.20	0.22%	0.21%	CHF 21,610	0.13%
Andean Parliament		0.02	0.02%	0.02%	CHF 1,790	0.01%
Central American Parliament		0.01	0.01%	0.01%	CHF 1,120	0.01%
ECOWAS		0.01	0.01%	0.01%	CHF 1,110	0.01%
East African Legislative Assembly		0.01	0.01%	0.01%	CHF 1,080	0.01%
European Parliament		0.10	0.11%	0.11%	CHF 11,230	0.09%
Latin American Parliament		0.02	0.02%	0.02%	CHF 2,410	0.03%
Parliamentary Assembly of the Council of Europe		0.06	0.07%	0.06%	CHF 6,800	0.06%
<b>TOTAL</b>		<b>90.23</b>	<b>98.81%</b>	<b>100.00%</b>	<b>10,495,500</b>	<b>100.00%</b>

## **STATEMENT OF ENDORSEMENT OF THE DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION AND CODE OF CONDUCT FOR INTERNATIONAL ELECTIONS OBSERVERS**

1. The Governing Council of the Inter-Parliamentary Union, at its sitting of 18 October 2005 in Geneva endorsed the Declaration of Principles for International Election Observation and Code of Conduct for International Elections Observers prepared jointly by the United Nations Electoral Assistance Division (UNEAD), the Carter Center and the National Democratic Institute for International Affairs (NDI).
2. The Council endorsed the Declaration and Code since they reaffirm the centrality of genuine elections to the democratic process and outline criteria by which election observers should be guided in promoting free and fair elections. The Declaration and Code are consistent with the IPU's policies in respect of elections. By granting this endorsement, the IPU also wishes to recognise the work that the United Nations is doing in promoting the practice of free and fair elections in the context of democracy which is based on respect for national sovereignty and international human rights standards, respect for the laws of the country, political impartiality, non-discrimination, professionalism and avoidance of conflict of interest. The IPU subscribes to these principles which are also reflected in the IPU's Declaration on Criteria for Free and Fair Elections..
3. The Governing Council recognizes the Declaration and Code as a reaffirmation of the body of norms that have been evolved by the international community, including the IPU, to guarantee free and fair elections. They are flexible and allow for adaptation by each user organization to its policies and practices while adhering to the universally agreed principles of democracy. The Governing Council notes that the Declaration and Code are technical documents intended to contribute to the better organization of election observation processes.
4. The Governing Council of the IPU urges the IPU's member Parliaments to promote the Declaration and Code in their respective countries.

Geneva, 18 October 2005

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## **DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION**

July 7, 2005

Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognized human rights. Genuine democratic elections serve to resolve peacefully the competition for political power within a country and thus are central to the maintenance of peace and stability. Where governments are legitimized through genuine democratic elections, the scope for non-democratic challenges to power is reduced.

Genuine democratic elections are a requisite condition for democratic governance, because they are the vehicle through which the people of a country freely express their will, on a basis established by law, as to who shall have the legitimacy to govern in their name and in their interests. Achieving genuine democratic elections is a part of establishing broader processes and institutions of democratic governance. Therefore, while all election processes should reflect universal principles for genuine

democratic elections, no election can be separated from the political, cultural and historical context in which it takes place.

Genuine democratic elections cannot be achieved unless a wide range of other human rights and fundamental freedoms can be exercised on an ongoing basis without discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, including among others disabilities, and without arbitrary and unreasonable restrictions. They, like other human rights and democracy more broadly, cannot be achieved without the protections of the rule of law. These precepts are recognized by human rights and other international instruments and by the documents of numerous intergovernmental organizations. Achieving genuine democratic elections therefore has become a matter of concern for international organizations, just as it is the concern of national institutions, political competitors, citizens and their civic organizations.

International election observation expresses the interest of the international community in the achievement of democratic elections, as part of democratic development, including respect for human rights and the rule of law. International election observation, which focuses on civil and political rights, is part of international human rights monitoring and must be conducted on the basis of the highest standards for impartiality concerning national political competitors and must be free from any bilateral or multilateral considerations that could conflict with impartiality. It assesses election processes in accordance with international principles for genuine democratic elections and domestic law, while recognizing that it is the people of a country who ultimately determine credibility and legitimacy of an election process.

International election observation has the potential to enhance the integrity of election processes, by deterring and exposing irregularities and fraud and by providing recommendations for improving electoral processes. It can promote public confidence, as warranted, promote electoral participation and mitigate the potential for election-related conflict. It also serves to enhance international understanding through the sharing of experiences and information about democratic development.

International election observation has become widely accepted around the world and plays an important role in providing accurate and impartial assessments about the nature of electoral processes. Accurate and impartial international election observation requires credible methodologies and cooperation with national authorities, the national political competitors (political parties, candidates and supporters of positions on referenda), domestic election monitoring organizations and other credible international election observer organizations, among others.

The intergovernmental and international nongovernmental organizations endorsing this Declaration and the accompanying Code of Conduct for International Election Observers therefore have joined to declare:

- (1) Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognized human rights. Genuine democratic elections are central for maintaining peace and stability, and they provide the mandate for democratic governance.
- (2) In accordance with the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights and other international instruments, everyone has the right and must be provided with the opportunity to participate in the government and public affairs of his or her country, without any discrimination prohibited by international human rights principles and without any unreasonable restrictions. This right can be exercised directly, by participating in referenda, standing for elected office and by other means, or can be exercised through freely chosen representatives.
- (3) The will of the people of a country is the basis for the authority of government, and that will must be determined through genuine periodic elections, which guarantee the right and opportunity to vote freely and to be elected fairly through universal and equal suffrage by secret balloting or equivalent free voting procedures, the results of which are accurately counted, announced and

respected. A significant number of rights and freedoms, processes, laws and institutions are therefore involved in achieving genuine democratic elections.

(4) International election observation is: the systematic, comprehensive and accurate gathering of information concerning the laws, processes and institutions related to the conduct of elections and other factors concerning the overall electoral environment; the impartial and professional analysis of such information; and the drawing of conclusions about the character of electoral processes based on the highest standards for accuracy of information and impartiality of analysis. International election observation should, when possible, offer recommendations for improving the integrity and effectiveness of electoral and related processes, while not interfering in and thus hindering such processes. International election observation missions are: organized efforts of intergovernmental and international nongovernmental organizations and associations to conduct international election observation.

(5) International election observation evaluates pre-election, election-day and post-election periods through comprehensive, long-term observation, employing a variety of techniques. As part of these efforts, specialized observation missions may examine limited pre-election or post-election issues and specific processes (such as, delimitation of election districts, voter registration, use of electronic technologies and functioning of electoral complaint mechanisms). Stand-alone, specialized observation missions may also be employed, as long as such missions make clear public statements that their activities and conclusions are limited in scope and that they draw no conclusions about the overall election process based on such limited activities. All observer missions must make concerted efforts to place the election day into its context and not to over-emphasize the importance of election day observations. International election observation examines conditions relating to the right to vote and to be elected, including, among other things, discrimination or other obstacles that hinder participation in electoral processes based on political or other opinion, gender, race, colour, ethnicity, language, religion, national or social origin, property, birth or other status, such as physical disabilities. The findings of international election observation missions provide a factual common point of reference for all persons interested in the elections, including the political competitors. This can be particularly valuable in the context of disputed elections, where impartial and accurate findings can help to mitigate the potential for conflicts.

(6) International election observation is conducted for the benefit of the people of the country holding the elections and for the benefit of the international community. It is process oriented, not concerned with any particular electoral result, and is concerned with results only to the degree that they are reported honestly and accurately in a transparent and timely manner. No one should be allowed to be a member of an international election observer mission unless that person is free from any political, economic or other conflicts of interest that would interfere with conducting observations accurately and impartially and/or drawing conclusions about the character of the election process accurately and impartially. These criteria must be met effectively over extended periods by long-term observers, as well as during the more limited periods of election day observation, each of which periods present specific challenges for independent and impartial analysis. International election observation missions should not accept funding or infrastructural support from the government whose elections are being observed, as it may raise a significant conflict of interest and undermine confidence in the integrity of the mission's findings. International election observation delegations should be prepared to disclose the sources of their funding upon appropriate and reasonable requests.

(7) International election observation missions are expected to issue timely, accurate and impartial statements to the public (including providing copies to electoral authorities and other appropriate national entities), presenting their findings, conclusions and any appropriate recommendations they determine could help improve election related processes. Missions should announce publicly their presence in a country, including the mission's mandate, composition and duration, make periodic reports as warranted and issue a preliminary post-election statement of findings and a final report upon the conclusion of the election process. International election observation missions may conduct private meetings with those concerned with organizing genuine democratic elections in a country to discuss

the mission's findings, conclusions and recommendations. International election observation missions may also report to their respective intergovernmental or international nongovernmental organizations.

(8) The organizations that endorse this Declaration and the accompanying Code of Conduct for International Election Observers pledge to cooperate with each other in conducting international election observation missions. International election observation can be conducted, for example, by: individual international election observer missions; ad hoc joint international election observation missions; or coordinated international election observation missions. In all circumstances, the endorsing organizations pledge to work together to maximize the contribution of their international election observation missions.

(9) International election observation must be conducted with respect for the sovereignty of the country holding elections and with respect for the human rights of the people of the country. International election observation missions must respect the laws of the host country, as well as national authorities, including electoral bodies, and act in a manner that is consistent with respecting and promoting human rights and fundamental freedoms.

(10) International election observation missions must actively seek cooperation with host country electoral authorities and must not obstruct the election process.

(11) A decision by any organization to organize an international election observation mission or to explore the possibility of organizing an observation mission does not imply that the organization necessarily deems the election process in the country holding the elections to be credible. An organization should not send an international election observation mission to a country under conditions that make it likely that its presence will be interpreted as giving legitimacy to a clearly undemocratic electoral process, and international election observation missions in any such circumstance should make public statements to ensure that their presence does not imply such legitimacy.

(12) In order for an international election observation mission to effectively and credibly conduct its work basic conditions must be met. An international election observation mission therefore should not be organized unless the country holding the election takes the following actions:

- (a) Issues an invitation or otherwise indicates its willingness to accept international election observation missions in accordance with each organization's requirements sufficiently in advance of elections to allow analysis of all of the processes that are important to organizing genuine democratic elections;
- (b) Guarantees unimpeded access of the international election observer mission to all stages of the election process and all election technologies, including electronic technologies and the certification processes for electronic voting and other technologies, without requiring election observation missions to enter into confidentiality or other nondisclosure agreements concerning technologies or election processes, and recognizes that international election observation missions may not certify technologies as acceptable;
- (c) Guarantees unimpeded access to all persons concerned with election processes, including: (i) electoral officials at all levels, upon reasonable requests, (ii) members of legislative bodies and government and security officials whose functions are relevant to organizing genuine democratic elections, (iii) all of the political parties, organizations and persons that have sought to compete in the elections (including those that qualified, those that were disqualified and those that withdrew from participating) and those that abstained from participating, (iv) news media personnel, and (v) all organizations and persons that are interested in achieving genuine democratic elections in the country;
- (d) Guarantees freedom of movement around the country for all members of the international election observer mission;
- (e) Guarantees the international election observer mission's freedom to issue without interference public statements and reports concerning its findings and recommendations about election related processes and developments;

- (f) Guarantees that no governmental, security or electoral authority will interfere in the selection of individual observers or other members of the international election observation mission or attempt to limit its numbers;
- (g) Guarantees full, country-wide accreditation (that is, the issuing of any identification or document required to conduct election observation) for all persons selected to be observers or other participants by the international election observation mission as long as the mission complies with clearly defined, reasonable and non-discriminatory requirements for accreditation;
- (h) Guarantees that no governmental, security or electoral authority will interfere in the activities of the international election observation mission; and
- (i) Guarantees that no governmental authority will pressure, threaten action against or take any reprisal against any national or foreign citizen who works for, assists or provides information to the international election observation mission in accordance with international principles for election observation.

As a prerequisite to organizing and international election observation mission, intergovernmental and international nongovernmental organizations may require that such guarantees are set forth in a memorandum of understanding or similar document agreed upon by governmental and/or electoral authorities. Election observation is a civilian activity, and its utility is questionable in circumstances that present severe security risks, limit safe deployments of observers or otherwise would negate employing credible election observation methodologies.

(13) International election observation missions should seek and may require acceptance of their presence by all major political competitors.

(14) Political contestants (parties, candidates and supporters of positions on referenda) have vested interests in the electoral process through their rights to be elected and to participate directly in government. They therefore should be allowed to monitor all processes related to elections and observe procedures, including among other things the functioning of electronic and other electoral technologies inside polling stations, counting centers and other electoral facilities, as well as the transport of ballots and other sensitive materials.

(15) International election observation missions should: (i) establish communications with all political competitors in the election process, including representatives of political parties and candidates who may have information concerning the integrity of the election process; (ii) welcome information provided by them concerning the nature of the process; (iii) independently and impartially evaluate such information; and (iv) should evaluate as an important aspect of international election observation whether the political contestants are, on a nondiscriminatory basis, afforded access to verify the integrity of all elements and stages of the election process. International election observation missions should in their recommendations, which may be issued in writing or otherwise be presented at various stages of the election process, advocate for removing any undue restrictions or interference against activities by the political competitors to safeguard the integrity of electoral processes.

(16) Citizens have an internationally recognized right to associate and a right to participate in governmental and public affairs in their country. These rights may be exercised through nongovernmental organizations monitoring all processes related to elections and observing procedures, including among other things the functioning of electronic and other electoral technologies inside polling stations, counting centers and other electoral facilities, as well as the transport of ballots and other sensitive materials. International election observation missions should evaluate and report on whether domestic nonpartisan election monitoring and observation organizations are able, on a nondiscriminatory basis, to conduct their activities without undue restrictions or interference. International election observation missions should advocate for the right of citizens to conduct domestic nonpartisan election observation without any undue restrictions or interference and should in their recommendations address removing any such undue restrictions or interference.

(17) International election observation missions should identify, establish regular communications with and cooperate as appropriate with credible domestic nonpartisan election monitoring organizations. International election observation missions should welcome information provided by such organizations concerning the nature of the election process. Upon independent evaluation of information provided by such organizations, their findings can provide an important complement to the findings of international election observation missions, although international election observation missions must remain independent. International election observation missions therefore should make every reasonable effort to consult with such organizations before issuing any statements.

(18) The intergovernmental and international nongovernmental organizations endorsing this Declaration recognize that substantial progress has been made in establishing standards, principles and commitments concerning genuine democratic elections and commit themselves to use a statement of such principles in making observations, judgments and conclusions about the character of election processes and pledge to be transparent about the principles and observation methodologies they employ.

(19) The intergovernmental and nongovernmental organizations endorsing this Declaration recognize that there are a variety of credible methodologies for observing election processes and commit to sharing approaches and harmonizing methodologies as appropriate. They also recognize that international election observation missions must be of sufficient size to determine independently and impartially the character of election processes in a country and must be of sufficient duration to determine the character of all of the critical elements of the election process in the pre-election, election-day and post-election periods – unless an observation activity is focused on and therefore only comments on one or a limited number of elements of the election process. They further recognize that it is necessary not to isolate or over-emphasize election day observations, and that such observations must be placed into the context of the overall electoral process.

(20) The intergovernmental and international nongovernmental organizations endorsing this Declaration recognize that international election observation missions should include persons of sufficiently diverse political and professional skills, standing and proven integrity to observe and judge processes in light of: expertise in electoral processes and established electoral principles; international human rights; comparative election law and administration practices (including use of computer and other election technology); comparative political processes and country specific considerations. The endorsing organizations also recognize the importance of balanced gender diversity in the composition of participants and leadership of international election observation missions, as well as diversity of citizenship in such missions.

(21) The intergovernmental and international nongovernmental organizations endorsing this Declaration commit to: (i) familiarize all participants in their international election observation missions concerning the principles of accuracy of information and political impartiality in making judgments and conclusions; (ii) provide a terms of reference or similar document, explaining the purposes of the mission; (iii) provide information concerning relevant national laws and regulations, the general political environment and other matters, including those that relate to the security and well being of observers; (iv) instruct all participants in the election observation mission concerning the methodologies to be employed; and (v) require all participants in the election observation mission to read and pledge to abide by the Code of Conduct for International Election Observers, which accompanies this Declaration and which may be modified without changing its substance to fit requirements of the organization, or pledge to abide by a pre-existing code of conduct of the organization that is substantially the same as the accompanying Code of Conduct.

(22) The intergovernmental and international nongovernmental organizations endorsing this Declaration commit to use every effort to comply with the terms of the Declaration and the accompanying Code of Conduct for International Election Observers. Any time that an endorsing organization deems it necessary to depart from any of terms of the Declaration or the Accompanying Code of Conduct in order to conduct election observation in keeping with the spirit of the Declaration, the organization will explain in its public statements and will be prepared to answer appropriate questions from other endorsing organizations concerning why it was necessary to do so.

(23) The endorsing organizations recognize that governments send observer delegations to elections in other countries and that others also observe elections. The endorsing organizations welcome any such observers agreeing on an ad hoc basis to this declaration and abiding by the accompanying Code of Conduct for International Election Observers.

(24) This Declaration and the accompanying Code of Conduct for International Election Observers are intended to be technical documents that do not require action by the political bodies of endorsing organizations (such as assemblies, councils or boards of directors), though such actions are welcome. This Declaration and the accompanying Code of Conduct for International Election Observers remain open for endorsement by other intergovernmental and international nongovernmental organizations. Endorsements should be recorded with the United Nations Electoral Assistance Division.

*[See below for the Draft Code of Conduct]*

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### **CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS**

International election observation is widely accepted around the world. It is conducted by intergovernmental and international nongovernmental organizations and associations in order to provide an impartial and accurate assessment of the nature of election processes for the benefit of the population of the country where the election is held and for the benefit of the international community. Much therefore depends on ensuring the integrity of international election observation, and all who are part of this international election observation mission, including long-term and short-term observers, members of assessment delegations, specialized observation teams and leaders of the mission, must subscribe to and follow this Code of Conduct.

#### **Respect Sovereignty and International Human Rights**

Elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine elections are internationally recognized human rights, and they require the exercise of a number of fundamental rights and freedoms. Election observers must respect the sovereignty of the host country, as well as the human rights and fundamental freedoms of its people.

#### **Respect the Laws of the Country and the Authority of Electoral Bodies**

Observers must respect the laws of the host country and the authority of the bodies charged with administering the electoral process. Observers must follow any lawful instruction from the country's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election-related rights guaranteed by law, constitution or applicable international instruments.

#### **Respect the Integrity of the International Election Observation Mission**

Observers must respect and protect the integrity of the international election observation mission. This includes following this Code of Conduct, any written instructions (such as a terms of reference, directives and guidelines) and any verbal instructions from the observation mission's leadership. Observers must: attend all of the observation mission's required briefings, trainings and debriefings; become familiar with the election law, regulations and other relevant laws as directed by the

observation mission; and carefully adhere to the methodologies employed by the observation mission. Observers also must report to the leadership of the observation mission any conflicts of interest they may have and any improper behavior they see conducted by other observers that are part of the mission.

### **Maintain Strict Political Impartiality at All Times**

Observers must maintain strict political impartiality at all times, including leisure time in the host country. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referenda issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favoring or providing partisan gain for any political competitor in the host country, such as wearing or displaying any partisan symbols, colors, banners or accepting anything of value from political competitors.

### **Do Not Obstruct Election Processes**

Observers must not obstruct any element of the election process, including pre-election processes, voting, counting and tabulation of results and processes transpiring after election day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this is prohibited by law, and must do so in a non-obstructive manner. Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer questions of voters but may not ask them to tell for whom or what party or referendum position they voted.

### **Provide Appropriate Identification**

Observers must display identification provided by the election observation mission, as well as identification required by national authorities, and must present it to electoral officials and other interested national authorities when requested.

### **Maintain Accuracy of Observations and Professionalism in Drawing Conclusions**

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgments must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence. Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely. Observers also must keep a well documented record of where they observed, the observations made and other relevant information as required by the election observation mission and must turn in such documentation to the mission.

### **Refrain from Making Comments to the Public or the Media before the Mission Speaks**

Observers must refrain from making any personal comments about their observations or conclusions to the news media or members of the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership. Observers may explain the nature of the observation mission, its activities and other matters deemed appropriate by the observation mission and should refer the media or other interested persons to the those individuals designated by the observation mission.

### **Cooperate with Other Election Observers**

Observers must be aware of other election observation missions, both international and domestic, and cooperate with them as instructed by the leadership of the election observation mission.

### **Maintain Proper Personal Behavior**

Observers must maintain proper personal behavior and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

### **Violations of This Code of Conduct**

In a case of concern about the violation of this Code of Conduct, the election observation mission shall conduct an inquiry into the matter. If a serious violation is found to have occurred, the observer concerned may have their observer accreditation withdrawn or be dismissed from the election observation mission. The authority for such determinations rests solely with the leadership of the election observation mission.

### **Pledge to Follow This Code of Conduct**

Every person who participates in this election observation mission must read and understand this Code of Conduct and must sign a pledge to follow it.

*(See below for the Draft Pledge Form)*

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### **PLEDGE TO ACCOMPANY THE CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVER**

I have read and understand the Code of Conduct for International Election Observers that was provided to me by the international election observation mission. I hereby pledge that I will follow the Code of Conduct and that all of my activities as an election observer will be conducted completely in accordance with it. I have no conflicts of interest, political, economic nor other, that will interfere with my ability to be an impartial election observer and to follow the Code of Conduct.

I will maintain strict political impartiality at all times. I will make my judgments based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence, and I will base all of my conclusions on factual and verifiable evidence.

I will not obstruct the election process. I will respect national laws and the authority of election officials and will maintain a respectful attitude toward electoral and other national authorities. I will respect and promote the human rights and fundamental freedoms of the people of the country. I will maintain proper personal behavior and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

I will protect the integrity of the international election observation mission and will follow the instructions of the observation mission. I will attend all briefings, trainings and debriefings required by the election observation mission and will cooperate in the production of its statements and reports as requested. I will refrain from making personal comments, observations or conclusions to the news media or the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership.

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

## SEMINAR ON FREEDOM OF EXPRESSION

From 25 to 27 May 2005, the House of Parliaments was host to the Seminar on *Freedom of Expression, Parliament and the Promotion of Tolerant Societies*. In organizing this event, the IPU associated itself with an expert organization in the field of freedom of expression, Article 19. The Seminar was specifically for chairpersons and members of parliamentary human rights committees. It was thus the second seminar organized by the IPU for this specific audience, the first having taken place in March 2004. Some 100 members of parliament from over 40 countries attended the Seminar and discussed sometimes controversial issues related to the exercise of freedom of speech, such as defamation and the right to privacy, access to information, media freedom and the risks created by increasing media concentration, the limits to which criticism of the judiciary is allowed, parliamentary immunity and hate speech.

### SUMMARY AND RECOMMENDATIONS PRESENTED BY THE RAPPORTEUR OF THE SEMINAR

*Noted by the IPU Governing Council at its 177th session  
(Geneva, 18 October 2005)*

We have met here at the invitation of the Inter-Parliamentary Union (IPU) and Article 19 to speak about a right which lies at the very basis of our work as parliamentarians and that of our parliaments, freedom of expression. It is a right which is not easy to put into practice, and one which is not respected in many countries. In the past three days, with the help of experts, we explored the scope and limits of this fundamental right, the principles and standards that have been drawn up on this subject over the years by international and regional courts and human rights bodies and by national courts, and lastly the protective measures that are required if we are to exercise our freedom of expression without fear.

Freedom of expression is the cornerstone of democracy, for democracy is vitally dependent upon the expression of ideas and opinions. The very word "parliament" derives from the French *parler*, "to speak".

This right is enshrined in the Universal Declaration of Human Rights and the international instruments that most States have ratified, in particular the International Covenant on Civil and Political Rights, and also in our countries' Constitutions. However, it is a constant challenge for our countries to ensure respect for it. It is through the laws that we adopt that we can meet this challenge and provide the greatest possible protection of this right. As legislators, we have a special responsibility in this field.

The freedom of expression enjoyed by parliamentarians depends to a great extent on the freedom of expression enjoyed in society in general and the possibility for all persons to express themselves freely. In many countries it is the legal framework that has been established to defend this fundamental right that also protects our freedom of expression when we speak outside of the parliament. We do not work in a vacuum; others play a decisive role, and so a significant part of our discussions were devoted to the role of the media and press freedoms. It is those freedoms that allow citizens to express themselves, to be informed and to prompt and take part in the public discussion without which there can be no democracy. It is also for us the most important means of communicating with our constituents.

Our relations with the media are not always without problems, but it is clear that we depend on one another. Mutual respect is therefore of the essence.

Diversity of the media is indispensable for democracy, and is an essential aspect of freedom of expression. One of our conclusions is that it is not only a question of the number of types of media or the number of television stations and newspapers that counts, but also the diversity of opinions that can thus be expressed.

In many of our countries, this has been ensured by opening up the media to the private sector. The existence of private and public media is a condition sine qua non for diversity of opinion and of information. On this point, many participants pointed to the danger that certain types of media may be concentrated in the hands of the few. Such a concentration often goes hand in hand with a lack of diversity and quality in the presentation of information. The establishment by the State of an independent body to oversee the issuance of broadcasting licences was cited as a means of addressing this problem. For example, in the United Kingdom, the Office of Communications (Ofcom), when issuing new broadcasting licences, must determine whether the media in question will add to the existing level of diversity. In this field, parliaments have a role to play; through the law, they can establish such institutions and ensure their independence. In several countries, the law provides for a direct role of parliaments in the nomination procedure for the members of audiovisual supervisory bodies.

Our African colleagues referred to the predominant role of radio in the broadcasting of information in many countries, especially in rural areas. Here too, it is essential that diversity should be ensured.

Over and above their legal obligations, the media, but also parliamentarians, have a moral and ethical duty to protect freedom of expression and maintain a climate of mutual respect.

Freedom of expression is not an absolute right; people cannot say just anything they want. However, the restrictions on that right that are allowed under international standards are limited, and must be interpreted *sensu stricto*. International law provides clear standards on this. It is in this context that we discussed the topic of defamation. Many of us are tempted to respond to critics by suing for defamation. The experts who took part in the seminar reminded us that as public figures, we must show greater tolerance to criticism and show restraint. A public response to criticism is most appropriate, rather than resorting to the justice system. Furthermore, the experts and many of our colleagues emphasized the adverse effects that defamation suits can have on freedom of expression in general, especially if, as is the case in a large number of countries, there are provisions for prison terms. That notwithstanding, there has been a trend towards the decriminalization of defamation. However, it was noted that decriminalization did not resolve the problems posed by private law, in particular the imposition of prohibitive damages. Parliaments should adopt laws to ensure that the penalties provided in respect of defamation are reasonable and that the principle of proportionality is respected.

As parliamentarians, we, as anyone, have a right to privacy. At the same time, given our important role in political life, we must accept that the public has the right to examine our actions and that, consequently, the scope of privacy protection is more restricted for us. It is the public interest that defines the limits of our privacy.

In order to form an opinion and make decisions in full knowledge of the facts, one must have access to information. Our parliamentary work is dependent on the access that we have to information from various sources, be they governmental or non-governmental. The right to have access to public information must be the rule, and any refusal by the State to provide information must be duly justified. We must legislate in this sense. But this rule must also apply to parliament itself; we have the duty to be transparent. Our parliaments have done a great deal to open up to constituents. In an increasing number of parliaments, debates are carried live on radio or television.

The independence of the judiciary is one of the pillars of democracy. The judiciary, as the ultimate arbiter of conflicts, must have uncontested authority and the public's trust. Many countries have imposed restrictions on freedom of expression to ensure and protect the authority and impartiality of the judiciary. In recent years, there has been a general tendency to interpret such restrictions more stringently. Indeed, the judiciary is a public institution, and as such is open to public criticism. Some of us have noted that such criticism, when it is fair and justified, in fact defends the independence of the judiciary and respect for the law. Ensuring this independence and respect is precisely the duty of a parliament, and it may sometimes be imperative for a parliamentarian to criticize a judicial procedure if it is clearly inequitable.

In order to carry out our functions, we must be able to freely express ourselves without fear of reprisal from any quarter. That is a condition sine qua non for ensuring the independence of the parliament itself and the separation of powers. Parliamentary immunity serves this objective. It protects the parliament, rather than the parliamentarians. In no way is it the purpose of parliamentary immunity to grant parliamentarians impunity for criminal acts. We discussed the various systems of parliamentary immunity that have been established in our parliaments. Beyond their differences, they all provide for the absolute protection of statements delivered at the plenary or in committee, and also of the votes cast. This absolute protection also covers individuals who testify before parliamentary committees and commissions. It is necessary to afford the same protection to fair and accurate records of the parliamentary debates; without such protection, the live broadcast of parliamentary debates would be impossible. However, we also noted that freedom of expression, which every parliamentarian must enjoy, can be seriously limited by party discipline, which may involve sanctions, even including the loss of the parliamentary mandate. Party discipline may have the effect of preventing parliamentarians from speaking on behalf of their constituents. Similarly, the existence in some countries of "taboo subjects" which the parliament is not permitted to take up is detrimental to democracy.

In the same context, parliaments rarely have a role to play in the drawing up of international instruments, and their ability to effectively assume their role as guardians of human rights is therefore compromised. The ratification for which they are competent in many countries rarely permits them to hold a genuine debate on the contents of the instruments in question. Parliaments must have the opportunity one way or another to see through the drafting of treaties so as to ensure better follow-up of their provisions thereafter.

The second part of our discussion addressed issues related to hate speech. Measures to fight racist speech, which too often are limited to the adoption of laws repressing freedom of expression, must be part of a broader strategy to attack the hatred which underpins this speech and which is a denial of equality among human beings. By fighting racist speech, we pursue the basic aim of ensuring respect for equality. It is difficult and complex to define incitement to hatred, and such factors as the historical and sociological context of the countries concerned must be taken into consideration. As parliamentarians, we must play a much more active role, and show the way. Some of our parliaments are confronted with racist speech in the institution itself. We must take steps against such trends, for example through parliamentary codes of conduct, or by eliminating financing for political parties that cater to such speech.

All countries are confronted with the problems of hatred and discrimination and have the duty to implement a comprehensive strategy to promote equality and respect for others and for their differences. We heard several examples of measures taken against intolerance. For example, it is possible to establish independent institutions to promote equality and draw up national plans for that purpose. Clearly, the media must be included in any such strategy if there is to be any hope of achieving a result. We heard examples of ways in which parliament, in particular human rights committees, can take the initiative to move toward constructive dialogue with the media and society at large.

We recommend to all parliaments to set up human rights committees with a mandate to make parliamentarians aware of human rights issues. Lastly, we must make sure that our States ratify international and regional human rights instruments and bring their legislation into line with such instruments.

We invite the IPU to publish a parliamentary guide on freedom of expression and to continue to hold parliamentary seminars on human rights.

Geneva, 27 May 2005

## REPORT ON THE REGIONAL SEMINAR ON PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR IN LATIN AMERICA

Montevideo, 1-2 July 2005

*Noted by the IPU Governing Council at its 177th session  
(Geneva, 18 October 2005)*

1. Latin American parliaments have faced major challenges in establishing effective parliamentary oversight of the security sector. More specifically, countries in the region have had to grapple with transforming civil-military relations and embedding the security sector firmly in a democratic structure.
2. Some 70 parliamentarians from 13 national and regional parliaments took part in the *Seminar on Parliamentary Oversight of the Security Sector in Latin America* which was held on 1 and 2 July 2005 in Montevideo and organized by the IPU, the parliaments of Argentina and Uruguay and the Geneva-based Centre for the Democratic Control of Armed Forces (DCAF).
3. The seminar focused on current challenges in ensuring effective parliamentary oversight (see attached programme), in particular highlighting the impact of substantive changes in the present national, regional and international security environment. It paid special attention to the role of parliament in addressing the legacy of human rights abuse in the aftermath of the authoritarian rule which marked a number of countries in the region during the 1970s and 1980s.
4. The seminar's discussions pointed to the increase of subregional and regional initiatives to tackle security concerns, in which cooperation, not domination, was the defining characteristic. However, within a number of Latin American countries advances were much less clear-cut, as civilian control over the security sector often remained erratic. According to the Rapporteur of the Seminar, Professor Gerardo Caetano (Uruguay) (whose conclusions are available online at [www.ipu.org/splz-e/montevideo/report\\_en.pdf](http://www.ipu.org/splz-e/montevideo/report_en.pdf)), the weakness of democratic oversight of the military in many countries could only be countered by a continuous process of democracy-building, part of which required parliaments to demonstrate a genuine capacity for self-reform. Some of the suggestions for better parliamentary oversight included the following:
  - Modernization and streamlining of parliamentary procedures, methods of communication and relations with other branches of government and other actors in society;
  - Training of parliamentarians and the establishment of a permanent cadre of advisers on security matters;
  - The establishment, where appropriate, of parliamentary investigative committees on security matters, with a mandate to issue binding rulings;
  - The adoption of legislation on states of emergency ensuring the protection of citizens and duly referring to the existence of non-derogable rights;
  - The adoption of legislation on the training of the security and military forces and the police, so as to ensure knowledge of and full respect for human rights and to provide for sound personnel management in today's security environment.

**RESULTS OF THE REGIONAL SEMINAR FOR LATIN AMERICAN PARLIAMENTS  
ON "PARLIAMENT AND THE BUDGETARY PROCESS,  
INCLUDING FROM A GENDER PERSPECTIVE"**

San Salvador, 19 to 21 September 2005

*Noted by the IPU Governing Council at its 177th session  
(Geneva, 18 October 2005)*

1. The regional seminar for Latin American parliaments entitled "Parliament and the budgetary process, including from a gender perspective" was held in San Salvador from 19 to 21 September 2005, at the invitation of the Legislative Assembly of El Salvador. The seminar was organised jointly by the United Nations Development Fund for Women (UNIFEM) and the Inter-Parliamentary Union (IPU).
2. The seminar was inaugurated by Mr. Ciro Cruz Zepeda Peña, Speaker of the Legislative Assembly, in the presence of the President of the IPU Latin American and Caribbean Group, Ms. Zury Rios-Montt Weller, the IPU Secretary General, Mr. Anders B. Johnsson, the Chief of the Latin American and Caribbean section of UNIFEM, Ms. Marijke Velzeboer-Salcedo and Mr. Rafael Machuca, Member of the Legislative Assembly of El Salvador. Mr. Ciro Cruz Zepeda Peña was then elected President of the seminar.
3. This meeting offered parliamentarians of eight Latin American and Caribbean countries<sup>3</sup> an opportunity to exchange views, compare their experiences and deepen their understanding of the budgetary process and of the tools they can use to make an effective contribution in this field. Emphasis was placed on the need to ensure that budgets took gender - or equity between men and women - into consideration. The seminar considered the means required to take into consideration the specific situations and inputs of men and women.
4. The discussions were launched and moderated by the following experts: Ms. Ileana Argentina Rogel, MP, (El Salvador); Mr. Julio Gamero Quintanilla, MP, ( El Salvador); Ms. Myriam Garces, MP, (Ecuador); Ms. Lucia Pérez Fragoso, Gender Equity: Citizenship, Labor and Family (Mexico); Ms. Helena Hofbauer, Director, FUNDAR (Mexico), Ms. María Teresa Flores, National Audit Office, (Argentina); Ms. Mirna Montenegro, Women's Health and Development Agency (Guatemala); Mr. Fernando Solana, former Senator (Mexico); and Mr. John K. Johnson, World Bank Institute (WBI).
5. At the end of two days of debate, participants adopted a document that highlighted the main themes addressed. The report was presented by Ms. Ileana Argentina Rogel, MP, (El Salvador) and Mr. Julio Gamero Quintanilla, MP, (El Salvador).
6. The Spanish version of the Handbook for Parliamentarians entitled *Parliament, the Budget and Gender*, produced by the IPU, the United Nations Development Programme (UNDP), UNIFEM and the World Bank Institute, was also distributed at the seminar.

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**REPORT OF THE REGIONAL SEMINAR FOR LATIN AMERICAN PARLIAMENTS ON  
"PARLIAMENT AND THE BUDGETARY PROCESS, INCLUDING FROM A GENDER  
PERSPECTIVE"**

*(San Salvador, 19 to 21 September 2005)*

The regional seminar *Parliament and the budgetary process, including from a gender perspective* took place in San Salvador, El Salvador, from 19 to 21 September 2005. It was organized by the National Legislative

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<sup>3</sup> Bolivia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Paraguay and Uruguay.

Assembly of El Salvador, in cooperation with the Inter-Parliamentary Union (IPU) and the United Nations Development Fund for Women (UNIFEM).

Participants included members of the parliaments of Bolivia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Paraguay and Uruguay.

The seminar was inaugurated by the Speaker of the Legislative Assembly of El Salvador, Mr. Ciro Cruz Zepeda Peña; the inauguration was attended by the Secretary General of the IPU, Mr. Anders B. Johnsson; the Head of UNIFEM for Latin America and the Caribbean, Ms. Marijke Velzeboer-Salcedo; the President of the Group of Latin American and Caribbean Countries (GRULAC), Ms. Zury Rios-Montt, and Mr. Rafael Machuca Zelaya, a member of parliament from El Salvador.

The speakers included:

- Ms. Ileana Argentina Rogel, MP, (El Salvador);
- Mr. Julio Gamero Quintanilla, MP, (El Salvador);
- Ms. Myriam Garces, MP, (Ecuador);
- Ms. Lucia Pérez Fragoso, Project Manager, Gender Equity: Citizenship, Labour and Family (Mexico);
- Ms. Helena Hofbauer, FUNDAR Centre for Research and Analysis (Mexico),
- Ms. María Teresa Flores, General Audit Office (Argentina);
- Ms. Mirna Montenegro, Women's Health and Development Agency, Guatemala,
- Mr. Solana, former Senator and Minister, Mexico
- Mr. John K. Johnson, World Bank Institute (WBI).

The Speaker of the National Legislative Assembly of El Salvador, Mr. Ciro Cruz Zepeda Peña, was elected to preside over the seminar. Deputy Ileana Argentina Rogel of El Salvador, Senator Margarita Percovich of Uruguay and Deputy Julio Gamero Quintanilla of El Salvador were elected rapporteurs of the seminar.

This report sets forth the salient points of the statements and the discussions held throughout the three days of the seminar

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### Concepts and definitions

- ❖ **The budget** is a major tool of any government's economic and social policy; it is a definition, in numerical terms, of the direction taken by national policy; it is the best indicator of a government's real objectives; it is the key lever for achieving growth and gender equality; and it is a tool for assessing the government's performance.
- ❖ **Budgets are not neutral:** they may have a different impact on men and women.
- ❖ **A gender-sensitive budget** consists of governmental revenue and spending policies that take into account, when they are drawn up, a set of cultural ideas, perceptions and assessments on what it means to be a woman or a man. It recognizes the different needs, privileges, rights and obligations that women and men have in society and their different contributions not only in the production of goods and services, but also in the mobilization and distribution of resources.
- ❖ **Gender and sex are not synonymous:** **sex** refers to the biological differences between men and women, while **gender** refers to the socially constructed differences attributed to men and women.

### The role of parliaments in the budgetary process

The budgetary process includes the stages of: formulation, adoption, implementation, follow-up and assessment of the budget: these stages take place in the previous and current fiscal year.

Around the world, parliaments have three basic functions: representation, legislation and oversight.

Parliaments **represent** the diversity of groups and individuals in society. As the leading legislative institution in any nation, parliaments are entrusted with **establishing the rules** to govern society. Parliaments are also entrusted with **overseeing** the expenditure and performance of the executive. Oversight refers to the legislature's function of checks and balance, by means of which it ensures that programmes are implemented legally and effectively, for the purposes for which they were intended.

The role played by parliaments in the budgetary process may vary. Nevertheless, there are three main types of legislature in this regard:

1. Legislatures that *contribute to the drafting of the budget*: they may amend, reject and reformulate the executive's budget, making it their own.
2. Legislatures that *influence the budget*: they may only amend sections or parts of the original budget proposed by the executive and/or reject it.
3. Legislatures *with no effect on the budget*: they may not amend the budget.

In general, the role played by parliaments in the budgetary process is in keeping with their three basic functions:

*(A) In its function of representation:*

The legislature considers and includes specific criteria and interests in the budget presented by the executive – regional and group interests in particular. The plans and programmes of the central government – produced by experts in the capital – may sometimes be amended in order to be more efficient in given regions of the country. Parliamentarians may act as go-betweens for that information. As the “sensors of the political system”, parliaments may receive and process the information needed to adjust the national budget. In some systems, parliaments receive such information at public budget hearings.

*(B) In the adoption of the budget:*

Parliaments carry out the legislative function. When amending and adopting the budget, the legislature declares practically and symbolically that the nation agrees with the government's programme and budget.

*(C) In its oversight function:*

The legislature has responsibility for monitoring the implementation of the budget, to ensure that programmes are legally and effectively implemented for the purposes for which it intended them to be implemented.

In the performance of their functions in the budgetary process, parliaments must also take into account the impact of the international context on the national state of affairs. The world economic context, characterized by globalization and the development of a flexible, open market, must be taken into account in parliaments' analysis of the budget and in the monitoring of its implementation. For example, in the case of national debt, it is important to know the size of the debt and the use of resources, in other words, to determine whether they were really used for programmes that had a use and made an impact, or whether they were used to burden future generations with debt.

## Challenges

In the performance of their functions, parliaments face a set of challenges, including the following:

In their relationship with the executive, parliaments may find their formal budgetary powers limited. In many systems (especially parliamentary systems) the consequences of rejecting the executive's draft budget may be serious, leading parliaments to waive their function of making a critical reading of the budget. Parliaments

may also find themselves limited in their “political space”. While parliaments may have considerable formal powers in the budgetary process, their ability to exercise them may be limited by the existence of a strong executive or by political parties that adopt budgetary decisions outside the legislature.

The decentralization of resources may present national parliaments with a challenge in the exercise of their functions, since it limits their room for manoeuvre, as decisions are transferred to local authorities.

The presentation of budgets tends to be complex, making the task of parliamentarians a difficult one. Budgets should be presented simply and clearly, in a form that is easy to read. It is equally important that budgets be presented in good time, to allow parliaments to analyse them properly.

To facilitate parliaments' work it is important to establish specialized budget offices with qualified advisory staff. It is also crucial that the staff be qualified in gender matters.

A continuous turnover of civil servants poses a challenge, since it results in the loss of accumulated experience and the knowledge of budgetary matters. It is also essential to ensure that there is some continuity in the technical staff of committees.

A lack of information in general, and of gender-related information in particular, hampers proper budget analysis. It is therefore important to promote access to information via independent sources, and the production of statistics incorporating a gender perspective. Interaction with civil society and cooperation with national statistical offices may prove extremely useful.

The implementation of public expenditure is often hampered by a high level of concentration of decision-making, a lack of transparency, rigour or controls, and a tendency to rely on preconceived ideas. It is therefore important to increase transparency and reduce discriminatory practices. Cooperation with civil society and public awareness-raising may address such factors.

### **Budget-sensitive initiatives**

The various initiatives to introduce a gender perspective in state budgets have, at the first stage, taken the form of a tool for analysing and assessing policy and the corresponding budgets with a view to incorporating gender.

At the second stage, they became a tool for framing policy and elaborating state budgets with a focus on equality.

Gender-sensitive budgets:

- are not separate budgets for women, but take into consideration the particular needs of both sexes and the different impact budgets may have on either sex;
- do not involve increased public spending, but an examination and reordering, so that public expenditure can be better targeted.

Gender-sensitive budgets foster:

- ❖ **Equality**: when there is a human rights focus, equality may become an aim and indicator of economic management;
- ❖ **Accountability**, as a practical instrument for boosting the obligation of governments towards citizens regarding national and international commitments to reduce gender inequalities (for example, the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Platform for Action, the Millennium Development Goals);
- ❖ **Efficiency**, through improved focus of actions, and the allocation of resources for actions that have a greater impact on the expected results;
- ❖ **Transparency**, by involving civil society in the political and economic debate, which strengthens economic governance and democracy;
- ❖ **Growth and development**, fighting poverty, cutting losses in economic management, reducing corruption, increasing human capital;
- ❖ **Linkages**, generally speaking, between macroeconomic policies and social policies.

The fundamental aim of gender-sensitive budgets is to call into question the gender neutrality of programmes and budgetary allocations. (Considering the budget as a statement of values).

Budgets are not neutral. Cutting expenditure may have different impacts. For example, if spending on hospitals is cut, homecare increases, which mainly affects women and girls. This involves a clear transfer of costs from the public and private sectors to households. It also has a knock-on effect on the kind of employment (lower quality) that women can accept if they must carry out their duties in the home, which in turn affects the pensions they will receive later in their lives.

Mainstreaming the gender perspective means:

- ✓ Pinpointing the different impacts on women and men of policies, programmes and budgets;
- ✓ Recognizing the existence of power struggles among individuals, implicit or explicit in each culture;
- ✓ Valuing the contribution women make to the economy through the care they offer;
- ✓ Encouraging a cross-cutting mainstreaming of the gender perspective in national policies, programmes, projects and strategies at all stages.

### Approaches to analysing and elaborating gender-sensitive budgets

Below are the main components for the analysis and elaboration of gender-sensitive budgets:

1. **Gender analysis:** Power structure and gender roles in social development, enhancement of women's productive and reproductive labour and the different impacts of policies;
2. **Macroeconomic analysis:** Economic and social context, fiscal policy;
3. **Budget analysis technique:** Timeframes, structure, forms of presentation, actors and legal framework;
4. **Specific knowledge of a sector or issue:** Diagnosis and policy.

For the analysis and elaboration of gender-sensitive budgets to take place, those with knowledge in this field (experts involved in government programmes) must engage in a process of reflection with decision-makers.

Gender-sensitive budgets are the ultimate stage of gender-sensitive policies. Their design and implementation are integral and interrelated processes.

How can initiatives be taken to introduce a gender-sensitive budget?

1. By assessing the gender-sensitivity of policies, posing the question: How do policies and their respective budget allocations help to reduce or increase gender inequalities?
2. By asking beneficiary groups to what extent they think their shares of expenditure meet their needs;
3. By analysing the impact of public spending: breaking down the distribution of budgetary resources by sex. This involves determining net spending on families and distribution among family members;
4. By analysing the impact of the budget on the use of time, according to sex: calculating the link between budgetary allocations and their effects on the distribution of time use among household members.
5. By carrying out a medium-term gender-based assessment of economic policies, focusing on instruments designed to promote globalization and combat poverty;

6. By issuing reports and/or statements on the response of budgets to gender gaps, by means of indicators such as those mentioned earlier.

### **Audit/transparency and accounting with a gender focus**

Those in government have a legal and moral obligation to inform citizens about how state resources have been and are being used ('accountability'). Parliaments in particular have a responsibility to analyse investments. Technical bodies exist for that purpose, such as auditors, comptrollers or national audit offices, and they must present parliaments with an analytical report on investments.

These high auditing bodies should:

1. be functionally and financially independent (key to avoiding exposure to pressure);
2. be regulated or recognized by the Constitution;
3. include participation by the opposition.

The audit bodies are expected to help fight corruption and to promote civic participation and a culture of decency.

The establishment of procedures enabling citizens to file complaints fosters cooperation between auditing bodies and society. The dissemination of audits over the Internet, for example, facilitates transparency. It is also important to educate the public in budgetary oversight by carrying out joint actions with academic institutions, the media and non-governmental organizations (NGOs), to publicize the importance of audits in modern democracies. Public audits are undermined if they are not disseminated.

Participation by civil society is important to safeguard transparency and accountability on the part of civil servants and the audit bodies themselves (auditing the auditors). Two forms of civil society participation are **social audit**, or a process of overseeing public administration through surveillance of the use of national resources and prosecution in the case of misuse, and **public surveillance**, a process whereby public actions or services are controlled and monitored.

Incorporating a gender perspective in the work of audit bodies could help to generate mechanisms that would facilitate assessment of the impact that budgets may have on men and women, and highlight existing inequalities.

Some tools for incorporating gender in audits may include:

- ✓ Analysis of total spending per programme or per area, noting how much is spent on women's issues, and how much is spent to ensure equality between the sexes;
- ✓ Broken down analysis of the impact of public spending;
- ✓ A gender-sensitive assessment of policies;
- ✓ Analysis and disaggregated assessment of taxes;
- ✓ Study and assessment of the budget's impact on the use of time (non- remunerated work, care, etc.).

### **The needs of parliaments in order to help draw up a gender-sensitive budget**

To help draw up a gender-sensitive budget, parliaments need access to complete and sex-disaggregated information. They also need brief and clear data for use in the budget debate.

This data should include information taken from time-use surveys and the creation of satellite accounts by national statistical offices. This will make it possible to determine the size of the non-remunerated contribution made by women to the economy, and also to render it visible and give it a quantifiable value.

The capacities of parliamentarians and parliamentary staff should be strengthened in terms of gender-equality issues. Training should be organized for this purpose.

Parliamentarians must develop cooperation and contacts with civil society and women's movements in order to obtain information on gender inequalities. By means of public hearings, civil society may also participate in the development of a gender-sensitive budget.

### **Seminar follow-up**

Hereunder are some proposals for following up on what was discussed at the seminar.

Participants are requested to present the debates and the outcome of the seminar to their national parliaments, and disseminate them in civil society. They are called upon to launch the handbook on this subject in their parliaments or in civil society. Participants are called upon to try to implement the suggestions made in this report.

Parliaments, the IPU and UNIFEM are called upon to consider organizing seminar follow-up events for this seminar, such as regional and national seminars on this subject in Latin America.

Participants are called upon to strengthen the exchange of experience and best practices among the national parliaments of Latin America.

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## **REPORT ON THE SEMINAR ON THE IMPLEMENTATION OF LEGISLATION ON INDIGENOUS PEOPLES' RIGHTS**

Geneva, 25 and 26 July 2005

*Noted by the IPU Governing Council at its 177th session  
(Geneva, 18 October 2005)*

1. The seminar, which was organized in partnership with the Office of the United Nations High Commissioner for Human Rights (OHCHR), took place at IPU Headquarters on 25 and 26 July and centred on the challenges involved in implementing legislation affecting indigenous peoples. It was open to members of parliament of countries in which indigenous peoples lived and those that had a particular interest in matters relating to indigenous peoples. Over 60 members of parliament and representatives of indigenous peoples' organizations and governments participated in the event.
2. The seminar was held to help the United Nations Special Rapporteur on indigenous peoples, Mr. Rodolfo Stavenhagen (Mexico), to draft his report for the 2006 session of the Commission on Human Rights, which in 2006 will focus inter alia on the role of legislators in protecting and promoting indigenous peoples' rights, and will address best practices and obstacles encountered in the implementation of relevant legislation.
3. While a number of indigenous mechanisms and initiatives have been set up within the United Nations system, parliamentarians have mostly been absent from these forums. The parliamentarians present at the seminar, many of whom were of indigenous origin, greatly appreciated the opportunity to meet one another, and to hear about different national legislative initiatives to promote and respect indigenous rights, and also about the obstacles to turning such legislation into a real improvement of the situation of indigenous peoples.
4. In this regard, panellists from Burundi, Canada, Colombia, Guatemala, Kenya, Norway and Panama shared their experiences with participants and highlighted the progress and setbacks in advancing the cause of indigenous peoples' rights in their countries. Their presentations and the subsequent plenary debate helped better identify the obstacles that stand in the way of the adoption or implementation of appropriate legislation. They focused on three areas: (a) experiences in the development of legislation on indigenous peoples; (b) experiences in passing legislation by parliaments, and (c) challenges in implementing legislation relating to indigenous peoples.

## RESULTS OF THE PREPARATORY MEETING OF THE INAUGURAL SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE MEDITERRANEAN

Naples (Italy), 26 June 2005

*Noted by the IPU Governing Council at its 177th session  
(Geneva, 18 October 2005)*

1. The Preparatory Meeting of the Inaugural Session of the Parliamentary Assembly of the Mediterranean (PAM) took place at *La Maison de la Méditerranée* in Naples (Italy) on 26 June 2005. The meeting was hosted by the Italian Parliament and was attended by 58 delegates from the main and associate participants in the CSCM process.
2. Following recent developments, it was agreed to include in the agenda an examination of relations with the Euro-Mediterranean Parliamentary Assembly (EMPA). Mr. Salles informed the participants that letters had been addressed to the Presidents of national parliaments of the European Union by Mr. Josep Borell Fontelles, President of the European Parliament, requesting them to reconsider the establishment of a Parliamentary Assembly of the Mediterranean. All members present reaffirmed their national parliaments' support for the decision to establish a Parliamentary Assembly of the Mediterranean.
3. The participants therefore decided that an explanatory note should be sent, on their behalf, to presidents of national parliaments members of the CSCM process, to allay any concerns about duplication between the PAM and the EMPA. The participants also agreed that a delegation comprising the President, Mr. Salles, and the two co-rapporteurs, Mr. Radi and Mrs. Papadimitriou, should meet with President Borell to clarify the nature of the Parliamentary Assembly of the Mediterranean and discuss ways of ensuring that the themes chosen for discussion at future sessions of the two assemblies would not be similar, thus avoiding any duplication.
4. After an exchange of views on the revised draft rules of procedure, the members accepted several amendments to the draft rules (see revised rules in Annex I). It was agreed that these revised rules would be sent to the members for consideration, modified in the light of comments received, and subsequently made available to all members for further discussion and adoption at the Inaugural session of the Parliamentary Assembly of the Mediterranean.
5. The participants were briefed by the IPU Secretary General on the difficulties in preparing a budget for the PAM. The budget for the PAM would essentially comprise two parts; those costs relating to the running of a secretariat, which would be determined by the location of the headquarters, and those costs relating to hosting an assembly session and committee meetings. It was agreed that the IPU would draw up terms of reference outlining the nature of the costs relating to both the running of a secretariat and the hosting of an Assembly session. The terms of reference would be sent to member parliaments who could then put forward proposals for the headquarters of the secretariat and for the venue of the Assembly and committee sessions. The IPU would submit these proposals to the members at the Inaugural Session of the PAM, who would then be in a position to choose a headquarters and a venue for the second session of the PAM, and thus also establish a budget for the PAM.
6. It was agreed that the IPU would continue to provide secretarial support to the PAM until the end of 2006, under the annual budget adopted by the members in February 2005 at the Fourth CSCM in Nafplion. The PAM is expected to have its own budget and an established headquarters by 1 January 2007.
7. The participants discussed the preparation of a political declaration to be adopted at the Inaugural Session of the PAM. They decided to create a working group, supported by the IPU, to draft the declaration. The draft would be forwarded to members for their comments, which would be incorporated in the document prior to the Inaugural Session.
8. Following an exchange of views, the participants accepted the Secretary General's recommendation that the IPU, together with the parliament of Jordan, would finalise the date (sometime in mid November) for the Inaugural session of the PAM, taking into consideration the various holidays, meetings and parliamentary elections taking place around that time.

## COOPERATION WITH THE UNITED NATIONS

### *Checklist of activities from 1 January to 14 October 2005*

*Noted by the IPU Governing Council at its 177th session  
(Geneva, 18 October 2005)*

#### UNITED NATIONS

- Second World Conference of Speakers of Parliaments and related events. As part of the preparations, the Preparatory Committee held a working session at IPU Headquarters in Geneva in late May 2005 and a delegation of the Committee travelled to New York in early July 2005 to brief United Nations Member States and senior United Nations officials about the event;
- Also as part of preparations for that event, the IPU sent parliaments the report of the High-level Panel on Threats, Challenges and Change, entitled *A more secure world: Our shared responsibility* as well as the United Nations Secretary-General's own report entitled *In larger freedom: towards development, security and human rights for all*;
- Statement to the Summit of Heads of State and Government presenting the outcome of the Second World Conference of Speakers of Parliaments, and IPU consultations with parliaments on how best to organize parliamentary interaction with the United Nations in light of the recommendations of the Panel of Eminent Persons on the relationship between the United Nations and civil society, including parliaments and parliamentarians;
- Parliamentary panel discussion at the United Nations (June 10, 2005), organized in cooperation with the United Nations Department of Social and Economic Affairs (DESA), on innovative forms of financing for development, with the participation of a group of prominent parliamentarians from Australia, Brazil, Canada, Gabon, Mexico, Thailand and the United Kingdom. The report of the meeting was presented later that month at the United Nations High-level Dialogue on Financing for Development;
- Statements during the sixtieth session of the United General Assembly on:
  - disarmament, arms control and non-proliferation;
  - child protection;
  - human rights;
  - the advancement of women;
- Consolidation of the practice of consultation by IPU co-Rapporteurs with key United Nations institutions. The co-Rapporteurs on international migration (Second Standing Committee) travelled to Geneva for consultations with the ILO, the GCIM, IOM, the ICRC and UNHCR. Later in the year, the co-Rapporteurs on small arms and light weapons (First Standing Committee), participated in the United Nations Biennial Meeting of States and conducted consultations with the United Nations Department for Disarmament Affairs, UNICEF and the ICRC.

#### UNDP

- Continued cooperation to strengthen the capacities of parliaments worldwide. Projects undertaken in cooperation with UNDP were carried out in Afghanistan, Albania, Pakistan, Sri Lanka and Uruguay. A project was being finalized with a view to providing assistance to the Transitional National Assembly of Iraq. The IPU planned to participate in the implementation of a UNDP assistance project for the parliament of Algeria. The IPU assisted the UNDP country office and the National Assembly in Viet Nam in organizing a high-level policy forum on public finance oversight by parliament in October 2005;
- A joint project to develop guidelines for the delivery of technical assistance to parliaments in conflict situations;

- UNDP was contributing to the project launched by the IPU to produce a guide on parliaments' contribution to democracy. The guide would be made available for use by parliaments, development practitioners and the public at large;
- The IPU contributed to the 2005 UNDP Human Development Report by providing statistics and data on women in parliament.

#### UNIFEM

- In 2004, in cooperation with UNDP, the WBI and UNIFEM, the IPU finalized a handbook for parliamentarians on ways to develop a gender-sensitive national budget. In 2005, the handbook was translated into Spanish, with a contribution from UNIFEM, and a regional seminar was held in El Salvador for Latin American parliaments on *Parliament and the budgetary process, including from a gender perspective*.

#### UNESCO

- Statement at the UNESCO General Conference on cooperation between UNESCO and parliaments;
- Preparation of various language versions of the *Guide to parliamentary practice*;
- Work under way on a handbook on education for all.

#### UNAIDS

- The IPU, UNAIDS and UNDP jointly held a panel discussion in New York on 12 September 2005 on the role of parliaments in the fight against HIV/AIDS, as a side event of the High-Level Summit of Heads of State and Government.

#### UNHCR

- The handbook on refugee protection was translated into four more languages, bringing the total number of language editions to 30, thus making it the most widely distributed IPU publication of all time;
- Another handbook was prepared with UNHCR on nationality and statelessness, for launch at the 113th IPU Assembly, in Geneva. UNHCR and the IPU also prepared a panel discussion to be held during the 113th Assembly on the same subject.

#### UNITAR

- On the basis of the Memorandum of Understanding signed between the IPU and UNITAR, an inaugural conference took place in Paris in April 2005 to mobilize international support for the two organizations' joint Global Capacity-Building Initiative for Parliaments in the field of sustainable development and environmental protection.

#### OHCHR

- The handbook on parliament and human rights, a joint IPU-OHCHR initiative, was finalized and readied for launch at the 113th IPU Assembly;
- The IPU delivered three statements at the United Nations Commission on Human Rights, on freedom of expression, child protection and the functioning of the United Nations mechanisms for human rights protection;
- OHCHR and the IPU jointly organized a seminar at IPU Headquarters from 27 to 29 July 2005 on the impact of parliamentary action on indigenous peoples' rights;
- The IPU held a seminar for chairs and members of parliamentary human rights bodies on freedom of expression, parliaments and the promotion of tolerant societies from 25 to 27 May 2005 at IPU Headquarters. The seminar was organized in cooperation with Article 19, an NGO specializing in the subject matter, and received the support of OHCHR;
- The IPU assisted OHCHR in holding a seminar on the interdependence between democracy and human rights, in Geneva in February-March 2005;
- The IPU and OHCHR were jointly implementing a project designed to strengthen the human rights role of the parliament of Uruguay;
- Contribution to the OHCHR workshop, *Strengthening the implementation of human rights treaty body recommendations at the national level*, Geneva, 9 to 13 May 2005.

### **Office of the High Representative for LDCs**

- The IPU participated in and contributed to inter-agency consultations for the comprehensive (mid-term) review of the Brussels Programme of Action for the Least Developed Countries;
- The IPU is a member of the Expert Panel of Advisers on the State of Governance in LDCs.

### **UNICEF**

- The IPU and UNICEF produced a handbook for parliamentarians entitled *Combating Child Trafficking*. The handbook was launched at the 112th Assembly, in Manila, in the presence of the Executive Director of UNICEF, Carol Bellamy;
- During the Manila Assembly, the IPU and UNICEF held a panel discussion for parliamentarians entitled *Violence against women and children in situations of armed conflict*.

### **UNDAW**

- A one-day parliamentary meeting entitled *Beyond Beijing: Towards gender equality in politics* was held in cooperation with UNDAW in New York at the forty-ninth session of the Commission on the Status of Women (CSW) which reviewed progress made 10 years after the adoption of the Beijing Declaration and Platform for Action;
- Two members of the IPU Executive Committee took part in a High-Level Round Table at the forty-ninth session of the CSW in February;
- The IPU delivered a statement at the forty-ninth session of the CSW;
- A map entitled *Women in Politics: 2005* was jointly produced by the IPU and UNDAW for the forty-ninth session of the CSW;
- A one-day seminar was scheduled to take place just after the 113th Assembly, on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol. It was held by the IPU and UNDAW.

### **Millennium Development Goals**

- The IPU was the data source for the Millennium Development Goal indicator on women in parliaments. It regularly provided the United Nations with data on women in parliament for the MDG database.

## Future Meetings and other Activities

*Approved by the IPU Governing Council at its 177th session  
(Geneva, 18 October 2005)*

Information seminar entitled Implementing the Convention on the Elimination of All Forms of Discrimination against Women: The role of parliaments and their members	GENEVA 20 October 2005
Sixth Parliamentary Round Table on the occasion of the seventh session of the Conference of the Parties to the United Nations Convention to Combat Desertification (UNCCD), organized by the Secretariat of the Convention to Combat Desertification	NAIROBI (Kenya) 25-26 October 2005
Annual Parliamentary Hearing at the United Nations	NEW YORK (United States of America) 31 October-1 November 2005
Regional seminar on the role of parliaments in the national reconciliation process in Africa, held in partnership with the International Institute for Democracy and Electoral Assistance (International IDEA)	BUJUMBURA (Burundi) 7-9 November 2005
Parliamentary Meeting on the occasion of the Second Phase of the World Summit on the Information Society	TUNIS (Tunisia) 17 November 2005
Information seminar on the structure and functioning of the IPU (for English-speaking participants)	GENEVA 21-25 November 2005
Regional capacity-building seminar for Arab parliaments on sustainable development: Water management, organized jointly by the IPU and the United Nations Institute for Training and Research (UNITAR)	BEIRUT (Lebanon) 29-30 November 2005
Meeting to finalize a humanitarian agreement and promote justice, reparation and truth in Colombia, to be organized jointly by the International Federation of Ingrid Betancourt Committees, the International Federation of Human Rights and the IPU	GENEVA Early December 2005
African regional conference on female genital mutilation	DAKAR (Senegal) 4-5 December 2005
Hong Kong session of the Parliamentary Conference on the WTO	HONG KONG (China) 12 and 15 December 2005

Regional seminar for Asian parliaments on child protection issues	Viet Nam January/February 2006
112th session of the Committee on the Human Rights of Parliamentarians	GENEVA 23-26 January 2006
Meeting of women parliamentarians on women in politics, to be held on the occasion of the session of the United Nations Commission on the Status of Women	NEW YORK (United States of America) March 2006
Meeting for members of parliamentary human rights bodies	GENEVA Late March 2006
Twelfth session of the Steering Committee of the Parliamentary Conference on the WTO, to be held in conjunction with the Annual WTO Public Symposium	GENEVA April 2006
Regional conference for women parliamentarians in the Gulf States	Venue to be decided April 2006
114th Assembly and related meetings	NAIROBI (Kenya) 7-12 May 2006
Regional seminar for South-East Asian parliaments on security sector reform in the national and regional context, organized jointly by the IPU and the Geneva Centre for Democratic Control of Armed Forces (DCAF)	South-East Asia Late May/early June 2006
Seminar (information meeting) on international provisions regarding prison conditions and the treatment of prisoners	Venue to be decided 13 May or 19 October 2006
Regional seminar on parliament, the budget and gender (for Europe and Central Asia)	Venue to be decided June 2006
Regional capacity-building seminar for African parliaments on sustainable development	Venue to be decided June 2006
113th Session of the Committee on the Human Rights of Parliamentarians	GENEVA Mid-July 2006
Seventh workshop of parliamentary scholars and parliamentarians	OXFORDSHIRE (United Kingdom) 29-30 July 2006
Thirteenth session of the Steering Committee of the Parliamentary Conference on the WTO	GENEVA September 2006
115th Assembly and related meetings	GENEVA 16-18 October 2006
Information seminar entitled Implementing the Convention on the Elimination of All Forms of Discrimination against Women: The role of parliaments and their members	GENEVA 19 October 2006

Parliamentary Forum on the occasion of the sixth International Conference of New or Restored Democracies

DOHA (Qatar)  
29 October-1 November 2006

Regional seminar on the role of parliaments in the national reconciliation process in Latin America, held in partnership with International IDEA

Latin America  
Early November

Annual Parliamentary Hearing at the United Nations

NEW YORK (United States of America)  
November 2006

Annual session of the Parliamentary Conference on the WTO

GENEVA  
November 2006

Information seminar on the structure and functioning of the IPU (for French-speaking participants)

GENEVA  
November 2006

116th Assembly and related meetings

BANGKOK (Thailand)  
29 April-4 May 2007

#### Invitations received

118th Assembly and related meetings

ADDIS ABABA (Ethiopia)  
March/April 2008

Future Assembly

CARACAS (Venezuela)

Future Assembly

South Africa

## AGENDA OF THE 114th ASSEMBLY AND SUBJECT ITEMS FOR THE 115th ASSEMBLY

*Adopted by the 113th IPU Assembly  
(Geneva, 19 October 2005)*

### Agenda of the 114th Assembly (Nairobi, 7-12 May 2006)

1. Election of the President and Vice-Presidents of the 114th Assembly
2. Consideration of possible requests for the inclusion of an emergency item in the Assembly agenda
3. General debate on the political, economic and social situation in the world
4. The role of parliaments in strengthening the control of trafficking in small arms and light weapons and their ammunition  
(*Standing Committee on Peace and International Security*)
5. The role of parliaments in environmental management and in combating global degradation of the environment  
(*Standing Committee on Sustainable Development, Finance and Trade*)
6. How parliaments can and must promote effective ways of combating violence against women in all fields  
(*Standing Committee on Democracy and Human Rights*)
7. Approval of the subject items for the 116th Assembly and appointment of the Rapporteurs

### Subject items for the 115th Assembly (Geneva, 16-18 October 2006)

1. Cooperation between parliaments and the United Nations in promoting world peace, particularly from the perspectives of the fight against terrorism and energy security  
(*Standing Committee on Peace and International Security*)
2. The role of parliaments in overseeing the achievement of the Millennium Development Goals, in particular with regard to the problem of debt and the eradication of poverty and corruption  
(*Standing Committee on Sustainable Development, Finance and Trade*)
3. Missing persons  
(*Standing Committee on Democracy and Human Rights*)

**LIST OF INTERNATIONAL ORGANIZATIONS AND OTHER BODIES INVITED  
TO FOLLOW THE WORK OF THE 114th ASSEMBLY AS OBSERVERS**

*Approved by the IPU Governing Council at its 177th session  
(Geneva, 18 October 2005)*

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Palestine

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United Nations  
United Nations Conference on Trade and Development (UNCTAD)  
International Labour Organization (ILO)  
Food and Agriculture Organization of the United Nations (FAO)  
United Nations Educational, Scientific and Cultural Organization (UNESCO)  
World Health Organization (WHO)  
World Bank  
International Monetary Fund (IMF)  
International Fund for Agricultural Development (IFAD)  
Organisation for the Prohibition of Chemical Weapons (OPCW)  
World Trade Organization (WTO)

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African Union (AU)  
Council of Europe  
International Organization for Migration (IOM)  
Latin American Economic System (LAES)  
League of Arab States  
Organization of American States (OAS)

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ACP-EU Joint Parliamentary Assembly (JPA)  
African Parliamentary Union (APU)  
Amazonian Parliament  
Arab Inter-Parliamentary Union  
ASEAN Inter-Parliamentary Organization (AIPO)  
Assemblée parlementaire de la Francophonie  
Assembly of the Western European Union (WEU)  
Association of Asian Parliaments for Peace (AAPP)  
Baltic Assembly  
Commonwealth Parliamentary Association (CPA)  
Confederation of Parliaments of the Americas (COPA)  
European Parliamentarians for Africa (AWEPA)  
Indigenous Parliament of the Americas  
Inter-Parliamentary Assembly of the Eurasian Economic Community  
Inter-Parliamentary Assembly of the Commonwealth of Independent States  
Inter-Parliamentary Committee of the West African Economic and Monetary Union (WAEMU)  
Inter-Parliamentary Council against Antisemitism  
Maghreb Consultative Council  
Nordic Council  
Parliamentary Assembly of the Black Sea Economic Co-operation (PABSEC)  
Parliamentary Assembly of the OSCE  
Parliamentary Assembly of the Union of Belarus and the Russian Federation  
Parliamentary Association for Euro-Arab Co-operation (PAEAC)  
Parliamentary Union of the Organisation of the Islamic Conference Members (PUOICM)  
Southern African Development Community Parliamentary Forum (SADC)

Amnesty International  
International Committee of the Red Cross (ICRC)  
International Federation of Red Cross and Red Crescent Societies (IFRC)  
World Federation of United Nations Associations (WFUNA)

Organizations invited to follow the work of the 114th Assembly  
in the light of its agenda items on:

Item 4: *The role of parliaments in strengthening the control of trafficking in small arms and light weapons and their ammunition*

Parliamentary Forum on Small Arms and Light Weapons

Item 5: *The role of parliaments in environmental management and in combating global degradation of the environment*

United Nations Environment Programme (UNEP)  
Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC)  
Secretariat of the Convention on Biological Diversity (CBD)  
Secretariat of the United Nations Convention to Combat Desertification (UNCCD)

## Resolutions Concerning the Human Rights of Parliamentarians

### CASE No. BGL/14 - SHAH A.M.S. KIBRIA - BANGLADESH

*Resolution adopted by consensus by the IPU Governing Council at its 177th session\**  
(Geneva, 19 October 2005)

The Governing Council of the Inter-Parliamentary Union,

*Having before it* the case of Mr. Shah A.M.S. Kibria, a member of the parliament of Bangladesh assassinated in January 2005, which has been the subject of a study and report of the Committee on the Human Rights of Parliamentarians following the Procedure for the Treatment by the IPU of Communications concerning Violations of the Human Rights of Members of Parliament,

*Taking note* of the report of the Committee on the Human Rights of Parliamentarians, which contains a detailed outline of the case (CL/177/11(a)-R.1),

*Taking account* of the hearing the Committee held with the Speaker of the National Parliament during the 113th Assembly,

*Considering* the following elements on file:

- On 27 January 2005, Mr. Shah A.M.S. Kibria, a member of parliament of the opposition party Awami League, a former Finance Minister and Under-Secretary General of the United Nations, addressed a meeting in his constituency in north-eastern Bangladesh. According to the sources, unlike at other meetings, there was no security at the meeting in question. According to the Speaker, neither he nor the Home Minister had been informed of the meeting, and security was always provided if requested;
- As Mr. Kibria was leaving the meeting, grenades exploded, which instantly killed three persons and injured many others. Mr. Kibria was severely injured. According to the sources, he died after a four-hour journey in an ill-equipped ambulance on the road to Dhaka. Despite appeals to the Government to send a helicopter to take him to Dhaka for medical treatment, no such assistance was provided. According to the Speaker, Mr. Kibria was taken to the local hospital, but his party colleagues, against the advice of the doctors, did not want to leave him there. Had the Government known of the attack it would have provided a helicopter. Moreover, the Speaker stated, it took place around midnight, and during the night helicopter travel was difficult. According to his account, the Government offered a helicopter to return the body;
- While the sources affirm that neither the Speaker nor any government minister attended the funeral services or sent any message of condolence to Mr. Kibria's family, the Speaker stated that not only did he, the President and the Prime Minister as well as other government officials send letters of condolence, but that the parliament adopted a resolution on the attack the day after Mr. Kibria's death. The Speaker emphasized that he had personally requested to see the body and to arrange for the appropriate prayer ceremonies to take place, but that the leader of the opposition did not allow Mr. Kibria's body to be brought for the prayer, and the family did not permit him to see the body;

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\* The leader of the delegation of Bangladesh stated that the word "midnight" in the fourth preambular paragraph, line 15 should be changed to "late afternoon"; he objected to the mentioning of the party membership of the accused in lines 28 and 29, to the part of operative paragraph 2 starting with "is deeply disturbed", to the reference to the Supreme Court in operative paragraph 4, and to operative paragraph 9, and submitted that the Resolution was an abuse of parliamentary process, as it undermined the sanctity and independence of parliament and amounted to interference in the domestic affairs of Bangladesh and in the process of law and the dispensation of free and impartial justice.

- Two cases, a murder case under the Penal Code of Bangladesh and an explosives case under the Explosive Substance Act, were filed; in both cases, the police investigation has been closed. In the murder case, on 19 April 2005, 10 persons were charged, all of them active, low-ranking members of the ruling BNP-Jamaat (Bangladesh Nationalist Party - Jamaat-I-Islami), 8 of whom were arrested, while 2 absconded. With respect to the explosives case, an appeal for further investigation, in particular into the origin of the grenades, was dismissed, and the case was sent to the competent tribunal for trial;
- On 30 April and 4 May 2005, the lawyer for the family of Mr. Kibria (the plaintiff) lodged appeals against the decision of the courts to close the investigation in the murder case. The appeals were dismissed. An application before the High Court Division of the Supreme Court of Bangladesh was subsequently filed, and further proceedings were later temporarily stayed. The Supreme Court will reportedly hear the application for further investigation on 18 and 19 October 2005;
- The sources affirm that the investigation is incomplete, in particular since it has failed to identify the source of the explosives used in the attack, to track the funding for the attack and to ascertain how those who threw the grenades received the necessary training. Moreover, two suspects possibly able to provide information are still on the run,

*Noting* in this respect that, according to the sources, there have been more than 30 bomb and grenade attacks in Bangladesh since 2001, and that in most of these cases investigations have been stalled or the cases have not been brought to court at all, but that according to the Speaker the Government has made every effort to shed light on those attacks, which occur not only in Bangladesh but also in other countries, and more than 500 people have been arrested, and some extremists brought to trial,

*Noting lastly* that the Speaker has said that the United States Federal Bureau of Investigation (FBI) and Interpol have visited the place of the attack, but that he does not know whether they drew up any reports,

1. *Thanks* the Speaker for the information he provided;
2. *Expresses deep concern* at the murder of Shah A.M.S. Kibria; *is deeply disturbed* at the different information provided by the authorities and the sources as to the Government's willingness to provide help by making available a helicopter for his transport to Dhaka, as had such action been taken, it might have saved his life; *finds it difficult* to understand how the Government could have been unaware of the attack; and *would appreciate* receiving any clarification in this respect;
3. *Recalls* that, as a party to the International Covenant on Civil and Political Rights, Bangladesh has pledged to respect the fundamental rights guaranteed therein, including the right to life, which comprises the duty of the State to carry out thorough and effective investigations to identify and bring to justice those responsible for a murder;
4. *Affirms* therefore that the competent authorities have a duty to investigate any available lead permitting the full clarification of the circumstances of Mr. Kibria's murder; *notes with concern* that the courts have so far dismissed applications for further investigation despite the existence of clear leads; *trusts* that the Supreme Court will take full account of the arguments put forward by the plaintiff; and *would appreciate* being informed of the decision it takes in this respect;
5. *Affirms* that the murder of a parliamentarian stands as a threat to the institution of parliament as such and, in the final analysis, to the people whom it represents, and that parliament therefore has an interest in availing itself of its oversight function to ensure that the competent authorities comply with their duty to carry out full and effective

- investigations to identify and prosecute those responsible, and thus to prevent any repetition of such crimes;
6. *Would be grateful* to receive a copy of the resolution which the parliament adopted after Mr. Kibria's death;
  7. *Notes* that, according to the Speaker, at this stage the indictments issued in this case are not public documents, but may be obtained from the lawyer; and *requests* the Secretary General to seek them from him;
  8. *Requests* the Secretary General to convey this resolution to the Speaker and the sources;
  9. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114<sup>th</sup> IPU Assembly (May 2006).
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### **CASE No. BLS/05 - VICTOR GONCHAR - BELARUS**

#### ***Resolution adopted unanimously by the IPU Governing Council at its 177th session (Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Victor Gonchar, a member of the Thirteenth Supreme Soviet of Belarus, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of the hearing the Committee held with Mr. Anatoly Solovyev, a member of the Belarusian delegation to the 113th Assembly,

*Recalling* the following: Mr. Gonchar and his friend Anatoly Krasovsky disappeared in September 1999. The investigations have so far been unavailing. Allegations have been made attributing Mr. Gonchar's disappearance to a special police unit under the command of Colonel Pavlichenko, who was arrested briefly in November 2000. A report on disappearances issued in February 2004 by the Parliamentary Assembly of the Council of Europe (PACE) concluded that no proper investigation had been carried out and that senior state officials, such as the Prosecutor General, Mr. Victor Sheyman (Secretary General of the Belarusian Security Council at the time of the murder) and Sports Minister Sivakov (Minister of the Interior at the time of the events) might have been involved in the disappearances of several opposition figures, including Mr. Gonchar. Mr. Sheyman has in the meantime been removed from his post as Prosecutor General and promoted to that of Adviser to President Lukashenko,

*Considering* that Mr. Solovyev provided the following information: Mr. Sivakov has also been removed from his post. The investigation is still under way. All available leads, including those suggested by foreign experts, have been investigated, unfortunately to no avail. There are leads suggesting that economic motives may have been behind Mr. Gonchar's and Mr. Krasovsky's disappearance, as Mr. Gonchar was heavily indebted because of his business in the Russian Federation, and Mr. Krasovsky had been summoned to court on a charge of tax evasion. There was no doubt that both had been kidnapped, but the motive of the kidnapping remained unclear. The PACE report, for its part, was based on unqualified information,

*Considering* further that Mr. Solovyev stressed that it was in the interest of his country to shed light on Mr. Gonchar's disappearance and that the competent authorities would make every effort to that end,

- Two cases, a murder case under the Penal Code of Bangladesh and an explosives case under the Explosive Substance Act, were filed; in both cases, the police investigation has been closed. In the murder case, on 19 April 2005, 10 persons were charged, all of them active, low-ranking members of the ruling BNP-Jamaat (Bangladesh Nationalist Party - Jamaat-I-Islami), 8 of whom were arrested, while 2 absconded. With respect to the explosives case, an appeal for further investigation, in particular into the origin of the grenades, was dismissed, and the case was sent to the competent tribunal for trial;
- On 30 April and 4 May 2005, the lawyer for the family of Mr. Kibria (the plaintiff) lodged appeals against the decision of the courts to close the investigation in the murder case. The appeals were dismissed. An application before the High Court Division of the Supreme Court of Bangladesh was subsequently filed, and further proceedings were later temporarily stayed. The Supreme Court will reportedly hear the application for further investigation on 18 and 19 October 2005;
- The sources affirm that the investigation is incomplete, in particular since it has failed to identify the source of the explosives used in the attack, to track the funding for the attack and to ascertain how those who threw the grenades received the necessary training. Moreover, two suspects possibly able to provide information are still on the run,

*Noting* in this respect that, according to the sources, there have been more than 30 bomb and grenade attacks in Bangladesh since 2001, and that in most of these cases investigations have been stalled or the cases have not been brought to court at all, but that according to the Speaker the Government has made every effort to shed light on those attacks, which occur not only in Bangladesh but also in other countries, and more than 500 people have been arrested, and some extremists brought to trial,

*Noting lastly* that the Speaker has said that the United States Federal Bureau of Investigation (FBI) and Interpol have visited the place of the attack, but that he does not know whether they drew up any reports,

1. *Thanks* the Speaker for the information he provided;
2. *Expresses deep concern* at the murder of Shah A.M.S. Kibria; *is deeply disturbed* at the different information provided by the authorities and the sources as to the Government's willingness to provide help by making available a helicopter for his transport to Dhaka, as had such action been taken, it might have saved his life; *finds it difficult* to understand how the Government could have been unaware of the attack; and *would appreciate* receiving any clarification in this respect;
3. *Recalls* that, as a party to the International Covenant on Civil and Political Rights, Bangladesh has pledged to respect the fundamental rights guaranteed therein, including the right to life, which comprises the duty of the State to carry out thorough and effective investigations to identify and bring to justice those responsible for a murder;
4. *Affirms* therefore that the competent authorities have a duty to investigate any available lead permitting the full clarification of the circumstances of Mr. Kibria's murder; *notes with concern* that the courts have so far dismissed applications for further investigation despite the existence of clear leads; *trusts* that the Supreme Court will take full account of the arguments put forward by the plaintiff; and *would appreciate* being informed of the decision it takes in this respect;
5. *Affirms* that the murder of a parliamentarian stands as a threat to the institution of parliament as such and, in the final analysis, to the people whom it represents, and that parliament therefore has an interest in availing itself of its oversight function to ensure that the competent authorities comply with their duty to carry out full and effective

investigations to identify and prosecute those responsible, and thus to prevent any repetition of such crimes;

6. *Would be grateful* to receive a copy of the resolution which the parliament adopted after Mr. Kibria's death;
  7. *Notes* that, according to the Speaker, at this stage the indictments issued in this case are not public documents, but may be obtained from the lawyer; and *requests* the Secretary General to seek them from him;
  8. *Requests* the Secretary General to convey this resolution to the Speaker and the sources;
  9. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114<sup>th</sup> IPU Assembly (May 2006).
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### **CASE No. BLS/05 - VICTOR GONCHAR - BELARUS**

#### ***Resolution adopted unanimously by the IPU Governing Council at its 177th session (Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Victor Gonchar, a member of the Thirteenth Supreme Soviet of Belarus, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of the hearing the Committee held with Mr. Anatoly Solovyev, a member of the Belarusian delegation to the 113th Assembly,

*Recalling* the following: Mr. Gonchar and his friend Anatoly Krasovsky disappeared in September 1999. The investigations have so far been unavailing. Allegations have been made attributing Mr. Gonchar's disappearance to a special police unit under the command of Colonel Pavlichenko, who was arrested briefly in November 2000. A report on disappearances issued in February 2004 by the Parliamentary Assembly of the Council of Europe (PACE) concluded that no proper investigation had been carried out and that senior state officials, such as the Prosecutor General, Mr. Victor Sheyman (Secretary General of the Belarusian Security Council at the time of the murder) and Sports Minister Sivakov (Minister of the Interior at the time of the events) might have been involved in the disappearances of several opposition figures, including Mr. Gonchar. Mr. Sheyman has in the meantime been removed from his post as Prosecutor General and promoted to that of Adviser to President Lukashenko,

*Considering* that Mr. Solovyev provided the following information: Mr. Sivakov has also been removed from his post. The investigation is still under way. All available leads, including those suggested by foreign experts, have been investigated, unfortunately to no avail. There are leads suggesting that economic motives may have been behind Mr. Gonchar's and Mr. Krasovsky's disappearance, as Mr. Gonchar was heavily indebted because of his business in the Russian Federation, and Mr. Krasovsky had been summoned to court on a charge of tax evasion. There was no doubt that both had been kidnapped, but the motive of the kidnapping remained unclear. The PACE report, for its part, was based on unqualified information,

*Considering further* that Mr. Solovyev stressed that it was in the interest of his country to shed light on Mr. Gonchar's disappearance and that the competent authorities would make every effort to that end,

*Recalling* that the authorities have consistently referred to the case of Ms. Vinnikova, the former Director of the Belarus National Bank who disappeared in April 1999 and reappeared in December 1999 in the United Kingdom, to suggest that Mr. Gonchar might in fact be living abroad,

1. *Thanks* Mr. Solovyev for the information he provided;
2. *Is dismayed* that the investigation, which has now been under way for more than six years, has still made no progress; and *earnestly hopes* that the stated commitment of the authorities to shed light on Mr. Gonchar's and Mr. Krasovsky's disappearance will soon produce results;
3. *Notes* that Mr. Sheyman has been removed from his post as Prosecutor General and that Mr. Sivakov no longer holds a State position; and *reaffirms* nevertheless that, so long as the Belarusian authorities do not fully investigate the evidence revealed in the PACE report or adduce other convincing evidence relating to Mr. Gonchar's disappearance, the suspicion mentioned in the report as to the possible role of State officials in his disappearance will remain fully justified;
4. *Points out* with regard to the authorities' continuing reference to the plight of Ms. Vinnikova, that unlike her Mr. Gonchar has not reappeared; and *is convinced* that if he were living abroad, that fact would certainly have come to light in the almost six years that have elapsed since his disappearance, as indeed it did in Ms. Vinnikova's case, and much sooner;
5. *Reiterates its wish* to ascertain whether the Belarusian Committee on State Security (KGB) has acted upon the petition which the relatives of the disappeared lodged last year, since it appears to have gathered important evidence in these cases, especially regarding the role played by Colonel Pavlichenko; and *also reiterates its wish* to be informed in this respect of the grounds for Colonel Pavlichenko's rapid release in November 2000;
6. *Remains convinced* that, by monitoring the investigation, the parliament of Belarus would contribute to enhancing its effectiveness; and *reiterates its wish* to receive information about any measures taken to this effect;
7. *Requests* the Secretary General to convey this resolution to the competent authorities and to the sources;
8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

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## BURUNDI

CASE No. BDI/01 - S. MFAYOKURERA  
CASE No. BDI/05 - I. NDIKUMANA  
CASE No. BDI/06 - G. GAHUNGU

CASE No. BDI/07 - L. NTAMUTUMBA  
CASE No. BDI/29 - P. SIRAHENDA  
CASE No. BDI/35 - G. GISABWAMANA

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of the above-mentioned Burundian parliamentarians, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Recalling* the following: The then Transitional National Assembly set up a small working group to look into the cases of the parliamentarians concerned, and also into ways and means of reactivating the investigations into their cases. One of the suspects in the murder of Mr. Mfayokurera was apprehended, albeit in connection with another crime, and arrest warrants were issued for two people suspected of the murder of Mr. Ndikumana,

*Recalling also* that in August 2004 the Transitional National Assembly adopted the Law on the National Truth and Reconciliation Commission, but that its members have not as yet been appointed,

*Noting* that, on 20 June 2005 the United Nations Security Council adopted resolution 1606 (2005) requesting the United Nations Secretary-General to initiate negotiations with the Government and consultations with all the Burundian parties concerned on how to implement the mixed Truth Commission and establish a special chamber within the Burundian court system to investigate war crimes and human rights violations, as provided for in the Arusha Agreement,

*Noting* that elections for a permanent National Assembly and Senate took place in Burundi on 4 and 29 July 2005 respectively, and that on 19 August 2005 Mr. Nkurunziza was elected President of Burundi,

*Noting also* that the IPU Secretary General will visit Burundi from 7 to 9 November 2005 in connection with a regional seminar on the role of parliament in national reconciliation processes in Africa, organized by the parliament of Burundi, the Inter-Parliamentary Union and the International Institute for Democracy and Electoral Assistance (International IDEA),

1. *Welcomes* the express commitment from the newly elected authorities to pursue the road to peace and national reconciliation in Burundi;
2. *Is confident* that the newly elected parliament will make every effort to ensure that the murder of the parliamentarians concerned does not go unpunished, as impunity can be a major obstacle to effective reconciliation; *is convinced* that, through a special parliamentary committee established for this purpose, due and continuous attention can be given to this question; and *sincerely hopes* therefore that the new parliament will seriously consider reconstituting the parliamentary working group or setting up a similar mechanism, and providing the necessary support;
3. *Believes* that, in addition, the National Truth and Reconciliation Commission, and subsequently the special court chamber, can play an important role in elucidating the circumstances of these murders and holding the perpetrators to account; and *hopes* therefore that the new parliament will take the necessary measures to ensure that the Commission can start its work as early as possible and to put in place the necessary legislative framework for the special chamber and for its relationship with the Commission;
4. *Reiterates its wish* to be kept informed of any progress made towards bringing to justice the person suspected of the murder of Mr. Mfayokurera and towards apprehending the two persons suspected of murdering Mr. Ndikumana; and *requests* the Secretary General to contact the Prosecutor General to invite him to provide this information;
5. *Requests* the Secretary General to convey its observations and requests for information to the competent authorities during his visit to Burundi;
6. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

**CASE No. BDI/02 - NORBERT NDIHOKUBWAYO - BURUNDI**

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Norbert Ndiwokubwayo of Burundi, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Recalling* the following: The then Transitional National Assembly set up a parliamentary working group to examine, together with the competent authorities, how the investigation could be reactivated into the attempts on the life of Mr. Ndiwokubwayo perpetrated in September 1994 and again in December 1995. One of the persons suspected of perpetrating the attempt on his life in September 1994, which left him severely injured, has since been apprehended, albeit in connection with another crime,

*Recalling also* that in August 2004 the Transitional National Assembly adopted the Law on the National Truth and Reconciliation Commission; but that its members have not as yet been appointed,

*Noting* that, on 20 June 2005 the United Nations Security Council adopted resolution 1606 (2005) requesting the United Nations Secretary-General to initiate negotiations with the Government and consultations with all the Burundian parties concerned on how to implement the mixed Truth Commission and establish a special chamber within the Burundian court system to investigate war crimes and human rights violations, as provided for in the Arusha Agreement,

*Noting* that elections for a permanent National Assembly and Senate took place in Burundi on 4 and 29 July 2005 respectively, and that on 19 August 2005 Mr. Nkurunziza was elected President of Burundi,

*Noting* that the IPU Secretary General will visit Burundi from 7 to 9 November 2005 in connection with a regional seminar on the role of parliament in national reconciliation processes in Africa, organized by the parliament of Burundi, the Inter-Parliamentary Union and the International Institute for Democracy and Electoral Assistance (International IDEA),

1. *Welcomes* the express commitment from the newly elected authorities to pursue the road to peace and national reconciliation in Burundi;
2. *Is confident* that the newly elected parliament will make every effort to ensure that the attempts on the life of Mr. Ndiwokubwayo do not go unpunished, as impunity can be a major obstacle to effective reconciliation; *is convinced* that through a special parliamentary committee established for this purpose, due and continuous attention can be given to this question; and therefore *sincerely hopes* that the new parliament will seriously consider reconstituting the parliamentary working group or setting up a similar mechanism, and providing the necessary support;
3. *Believes* that, in addition, the National Truth and Reconciliation Commission, and subsequently the special court chamber, can play an important role in elucidating the attempts on the life of Mr. Ndiwokubwayo and provide fresh impetus towards holding the perpetrators to account; and therefore *hopes* that the new parliament will take the necessary measures to ensure that the Commission can start its work as early as possible and put in place the necessary legislative framework for the special chamber and its relationship with the Commission;

4. *Reiterates* its wish to be kept informed of any progress made towards bringing criminal proceedings against the one perpetrator of the attempt on Mr. Ndiwokubwayo's life, who is currently in the hands of the authorities;
  5. *Requests* the Secretary General to convey its observations and requests for information to the competent authorities during his visit to Burundi;
  6. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).
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### **CASE No. CMBD/14 - CHEAM CHANNY - CAMBODIA**

#### ***Resolution adopted unanimously by the IPU Governing Council at its 177th session (Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Having before it* the case of Mr. Cheam Channy, a member of the National Assembly of Cambodia, which has been the subject of a study and report of the Committee on the Human Rights of Parliamentarians in accordance with the "Procedure for the examination and treatment, by the Inter-Parliamentary Union, of communications concerning violations of human rights of parliamentarians",

*Taking note* of the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), which contains a detailed outline of the case,

*Taking account* of the hearing the Committee held with members of the Cambodian delegation to the 113th Assembly,

Considering the following:

- On 23 July 2004, the Intelligence Department of the Royal Armed Forces of Cambodia requested the President of the National Assembly to take action to prevent Mr. Cheam Channy, a member of parliament belonging to the opposition Sam Rainsy Party (SRP) from interfering in their activities. They accused him of attempting to raise an unlawful armed force. On 3 February 2005, the National Assembly voted to lift Mr. Cheam Channy's immunity and that of two other parliamentarians to permit their prosecution on charges relating to state security.
- According to the SRP, the lifting of his parliamentary immunity, treated as a matter of urgency, violated several rules: the item in question had been added to the National Assembly's agenda in breach of Principle 53 of the Standing Orders; the vote took place by a show of hands, and was therefore in breach of Principle 40; moreover, before the vote, the members of the diplomatic corps and the media were asked to leave the room, after which the items on the lifting of the parliamentary immunity were added to the agenda, and the vote was taken; the meeting was then suspended. According to the parliamentary authorities, the procedure respected existing rules: the Assembly's Permanent Committee had duly deliberated on this issue, which had been on its agenda for a long time; in accordance with Principle 52 of the Standing Orders, the agenda item was added at the request of the Assembly's President, who, in keeping with Article 88, paragraph 2, of the Constitution, requested that the matter be decided in a closed session; and, having heard the Minister of Justice, a majority of the National Assembly easily exceeding the required two-thirds majority then voted in favour of the lifting of the immunity. The Cambodian delegation to the 112<sup>th</sup> IPU Assembly (April 2005) specified that the Permanent Committee had not heard Mr. Cheam Channy.

- With regard to the accusation, the sources affirm that Mr. Cheam Channy is a member of the shadow cabinet set up by the opposition following the example of other democracies. To be exact, he was the shadow defence minister and, as such, monitored the activities of the army. In the discussions the Secretary General had during his mission to Cambodia (September 2004) with Prime Minister Hun Sen and Prince Ranariddh, President of the National Assembly, both concurred that a member of parliament could not be prosecuted for acts undertaken as a member of parliament. The Prime Minister stated that Mr. Cheam Channy had given specific tasks to active members of the armed forces and this had irritated the military commander in the region concerned. While he did not believe this to be an appropriate form of political work, he also stated that he was not in favour of lifting his immunity for that reason. He stated moreover that he had removed from his post the military commander who had lodged the complaint against Mr. Cheam Channy,
- Mr. Cheam Channy was arrested in the evening of 3 February 2005 after being summarily served an arrest warrant issued by the Office of the Military Prosecutor and charged with violating the 1997 Law on Political Parties, which outlaws "organizing armed forces". The Phnom Penh Appeal Court rejected his bail petition on 21 March 2005. According to the SRP, his arrest and detention are in breach of the law. First, military courts are competent to deal only with offences committed by military personnel, which is clearly not the case of Mr. Cheam Channy. Second, the arrest warrant was unlawfully issued by the military prosecutor's office instead of the investigating judge. It was, moreover, issued without the usual procedure, which first requires a request for the accused to appear at the prosecutor's office for questioning. However, according to the authorities, military courts are competent to judge civilians if army matters are involved.
- On 8 August 2005 a military court heard the case. According to international observer reports, repeated requests by the defence counsel to present defence witnesses were denied; the defence counsel was allowed to cross-examine only one of the prosecution witnesses, several of whom, including the key witness, provided contradictory information before and during the trial. In this regard, the source affirms that all those witnesses received an amnesty and a sum of money for their testimony. No physical evidence, other than the SRP documents merely outlining the hierarchy of the shadow government, were presented by the prosecution. On 9 August 2005, the military court sentenced Mr. Cheam Channy to a seven-year prison term for fraud and for organizing an unlawful armed force. The proceedings were widely criticized, including by the Special Representative of the United Nations Secretary-General for Human Rights in Cambodia, as they were considered to have fallen far short of applicable fair trial standards; it is unclear whether Mr. Cheam Channy has lodged an appeal,
- Mr. Cheam Channy is detained in Phnom Penh Military Prison, reportedly in a small isolation cell with only a small hole in the roof. Requests by his parliamentary colleagues to visit him have reportedly been refused. He is reportedly not allowed any reading matter or writing materials, and may see his wife only once a week, for one hour. She has repeatedly stated that Mr. Cheam Channy's health is rapidly deteriorating and warrants medical treatment. According to information provided by the Cambodian delegation during the 113th Assembly, Mr. Cheam Channy has books and newspapers at his disposal; a subcommittee of the Law and Justice Committee is looking into his conditions of detention and a member of that Committee and legal staff have visited him; the delegation undertook to send the relevant report,

*Bearing finally in mind* that the Special Representative of the United Nations Secretary-General, in his reports to the United Nations Commission on Human Rights, has consistently expressed concern at the lack of independence and impartiality of the Cambodian judiciary, most recently in his report (E/CN.4/2005/116), and has made recommendations to remedy this situation,

1. *Thanks* the delegation of Cambodia for the information provided;

2. *Expresses deep concern* at the sentencing of Mr. Cheam Channy after a trial which the international community has unanimously described as falling far short of the fair trial guarantees which, as a party to the International Covenant on Civil and Political Rights, Cambodia is bound to respect;
3. *Further expresses concern* at the procedure whereby the parliamentary immunity of Mr. Cheam Channy was lifted, in particular since he was offered no opportunity to present his defence; *stresses* that the right to defend oneself against accusations is a fundamental tenet of fair procedure, and *deeply regrets* therefore that the National Assembly, in particular its Permanent Committee, did nothing to enable Mr. Cheam Channy to exercise that right;
4. *Recalls* in this respect that parliamentary immunity is designed to protect parliamentarians from possibly groundless proceedings or accusations that may be politically motivated, and thus to guarantee their independence and hence the independence of parliament itself vis-à-vis the other branches of government;
5. *Notes with concern* the allegations regarding Mr. Cheam Channy's conditions of detention, and *looks forward* to receiving the report of the parliamentary committee monitoring his case;
6. *Notes* that, according to the Cambodian delegation, Mr. Cheam Channy still holds his parliamentary mandate, with the result that his constituents are at present without representation; *calls therefore* on the authorities to heed the calls of the Special Representative of the United Nations Secretary-General for Cambodia to release Mr. Cheam Channy and so enable him to resume his parliamentary mandate;
7. *Considers* that an on-site mission would contribute to a settlement of this case and *requests* the Secretary General to take the necessary steps for such a visit by the Committee;
8. *Requests* the Secretary General to inform the authorities and the sources accordingly;
9. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006), in the light of the results of the mission which, it hopes, will have taken place.

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**CASE No. CMBD/18 - CHHANG SONG            ) CAMBODIA**  
**CASE No. CMBD/19 - SIPHAN PHAY            )**  
**CASE No. CMBD/20 - SAVATH POU            )**

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Chhang Song, Mr. Siphon Phay and Mr. Savath Pou, members (expelled) of the Senate of Cambodia, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Recalling* that the Senators concerned were expelled from their party, the Cambodian People's Party (CPP), on 6 December 2001 and dismissed from parliament a few days later, a decision never formally notified to them, that their expulsion occurred after they had criticized in parliament the Criminal Code Bill, and that, according to the Senate President, they were expelled because of their

inappropriate personal behaviour, which violated their party's code of conduct and its general political line,

*Recalling* its position, which is shared by competent United Nations bodies, that the Senators were expelled although nothing in the Constitution or in the Senate's Standing Orders prescribes forfeiture of the parliamentary mandate in the event of expulsion from a political party, and that only the internal party regulations of the CPP provide for termination of membership in parliament in cases of expulsion from the party,

*Recalling* that the Senate President has consistently affirmed that the Senate, including its own Committee on Human Rights and Reception of Complaints to which Senator Chhang had addressed a complaint on the matter, had no competence to provide redress, and that the former Senators concerned should take their case to court, which the persons in question say they cannot do owing to the lack of independence of the Cambodian judiciary and the risks for their security involved,

*Recalling* that the Senate was in the process of amending its Standing Orders, including the provisions concerning loss of the parliamentary mandate, and that, according to the Senate President, the Senate Special Commission which was working on the draft standing orders and was expected to finish its work by November 2004 was waiting for the National Assembly to amend its own standing orders before reviewing those of the Senate, as "the standing orders of both institutions must be related to a great extent",

1. *Reaffirms* its view, for want of any convincing arguments to the contrary, that the Senate was not bound by the decision of the Cambodian People's Party (CPP) to expel the three Senators, as internal party regulations cannot override the Constitution and Standing Orders, and was therefore entitled to refuse the CPP's request to replace them;
2. *Remains convinced* that the Senate, regardless of any court action that may be brought by the former Senators against their former political party, could and should have taken remedial action and provided redress, if only moral, to its three former members, and that the Senate's own Committee on Human Rights and Reception of Complaints, which, as its name indicates, is competent to examine complaints from citizens, would have been ideally placed to find such a settlement; and *also remains convinced* that such a course of action would have strengthened the independence of the Senate vis-à-vis undue interference by other branches of government and political parties, thereby conforming to the principles of liberal democracy and pluralism and the separation of powers enshrined in the Constitution;
3. *Reiterates its wish* to ascertain whether the decision to expel the Senators concerned from their party exists in a written form, and if so, would appreciate receiving a copy thereof;
4. *Wishes* to ascertain whether the amended Standing Orders have meanwhile been adopted and, if so, *would be grateful* to receive a copy of it;
5. *Requests* the Secretary General to seek this information from the parliamentary authorities;
6. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

<b>CASE No. CO/01 - PEDRO NEL JIMENEZ OBANDO</b>	)	<b>COLOMBIA</b>
<b>CASE No. CO/02 - LEONARDO POSADA PEDRAZA</b>	)	
<b>CASE No. CO/03 - OCTAVIO VARGAS CUELLAR</b>	)	
<b>CASE No. CO/04 - PEDRO LUIS VALENCIA GIRALDO</b>	)	
<b>CASE No. CO/06 - BERNARDO JARAMILLO OSSA</b>	)	
<b>CASE No. CO/08 - MANUEL CEPEDA VARGAS</b>	)	
<b>CASE No. CO/139 - OCTAVIO SARMIENTO BOHORQUEZ</b>	)	

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case concerning the murders of Mr. Pedro Nel Jiménez Obando, Mr. Leonardo Posada Pedraza, Mr. Octavio Vargas Cuéllar, Mr. Pedro Luís Valencia Giraldo, Mr. Bernardo Jaramillo Ossa, Mr. Manuel Cepeda Vargas and Mr. Octavio Sarmiento Bohórquez, all of whom were members of the parliament of Colombia, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Recalling* that, in the case of Mr. Jaramillo, paramilitary group leaders Mr. Carlos Castaño and his brother Mr. Fidel Castaño were identified as the murderers and sentenced in absentia in November 2001, and that Mr. Carlos Castaño was not convicted for his role in the murder of Mr. Cepeda, despite unambiguous acknowledgments of his responsibility in the book *My Confession* and in live radio and written press interviews,

*Recalling* that, in the case of Mr. Jiménez, the presumed suspects, all military officers, were arrested but later released, and that evidence which would allow the identification of the perpetrators exists in the cases of Mr. Posada, Mr. Valencia and particularly in the case of Mr. Sarmiento, for which a detailed account exists indicating the involvement of a paramilitary group, which allegedly occupied his farm and shot him dead on 1 October 2001,

*Recalling also* that, in its concluding observations of 2004 on the fifth report of Colombia (CCPR/CO/80/COL) submitted under the International Covenant on Civil and Political Rights, the United Nations Human Rights Committee, in relation inter alia to the unpunished murder of lawmakers, stated that it was “disturbed about the participation of agents of the State party in the commission of such acts, and the apparent impunity enjoyed by their perpetrators”, and recommended that the Colombian authorities “should take immediate and effective steps to investigate these incidents, punish and dismiss those found responsible and compensate the victims, so as to ensure compliance with the guarantees set forth in Articles 2, 3, 6, 7 and 9 of the Covenant”,

*Considering* that on 22 June 2005 the Congress adopted a law on justice and peace as a result of negotiations with the paramilitary groups, and that the law has been strongly criticized for not doing enough to guarantee that paramilitary structures are dismantled and that the right to truth and justice is respected,

*Noting* that a special committee on the conduct of investigations into human rights violations and breaches of international humanitarian law was established under the Vice-President’s programme to combat impunity, and that it has given priority to certain cases,

*Recalling* that since 1999 an amicable settlement procedure has been under way before the Inter-American Commission on Human Rights regarding a petition lodged in March 1997 pertaining to the persecution of the Patriotic Union (*Unión Patriótica*) political party and its members, and that several working groups were set up to examine human rights violations perpetrated against members of

that party, but that several members of the *Unión Patriótica* have expressed disappointment at the lack of progress in the procedure, and have considered withdrawing from it,

1. *Remains deeply concerned* that, other than in the case of Mr. Cepeda's murder, no one has ever been brought to trial for the murder of the parliamentarians concerned, the first of which took place nearly 20 years ago;
2. *Deplores* this state of affairs, especially since the clear evidence or leads existing in several of the murder cases, in particular that of Mr. Sarmiento, should have permitted prompt identification and prosecution of the murderers;
3. *Recalls* in this respect that under its international law obligations, the Colombian State is obliged to combat impunity effectively by identifying and punishing human rights offenders, providing effective redress to their victims, and taking effective action to ensure that such offences do not recur;
4. *Once again urges* the authorities to act with the necessary resolve to ensure that these cases do not go unpunished; *strongly believes* that the special committee on the conduct of investigations into human rights violations and breaches of international humanitarian law can make a crucial contribution to helping bring the culprits to trial; and *wishes* therefore to ascertain whether the special committee is investigating these cases and whether they are among those to which it has given priority;
5. *Wishes* to ascertain the stage reached in the amicable settlement procedure pending before the Inter-American Commission on Human Rights;
6. *Requests* the Secretary General to convey this resolution to the competent authorities and to the sources;
7. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

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### **CASE No. CO/09 - HERNÁN MOTTA MOTTA - COLOMBIA**

#### ***Resolution adopted unanimously by the IPU Governing Council at its 177th session (Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Senator Hernán Motta Motta of Colombia, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Recalling* that the name of Mr. Motta, a member of the Patriotic Union (*Unión Patriótica*), was on a hit list drawn up by the paramilitary group led by Mr. Carlos Castaño, that Mr. Motta received death threats which forced him into exile in October 1997 and, that according to a report from the Attorney General's Office dated 6 October 2003, a stay of proceedings had been declared by order of 23 July 2001 in the case of the death threats made against Mr. Motta,

*Recalling* that since 1999 an amicable settlement procedure has been under way before the Inter-American Commission on Human Rights following a petition lodged in March 1997 pertaining to the persecution of the *Unión Patriótica* political party, that several working groups have been set up in that connection to examine human rights violations perpetrated against that party's members; that,

during his mission to Colombia in March 2003, the Secretary General was informed that the procedure was lacking the necessary financial and other means, and that several members of the *Unión Patriótica* have expressed their intention to bring this matter to the Inter-American Commission on Human Rights,

1. Stresses that, under Article 41 of the Rules of Procedure of the Inter-American Commission, any amicable settlement must be based on respect for the human rights recognized in the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man, and other applicable instruments;
2. *Is deeply concerned* that the prospect for a successful outcome of the amicable settlement procedure in the *Unión Patriótica* case, including for Mr. Motta's case, may be seriously compromised as a result of the continuous lack of any tangible results of the various working groups set up under the procedure, which in turn may be the result of a lack of the necessary financial and other resources;
3. *Once again urges* the authorities to review and adapt these mechanisms with a view to making them effective; *urges* in particular the Colombian Congress to make its crucial contribution to this objective by providing the necessary financial means and political support; and *would greatly appreciate* receiving information about any steps taken to this end;
4. Requests the Secretary General to inform the competent authorities and the source accordingly;
5. Requests the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

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### CASE No. CO/121 - PIEDAD CÓRDOBA – COLOMBIA

#### ***Resolution adopted unanimously by the IPU Governing Council at its 177th session (Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Ms. Piedad Córdoba of Colombia, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Recalling* that Ms. Córdoba, at the time a member of the Colombian Senate, was kidnapped by the *Autodefensas Unidas de Colombia* (AUC) paramilitary group and held between 21 May and 4 June 1999, and that there is no doubt about the involvement of its leader, Mr. Carlos Castaño, who disappeared in April 2004; *considering* that, according to the report from the Attorney General's Office, Mr. Carlos Castaño was formally indicted on 9 November 2004; and *recalling* that on 26 June 2002 an arrest warrant was issued for Mr. Iván Roberto Duque Gaviria, who was declared absent by the Court on 27 August 2002,

*Recalling further* that Ms. Córdoba was the target of attempts on her life in December 2002 and January 2003, that according to the information provided by the authorities in October 2003 and January 2004, the investigation into the attempt on her life of 20 January 2003 was then at the evidence-taking stage and four persons who had been placed in detention were implicated, that on 18 September 2003 a preliminary investigation had found them to be involved in that crime, and that the matter is currently pending, as the court must determine whether it should proceed to trial on the basis of the legal merits,

*Taking note* of the report of the Committee on the Human Rights of Parliamentarians, which contains a detailed outline of the case (CL/177/11(a)-R.1),

*Considering* the following information on file:

- In May 1990, when Mr. Tadeo Lozano was a congressman, an investigation was launched on the basis of his illicit enrichment. In May 1992, the case was brought before the Criminal Chamber of the Supreme Court of Justice, which on 23 September 1992 ruled that there were no grounds for prosecuting Mr. Lozano. The prosecutor appealed against that decision, which was upheld on appeal. Mr. Lozano submitted a request for reparation for the damages incurred. The prosecutor subsequently filed, on the basis of the same evidence, two complaints against Mr. Lozano accusing him of malicious use of legal process. He was cleared on both counts. Mr. Lozano then brought a similar accusation against the prosecutor before the Congressional Committee on Accusations. The member of parliament who acted as Rapporteur for the Committee was subsequently subjected to an investigation by the Supreme Court and obliged to give up his rapporteurship. The Committee declared itself incompetent to take up the matter, as the period within which such a charge could be brought had already lapsed;
- The prosecutor then used the same evidence to bring against Mr. Lozano a new charge of embezzlement alleging that he had unlawfully granted subsidies in 1990. An investigation was formally launched in March 1994, and closed on 17 February 1997. The prosecutor had meanwhile become a member of the Supreme Court, which on 17 August 2000 found Mr. Lozano guilty of the charge and sentenced him to 12 years' imprisonment. On 15 December 2004, the Criminal Chamber of the Supreme Court of Justice granted Mr. Lozano parole, which effectively and formally took effect only as of 12 January 2005,

*Considering* that, with regard to procedural aspects, the following allegations have been made:

- Mr. Lozano affirms that, since the investigation against him was launched before the entry into force of the 1991 Constitution, his case does not come under the special jurisdiction of the Supreme Court; even if it were accepted that, with the entry into force of the 1991 Constitution (4 July 1991), the competent court was the Supreme Court, it is the plenary of the court and not its Criminal Chamber which should have heard his case. Moreover, one of the judges sitting in the Criminal Chamber which heard his case was the very prosecutor who had launched the investigation against him and remained in charge of the file until being appointed a Supreme Court judge in 1995;
- By virtue of Article 186 of the 1991 Constitution, members of Congress can only be investigated and judged by the Supreme Court at first and last instance and therefore do not enjoy the right to appeal;
- Mr. Lozano affirms that he was denied access to the file from 4 May 1990, when the preliminary investigation was launched, until 9 June 1994, the date of his first hearing by the court. He moreover affirms that during the investigation phase and the trial itself he was denied the right to present evidence and witnesses, and to have prosecution witnesses cross-examined;
- Mr. Lozano stresses that the authorities extensively exceeded the legal deadline of 18 months provided for by law for the investigation (launched in March 1994 and closed in February 1997). He also affirms that the entire set of proceedings against him did not meet international criteria with regard to time, as the investigations started in May 1990 and the judgement was handed down 10 years later, in April 2000,

*Considering* that Mr. Lozano brought his case before the Inter-American Commission on Human Rights; the Executive Secretary of the Inter-American Commission, having first declared that the case did not meet the admissibility criteria, stated in a letter addressed to the IPU Secretary General in August 2002 that the question of admissibility would be re-examined in the light of the Inter-American

Commission's jurisprudence, citing a particular case, and of the additional information referred to it by Mr. Lozano; on 18 September 2002, Mr. Lozano renewed his petition to the Inter-American Commission; at the meeting held on 23 March 2005 between the IPU Secretary General and the Assistant Executive Secretary of the Inter-American Commission, the latter declared that the Commission's decision on the admissibility of the case of Mr. Lozano would be reviewed shortly,

*Noting* that Mr. Lozano has still not received any response from the Secretariat of the Inter-American Commission regarding the consideration of his case,

1. *Is deeply concerned* that Mr. Lozano was convicted and sentenced to a heavy prison term as a result of fundamentally flawed proceedings, given not only that the conviction was based on the same facts and evidence that supported a previous charge which had been dismissed eight years before, but also that he was not tried by a court that can be considered impartial, insofar as it included a member who not only had previously dealt with the same case as prosecutor, but had also been accused by Mr. Lozano of a criminal offence before the Congressional Committee on Accusations;
2. *Is appalled* therefore that Mr. Lozano has been denied the possibility, on appeal, of raising these fundamental issues, and that other irregularities have affected his right to fair trial;
3. *Stresses* that the American Convention on Human Rights and related jurisprudence provide extensive protection of the right to fair trial; *deeply regrets* therefore that the Inter-American Commission has not yet re-examined the admissibility of Mr. Lozano's case, more than three years after it stated that such re-examination would take place; *sincerely hopes* that, as had been indicated, it will indeed pronounce in this regard as a matter of urgency and rule as early as possible on the merits of this case;
4. *Strongly believes* that it is in the interests of Congress to ensure that its members have a right to appeal in criminal proceedings, as the lack of such right not only constitutes a violation of the right to equality but may also open the door to arbitrary legal actions, which in the final analysis could undermine the independence of parliament as such; and *calls* therefore on Congress to adopt, as soon as possible, the necessary legislation to this end;
5. *Requests* the IPU Secretary General to bring this resolution to the attention of the Secretary-General of the Organization of American States, the competent authorities of the Inter-American Commission and the competent Colombian authorities, as well as Mr. Lozano;
6. *Request* the Committee to continue examining the case and report to it at its next session, to be held on the occasion of the 114th IPU Assembly (May 2006).

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**CASE No. CO/138 - GUSTAVO PETRO URREGO - COLOMBIA**

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Gustavo Petro Urrego, a member of the Colombian House of Representatives, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Recalling* the following information on file:

- Mr. Petro regularly received death threats from paramilitary groups. In June 2002 he learned that contacts had been made between a senior official of the Attorney General's Office and the then paramilitary leader Mr. Carlos Castaño with a view to having him assassinated;
- In April 2004, the Attorney General reported that three disciplinary investigations were under way regarding the complaints lodged by Mr. Petro, two of which, conducted by the Human Rights Unit of the Attorney General's Office and by the National Directorate of Special Investigations, respectively, were at the preliminary stage, while the third, conducted by the Prosecutor for Disciplinary Matters - Human Rights Unit, was at the stage of preliminary investigation of the complaint. In all three investigations, members of Brigade 13 of the army were referred to as possible suspects. In addition, the Attorney General's Office conducted a preliminary investigation into attempts allegedly carried out in collusion with a police officer by paramilitary groups to infiltrate Mr. Petro's security detail in order to plan an assassination;
- According to the information provided by the authorities in January 2004, elaborate security arrangements have been put in place for Mr. Petro;
- Mr. Petro formally presented to the Committee on Accusations of the Colombian House of Representatives well-documented accusations against the then Attorney General of perjury and criminal offences allegedly committed in the exercise of his functions. In his letter of 16 June 2004, the then President of the Congress stated that the Committee was moving the investigation forward,

*Recalling* that two house searches by the Attorney General's Office on 25 August 2004 appeared to reveal the involvement of members of the Colombian army and other state authorities in an operation (*Operación Dragón*) to collect sensitive information on the movements, activities and habits of specific individuals, including Mr. Petro, all of whom were considered in this material to be supporters of the insurgency by the Revolutionary Armed Forces of Colombia (FARC), and that this matter was raised in Congress, but reportedly did not lead to any parliamentary action,

*Bearing in mind* that, in her report to the 61st session of the United Nations Commission on Human Rights, the United Nations High Commissioner for Human Rights called inter alia on the Congress to promote adequate norms and mechanisms to address the problem of impunity, and furthermore encouraged the Attorney General to ensure that the sub-unit of the human rights and international humanitarian law unit responsible for investigating presumed ties between civil servants and armed groups would concentrate on elucidating links between paramilitary groups and members of law enforcement agencies, civil servants and private individuals,

1. *Deplores* that the authorities have so far not seen fit to reply to its concerns regarding the extremely serious revelations of a secret intelligence-gathering operation, in which Mr. Petro was linked to FARC, and of the alleged involvement therein of members of the Colombian army and other State agents;
2. *Recalls* that experience has amply shown that in Colombia the presumption of a linkage between political activists and FARC is often used to present the former as counter-insurgency targets, and may seriously jeopardize their safety;
3. *Stresses* that the revelations warrant immediate and effective action by the authorities to bring to justice those responsible for setting up and carrying out the operation and to ensure that it is fully dismantled; *urges* the authorities to take all the necessary action to this end; and *would greatly appreciate* receiving the latest information in this regard;
4. *Reaffirms* its belief that the Congress has a crucial role to play in this regard, particularly as, in addition to the safety of the persons concerned, the work of the opposition as such is at

- stake; and once again *calls upon* the Congress to ensure that effective investigations are carried out in this case, that appropriate security arrangements are in place, and that adequate steps are taken to guarantee the opposition's participation in public life, free from any intimidation;
5. *Urges also* once again the authorities to take effective steps to identify and bring to justice those guilty of threatening Mr. Petro with death and planning his assassination; and *would greatly appreciate* being kept informed of progress in this regard, including with respect to the investigation of collusion between paramilitary groups and officers of the Attorney General's Office and the outcome of the disciplinary investigations instituted in this respect;
  6. *Deeply regrets* the continuing lack of information on the work by the Committee on Accusations with respect to the denunciations made by Mr. Petro about the former Attorney General's behaviour; and *fears* that this indicates that no progress has been made in examining the accusations, which is all the more worrying given that they raise fundamental questions about the rule of law in Colombia, and that such questions have already been the source of repeated expressions of concern by United Nations bodies;
  7. *Requests* the Secretary General to convey this resolution to the competent authorities and to the source;
  8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).
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**CASE No. EC/02 - JAIME RICAURTE HURTADO GONZÁLEZ ) ECUADOR**  
**CASE No. EC/03 - PABLO VICENTE TAPIA FARINANGO )**

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Jaime Ricaurte Hurtado González and Mr. Pablo Vicente Tapia Farinango, a member and substitute member, respectively, of the National Congress of Ecuador who were murdered on 17 February 1999, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of the letter from the President of the National Congress dated 13 June 2005 stating the commitment of the National Congress to close cooperation with the Committee; and *also taking account* of a communication from Deputy Andrés Páez Benalcazar, Permanent Delegate of the Inter-Parliamentary Group of Ecuador, dated 9 September 2005 forwarding a report of the Special Commission of Inquiry (CEI) on the judicial proceedings in this case,

*Further taking account* of the information provided on 7 July and 9 September 2005 by the CEI, which was set up by the Government to help elucidate this crime,

*Recalling* the following: on 23 October 2003, the President of the High Court of Quito declared open the full trial proceedings, during which the guilt or otherwise of the suspects must be determined, and accused Mr. Washington Fernando Aguirre, Mr. Cristián Steven Ponce, Mr. Freddy Contreras Luna, Mr. Martínez Arbeláez (alias "Milanta" or "Skipper Germán Sánchez"), and Mr. Gil Ayerve (alias "Henry") of being the presumed instigators and perpetrators of the crime, and Mr. Merino as an accessory, and ordered their arrest and detention. With the exception of Mr. Contreras, who is in detention in relation to another murder, none has been arrested so far, Mr. Aguirre, Mr. Ponce and Mr. Sergey Pervoushiña Merino having been released from detention in early 2001; the President of the High Court ordered a stay of proceedings against Mr. Lenín Ordóñez, Mr. Cevallos Gómez and

Mr. Bravo Mera and the dismissal of proceedings for want of evidence against all the police officers suspected of involvement in the crime,

*Considering* the following developments: on appeal against this decision, the First Penal Chamber of the High Court of Quito amended the accusation on 20 December 2004 with the effect that Mr. Merino is now accused of being an accessory and the proceedings against the suspected police officers are no longer dismissed, but only stayed (*sobreseimiento provisional*). On 10 February 2005, the President of the Court declared open, for a period of 10 days, the evidence-taking period (*término de prueba*) during which the prosecuting party (*parte acusadora*) requested the taking of certain evidence. On 2 May 2005, the judge declared the closure of the full trial proceedings, and invited the parties to present their summing-up. On 13 May 2005, the President of the Court granted the request of the CEI that Mr. Contreras be identified by the only eyewitness of the murder, and this measure was scheduled for 12 July 2005,

*Considering* that, by letter dated 28 June 2005, the Minister of the Interior asked the CEI to deliver its final report within 20 days, and *noting* in this respect that on 24 May 2005 the CEI requested a meeting with the Minister but subsequently received no reply,

*Recalling* that on 22 February 2002, the day after its adviser, Mr. Andocilla, submitted the CEI's report to Congress, he was kidnapped, beaten up and left unconscious, and that an investigation into that attack is under way but has not yet revealed whether it was related to Mr. Andocilla's presentation of the CEI's report,

*Recalling* that the Government, notwithstanding a resolution of the National Congress adopted in October 2000, has done nothing to decide on the amounts of the pensions for the families of the victims, or to pay such pensions,

1. *Thanks* the President of the National Congress for his commitment to cooperation; and also *thanks* Mr. Páez Benalcazar for forwarding the CEI's report;
2. *Notes* that the full trial phase of the case was completed more than six months ago and that the verdict was to be handed down after presentation by the parties of their summing-up (pleadings); *is therefore confident* that the judgement will be handed down shortly, and *would appreciate* receiving a copy of it once it;
3. *Trusts* that the judge in the case has completed the remaining evidence-taking at the request of the CEI and will take due account of the material gathered by, or at the suggestion of, the CEI; and *would like* to receive information as to whether the proceedings have revealed the motives of the suspects;
4. *Remains* concerned that, except for Mr. Contreras, none of the accused persons is at the disposal of the judicial authorities, particularly since Mr. Aguirre, Mr. Ponce and Mr. Merino were released from detention in early 2001, and apparently nothing has been done to ensure that they remain at the disposal of the judicial authorities;
5. *Would appreciate* receiving information on the conditions which have to be met in order for the judge to resume the stayed proceedings against the other persons, most of whom are police officers;
6. *Reaffirms* that the National Congress has a particular responsibility to ensure that justice is done in the case of a murder of its members; *calls therefore once again* on Congress to ensure that the CEI can continue its work until a final judgement has established the facts in this case, and to urge the competent government authorities to act without further delay on the request to grant pensions to the families of the victims;

7. *Would be grateful to receive updated information on the state of the investigation into the attack on Mr. Andocilla, including whether a link has been established between that event and his work for the CEI;*
  8. *Requests the Secretary General to convey this resolution to the authorities and to the CEI, inviting them to provide the requested information;*
  9. *Requests the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).*
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## ERITREA

**CASE No. ERI/01 - OGBE ABRAHA**

**CASE No. ERI/02 - ASTER FISSEHATSION**

**CASE No. ERI/03 – BERHANE GEBREGZIABEHER**

**CASE No. ERI/04 - BERAKI GEBRESELASSIE**

**CASE No. ERI/05 - HAMAD HAMID HAMAD**

**CASE No. ERI/06 - SALEH KEKIYA**

**CASE No. ERI/07 - GERMANO NATI**

**CASE No. ERI/08 - ESTIFANOS SEYOUM**

**CASE No. ERI/09 - M. AHMED SHERIFFO**

**CASE No. ERI/10 - PETROS SOLOMON**

**CASE No. ERI/11 - HAILE WOLDETENSAE**

### ***Resolution adopted unanimously by the IPU Governing Council at its 177th session (Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring to the case of the above-mentioned parliamentarians from Eritrea, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),*

*Recalling the following information on file:*

- The former parliamentarians concerned, all of whom are also former senior government officials, have been held incommunicado since their arrest on 18 September 2001 and have neither been officially charged nor brought before a judge. Their arrest followed the publication of an open letter in which they called for democratic reforms;
- The African Commission on Human and Peoples' Rights (ACHPR), at its thirty-fourth session (November 2003), adopted a decision on this case and found the State of Eritrea to be in breach of Articles 2 (entitlement without discrimination to the enjoyment of human rights enshrined in the Charter), 6 (right to liberty and security of person), 7(1) (right to fair trial) and 9(2) (right to freedom of expression) of the African Charter on Human and Peoples' Rights. The ACHPR urged the Government of Eritrea to order the immediate release of the 11 detainees, and recommended that they be granted compensation;
- While, in their submissions to the African Commission and in response to its decision, the Eritrean authorities stated that "the Eritrean Government did not throw away or stash the matter indefinitely", and that the authorities had been unable to bring the 11 detainees before a court of law owing to the deficiency of the criminal justice system in Eritrea, which was overburdened and difficult to manage, the Ambassador of Eritrea to the European Union, Belgium, Luxembourg, Portugal and Spain, in his communications with the IPU Secretariat, stated several times that the question of whether to start trial proceedings "must be considered in conjunction with progress in the peace process, as the case entails extremely sensitive aspects pertaining to the implication of third countries and a possible adverse impact on the peace process", and that it was therefore correct to assume that the cases would be brought before a court upon completion of the peace process,

*Bearing in mind* that Article 17, paragraph 2, of the Constitution of Eritrea (1997) provides that every person held in detention must be brought before a court of law within 48 hours of his or her arrest, and that no person may be held in custody beyond such period without the authority of the court,

1. *Deeply regrets* that the authorities, in particular the President of the National Assembly and the Head of State, have not responded to the letters that the Secretary General has addressed to them on behalf of the IPU;
2. *Deplores* the continuing incommunicado detention of the former parliamentarians concerned, as it constitutes a gross violation of their fundamental rights under the Constitution of Eritrea and under the African Charter of Human and Peoples' Rights;
3. *Reaffirms* that no argument whatsoever can justify their continuing detention, and *urges* the authorities to release them forthwith;
4. *Observes* that in the decision it adopted on this case, the ACHPR likewise called for their immediate release and compensation for their unlawful detention; and *points out* that, as a State party to the African Charter of Human and Peoples' Rights, Eritrea is bound to heed the Commission's decision;
5. *Calls upon* the African Union to do everything in its power to ensure compliance with the decision of the ACHPR in this case;
6. *Reiterates its wish* to conduct an on-site visit, as it remains convinced that such a visit would contribute to a settlement of this case; and *requests* the Secretary General to take steps to this end;
7. *Requests* the Secretary General to convey this resolution to the authorities and sources and to the competent international and regional human rights bodies;
8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

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## **CASE No. HOND/02 - MIGUEL ANGEL PAVÓN SALAZAR - HONDURAS**

### ***Resolution adopted unanimously by the IPU Governing Council at its 177th session (Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Miguel Angel Pavón Salazar of Honduras, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of a communication from the Attorney General's Office, dated 14 October 2005,

*Recalling* the following: after the investigation into Mr. Pavón's murder in January 1988 had come to a standstill, the investigation was reopened in 1996, and led to the identification of two suspects, both military officers; while one of them died during Hurricane Mitch in 1998, the second, Jaime Rosales, was apprehended in the United States of America and extradited to Honduras, where he stood trial and was acquitted on 22 March 2004; the Attorney General's Office appealed against that

decision, and the court of appeal quashed the acquittal of Mr. Rosales on 25 February 2005, referring the case back to the court of first instance,

*Considering* that, at its retrial of Mr. Rosales on 11 April 2005, the court of first instance acquitted Mr. Rosales; and that the Attorney General's Office subsequently lodged an appeal and on 23 May 2005 presented its arguments before the court of appeal,

1. *Thanks* the Attorney General's Office for keeping it informed;
  2. *Trusts* that the court of appeal will give its decision shortly and in so doing take due account of all the evidence gathered; and *would appreciate* receiving a copy of the judgement;
  3. *Reiterates* its wish to ascertain whether Mr. Rosales is at the disposal of the judicial authorities;
  4. *Requests* the Secretary General to convey this resolution to the competent authorities and the source;
  5. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).
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#### **CASE No. IDS/13 - TENGKU NASHIRUDDIN DAUD - INDONESIA**

***Resolution adopted by consensus by the IPU Governing Council at its 177th session \*  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Tengku Nashiruddin Daud of Indonesia, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of a letter dated 7 July 2005 sent by the Secretary General of the House of Representatives, forwarding a copy of a letter dated 30 June 2005 sent by the National Police of Indonesia to the Secretary General of the House of Representatives,

*Recalling* that, according to the police investigation into Tengku Nashiruddin Daud's murder, the perpetrators of the crime were four members of the Free Aceh Movement (*Gerakan Aceh Merdeka* [GAM]), namely Daud Syah alias Panjang, Abu Is alias Ismail Saputra, Munawar alias Abu Rizky and Mustafa; Abu Is was reportedly shot dead by security personnel in Aceh, and Abu Rizky and Daud Syah reportedly escaped, respectively, to Aceh, and Penang, Malaysia,

*Considering* that, according to the police report, the assumption that Mr. Daud was killed by GAM members is based on the statements of the following three witnesses: (a) a witness who had heard Mr. Daud say in the Zaenal Abidin Public Hospital in Banda Aceh that he could "not support the Free Aceh Movement's struggle for independence unless they only demanded special autonomy status", and who claimed that this made one Tengku Herry alias Zulizar lose his temper and state that "he would kill the victim because he impeded the Free Aceh Movement's struggle"; (b) Ibrahim Amd Abdul Wahab, a suspect in the Jakarta Stock Exchange bombing, who provided information about the identity of Mr. Daud's murderers; and (c) Ibrahim Amd's girlfriend, who stated that Ibrahim had told her about the murder of Mr. Daud, from the time he was collected from the local government dormitory, where he was staying, to when his body was disposed of in Sibolangit; and *considering* also that the police are still

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\* The delegation of Indonesia took the floor to state that the parliament had set up a monitoring team. It also rejected the reference to the military in the seventh preambular paragraph, and stated its disapproval of further consideration of this case.

searching for Abu Bakar, the witness who saw Mr. Daud leave the dormitory and who disappeared shortly after being questioned by the police, and that his statements must be cross-checked with those of another witness,

*Considering* that, according to the police report, Ibrahim Amd escaped from Cipinang prison and has not yet been recaptured, and that arrest warrants have been issued for the suspects and the Indonesian police are cooperating in this respect with the Malaysian police,

*Recalling* that the previous House of Representatives, through Speaker's Decree No. 79/PIMP/III/23003-2004 of 12 April 2004, had entrusted its Aceh Monitoring Team with the task of overseeing the investigation into the January 2000 murder of Tengku Nashiruddin Daud, and that the Team visited Nanggroe Aceh Darussalam province (NAD province) on 7 and 8 May 2004,

*Recalling* that, while the parliamentary authorities have suggested that GAM may indeed have abducted and murdered Mr. Daud because of his criticism of that separatist movement and his refusal to join or support it and that GAM had issued threats against him, the source has always affirmed that there was nothing to suggest that Mr. Daud was engaged in any activities aimed at opposing GAM, and that instead it considered it highly likely that Mr. Daud's murder was in fact linked to his outspoken stance against the military and their activities in Aceh,

*Bearing in mind* that a Memorandum of Understanding was signed on 15 August 2005 as part of peace talks between the Indonesian Government and GAM,

1. *Thanks* the Secretary General of the House of Representatives for his communication and for forwarding the police report;
2. *Is grateful* that the report provides answers to the questions it has consistently raised as to the role played by Ibrahim Amd, the result of the efforts to locate Abu Bakar and the testimony he gave, and the evidence gathered to suggest that GAM committed the murder;
3. *Remains concerned*, in the light of this information, that the investigation has relied largely on dubious witness statements and perhaps therefore failed to make substantial progress; and *notes with concern* that the main witness is no longer at the disposal of the authorities, so that his testimony cannot be effectively checked against any other testimony which may be gathered during the investigation;
4. *Remains convinced* that close parliamentary oversight of the investigation into this case can be crucial to elucidating Mr. Tengku Nashiruddin Daud's murder; and therefore *reiterates its wish* to ascertain whether there is still a parliamentary body responsible for overseeing the investigation into Mr. Daud's murder, or whether the parliament is doing any other regular monitoring of this case;
5. *Believes* that the peace process may provide an avenue to help elucidate Mr. Daud's murder; and *would appreciate* being sent the observations of the parliamentary authorities in this respect;
6. *Notes* that the Memorandum of Understanding provides for the establishment of a Human Rights Court for Aceh; and *would appreciate* receiving information as to whether the Court would be competent to help elucidate Mr. Daud's murder and to hold the culprits to account;
7. *Requests* the Secretary General of the IPU to convey this resolution to the parliamentary authorities and the source;
8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

**CASE No. MAL/15 - ANWAR IBRAHIM - MALAYSIA**

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Anwar Ibrahim, a member of the House of Representatives of Malaysia at the time of the submission of the communication, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of the communication from the Secretariat for Anwar's Pardon dated 14 October 2005,

*Recalling* that on 2 September 2004 the Federal Court quashed the sentence for sodomy which the Kuala Lumpur High Court had handed down on 8 August 2000 against Mr. Anwar Ibrahim and ordered his release; and *recalling further* that, owing to the guilty verdict of April 1999 in the abuse of power (corruption) case, which still stands, Mr. Anwar Ibrahim remains barred from standing for election and from any political activity for a period of five years, until 14 April 2008,

*Considering* that on 1 May 2005 a convention calling for Mr. Anwar Ibrahim's pardon was held in Kuala Lumpur, and was attended by 1,236 participants from all over Malaysia, who resolved that the convention's secretariat should take the necessary measures and/or action to seek a royal pardon for Mr. Ibrahim, that on 25 May 2005, pursuant to Clause 42 of the Federal Constitution, the Secretariat for Anwar's Pardon submitted to the King a petition to this end, adducing as grounds inter alia that he had served his prison sentence for a period longer than normal, that he had suffered injury while in police custody as a result of being assaulted by the former Inspector General of Police, that the court's decision on the first charge (corrupt practices) had become irrelevant when the court's decision on the second charge (sexual misbehaviour) had been set aside on appeal to the Federal Court, as the two charges were related, that precedents existed in granting royal pardons, and that the petition was also sent to concerned Malaysian authorities, including the Prime Minister,

*Bearing in mind* that, under Article 42 of the Federal Constitution of Malaysia, the King may grant a pardon on the recommendation of the Prime Minister only,

1. *Continues* to support fully the petition for a royal pardon to be given to Mr. Anwar Ibrahim, so as to enable Mr. Anwar Ibrahim once more to participate fully in the political life of his country;
2. *Calls upon* the Prime Minister to exercise his power under Article 42 of the Federal Constitution of Malaysia, and thus allow the petition seeking a Royal Pardon for Mr. Anwar Ibrahim to be considered;
3. *Requests* the Secretary General of the IPU to take any action that may be conducive to ensuring that Mr. Anwar Ibrahim is granted a Royal Pardon;
4. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

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**CASE No. MON/01 - ZORIG SANJASUUREN - MONGOLIA**

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Zorig Sanjasuuren of Mongolia, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of a letter from the Prime Minister of Mongolia dated 28 September 2005,

*Recalling* that Mr. Zorig Sanjasuuren was murdered in October 1998, that the investigation carried out by a joint team of members of the police and the intelligence service has been unavailing so far; and that, according to information provided by the Mongolian delegation to the 111th Assembly (September 2004), the team has grounds for believing that Mr. Zorig's murder was politically motivated,

*Recalling* that it has consistently invited the Mongolian parliament to monitor the investigation and, following a suggestion made during the Committee's on-site visit (August 2001), offered the assistance of the IPU in identifying foreign criminologists able to help with the investigation,

*Considering* that, in his letter of 28 September 2005, the Prime Minister affirmed his commitment to making every effort to ensure that Mr. Zorig's murder did not remain unpunished, and stated that he had formally requested the Speaker of the parliament to involve the Parliament's Special Oversight Subcommittee in overseeing the investigation in this case; and *considering* further that the Prime Minister accepted the IPU's offer of assistance,

1. *Thanks* the Prime Minister for his letter and *is very pleased* at his commitment to ensuring a more effective investigation;
2. *Notes with satisfaction* that the Oversight Subcommittee will now monitor the investigation, and *would appreciate* being kept informed of its work;
3. *Requests* the Secretary General to take the necessary steps to follow up as soon as possible on the IPU's offer to assist in identifying suitable foreign criminologists;
4. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

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## MYANMAR

### Parliamentarians reportedly in detention/imprisoned:

CASE No. MYN/01 - OHN KYAING

CASE No. MYN/04 - KHIN MAUNG SWE

CASE No. MYN/13 - SAW NAING NAING

CASE No. MYN/60 - ZAW MYINT MAUNG

CASE No. MYN/104 - KYAW KHIN

CASE No. MYN/118 - THAN NYEIN

CASE No. MYN/119 - MAY WIN MYINT

CASE No. MYN/133 - YAW HIS

CASE No. MYN/215 - AUNG SOE MYINT

CASE No. MYN/234 - THAN HTAY

CASE No. MYN/236 - KHUN HTUN OO

CASE No. MYN/237 - KYAW SAN

CASE No. MYN/238 - KYAW MIN

### Parliamentarians who died in custody:

CASE No. MYN/53 - HLA THAN

CASE No. MYN/55 - TIN MAUNG WIN

CASE No. MYN/72 - SAW WIN

CASE No. MYN/83 - KYAW MIN

CASE No. MYN/131 - HLA KHIN

CASE No. MYN/132 - AUN MIN

### Parliamentarians assassinated:

CASE No. MYN/66 - WIN KO

CASE No. MYN/67 - HLA PE

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of the above-mentioned members-elect of the Pyithu Hluttaw (People's Assembly) of the Union of Myanmar, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Recalling* that not only have the results of the election of 27 May 1990, in which the National League for Democracy (NLD) won 392 of the 485 seats, not been respected, but also many parliamentarians-elect have been eliminated from the political process through arbitrary means, including arbitrary arrest, detention and sentencing under laws infringing basic international human rights standards,

*Recalling* that the health of parliamentarians-elect U Sein Hla Oo, U Khin Maung Swe, Than Nyein and Dr. May Win Myint is said to be poor, and that without proper medical treatment their lives may be at risk; and *considering* that, according to information provided by the source as recently as 31 July 2005, the health of Than Nyein has further worsened, as he was reportedly not allowed to receive proper medical treatment, and that Khun Htun Oo's health has also worsened,

*Considering* that, on 29 July 2005, parliamentarian-elect Kyaw Min was reportedly sentenced, for reasons unknown, to a 47-year prison term, while his wife and three children were each given a 17-year prison term; they were all reportedly tried in complete secrecy by a court sitting within the prison compound; on 6 June 2005, 74-year old parliamentarian-elect Kyaw San was reportedly sentenced for a violation of import-export laws to seven years' imprisonment by the Yangon Insein Township Court, which reportedly never considered any evidence or suggestions submitted by his lawyer, and that the source affirms that Kyaw San was framed by the authorities because he is an active and popular parliamentarian-elect; two appeals against the sentence have been rejected and a final appeal is pending,

*Considering* that the Special Rapporteur on the situation of human rights in Myanmar, in his report (E/CN.4/2005/36), stated that "only the full and unconditional release of all political prisoners will pave the way for national reconciliation and the rule of law", and expressed concern "that the number of persons imprisoned for the exercise of their fundamental right to freedom of expression, opinion, information, religion, association and assembly, has remained essentially unchanged over the reporting period",

*Bearing in mind* the recent compilation on parliamentary action taken in favour of the parliamentarians-elect and the promotion of democracy in Myanmar in general, which was made available to parliaments after the 112th Assembly of the IPU (Manila, April 2005); and *noting* in particular the work of the recently established Inter-Parliamentary Caucus on Myanmar of the Association of Southeast Asian Nations (ASEAN), which includes parliamentarians from a number of Asian countries in its membership,

*Noting* the present efforts to ensure that the United Nations Security Council is kept regularly informed of the situation in Myanmar,

*Noting* that the Permanent Mission of Myanmar to the United Nations Office at Geneva has never positively responded to the repeated invitations of the Committee to meet with it during one of its sessions in Geneva, and that the authorities have never responded to the letters addressed to them,

1. *Deplores* the fact that its persistent efforts to seek a direct dialogue with the authorities continue to be unavailing; *stresses* that the aim of the Committee's procedure, which is to find, in cooperation with the authorities, a satisfactory settlement of the cases, is bound to fail if no official response is forthcoming;
2. *Is deeply concerned* that parliamentarians-elect Kyaw San and Kyaw Min, and the latter's family, were recently sentenced to long prison terms after a trial falling far short of basic internationally recognized fair trial guarantees;
3. *Reaffirms* that the restoration of the rule of law and human rights further requires a full removal of the ban on political activities and the release of all political prisoners, and the establishment of institutions representative of the people's will;
4. *Once more urges* therefore the authorities to release forthwith the 13 imprisoned parliamentarians-elect, starting with those whose health is highly precarious, and to engage in a genuine dialogue with those who were elected in the 1990 elections and represent the people;

5. *Calls upon* the Member Parliaments of the IPU to strengthen their national, regional and international initiatives pressing for the respect of democratic principles in Myanmar; particularly *encourages* them to draw upon the parliamentary initiatives listed in the compilation;
  6. *Strongly believes* that continuous attention and action by the international community is crucial in bringing about positive change in Myanmar; *strongly encourages* Parliaments of countries on the United Nations Security Council to press their governments to ensure that the Council receives regular briefings on the situation of Myanmar from the United Nations Secretary General; *would greatly appreciate* receiving information about any action to this end;
  7. *Requests* the Secretary General to convey this resolution to the authorities and other concerned parties;
  8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).
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### **CASE No. PAK/08 - ASIF ALI ZARDARI - PAKISTAN**

#### ***Resolution adopted by consensus by the IPU Governing Council at its 177th session\**** ***(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Senator Asif Ali Zardari of Pakistan, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of the information provided by the source on 5 and 13 August 2005,

*Recalling* that Mr. Zardari was first arrested in November 1996, that a series of criminal cases and accountability cases have been brought against him, some of which have remained at a standstill, and that on 22 November 2004 Mr. Zardari was released on bail and has since been free to travel abroad,

*Considering* that, according to the source, Mr. Zardari suffered a heart attack in June 2005 and has since had two surgical operations in Mount Sinai Hospital in New York, the second on 31 August 2005; in the meantime, despite his lawyers' submission of medical certificates attesting to his present medical situation, first, a non-bailable arrest warrant against Mr. Zardari was ordered on 1 August 2005 to ensure his appearance in person during the proceedings and, on 6 September 2005, the Court reportedly began proceedings to declare Mr. Zardari an absconder,

*Recalling* that Mr. Zardari was tortured on 17 and 19 May 1999, as established by a judicial inquiry on 16 September 1999, and that the culprits have yet to be brought to justice; that in May 2004 Mr. Zardari filed a private complaint against several former and current officials relating to the injuries he had sustained; that according to the sources the judge in that case ordered the Sindh police to register a criminal case against those persons, that the police declined to do so, and that an application for contempt of court is pending against the responsible police officer,

1. *Remains deeply concerned* that, more than six years after Mr. Zardari was tortured, the authorities have yet to take the most basic steps, such as an examination of the register with the names of the officers on duty at the time and place of his torture, to identify the culprits and bring them to trial;

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\* The delegation of Pakistan took the floor to state that an investigation into Mr. Zardari's torture was under way, but that it had been prevented from making progress owing to his non-cooperation, that he was an absconder and therefore delaying proceedings.

2. *Can but consider* that this failure lends weight to the longstanding contention by the source that the authorities are deliberately shielding the presumed perpetrators from prosecution;
  3. *Recalls* that, under the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations General Assembly resolution 3452 (XXX) of 9 December 1975), "if an investigation ... establishes that an act of torture ... appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders ... " and that "the victim shall be afforded redress and compensation";
  4. *Urges therefore once again* the competent authorities to ensure that an independent and effective investigation into the substantive leads in this case is carried out without further delay with a view to bringing the culprits to trial; and *would greatly appreciate* receiving information on any steps taken to this end;
  5. *Remains unclear* about the current stage of the criminal and accountability cases pending against Mr. Zardari; and *reiterates* its wish to receive detailed information on this point, including whether a timetable is in place for completion of the proceedings;
  6. *Wishes to ascertain* the grounds and applicable legal provisions underlying the reported recent court action to ensure Mr. Zardari's presence in the legal proceedings despite his, allegedly, fragile state of health;
  7. *Requests* the Secretary General to convey this resolution to the competent executive, parliamentary and judicial authorities and to the sources;
  8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).
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### **CASE No. PAK/16 - MAKHDOOM JAVED HASHMI - PAKISTAN**

***Resolution adopted by consensus by the IPU Governing Council at its 177th session \****  
***(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Makhdoom Javed Hashmi, a member of the National Assembly of Pakistan, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of the information provided by one of the sources on 12 October 2005,

*Recalling* the following: Mr. Hashmi was arrested on 29 October 2003 on the grounds that he had circulated an allegedly forged letter, written in the name of Pakistani army officers, which criticized the army and its leadership; he was found guilty on all charges (defaming the Government and the army, forgery and incitement to mutiny) and sentenced on 12 April 2004 to a 23-year prison term, at the close of a trial which was held in camera and did not respect the rights of the defence; Mr. Hashmi filed an appeal against the verdict, which is pending; his application for bail was dismissed on 24 February 2005, and he subsequently lodged an application for suspension of sentence with the Supreme Court,

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\* The delegation of Pakistan stated that the case was sub judice, that an appeal was pending and that it was not possible to lodge a petition for suspension of sentence pending appeal.

*Considering* that, according to the report of the expert who observed the hearing on 27 June 2005 before the Supreme Court for the IPU, no decision was taken as the senior judge did not attend, and the two other judges on the bench felt that they could not take any decision without him, as a result of which the hearing was postponed; and that despite repeated applications by Mr. Hashmi's defence counsel, no other hearing has as yet been scheduled; and *noting* that to date no hearing has been scheduled regarding Mr. Hashmi's appeal against his conviction and sentence,

*Recalling also* that Mr. Hashmi had filed an appeal against the decision to hold the trial in prison, and that the competent court, by the time the judge handed down his judgement, had still not ruled on this appeal, which therefore became moot,

*Recalling finally* that, while the authorities affirm that Mr. Hashmi enjoys better prison facilities and has a separate kitchen and a servant, the source affirms that he is treated at C-class standards, and is held in solitary confinement with extremely limited visiting rights,

1. *Remains deeply concerned* that Mr. Hashmi was found guilty and sentenced to a heavy prison term at the close of a trial which, given the secrecy of the proceedings and the disregard for the rights of the defence, fell far short of fundamental fair trial guarantees, and suggested partiality on the part of the judge;
2. *Is dismayed* that the hearing before the Supreme Court on Mr. Hashmi's application for suspension of sentence had to be adjourned owing to the absence of one of the judges; *fails to understand* that a judge may be entitled not to participate in scheduled hearings without providing any grounds; *observes* that this may seriously hamper the due administration of justice; and *would appreciate* clarification in this respect;
3. *Notes* that Mr. Hashmi has already spent two years in jail; *observes* that means of judicial redress, such as an appeal and application for suspension of sentence, become meaningless if the courts do not rule on them in due course; *insists on* the importance for any judicial system respectful of fundamental fair trial guarantees to comply with the important principle that justice delayed is justice denied; and *considers* that delaying hearings and a decision on Mr. Hashmi's appeals infringes his fundamental right to be tried without undue delay;
4. *Earnestly hopes* that Mr. Hashmi's application for suspension of sentence and his appeal against his conviction and sentence will be heard without any further delay;
5. *Reiterates its wish* to be informed in detail about Mr. Hashmi's conditions of detention, in particular whether he is being held in prison in solitary confinement without court order to this effect;
6. *Requests* the Secretary General of the IPU to convey this resolution to the competent authorities and to the sources, inviting them to provide the requested information; and *requests* him also to inform the competent United Nations human rights bodies of its concerns in this case;
7. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

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#### **CASE No. PAL/02 - MARWAN BARGHOUTI - PALESTINE / ISRAEL**

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Marwan Barghouti, an incumbent member of the Palestinian Legislative Council, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

Taking account of the letter from the Diplomatic Advisor to the Speaker of the Knesset, dated 6 October 2005,

*Recalling* the following:

- Mr. Barghouti was arrested in April 2002 in Ramallah by the Israeli armed forces and transferred to a detention facility in Israel. On 6 June 2004, the Tel Aviv District Court found him guilty of murder, attempted murder and hostile terrorist activities, and sentenced him to five life sentences and two 20-year prison terms. Mr. Barghouti has not appealed against the judgement, since he does not recognize Israeli jurisdiction;
- In his expert report on Mr. Barghouti's trial, Mr. Simon Foreman concluded that "the numerous breaches of international law ... make it impossible to conclude that Mr. Barghouti was given a fair trial". Neither the authorities nor the sources have submitted observations on the report;
- According to the Israeli Prison Service, Mr. Barghouti has continuously been held in restricted prison wings since information was received from security sources that he had directed terrorist acts from inside prison. The statistics provided by the Israeli Prison Service regarding visits show Mr. Barghouti's visiting rights to be extremely restricted,

*Considering* that, in response to its request that the Committee be allowed to send one or two of its members to visit Mr. Barghouti in prison, the Diplomatic Advisor to the Speaker stated that no such visit could be permitted for the reason previously given, namely that such a visit would be seen as an inspection of Israeli prison practices,

1. *Thanks* the Diplomatic Advisor to the Speaker of the Knesset for his letter;
2. *Reaffirms*, in the light of the stringent legal arguments put forward in Mr. Foreman's report, that Mr. Barghouti's trial did not meet the standards of fair trial which Israel, as a party to the International Covenant on Civil and Political Rights, is bound to respect;
3. *Reaffirms further*, in the light of the report, that Mr. Barghouti's transfer to Israel was in breach of the Fourth Geneva Convention and the Oslo Accords; and consequently *urges* the Israeli authorities to transfer Mr. Barghouti to the custody of the Palestinian authorities with a view to his being tried by them in accordance with international law;
4. *Fails to understand* how persons held in restricted prison wings in Israel are able to direct terrorist attacks from inside prison;
5. *Remains concerned* at the very restricted number of visits Mr. Barghouti may receive, in particular from his family, and *would appreciate* receiving information as to the legislation governing the conditions of detention of prisoners serving life sentences;
6. *Regrets* the Speaker's refusal to authorize the visit of a Committee member to Mr. Barghouti; *points out* that it requested a private visit, which cannot be construed as an inspection of Israeli prison practices; *sincerely hopes* therefore that this decision will be reviewed, and *requests* the Secretary General to raise this matter once again with the Israeli authorities;
7. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

**CASE No. RW/06 - LEONARD HITIMANA - RWANDA**

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Léonard Hitimana, a member of the Transitional National Assembly of Rwanda that was dissolved on 22 August 2003, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of the hearing the Committee held with the Speaker of the National Assembly during the 113<sup>th</sup> IPU Assembly; *also taking account* of information provided by the sources on 18 September and 1 October 2005,

*Recalling* the following: an investigation into Mr. Hitimana's disappearance on the night of 7 to 8 April 2003 was instituted, and is being monitored by the parliament's Committee on Human Rights and National Unity; in a meeting with the investigating authorities on 21 September 2004, the Committee in question was informed that there was every indication that Mr. Hitimana was in Uganda or the Democratic Republic of the Congo, and that the investigation was continuing to bear out that assumption; regular meetings had been planned between that Committee and the investigating authorities,

*Considering* that, according to the Speaker, while the two persons who disappeared at the same time as Mr. Hitimana have meanwhile been located abroad, it has so far not been possible to establish Mr. Hitimana's whereabouts,

*Recalling* further that, in response to allegations that Mr. Hitimana's family and children were subjected to threats and intimidation, from 14 to 16 March 2005 a parliamentary delegation consisting of the President and a member of the parliament's Committee on Human Rights and National Unity visited Mr. Hitimana's parents in Kibuye province, his children studying in Butare, and his sister living in Kigali, and that the delegation reported that they all lived quietly and were not subject to any threats, and that the family affirmed that they would not hesitate to inform the parliament should they receive any threats,

*Considering* that this version has now been contested: the delegation reportedly intimidated them, accusing them in particular of providing false information to foreigners, thus sullyng the image of Rwanda; the harassment of the family and even friends who are supporting Mr. Hitimana's children financially has reportedly since been continuing and, in addition, the family of one of the sources in this case, Mr. Théobald Rutihunza, former President of the Rwandan League for the Promotion and Defence of Human Rights now living abroad, has also become the subject of reprisals, which affect in particular his 80-year-old mother; *considering* that, in response to these new allegations, the Speaker of the National Assembly has referred this matter to the National Human Rights Commission,

1. *Thanks* the Speaker of the National Assembly for his cooperation, and in particular for his initiative in submitting this case to the National Human Rights Commission;
2. *Trusts* that the Commission will look as early as possible into the allegations of harassment of the families of Mr. Hitimana and Mr. Rutihunza and take, if appropriate, all measures necessary to ensure that both families can live free from any intimidation and harassment; *would appreciate* being kept informed of its work on this matter;

3. *Is dismayed* at the absence of any progress in the investigations into Mr. Hitimana's disappearance; *reaffirms* that, so long as Mr. Hitimana's whereabouts have not been established, there remains the suspicion of a forced disappearance; and *recalls* that forced disappearances are a serious violation of human rights, and that Article 1 of the Declaration on the Protection of All Persons from Enforced Disappearance, adopted by the United Nations General Assembly in 1992, states that: "Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights ...";
  4. *Requests* the Secretary General of the IPU to inform the authorities, the National Human Rights Commission and all other parties in the case accordingly; *requests* him also to provide the National Human Rights Commission with a detailed account of the allegations made;
  5. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).
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### **CASE No. SRI/48 - D.M.S.B. DISSANAYAKE - SRI LANKA**

#### ***Resolution adopted unanimously by the IPU Governing Council at its 177th session (Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Having before it* the case of Mr. D.M.S.B. Dissanayake, a member of the Parliament of Sri Lanka at the time of the events, which has been the subject of a study and report of the Committee on the Human Rights of Parliamentarians in accordance with the "Procedure for the examination and treatment, by the Inter-Parliamentary Union, of communications concerning violations of human rights of parliamentarians",

*Taking note* of the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), which contains a detailed outline of the case,

*Taking account* of the October 2005 report of the Superintendent of the Welikada Prison as provided by the Sri Lankan delegation to the 113th IPU Assembly,

*Considering* the following information on file:

- On 3 November 2003, at a critical political juncture in Sri Lanka, Mr. Dissanayake made a speech in which he stated, in reference to the President of Sri Lanka, "now she is asking the court whether the office of Defence Minister belongs to that Defence Minister, whether the power to issue directions to the armed forces belongs to her. Whatever decision is given by the Supreme Court... I would like to tell the Supreme Court that the Government of the United National Party does not even accept that that is a question that can be referred to the Supreme Court. We say that we do not accept any shameful decision that it gives. Therefore our Minister of Defence should remain where he is." Mr. Dissanayake affirmed that his speech was not disrespectful to the Court and that, if anything, it related to an opinion of the Supreme Court, which was for the first time ever exercising its consultative jurisdiction under Article 129(1) of the Constitution, and not to a decision of the Court;
- On 4 November 2003, the government parliamentary group presented the Speaker with a motion signed by over 100 members of parliament, including Mr. Dissanayake, for the removal of the Chief Justice on 14 grounds of misbehaviour;

- Following a complaint by four individuals, on 7 December 2004 the Supreme Court, on which the Chief Justice sat as a member, sentenced Mr. Dissayanake to two years' rigorous imprisonment for the offence of contempt of court, punishable under Article 105(3) of the Constitution, in relation to his speech of 3 November 2003. Since the Supreme Court is the highest and final superior court of record in the Republic, the sentence is not open to judicial review;
- As a consequence of the sentence, pursuant to Articles 66(d) and 89(d) of the Constitution, Mr. Dissanayake has ceased to be a parliamentarian, and he is currently serving his sentence in Welikada Prison, Colombo,

*Considering* that, according to the Superintendent's report, Mr. Dissanayake has been given adequate opportunities to receive visitors, including his lawyers, family and members of parliament, both in Welikada Prison, where he is serving his sentence, and at the Colombo National Hospital, where he is currently receiving medical treatment; that Mr. Dissanayake is due for release from prison with full pardons on 10 April 2006,

1. *Thanks* the Sri Lankan delegation for its cooperation;
2. *Recalls* that it is now a well-established doctrine that, while certain limited restrictions may be placed on freedom of expression to ensure and protect the authority and impartiality of the judiciary, the latter is a public institution and, as such, must be open to public criticism; and *affirms* that such criticism may even be instrumental in ensuring the independence of the judiciary and respect for the law;
3. *Considers* that in highlighting his disagreement with the invocation, for the first time ever, of the consultative jurisdiction of the Supreme Court, Mr. Dissanayake merely criticized what was after all a highly unusual situation in Sri Lanka, and exercised his right to freedom of speech;
4. *Notes* moreover the presence on the panel which judged Mr. Dissanayake of the Chief Justice who had earlier been strongly criticized by Mr. Dissanayake and his party; *considers* it highly questionable that, in the circumstances, the panel can be considered an independent and impartial tribunal; and *recalls* in this respect the important principle that justice must not only be done, but also be seen to be done;
5. *Consequently also expresses deep concern* at the harsh penalty handed down on Mr. Dissanayake by the Supreme Court, which it considers totally disproportionate to the alleged offence; *affirms* that such judicial action may have a damping effect on freedom of expression as such, and thus be detrimental to that free exchange of ideas without which there can be no true democracy;
6. *Is alarmed* that Mr. Dissanayake is denied the possibility of raising these fundamental issues in an appeal, which in itself is a crucial element of fair trial, and may thus be deprived of his liberty for two years in the absence of any legal justification, and his constituents deprived of representation for this period;
7. *Firmly believes* that any parliament has a particular interest in ensuring that its members, irrespective of party affiliation, may freely express themselves without fear of reprisal by the other branches of government, as otherwise the very independence of the institution would be at stake; *calls on* the Sri Lankan Parliament to take this matter into serious consideration by ensuring that the right to appeal is guaranteed by law to everyone under all circumstances; *would appreciate* receiving observations in this respect;
8. *Takes note* of the prison report regarding Mr. Dissanayake's conditions of detention and visitors' access; *would appreciate* receiving a copy of the applicable prison regulations;

9. *Requests* the Secretary General to convey this resolution to the parliamentary and other competent authorities, inviting them to provide the requested information;
  10. *Request* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).
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### **CASE No. SYR/02 - MAMOUN AL-HOMSI - SYRIAN ARAB REPUBLIC**

#### ***Resolution adopted by consensus by the IPU Governing Council at its 177th session\**** ***(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Mamoun Al-Homsi, a former member of the People's Council of the Syrian Arab Republic, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of information provided by one of the sources on 23 June and 13 July 2005; *also considering* that the Secretary General raised this case with the Speaker of the People's Assembly and other members of parliament during his visit to the Syrian Arab Republic in July 2005,

*Recalling* the following:

- Mr. Mamoun Al-Homsi was arrested on 8 August 2001, charged with "defamation of the Constitution, and displaying a hostile attitude towards the Government" and found guilty on 20 March 2002, when he was sentenced to five years' imprisonment for publishing an open letter calling in particular for observance of the Constitution, the lifting of the state of emergency, a halt to the intrusions of the intelligence services into daily life, and the setting up of a parliamentary human rights committee; in the light of the information gathered by its on-site mission of May 2002, the Committee concluded that Mr. Al-Homsi had been sentenced on account of having exercised his constitutional right to freedom of expression and peaceful assembly; it has therefore consistently called on the Head of State and on parliament to grant Mr. Al-Homsi an amnesty and so to ensure his early release;
- While the parliamentary authorities initially stated that Mr. Al-Homsi would be granted an amnesty and provided information on the steps parliament had taken to that end, they later affirmed that Mr. Al-Homsi had to submit a pardon petition, which he did not wish to do; the sources confirmed that Mr. Al-Homsi had indeed refused to lodge such a petition, as the Syrian authorities required from him a statement declaring that he had committed an offence, had violated the law and recognized that the judgement handed down on him was fair; the sources stated further that no petition was required and that pardons were given on the sole initiative of the President or issued through the People's Council; moreover, the People's Council was empowered to adopt an amnesty law and to oblige the President to promulgate it,

*Considering* that throughout Mr. Al-Homsi's imprisonment several requests for his release have reportedly been submitted to the courts, all of which were rejected; and *noting* in this respect the following: on 26 July 2005, the Cassation Court dismissed Mr. Al-Homsi's application for early release provided for under Article 172 of the Criminal Code on the grounds that it had not been proven that Mr. Al-Homsi had "corrected" himself in prison, as required under that Article. The Court based its ruling on two letters from the prison director stating that Mr. Al-Homsi had behaved well but that they did not know "whether he had corrected himself". The President of the Cassation Court delivered a dissenting opinion holding that Mr. Al-Homsi was entitled to release since he had already served three-quarters of his sentence, had behaved well and had not been the subject of disciplinary sanctions. According to the

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\* The delegation of the Syrian Arab Republic took the floor to state that Mr. Al-Homsi was in good health, and that it was within the power of the courts to grant him early release, but that the courts had thus far refused to do so.

source, it is the general practice of Syrian courts to release prisoners automatically once they have served three-quarters of their sentence.

*Considering* that, according to the sources, Mr. Al-Homsi's state of health has considerably worsened owing to the authorities' failure to provide him with the medicaments and treatment he requires as a diabetic and that in July 2005 he went for some time on a hunger strike; that, moreover, he is reportedly deprived of family visits and held together with common criminals, which is said to be in contravention of Syrian law, and that the Committee raised these concerns with the Syrian authorities,

*Recalling* the inconsistencies in the information provided by the Syrian parliamentary authorities over the years in this case, as detailed in the resolution it adopted at its 176th session in April 2005,

1. *Deeply regrets* that the authorities have not seen fit to respond to the Committee's concerns regarding Mr. Al-Homsi's worsening state of health and provided information on his conditions of detention;
2. *Wishes urgently to ascertain* Mr. Al-Homsi's state of health and the medical treatment he is receiving; *recalls* that the authorities have the duty to look after the medical needs of the persons in their custody and, if they fail to do so, are responsible for any resulting harm to the persons concerned and their families;
3. *Deplores* the fact that Mr. Al-Homsi is still in detention owing to a decision which even the President of the Cassation Court considered to be unfounded in law;
4. *Is led to consider*, in view of the information on file, that Mr. Al-Homsi is specifically targeted and denied legal benefits routinely provided to other prisoners; *deplores* this all the more given its consistent appeals in favour of a pardon and early release for Mr. Al-Homsi;
5. *Urges* the Parliament to take action at least to ensure that Mr. Al-Homsi receives the same treatment as other prisoners, and is granted an early release without further delay;
6. *Deeply regrets* that the parliamentary authorities have offered no explanation of the inconsistencies pointed out in its resolution referred to above and have not clarified these matters of serious concern;
7. *Requests* the Secretary General to convey this resolution to the authorities and to the sources;
8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

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#### **CASE No. SYR/03 - RIAD SEEF- SYRIAN ARAB REPUBLIC**

***Resolution adopted by consensus by the IPU Governing Council at its 177th session\****  
***(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Riad Seef, a former member of the People's Council of the Syrian Arab Republic, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

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\* The delegation of the Syrian Arab Republic took the floor to state that Mr. Riad Seef was in good health, and that it was within the power of the courts to grant him early release, but that the courts had thus far refused to do so.

*Taking account* of information provided by one of the sources on 23 June and 13 July 2005; *also considering* that the Secretary General raised this case with the Speaker of the People's Assembly and other members of parliament during his visit to the Syrian Arab Republic in July 2005,

*Recalling* the following:

- Mr. Seef was arrested on 6 September 2001, charged with "defamation of the Constitution, unlawful activities and hostility towards the regime" and found guilty on 4 April 2002, when he was sentenced to five years' imprisonment on account of having organized discussion forums; in the light of the information gathered by its on-site mission of May 2002, the Committee concluded that Mr. Seef had been sentenced on account of having exercised his constitutional right to freedom of expression and peaceful assembly; it has therefore consistently called on the Head of State and on parliament to grant Mr. Seef an amnesty and so ensure his early release;
- While the parliamentary authorities initially stated that Mr. Seef would be granted an amnesty and provided information on the steps the parliament had taken to that end, they later affirmed that Mr. Seef had to submit a pardon petition, which he did not wish to do; the sources, however, stated that no such petition was required and that pardons were given on the sole initiative of the President or issued through the People's Council; moreover, the People's Council was empowered to adopt an amnesty law and to oblige the President to promulgate it,

*Recalling* that Mr. Riad Seef has already served three-quarters of his five-year prison term and that, according to the information provided by the Syrian delegation at the hearing held in September 2004, he should now be eligible for early release; *considering* nevertheless that, according to one of the sources, his lawyer petitioned the competent court to order Mr. Riad Seef's early release on good conduct, which the court rejected, and *noting* in this respect that, according to one of the sources, it is the general practice of Syrian courts to release prisoners automatically once they have served three-quarters of their sentence,

*Considering* that, according to a medical certificate issued by a cardiac surgeon, on 6 July 2005, Mr. Riad Seef urgently requires coronary artery bypass grafting and that the Committee, at its 110th session (July 2005), made an urgent appeal in this respect to the People's Council,

1. *Deeply regrets* that the Syrian authorities have not seen fit to provide any information on Mr. Riad Seef's state of health and have given no assurances as to the medical attention he is receiving;
2. *Wishes to ascertain* as a matter of urgency whether Mr. Seef has been hospitalised for the surgery he requires, and what his current state of health is;
3. *Recalls* that the authorities have a duty to look after the medical needs of the persons in their custody and, if they fail to do so, are responsible for any resulting harm to the persons concerned and their families;
4. *Deplores* the fact that Mr. Riad Seef remains in detention although he is eligible for early release; and *wishes to ascertain* why, contrary to normal practice, such release has not as yet been granted to him, and why his application for release on good conduct was rejected;
5. *Is led to consider*, in view of the information on file, that Mr. Seef is specifically targeted and deprived of legal benefits routinely provided to other prisoners; *deplores* this all the more given its consistent appeals in favour of a pardon and early release for Mr. Seef;
6. *Urges* the Parliament to take action at least to ensure that Mr. Seef receives the same treatment as other prisoners and is granted an early release without further delay;

7. *Deeply regrets* that the parliamentary authorities have offered no explanation of the inconsistencies pointed out in the resolution it adopted at its 176th session (April 2005), and have not clarified these matters of serious concern;
  8. *Requests* the Secretary General to convey this resolution to the authorities and to the sources;
  9. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).
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## TURKEY

CASE No. TK/39 - LEYLA ZANA  
CASE No. TK/40 - SEDAT YURTDAS  
CASE No. TK/41 - HATIP DICLE  
CASE No. TK/42 - ZÜBEYİR AYDAR  
CASE No. TK/43 - MAHMUT ALINAK  
CASE No. TK/44 - AHMET TÜRK  
CASE No. TK/48 - SIRRI SAKIK  
CASE No. TK/51 - ORHAN DOGAN

CASE No. TK/52 - SELIM SADAK  
CASE No. TK/53 - NIZAMETTİN TOĞUÇ  
CASE No. TK/55 - MEHMET SİNÇAR  
CASE No. TK/57 - MAHMUT KILINÇ  
CASE No. TK/58 - NAİF GÜNES  
CASE No. TK/59 - ALI YIGIT  
CASE No. TK/62 - REMZİ KARTAL

***Resolution adopted by consensus by the IPU Governing Council at its 177th session \****  
***(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of the above-mentioned parliamentarians, former members of the Turkish Grand National Assembly, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking account* of a letter dated 12 October 2005 from the President of the Turkish Inter-Parliamentary Group,

*Recalling* the following:

- The former parliamentarians concerned were all members of the Democracy Party, which was dissolved in June 1994. Mr. Sinçar was assassinated in September 1993; Ms. Zana, Mr. Dicle, Mr. Dogan, Mr. Sadak, Mr. Yurtdas, Mr. Alinak, Mr. Sakik and Mr. Türk were prosecuted on charges of separatism, but convicted on different grounds; Ms. Zana, Mr. Dicle, Mr. Dogan and Mr. Sadak were convicted of membership of an armed organization, and Mr. Yurtdas, Mr. Alinak, Mr. Sakik and Mr. Türk of separatist propaganda, as a result of which they were debarred from practising as lawyers. The remaining former parliamentarians were charged with separatism, but not prosecuted since they had gone into exile;
- On 26 June 2001, the European Court of Human Rights ruled that Ms. Zana, Mr. Dicle, Mr. Dogan and Mr. Sadak, who at the time were still serving their 15-year prison sentences, had not enjoyed a fair trial, and granted them just satisfaction. Following the opening of the retrial in March 2003, the Cassation Court (*Yargıtay*) ruled in August 2004 that they had not received a fair trial, and ordered their release and fresh retrial, which is currently under way;

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\* The delegation of Turkey took the floor to reiterate the information contained in the last preambular paragraph.

- On 24 March 2005, several persons were brought to justice in connection with Mr. Sinçar's murder, and the relevant proceedings are under way,

*Considering* that, according to information from one of the sources in June 2005, Mr. Yurtdas and Mr. Alinak are no longer prevented from exercising their profession as lawyers, and are now practising,

*Considering* that, according to the President of the Turkish Inter-Parliamentary Group, the first trial hearing in the case of Ms. Zana, Mr. Dicle, Mr. Dogan and Mr. Sadak took place on 7 October 2005, and there is no record of an arrest warrant having been issued for Mr. Günes in relation to any charges against him,

1. *Thanks* the President of the Turkish Inter-Parliamentary Group for his cooperation and his latest communication; *regrets*, however, that it contains no particulars of the stage reached in the judicial proceedings brought against the alleged murderers of Mr. Sinçar, of their identity and of possible motives for the crime;
2. *Notes* that Mr. Alinak and Mr. Yurtdas are now practising as lawyers and that no further complaints have been made regarding the situation of Mr. Türk and Mr. Sakik; and *decides* consequently to close their cases, while reaffirming its view that, in common with Ms. Zana, Mr. Dicle, Mr. Dogan and Mr. Sadak, they were prosecuted and sentenced on account of having exercised their freedom of expression;
3. *Notes* that no charges are pending against Mr. Naif Günes and that no further complaints have been submitted regarding his situation, and consequently *decides* to close his case;
4. *Is unclear* as to the exact charges pending against Mr. Zübeyir, Mr. Aydar, Mr. Toguç, Mr. Mahmut Kilingç, Mr. Ali Yigit and Mr. Remzi Kartal, all of whom went into exile; *would therefore appreciate* receiving detailed information on the grounds for and facts supporting the charges pending against them;
5. *Notes* that a second retrial was ordered for Ms. Zana, Mr. Dicle, Mr. Sadak and Mr. Dogan more than a year ago and that a first trial hearing took place on 7 October 2005; *trusts* that, given the gross miscarriage of justice and the significant lapse of time since the former parliamentarians were first charged, their case will be dealt with as a matter of priority; *would greatly appreciate* being kept informed of any developments in the proceedings, including whether a timetable has been set for their completion;
6. *Wishes to ascertain* whether, in keeping with the principle of the presumption of innocence, Ms. Zana, Mr. Dicle, Mr. Sadak and Mr. Dogan have recovered their civil and political rights pending the outcome of their retrial;
7. *Requests* the Secretary General to convey this resolution to the parliamentary authorities, inviting them to provide the requested information;
8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

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#### **CASE No. TK/66 - MERVE SAFA KAVAKÇI - TURKEY**

***Resolution adopted by consensus by the IPU Governing Council at its 177th session \****  
***(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Ms. Merve Safa Kavakçi of Turkey, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

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\* The delegation of Turkey took the floor to state that no new developments had taken place in this case.

*Taking account* of a communication from the President of the Turkish National Group, dated 12 October 2005 and of a communication from Ms. Kavakçi dated 3 October 2005,

*Recalling* that Ms. Kavakçi was duly elected in the April 1999 elections on a Virtue Party ticket, but was prevented from taking her oath owing to the fact that she wore a headscarf at the swearing-in ceremony, that she was subsequently stripped of her Turkish nationality, that the parliamentary authorities therefore no longer considered her to be a member of the Turkish parliament, that her name was consequently struck off the parliamentary records, and that on 22 June 2001 the Constitutional Court dissolved the party to which she belonged and banned her from political activity for five years,

*Recalling* that on 28 May 2001 Ms. Kavakçi filed an application with the European Court of Human Rights invoking a violation of her rights under Article 9 (freedom of thought, conscience and religion) and Article 6 paragraph 1 (right to fair and public hearing) of the European Convention on Human Rights (ECHR) and Article 3 of Protocol 1 to the ECHR (guarantee of free and fair elections), and *noting* that in July 2005, the Court declared the case admissible,

*Noting further* that on 13 September 2005, the Court granted leave to the IPU to submit a third party intervention under Rule 44 (2) of the Court's Rules of Procedure and that the said intervention was submitted to the Court on 4 October 2005,

1. *Deeply regrets* that the Turkish parliamentary authorities have not taken into account its repeated recommendations that the Turkish parliament provide redress to Ms. Kavakçi to remedy the injustice she suffered as a result of having worn a headscarf at the swearing-in ceremony of the parliamentarians elected in April 1999;
2. *Notes* that the case is now pending before the European Court of Human Rights, whose rulings are binding upon Turkey; and *decides* to adjourn further examination of this case pending the Court's decision;
3. *Considers* nevertheless that there is no legal obstacle for the Turkish parliament to provide redress to Ms. Kavakçi;
4. *Requests* the Secretary General to inform the authorities and the sources accordingly;
5. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

## ZIMBABWE

CASE No. ZBW/12 - JUSTIN MUTENDADZAMERA	CASE No. ZBW/29 - A. MPANDAWANA
CASE No. ZBW/13 - FLETCHER DULINI-NCUBE	CASE No. ZBW/30 - GIBSON SIBANDA
CASE No. ZBW/14 - DAVID MPALA	CASE No. ZBW/31 - MILTON GWETU
CASE No. ZBW/15 - ABEDNICO BHEBHE	CASE No. ZBW/32 - SILAS MANGONO
CASE No. ZBW/16 - PETER NYONI	CASE No. ZBW/33 - E. MUSHORIWA
CASE No. ZBW/17 - DAVID COLTART	CASE No. ZBW/34 - THOKOZANI KHUPE
CASE No. ZBW/18 - MOSES MZILA NDLOVU	CASE No. ZBW/35 - WILLIAS MADZIMURE
CASE No. ZBW/19 - ROY BENNETT	CASE No. ZBW/36 - FIDELIS MHASHU
CASE No. ZBW/20 - JOB SIKHALA	CASE No. ZBW/37 - TUMBARE MUTASA
CASE No. ZBW/21 - TICHAONA MUNYANYI	CASE No. ZBW/38 - GILBERT SHOKO
CASE No. ZBW/22 - PAULINE MPARIWA	CASE No. ZBW/39 - JELOUS SANSOLE
CASE No. ZBW/23 - TRUDY STEVENSON	No. ZBW/40 - EDWARD MKHOSI
CASE No. ZBW/24 - EVELYN MASAITI	CASE No. ZBW/41 - PAUL TEMBA NYATHI
CASE No. ZBW/25 - TENDAI BITI	CASE No. ZBW/42 - RENSON GANSELA
CASE No. ZBW/26 - GABRIEL CHAIBVA	CASE No. ZBW/43 - BLESSING CHEBUNDO
CASE No. ZBW/27 - PAUL MADZORE	CASE No. ZBW/44 - NELSON CHAMISA
CASE No. ZBW/28 - GILES MUTSEKWA	

***Resolution adopted unanimously by the IPU Governing Council at its 177th session  
(Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of the above-mentioned Zimbabwean parliamentarians, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), and to the resolution adopted at its 176th session (April 2005),

*Taking into account* the letter from the Speaker of the Zimbabwean Parliament dated 1 July and the communication from the Secretary General of Parliament forwarding a memorandum prepared by the Police General Headquarters dated 14 October 2005, *also taking into account* communications from the sources dated 11 October,

*Recalling* the following information on file:

- The former and incumbent parliamentarians concerned were arrested and detained for different periods of time; while in many cases charges were dropped, withdrawn before plea or the persons concerned acquitted, according to the police report of March 2004 and March 2005, judicial proceedings are still pending against Mr. Mutendadzamera, Ms. Mpariwa; Mr. Biti, Mr. Madzore, Mr. Gwetu, Ms. Khupe, Mr. Madzimure, Mr. Mutsekwa, Mr. Nyoni, Mr. T. Munyani, Mr. Mzila Ndlovu, Mr. Bennett and Mr. Chamisa;
- Mr. Mutendadzamera, Mr. Mzila Ndlovu, Mr. Bhebhe, Mr. Nyoni, Mr. Bennett, Mr. Madzore, Mr. Mpandawana, Mr. Mushoriwa, Mr. Shoko, Ms. Masaiti and Mr. Chamisa were reportedly ill-treated and beaten up by law enforcement agents and Mr. Job Sikhala was tortured; while investigations were opened into the torture of Mr. Sikhala, it is unclear whether investigations regarding the other cases are pending;
- Mr. Mpala, Mr. Bhebhe, Mr. Nyoni, Mr. Sansole, Mr. Bennett, Mr. Madzore, Mr. Gwetu, Mr. Fidelis Mhashu, Mr. Chaibva and Mr. Chebundo were either themselves, or their families or their property the target of attacks; at the court hearing held on 20 January 2005 concerning the attack of 16 May 2001 on Mr. Bhebhe, when he was assaulted and left for dead, it turned out that the case file had been lost; it is unclear whether investigations are under way regarding the attacks on the other MPs concerned,

*Recalling* that on 28 October 2004, Parliament sentenced Mr. Bennett to an unsuspended one-year prison term for contempt of parliament on account of the fact that, in the parliamentary debate of 18 May 2004, Mr. Bennett had pushed Minister of Justice, Legal and Parliamentary Affairs, Mr. Patrick Chinamasa, to the ground after the latter had stated that Mr. Bennett's forefathers were thieves; Mr. Bennett served the sentence until his release on good conduct on 28 June 2005; *recalling* also that Mr. Bennett has sought legal redress against Parliament's decision, including a constitutional challenge before the Supreme Court, which is still pending,

*Considering* that, in his letter, the Speaker affirms that the procedure adopted by Parliament to deal with this case was in accordance with the laws of Zimbabwe and Mr. Bennett has made extensive use of his right under the Zimbabwean legal system to seek legal redress for any perceived violations of fundamental rights by the State; the fact that he has not succeeded in persuading the courts that his rights have been violated is not the fault of the Speaker of Parliament. Mr. Bennett's conduct in Parliament on 18 May 2004 amounted to contempt of parliament, an offence considerably more serious than common assault, and the authorities on parliamentary practice agree that an assault by one member of parliament on another during parliamentary proceedings in the chamber amounts to serious contempt, and the penalty accordingly fits the seriousness of the crime,

*Considering* in this respect that:

- In the judgement it issued on Mr. Bennett's application seeking an order for his release, the High Court found on 18 February 2005 that it was not competent in this case as the Speaker had issued the certificate of privilege provided for under Section 16 of the Privileges, Immunities and Powers of Parliament Act and that, by virtue of that Section, any proceedings under way had to be immediately stayed upon presentation of the certificate and be deemed to be finally determined. The Court nevertheless stated that "what may well be at issue when the matter is placed before the Constitutional Court is whether the Parliament should continue to enjoy such wide quasi judicial powers which may be exercised in such a manner as to deprive a private citizen of his liberty without due process ...";
- Among the arguments which the Attorney General (Intervenor) presented to the Supreme Court regarding Mr. Bennett's constitutional challenge of Section 16 of the Privileges, Immunities and Powers of Parliament Act concerning contempt of parliament, he submitted on 23 May 2005 that the impugned proceedings should be declared null as far as the sentence was concerned,

*Recalling* that Mr. Roy Bennett has been the target of consistent harassment and abuse, and that six court rulings ordering the vacating of his farm have not been executed to date,

1. *Thanks* the Speaker for his letter and cooperation; *also thanks* the police for the information regarding the judicial proceedings which are still pending against Mr. Job Sikhala;
2. *Regrets*, however, that no information has been provided regarding the stage reached in the investigation into Mr. Sikhala's torture during his detention from 14 to 16 January 2003; *reiterates its wish* to receive such information;
3. *Recalls* in this regard that the prohibition of torture is a peremptory norm of international law and that, according to the United Nations Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "wherever there is reasonable ground to believe that an act of torture ... has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation ...";

4. *Reiterates* its wish to receive information regarding the current stage of the investigations into the attacks on the parliamentarians concerned and/or their alleged ill-treatment at the hands of security agents;
5. *Recalls* that impunity, a human rights violation in itself, undermines the rule of law and encourages the repetition of crime, and *affirms* that Parliament should therefore make every effort to prevent it;
6. *Would appreciate* receiving information as to the current stage of the judicial proceedings still pending against the above-mentioned parliamentarians;
7. *Notes* that no proceedings are pending nor have any other complaints concerning the situation of Mr. Fletcher Dulini-Ncube, Mr. David Coltart, Mr. Gibson Sibanda, Mr. Paul Themba Nyathi and Mr. Renson Gansela been referred to it; *decides* consequently to close the further examination of these cases; *deeply regrets*, however, that Mr. Fletcher Dulini-Ncube lost his sight in one eye owing to his detention and had to undergo trial on the basis of highly questionable charges of which he was acquitted; likewise *regrets* the harassment of the other parliamentarians and the bringing of highly questionable charges against them which had to be dropped or of which they were acquitted;
8. *Reaffirms* that the sentence imposed by Parliament on Mr. Bennett is unprecedented in international parliamentary practice, exceedingly severe and disproportionate and does not serve the purpose of contempt of parliament proceedings, which is to maintain the dignity and decorum of the parliament;
9. *Points out* that, in his presentation of arguments in the constitutional challenge of Mr. Bennett's sentencing before the Supreme Court, the Attorney General's Office reached the conclusion that the previous Parliament had indeed violated Mr. Bennett's rights inasmuch as the sentence handed down to him was disproportionate to the offence committed, and that the impugned proceedings should therefore be declared null in regard to the sentence;
10. *Would appreciate* being informed of the stage reached in the proceedings before the Supreme Court in which only one hearing has so far taken place; *recalls* in this respect the fundamental principle that justice delayed is justice denied;
11. *Would appreciate* receiving any information on the steps that have meanwhile been taken to execute the court decisions ordering the vacation of Mr. Bennett's farm;
12. *Reaffirms* that parliament has a duty and a vested interest in ensuring that all its members are treated in keeping with national and international law and the human rights standards to which Zimbabwe has subscribed, in order that they may carry out their mandate without hindrance; *calls on* the Parliament to take these matters into serious consideration and avail itself of all its powers to ensure respect for human rights;
13. *Requests* the Secretary General to convey this resolution to the competent authorities, the parliamentarians concerned and the sources, inviting them to provide the requested information;
14. *Requests* the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).

## CASE No. PAL/ 04 - HUSSAM KHADER - PALESTINE / ISRAEL

### *Resolution adopted unanimously by the IPU Governing Council at its 177th session (Geneva, 19 October 2005)*

The Governing Council of the Inter-Parliamentary Union,

*Referring to the case of Mr. Hussam Khader, an incumbent member of the Palestinian Legislative Council, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a) R.1), and to the resolution adopted at its 176th session (April 2005),*

*Taking account of the letter from the Diplomatic Advisor to the Speaker of the Knesset dated 6 October 2005,*

*Recalling that Mr. Hussam Khader was arrested on 17 March 2003 in Balata refugee camp by the Israel Defense Forces and transferred to Israeli territory, and that his trial opened in July 2003; considering that at the hearing of 4 September Mr. Khader accepted a plea bargain on the basis of amended charges, and that the sentence will be handed down on 23 October 2005,*

*Recalling also the concerns it has expressed at the alleged ill-treatment of Mr. Khader in detention, the interrogation methods used and his state of health, his extremely limited visiting rights, the doubts as to the reliability of the main witness in this case, in addition to its position that Mr. Khader's trial by an Israeli court constitutes a breach of Article 49 of the Fourth Geneva Convention, to which Israel is a party,*

*Having before it the report of Mr. Simon Foreman, lawyer in the Soulez&Larivière Lawyers' Office in Paris, who, on behalf of the IPU, observed the trial hearings of 29 June and 4 September 2005,*

1. *Thanks the Israeli authorities, in particular the parliamentary authorities for the efforts made to facilitate Mr. Foreman's mission and for the cooperation and assistance extended to him;*
2. *Thanks Mr. Foreman for carrying out the mission and for his comprehensive report;*
3. *Requests the Secretary General to convey the report to all parties concerned for any observations they may have, which will subsequently be published as well;*
4. *Would be grateful to receive, as offered by the parliamentary authorities, an English translation of the plea bargain;*
5. *Requests the Committee to continue examining this case and report to it at its next session, to be held during the 114th IPU Assembly (May 2006).*

\* \* \* \*

## THE TRIAL OF MR. HUSSAM KHADER

- **Report by Mr. Simon Foreman, lawyer and expert appointed by the Committee on the Human Rights of Parliamentarians in accordance with the resolution adopted by the Governing Council of the Inter-Parliamentary Union at its 176th session (Manila, April 2005)**

### INTRODUCTION – ORGANIZATION OF THE MISSION

1. This mission was decided on by the Governing Council of the Inter-Parliamentary Union at its 176th session, on 8 April 2005, in Manila.

The Council expressed its concern at the trial and decided to send a jurist to observe the forthcoming hearings. The Committee on the Human Rights of Parliamentarians has been monitoring Mr. Khader's situation since April 2003, that is, since shortly after his arrest on 17 March 2003. It sought permission to visit Mr. Khader in prison in July 2003, which was refused by the Israeli authorities.

2. The hearings in the Hussam Khader trial began in the summer of 2003 and the trial had already been under way for two years (with a great many interruptions, and several months between the hearings) when I went to Israel and the occupied territories to observe the latest hearings.

3. The mission took place in two phases.

I travelled on the first occasion to Tel Aviv and Salem, the seat of the court, for the hearing of 29 June 2005 (part of which had to be held in camera, hence without my being able to attend). After that hearing day the resumption of the trial was scheduled for 4 September 2005.

At its meeting of 14 July 2005, the Committee on the Human Rights of Parliamentarians re-examined the case and asked me to continue observing the trial at the subsequent hearings.

4. I therefore attended a second hearing on 4 September 2005. In the course of that day, the prosecution modified the charges laid against Hussam Khader and, in the light of these new charges, he pleaded guilty.

That being so, the trial on the charges and the facts ended with a finding of guilt. The court then set 23 October as the date of the final hearing for deciding on the punishment.

5. For my two journeys to Tel Aviv and Salem I was given a kindly welcome by the Israeli authorities, particularly the officials of the Knesset, the Foreign Ministry (Department of International Organizations), and the Israel Defense Forces (IDF). My special thanks go to Lieutenant-Colonel Erez Hason, President of the Samaria Military Court, for greatly facilitating my mission materially speaking, in particular by placing a soldier at my disposal to translate part of the proceedings on the occasion of my first visit of 29 June (the authorities called upon to organize the mission, who authorized it only on 27 June, not having had the time in that short interval to find an interpreter able to accompany me to the court).

For the second phase of my mission the Secretariat of the Inter-Parliamentary Union arranged for me to be accompanied by Ms. Tamar Fox, a professional interpreter, to whom I express my gratitude for her most effective assistance.

6. This report consists firstly of a factual account of the situation of Mr. Khader, before examining whether he enjoyed all the guarantees provided for in international law.

As we have seen, I was only able to attend two hearings in June and September 2005, while the trial started in July 2003 and had already run to 15 hearings in the two-year interval. The items of information in this report therefore do not all correspond to conclusions that I was able to reach myself. I had to rely in part on information from my discussions with the stakeholders in the trial, or from the family of Mr. Khader, his support committee, sources having referred the matter to the IPU Committee on the Human Rights of Parliamentarians, and the Israeli authorities.

Where some of these items of information are contested or unverified, I shall make this clear in the report (with the conditional tense in the French version).

## **I. THE FACTS**

7. Mr. Hussam Khader, born in 1961, is an elected member of the Palestinian Legislative Council (PLC) and a member of Fatah known for his involvement in the issue of refugees' rights. He himself lives in the Balata refugee camp, Nablus, where he was born.

On account of his involvement in the first Intifada, he was reportedly arrested more than a score of times by the Israeli authorities before being expelled to Lebanon and then going into exile in Tunisia up to the time of the signing of the Oslo Accords, which enabled him to return to the West Bank. He then stood in the first legislative elections in 1996 and was elected for the Nablus constituency.

Mr. Khader also explains that he was deeply involved in combating corruption within the Palestinian Authority, a factor to be of importance in the context of his trial since he suspects his arrest and the charges brought against him to be at least in part due to a "settling of scores" within the Authority.

**A. The arrest and the investigation phase**

\* *The arrest*

8. Mr. Khader was arrested during the night of 16 to 17 March 2003.

According to the information put out by his support committee, the arrest was particularly violent and reportedly involved a disproportionate show of force: his house in the Balata camp was reportedly stormed by several dozen Israeli soldiers, who are said to have broken down the door and fired at the house, thereby terrorizing its occupants (including the mother of Mr. Khader, three children and a nine-month-old baby). His computer, his mobile telephone and his files were reportedly seized on that occasion.

Mr. Khader was led away by the soldiers and his family was given no information as to where he was being taken. He has been held without interruption since that date.

\* *The detention of Mr. Khader up to his trial: 90 days of custody*

9. For a week neither the family of Mr. Khader nor his lawyers were able to find out where he was detained. On 19 March 2003, the World Organisation Against Torture (OMCT) launched an appeal in his favour and expressed concern in particular about his physical and psychic integrity.

On 24 March one of his lawyers informed me that Mr. Khader was being held at the Petah Tikva centre and that he had been authorized to meet him there. This place of detention is a GSS (General Security Services, internal intelligence services) interrogation centre.

At that meeting Mr. Khader explained to his lawyer that he was subjected to interrogations for periods of 20 hours a day, with only very short intervals allowed for rest and sleep.

10. The first appearance of Mr. Khader before a judge took place 10 days after his arrest, on 26 March 2003, when his detention was examined by a military judge within Petah Tikva prison.

On that occasion, Mr. Khader was assisted by his lawyer Mr. Riad Anis, but the latter did not have access to the investigation file, the items in the file having been classified "secret" by the GSS. The only information given was that Mr. Khader was accused of threatening the security of the region and supporting military activities against Israeli targets.

The judge authorized a 15-day extension of his detention.

The detention was then regularly prolonged throughout the phase of investigation then that of the trial, up to the present time.

11. After the first hearing of 26 March 2003, Mr. Khader once more "disappeared" from the sight of his family and his lawyer, who were not informed of his whereabouts.

On 4 April 2003, after threatening to bring a lawsuit in order to be able to meet his client, Mr. Anis was informed of Mr. Khader's transfer to the Acre detention centre, where he was finally able to see him.

During that meeting Mr. Khader was incapable of saying how long he had been at Acre. He said that he was subjected to total isolation, that the interrogations were continuing, and that he was deprived of sleep and subjected to loud noises, in addition to the *shabeh* method. *Shabeh* consists in attaching interrogated persons to a chair (handcuffed behind the back, ankles fastened to the chair) and obliging them to remain seated for hours on end in a painful position.

On 8 April the GSS issued an order forbidding any contact between Mr. Khader and his lawyer for a period of five days. In fact it was only on the following 25 April that they were able once more to confer.

12. Mr. Khader was held by the GSS for three months.

During May 2003 he was reportedly kept in complete isolation for a week, before undergoing an uninterrupted 60 hours of interrogation during which he is said to have been unable either to eat or to rest.

Shortly after that interrogation he was brought back from the Acre centre to Petah Tikva prison.

On 16 June 2003 the services of the military prosecutor drew up the indictment on the basis of which the trial was to open.

## **B. The trial**

13. The trial took place over a period of more than two years, from the summer of 2003 to the autumn of 2005, and the final hearing is due in principle to take place on 23 October next. During this period, some 15 hearings took place generally two to three months apart.

### \* The charges

14. The charges have evolved in the course of the trial. The Hussam Khader support committee states that at the outset there were only two charges:

- services rendered to a banned organization (al-Aqsa Martyrs Brigades);
- remittance of funds to an individual to buy munitions for an attack against Israeli soldiers.

Subsequently a further three charges were added, concerning three armed attacks against Israeli targets in the West Bank (including a plan that its authors dropped on finding a strong military presence at the place of the intended attack). Mr. Khader was accused of having been privy to these three plans and of not alerting the authorities in order to prevent them.

15. At the hearing of 4 September 2005 the prosecution modified the charges a final time.

Of the most recent accusations (having had knowledge of planned attacks and having done nothing to prevent them), it dropped two, finally only bringing the charge concerning the attack aborted because the authors desisted.

The two initial charges were maintained but redefined to involve only the following:

- the first charge (services rendered to a banned organization) accused Mr. Khader, in its final version, of having handed over funds to an individual (Mr. Amir Sowalma, to whom reference will be made) himself linked to the al-Aqsa Martyrs Brigades. The prosecution states that the funds handed over by Mr. Khader subsequently aided the activities of the banned organization;
- the second charge, which initially accused Mr. Khader of having been one of the instigators of a planned attack for the purposes of which he allegedly handed over sums of money to the same Amir Sowalma, was also modified since it is now only stated that Mr. Khader knew that Mr. Sowalma was planning an attack when he gave him a sum of money.

16. Mr. Khader decided to plead guilty on account of that modification of the charges.

At his court hearing of 4 September, he did not deny indeed knowing Mr. Sowalma, an inhabitant of the same refugee camp, or having allowed him the benefit of financial support, such as he gave to many other of the camp dwellers, as part of his social activities.

On the other hand, he vigorously denied having ever, even remotely, taken part in the preparation of acts of violence and having known that Mr. Sowalma could use for those purposes the sums that Mr. Khader helped him to obtain in the context of welfare assistance.

The modified charges now make Mr. Khader liable to no more than a 10-year prison term, instead of the life sentence on the previous charges. In these circumstances, and since he is no longer accused of personal responsibility for acts of violence, Mr. Khader decided to plead guilty.

\* *The Samaria Military Court*

17. The trial is being conducted before the Samaria Military Court.

This court is part of the military jurisdictions instituted by the Israel Defense Forces in the occupied West Bank and Gaza territories, as provided for in the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War.

That Convention of 12 August 1949 covers "the protection of civilian persons in time of war" and applies in particular to situations of occupation of a territory by the army of a foreign State (Article 2). Israel acceded to the Convention on 6 January 1952.

Its Article 64 permits the occupying power to issue in the occupied territory "provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them".

And as a complement to the this text, Article 66 of the same Convention provides that: "In case of a breach of the penal provisions promulgated by it by virtue of the second paragraph of Article 64 the Occupying Power may hand over the accused to its properly constituted, non-political military courts, on condition that the said courts sit in the occupied country. Courts of appeal shall preferably sit in the occupied country."

Although Israel considers that the Fourth Geneva Convention does not apply in the occupied West Bank and Gaza Strip territories (on the grounds that no power exercised any legitimate sovereignty over these territories at the time of their occupation by Israel in 1967), the authorities decided to apply a number of its provisions in practice, including Articles 64 and 66.

A system of military courts has thus been in place since the early days of the 1967 occupation.

18. The occupied territories were divided into three jurisdictional districts corresponding to the territorial coverage of the three military courts set up:

- Gaza Military Court;
- Judea Military Court (competent for the south of the West Bank);
- Samaria Military Court (competent for the north of the West Bank) before which Mr. Khader is appearing. This court used to sit at Nablus but was transferred a few years ago to a military base near the village of Salem, between Jenin and Meggido, about 80km north-east of Tel Aviv. This military base is situated on the "green line", the border between Israel and the occupied Palestinian territories. The court sits on the Palestinian side of the border in order technically to respect Article 66 of the Fourth Geneva Convention ("... on condition that the said courts sit in the occupied country").

The decisions of these three military courts may be referred to a Military Court of Appeal sitting in Ramallah.

The decisions of the Ramallah Military Court may at final instance be appealed to the Supreme Court of Israel, sitting in Jerusalem.

19. The military judges are jurist officers appointed by a commission in which the army, the judiciary and the Bar are represented. Most of them are former military prosecutors. The judges ruling as sole judge and those presiding over collegiate entities must be officers assigned full-time to their duties as military judges. Their status guarantees them independence in their jurisdictional functions, for which they do not depend on their hierarchy, but decide cases under the supervision of the Military Court of Appeal.

The assessor judges may be civilians doing their military service. Such is the case, for example, of the two assessors accompanying Lieutenant-Colonel Hason in Mr. Khader's trial, who are both lawyers in civilian life and regularly sit on the military court as part of their military obligations.

The Israel Defense Forces have established a corps of military prosecutors, who are officers with substantial legal training.

The defence is practised either by the lawyers of the Israeli Bar or by those of the Palestinian Bar.

\* Progress of the hearings

20. Up to 29 June 2005, the first 15 hearings were devoted to the prosecution statements, the Military Prosecutor having had a number of witnesses heard, including some GSS personnel.

The hearing of 29 June 2005 was the first that I attended. During the hearing the Prosecutor completed his presentation of the indictment, and the court began hearing the defence. Mr. Anis thus began questioning his client.

The defence statements continued at the hearing of 4 September until, after a suspension, the Prosecutor announced that he was modifying the indictment.

On the basis of the modified charges, Mr. Khader decided to plead guilty, which brought the court to a finding of guilt.

The acts henceforth held against Mr. Khader now carry only a maximum 10-year prison term. As a result, his trial is now a matter for the single-judge court. The case has thus been adjourned until 23 October 2005 to be heard before the President of the Court sitting without his assessors.

In view of the guilty verdict, the proceedings will be solely concerned with the penalty.

\* The charges against Mr. Khader and the evidence submitted to the court

21. The evidence submitted by the prosecution is vigorously contested by the defence. These objections concern, on the one hand, access to the material assembled by the GSS in the course of the investigation and, on the other, the prosecution witnesses.

22. A number of items gathered by the investigation services have been classified "secret" by the security forces, as a result of which the defence was denied access to them.

The Israeli authorities explained this situation by the need to protect the identity of certain sources and the confidential nature of the methods, technical resources, and working and investigation procedures of the GSS. They insist that this secrecy can also be invoked against the court since no information covered by the secrecy requirement is transmitted to it, so that such information cannot be used to secure a conviction.

The authorities add that, in connection with the "secret" classification, a check is carried out to ensure that no material so classified might be of use to the defence.

23. A tangible example of the problems raised by this situation may be given: Mr. Khader had told his lawyer that, shortly after his arrest, the GSS investigators played to him a cassette in which two young men were admitting participation in planning attacks and stating that they had been in contact for that purpose with him.

Mr. Khader has always formally denied what those two young men alleged.

When the trial began and the prosecution presented its evidence, that cassette was not part of it.

Mr. Anis has argued that that item – kept secret by the GSS – would finally be of use to the defence and convinced the court to ask for it to be communicated to the prosecution. The cassette was played to the court in camera in the presence of a member of the GSS whom Mr. Anis was able to cross-question at the hearing of 29 June.

Although I was present at the Samaria Court that day, I was unable to attend that part of the hearing held in camera.

According to information I gathered subsequently, the GSS agent acknowledged that the cassette had not been communicated to the court because a part of its content was false. He nevertheless refused to say which part of the cassette was genuine and which part false.

Mr. Khader's defence would have liked to be able to examine the entire file constituted by the GSS and not make do with the assurance given by the authorities that none of its items would have been of use to the defence. The example of that cassette shows that such an examination must be made by the defence itself. I was nevertheless told that an application to lift the secrecy status of the file had reportedly been rejected.

24. Regarding the prosecution witnesses, two types of problems were raised:

The first concerns the hearing by the court of GSS agents.

As stated earlier, the investigation into Mr. Khader's case has been conducted by the GSS, which kept him in detention for the three months following his arrest. For the sake of guaranteeing the confidentiality and security of members of that service, the Israeli courts hear them when they come to testify before them, in the course of in camera hearings, which is a departure from the principle of the public nature of proceedings, to which the defence acquiesced (Article 14 of the International Covenant on Civil and Political Rights permits such an exception on national security grounds).

25. The second problem concerns the personality of the principal prosecution witness, Amir Sowalma.

As we have seen when considering the charges earlier, they rest chiefly on the accusations of Mr. Sowalma. Yet he was not arrested until several weeks after Mr. Khader. His statements implicating Mr. Khader, which form the basis of the charges against him, therefore did not yet exist at the time of Mr. Khader's arrest.

Furthermore, the defence has made a point of arguing the fragility of the testimony of Mr. Sowalma, observing that he made the statements implicating Mr. Khader when he himself was held incommunicado and interrogated by the GSS, with interrogation methods that cast serious doubt over the spontaneity and sincerity of the statements obtained. According to the defence, Mr. Sowalma alleged that he had suffered interrogation conditions comparable to cruel, inhuman or degrading treatment and had been deprived of counsel during the weeks of his interrogation.

Mr. Khader's lawyer considered that it was not possible to give more credence to Mr. Sowalma's statements than to those of the two young men who had also tried to implicate Mr. Khader and which the prosecution had given up the idea of utilizing.

When he testified for the prosecution before the Court, Mr. Sowalma stated that he had brought accusations against Mr. Khader at the request of certain members of the Palestinian Authority wishing to settle scores with him.<sup>4</sup>

At the hearing of 4 September the defence called for Mr. Sowalma to be heard, in addition to the GSS agent who had taken his statements. In short, the dropping by the prosecution of the most serious charges and Mr. Khader's decision to plead guilty to the modified charges ended the debates on the facts and degree of guilt, so that the witnesses were finally not heard.

It is to be noted that Amir Sowalma has meanwhile been found guilty of several attacks and sentenced to life imprisonment.

In its resolution of 8 April 2005, the IPU Governing Council noted "with deep concern that the prosecution case essentially rests on the statement of one person, who does not appear to be a credible witness".

## **II. ANALYSIS: A TRIAL NOT IN KEEPING WITH INTERNATIONAL STANDARDS**

26. The following points will be examined to assess whether the Israeli authorities kept to the prescriptions of international law in conducting the trial of Mr. Khader.

1. His arrest and transfer to Israel;
2. His right to be informed without delay of the reasons for his arrest;
3. His right to be brought promptly before a judge;
4. The problem of incommunicado detention;
5. The allegations of cruel, inhuman or degrading treatment;
6. The impartiality of military courts;
7. Access to the investigation file;
8. The public nature of the hearings;
9. His present conditions of detention.

### **1. The arrest of Mr. Khader and his transfer to Israel**

27. Mr. Khader was arrested by the army during the night and immediately transferred to an interrogation centre of the intelligence services in Israel. He has since been held in Israeli territory, except in connection with the hearings before the military court, for the purposes of which he was taken to the court sitting, as explained earlier, in occupied territory.

28. The strictly formal compliance with the need to have the court sit in occupied territory contrasts with the liberty taken by Israel regarding the other provisions of the Fourth Geneva Convention to which Israel is a party, notably that prohibiting the transfer of prisoners to the territory of the occupying power.

For Article 49 of the Convention stipulates that:

"Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive."

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<sup>4</sup> Mr. Khader referred to this point again at the hearing of 4 September, where he explained that in 2000 he had been one of the co-authors of an open letter publicly denouncing corrupt practices within the Palestinian Authority. He further explained that several of the co-authors of the letter had suffered reprisal measures; that his own home had been shot at and that, already in 2001, some Palestinian leaders had planned to organize a "bogus attack" in which the suicide bomber, whose bomb would fail to explode, would be arrested in possession of his telephone number.

It follows very clearly that the occupying army is prohibited from transferring a prisoner from the occupied territory to Israeli territory, "regardless of [its] motive".

29. Israeli practice is nevertheless constantly in breach of this since it is quite usual to transfer for interrogation and detention in Israel persons taken prisoner in the occupied territories.

This practice is the subject, in Israel, of legal debates that I have already set out in my report to the Inter-Parliamentary Union on the trial of Mr. Marwan Barghouti. The Supreme Court has indeed validated the practice of transferring prisoners to Israel, deeming that Article 49 does not prohibit transfers of individual prisoners but only mass deportations of civilian populations (Judgment Afu HCJ 785/87, 18 April 1988).

This analysis is very much contested in Israel itself by various authors and even some judges. It is absolutely inadmissible under international law and, in particular, contradicts the doctrine of the International Committee of the Red Cross. It may be recalled that, according to the Geneva Convention itself, there is no necessary distinction between individual and collective transfers since they are all prohibited by the aforesaid Article 49; and that, under Articles 146 and 147, unlawful transfers of prisoners constitute a "grave breach" which should even be a punishable crime.

## **2. Right to be promptly informed of the reasons for his arrest and detention and of his rights**

30. Mr. Khader was not told at the time why he was being arrested. Even 10 days later, when he appeared before a judge on 26 March 2003, his lawyer and he were not informed of the charges against him and did not have access to the investigation file, which had been classified secret by the GSS.

They were only told of threats that Mr. Khader allegedly represented for the security of the region and of support for military activities directed against Israeli targets.

There was therefore a breach of Article 9.2 of the International Covenant on Civil and Political Rights, ratified by Israel in 1991, which provides that: "Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."

## **3. Right to be brought promptly before a judge**

31. Article 9.3 of the International Covenant on Civil and Political Rights provides that: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release."

This first appearance before a judge is intended to permit an impartial and independent check on the lawfulness of the arrest and detention, and of the need to continue the detention.

It must take place "promptly" even though the text does not give any maximum time limit, each situation being special and the actual conditions needing to be taken into consideration on a case-by-case basis to appreciate whether an appearance could have taken place earlier. It is anyway generally considered that such an interval should not exceed a few days and, for the sake of comparison, the following periods were deemed excessive:

- one week: the Human Rights Committee instituted by the Covenant considered that a delay of one week was excessive.<sup>5</sup> In that case, the detainee was liable to the death penalty but it will be observed that Mr. Barghouti is liable to the maximum penalty provided for under Israeli penal law, namely life imprisonment;

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<sup>5</sup> Case *McLawrence v. Jamaica*, 29 September 1997, para. 5.6.

- one week: the Inter-American Commission on Human Rights criticized Cuba's penal procedure law on the grounds that it theoretically permitted a detention period of one week before the detainee was brought before a judge;<sup>6</sup>
- four days and six hours: the European Court of Human Rights considered that such a interval before bringing a detainee before a judge was not satisfactory.<sup>7</sup>

32. In the case of Mr. Khader, his first appearance before a judge did not take place until 10 days after his arrest, without any explanation of the reasons that might have justified such a time lag.

This period is manifestly excessive. That being so, the guarantees provided for in Article 9.3 of the Covenant were breached.

#### **4. Incommunicado detention**

33. Mr. Khader was kept in isolation on several occasions, not only during the interrogation period, which lasted three months following his arrest, but once more in 2004 during the trial phase proper.

34. During the first three months, from 17 March to 15 June 2003, when he was kept in custody by the GSS agents, communication between Mr. Khader and his counsel was extremely limited.

Periods of several weeks went by without their being able to meet or communicate.

During the first week following his arrest (in which period fears were expressed, notably by the World Organisation Against Torture, regarding respect for his physical and psychic integrity), his family and friends had no idea where he had been taken by the army, until 24 March, when he was able to meet a lawyer for the first time.

Subsequently, the very day after his first appearance before a judge (26 March), Mr. Khader once more "disappeared" until 4 April 2003 since during that period his lawyers and his family were kept in ignorance of his fate and his whereabouts.

On 4 April, after threatening to bring a lawsuit in order to be able to meet his client, Mr. Anis was finally able to see him, but as early as 8 April the GSS had recourse to the possibility allowed it in Israel to issue orders forbidding any contact between a detainee and his lawyer.

35. In addition, it does not suffice to authorize meetings between a detainee and his lawyer; it must also be ensured that such meetings are of use for the effective exercise of the rights of the defence, which presupposes that the meeting can be usefully concerned with the investigation under way. Yet even when Mr. Khader and his lawyer were allowed to meet, during the first three months of his detention, they were not informed of the charges against him and had no access to the investigation file, which also constitutes a breach of the rights of the defence.

36. During the trial phase proper, there were several periods, in 2004, during which communications between Mr. Khader and his lawyers were once more forbidden on the grounds that he was being held incommunicado, notably for disciplinary reasons or for having taken part in a hunger strike.

Mr. Anis had to refer the matter to the Minister of Justice with a request that he lift that ban. It is to be noted that, on 1 September 2004, the Israeli Supreme Court ruled that the authorities were not permitted to restrict communication between prisoners and their lawyers, even in the event of a hunger strike.

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<sup>6</sup> Seventh report on the situation of human rights in Cuba, 1983.

<sup>7</sup> Case Brogan et al. v. United Kingdom, 29 November 1988, para. 62.

37. From the standpoint of international law, these situations of incommunicado detention are in breach of several instruments providing for the need to inform the families of prisoners and their lawyers of the places of detention.<sup>8</sup>

Article 14.3(b) of the International Covenant on Civil and Political Rights, ratified by Israel, guarantees anyone charged with a criminal offence the right "to communicate with counsel of his own choosing". The Human Rights Committee instituted by the Covenant to monitor compliance has taken the view that any person arrested must have immediate access to a lawyer.<sup>9</sup> It is not fitting that such access should be exercised just once and then suspended, as it was here.

The same Committee also considered<sup>10</sup> that: "To guarantee the effective protection of detained persons, provisions should be made for detainees to be held in places officially recognized as places of detention and for their names and places of detention, as well as for the names of persons responsible for their detention, to be kept in registers readily available and accessible to those concerned, including relatives and friends", and that "provisions should also be made against incommunicado detention".

When communications of the detainee are suspended during interrogation phases, the "incommunicado detention" situation thus created becomes particularly difficult to justify.

The United Nations Human Rights Commission has taken the view that such a situation is liable to facilitate torture and in itself to constitute a form of cruel, inhuman or degrading treatment.<sup>11</sup> The Human Rights Committee has deemed that it may constitute a breach of Article 7 of the Covenant, prohibiting torture and cruel, inhuman or degrading treatment, or of its Article 10 (which provides that "[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person").<sup>12</sup>

## 5. Allegation of cruel, inhuman or degrading treatment

38. As mentioned earlier, Mr. Khader has alleged use by the GSS of interrogation methods comparable to cruel, inhuman and degrading treatment.

Such methods concerned the duration of interrogations: more than 20 hours per day during the days that followed his arrest, with rest periods not exceeding three hours. Subsequently, he was allegedly deprived of sleep during an initial period of 48 hours on end, then for a period of 60 hours in which he was allegedly not permitted to eat.

Mr. Khader has also stated that he was submitted, during his interrogations to the *shabeh* method whereby the person interrogated is attached to a chair, with the ankles and wrists secured, and kept for several hours in an unbalanced or uncomfortable position.

39. These allegations of cruel, inhuman and degrading treatment are unfortunately given credence by the failure of the authorities to order investigations when prisoners allege such treatment and, with regard to the long periods of sleep deprivation, by the case law of the Israeli Supreme Court, which in a manner very much open to criticism has accepted that the GSS may have recourse to it in some cases.

In a judgement of 6 September 1999, for instance, the Supreme Court distinguished the case in which sleep deprivation might be used to break the detainee, which it prohibits, from the case where the detainee is deprived of sleep by the necessities of the interrogation, which is tolerated: "Indeed, a person undergoing interrogation cannot sleep as does one who is not being interrogated. The suspect, subject to the investigators' questions for a prolonged period of time, is at times exhausted. This is often the

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<sup>8</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principles 16, 18, and 19; Declaration on the Protection of all Persons from Enforced Disappearance, Article 10, para. 2; Minimum Rules for the Treatment of Prisoners, Rule 92.

<sup>9</sup> Observations on Georgia, 9 April 1997, para. 28.

<sup>10</sup> General Comment No. 20 (1992).

<sup>11</sup> Resolution 1997/38, para. 20.

<sup>12</sup> Cases *Albert Womah Mukong v. Cameroon*, 21 July 1991, and *Megreisi v. Libya*, 23 March 1994.

inevitable result of an interrogation, or one of its side effects. This is part of the "discomfort" inherent to an interrogation. This being the case, depriving the suspect of sleep is, in our opinion, included in the general authority of the investigator" (para. 31).

This Supreme Court decision was criticized by the United Nations Committee against Torture at its 29th session (November 2001): "The court prohibits the use of sleep deprivation for the purpose of breaking the detainee, but stated that if it was merely incidental to interrogation, it was not unlawful. In practice in cases of prolonged interrogation, it will be impossible to distinguish between the two conditions".

The charges brought by Mr. Khader against his GSS interrogators should therefore in fact be the subject of an impartial investigation, as for instance provided for in Article 12 of the United Nations Convention against Torture, ratified by Israel in 1991: "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

## **6. Impartiality of military courts**

40. The military courts established by the Israel Defense Forces in the occupied territories apply the same procedural rules and the same criteria for assessing evidence as the ordinary courts.

The judges offer all the requisite guarantees of competence, legal qualification, and independence in the exercise of their jurisdictional functions.

The specific nature of these courts is due to the fact that the sanction rules issued by the occupying authority in the occupied territories and, above all, that they are integrated into a totally military environment since judges, prosecutors, registrars and interpreters are in uniform and armed, and the courts are physically located in military bases.

The actual conduct of the proceedings, as far as I was able to observe during my two missions, and according to other information I was able to gather on the subject, does not differ from the manner in which proceedings are conducted in ordinary criminal courts.

As in any court, some judges are reputed to be harsher than others or to have a stricter attitude than others to the hearing. In the particular case of Mr. Khader's trial, I observed, at the two hearings I attended, that the operations took place in accordance with the standards one is entitled to expect in any criminal court and that, to the extent permitted by the situation and the nature of the matters judged, the working atmosphere was as serene as possible.

41. The true problem of the equitable character of the trial is situated at another level.

In the course of a criminal trial, the accused is required to be accountable to the society to which he belongs and whose rules he has disregarded. The purpose of the trial, even if it does not always succeed in this, is to restore a social link severed or broken by the offence. Confronted with his own acts, the accused is expected, at best, to become aware of his failing and accept the punishment meted out on behalf of the society to which he belongs, which restores the social link, pacifies the situation and prepares the accused for rehabilitation, for which his sentence should also serve.

This theoretical outline obviously represents an ideal not always achieved.

This *raison d'être* of criminal justice nevertheless seems to be completely unachievable in a situation in which the occupation army of a territory itself judges the acts that the civilian populations of the territory may direct against that army or against the interests or nationals of its State of origin.

The expected impartiality of the judge therefore seems impossible to achieve not in its subjective dimension – it was confirmed to me in the course of discussions with lawyers that there are of course military judges who, taken individually are just as "impartial" (in the subjective sense) as civilian judges – but in its objective dimension, adhering to the common law precept that "justice must not only be done: it must also be seen to be done".

The institution of military courts as such is bound by a principle of objective impartiality with which it is unable to comply. While justice must be done on behalf of the society to which the accused belongs and whose values he has betrayed, it is done here by an army of occupation which is not judging its own nationals but civilian members of the occupied population, who are generally accused of offences against the army of occupation.

The army thus finds itself in an untenable position for a judge: that of being both judge and victim of the crime under trial.

42. It is nevertheless an international convention, as mentioned earlier, that provides for the establishment of military courts in occupied territories (Article 66 of the Fourth Geneva Convention).

We must nevertheless reflect on the scope of that text, put back in the broader context of applicable international law, and ask ourselves whether it legitimates the maintenance of a military justice system which has now been in use for nearly 40 years.

43. Work within various forums establishing international law have led to the definition of a number of principles that States having instituted military jurisdictions are invited to respect. In general one of these principles is that military courts should only try members of the armed forces and should not be required to try civilians.

In 1977, for example, the United Nations Human Rights Committee invited Lebanon to transfer to the ordinary courts the jurisdiction of the military courts for all matters concerning civilians.

In 1981 the Inter-American Commission on Human Rights recommended to Colombia that it no longer bring civilians before military courts, or that it limit the jurisdiction of such courts to crimes constituting veritable attacks on State security.

This same Inter-American Commission, in its 1993 report, took the view that the fact of making military courts competent to try civilians constituted a violation of Articles 8 and 25 of the Inter-American Convention on Human Rights, deeming that the competence of such exceptional courts should be to maintain discipline within the army or the police and therefore to try only members of those two institutions.

With respect to the United Nations Human Rights Commission, the Sub-Commission on the promotion and protection of human rights placed on its agenda the question of the administration of justice by military courts and designated one of its members, Professor Emmanuel Decaux, as Rapporteur on the subject.

In his report of 14 June 2004, the Rapporteur highlighted a number of principles by which military courts should abide and one of those principles (Principle No. 2) concerns their functional competence: "Military courts should, in principle, not have competence to try civilians. In all circumstances, the State shall ensure that civilians accused of a criminal offence of any nature are tried by civilian courts. The jurisdiction of military tribunals should be limited to offences of a strictly military nature committed by military personnel (...)".

44. The rule laid down in Article 66 of the Fourth Geneva Convention must therefore be seen in the light of this broader legal context. It is for one thing older (the Fourth Geneva Convention was signed in 1947) and, for another, it governs a special and dispensatory situation, that of military occupations. While it is perfectly acceptable in law that special rules should exist that override general rules, it nevertheless follows that they must be strictly construed.

It is therefore no doubt necessary to consider the need to establish military courts in occupied zones, as provided for in Article 66 of the Fourth Geneva Convention, to be for the purpose of managing a dispensatory and hence necessarily provisional situation.

Such in any case is the present trend of international law in the matter.

The Decaux report, cited above, setting out a number of principles relating to the administration of justice by military courts, thus provides in its Principle No. 17 for the need to verify periodically whether recourse to military courts continues to be a functional necessity. The author thus makes this comment on the principle: "Since the sole justification for the existence of military courts is linked with practical eventualities, such as those related to peacekeeping operations or extraterritorial situations, there is a need to check periodically whether this functional requirement still prevails" (report cited, para. 56).

45. From this point of view, one can of course not fail to note that, if the occupation of the West Bank since 1967 provides the only justification for the maintenance of these jurisdictions, such justification cannot be more lawful than the occupation itself.

The international community has on many occasions condemned the prolongation of this occupation and asked Israel to withdraw from the occupied territories, since Security Council resolution 242 of 22 November 1967, constantly reiterated up to the time of its resolution 1435 of 24 September 2002.

46. In 1995 the Knesset ratified the Oslo II Accords, which, under a process set to culminate in the constitution of a Palestinian State, provided for a gradual withdrawal from the territories and the transfer to the Palestinian Authority of substantial prerogatives of sovereignty relating, in particular, to security and the administration of justice. The logical consequence should normally have been a transfer to the Palestinian Courts of the competence of the Israeli military courts.

By virtue of those Accords, it is indeed for the Palestinian police and judicial institutions to ensure the security of the region by trying offences committed in Palestinian territory and, in particular, by punishing attacks against Israel from such territory.

Thus, in Mr. Khader's case, if the Israeli authorities had respected the Oslo Accords they would have communicated to the Palestinian authorities the prosecution evidence at their disposal, such as might justify the arrest and prosecution of Mr. Khader.

But the Oslo Accords are no longer applied.

On the one hand, the Israeli authorities accuse the Palestinian authorities of failing to fulfil their obligations under the Accords by not punishing attacks against Israel, or even by supporting terrorism.

On the other hand, Israel has since 2002 been reoccupying a substantial part of the occupied territories, from which it had partially withdrawn six years earlier.

Yet from the legal standpoint those Accords have not ceased to exist and the Israeli Supreme Court continues to recognize their legal validity (see decision of 3 September 2002, HCJ 7015/02 and 7019/02).

The provisions whereby the maintenance of order and security in "Zone A" (which includes the city of Nablus where Mr. Khader was arrested) is incumbent upon the Palestinian Party (Articles XIII and XVII), including the trying of criminal cases (Annex III, Article 1), are still in force although they are not respected in practice, and notably so in the present case.

47. The institution of military courts in 1967 should not and could not then be seen as anything other than a necessity as provisional as the occupation itself, intended temporarily to ensure order and security in a zone whose institutions were temporarily unable to continue functioning.

It should have ended with restoration of the full competence of Palestinian jurisdictions, as provided in the Oslo Accords, including for the purpose of punishing attacks against Israel.

Its continued existence, 38 years later, has transformed the nature of these provisional jurisdictions from a temporary instrument for the maintenance of order and security into an instrument of repression since its competence consists precisely in punishing Palestinians who resort to violence in order to oppose the occupation.

On account of this factor alone, the Israel Defense Forces find themselves in the position of being both the victims of the offences involved in prosecutions (or of a large part of them) and the judges of those same offences, which puts the military judges in an ethically untenable position and deprives them, to say the least, of that appearance of impartiality without which no jurisdictional system can lay any claim to legitimacy.

In this respect – and whatever the competence, independence or even subjective impartiality of the judges making up these courts – one is forced to conclude that the military courts instituted by the Israel Defense Forces in the occupied territories do not meet the requirement of impartiality under international law.

## **7. Access to the investigation file**

48. As explained above, the defence did not have access to the entire investigation file constituted by the GSS because some of its items were classified.

The authorities justify this de facto state of affairs by stating that it has no implications for Mr. Khader since no item classified "secret" is communicated to the court, which means that it cannot be used in support of a conviction.

They add that in the classifying process a check is carried out to ensure that the items classified "secret" would not be of use to the defence.

49. Yet it is for the defence to appreciate what would or would not be of use to it.

We have seen earlier the example of a cassette containing statements implicating Mr. Khader made by two young men, a cassette that the prosecution had initially not included in its file. Although that cassette may seem to be incriminating, it was the defence that insisted that the court order its communication and the GSS finally acknowledged at the hearing of 29 June 2005 that the cassette was not reliable. The defence was thus able to utilize this element to show that the testimonies implicating Mr. Khader could have been manipulated.

## **8. Public nature of the proceedings**

50. I was able without difficulty to attend the hearings of 29 June and 4 September 2005, except during the hearings of GSS members, which were held in camera as stated earlier.

It is nevertheless permissible under international law that the principle of the public nature of proceedings may be waived in certain circumstances enumerated in Article 14.1 of the International Covenant on Civil and Political Rights: for reasons of morals, public order, national security, interest of juvenile persons or of the private lives of the parties involved, and so forth. What was invoked here were security considerations, and the defence raised no objection.

The principle of adversarial proceedings is respected since the defence is of course still present at the hearing of these witnesses, whom it is allowed to cross-question freely. If it considers that an in camera hearing is not justified, it always has the possibility of criticizing this and requesting a reopening of the proceedings in public, which was not done in this case.

51. On the other hand I was told that Mr. Khader's family had in some circumstances encountered obstacles to attendance in court.

The Israeli authorities even informed the IPU that public attendance would be limited to two relatives per prisoner.

I did not observe any application of this rule. I was told that that could be an effect of my presence as an observer, but on 29 June and 4 September 2005 more members than that of Mr. Khader's family were admitted to the hearing room.

Furthermore I did not see anything to justify the rule invoked by the authorities, limiting public access to two persons per accused. The hearing rooms of the Samaria Court are big enough to accommodate an audience of several dozen people, and there is ample military presence to ensure order.

52. The members of the public coming from the occupied territories enter the court by an entrance different from that which I used, coming as I was from Tel Aviv and having entered from the Israeli side. I was told of scenes of humiliation in controls of the public admitted to the military area, but I did not witness this since the controls in question took place in an area that I was unable to see.

On the morning of 29 June, before the start of the proceedings, I learned from a soldier who had come to give me this information that Mr. Khader's family members were present and wished to meet me. The soldier offered to take me to them. The relatives of the accused were then in the hearing room. On my arrival, the soldiers keeping watch in the room wanted me to leave the room since the proceedings had not begun, and to get the family to leave on one side (the "Palestinian" side) and to have me leave by the other side (that from which I had arrived, which was also where the offices of the judges were, and where the lawyers wait). I asked to be allowed to go out by the same exit as the relatives so that we could talk. A soldier tried to dissuade me from this with the injunction that "it would not be proper for you to go", and I had to be insistent. I was thus able to observe that members of the Palestinian public simply did not enjoy the same freedom of movement in the premises as I did, since they were shut up pending the hearings in a sort of fenced and guarded courtyard sheltered from the sun by an awning under which benches are installed for the wait.

During the hearings themselves, when there are suspensions, I was able to observe that the soldiers generally did not let the family approach the box of the accused or talk to him. Communication was confined to signs and smiles from a distance. On 4 September, however, the family was permitted to converse a little with Mr. Khader. It seemed to me that this question of communication between the accused and his family in fact depended on the goodwill of the soldiers guarding the room at any particular time, some being more understanding than others.

53. At the hearing of 4 September 2005, apart from the family, my interpreter and me, two Knesset parliamentarians were also present in the audience for a part of the proceedings.

54. I was told that the access of journalists had sometimes been hindered, prompting the defence to lodge a special application in the court for journalists to be admitted to the hearing room.

## **9. His present conditions of detention**

55. With regard to his health, at the hearing of 29 June 2005, Mr. Khader told me that he was suffering from back pains, probably caused by his poor conditions of detention in cells where he is kept for the days preceding his trial. At the hearing of 4 September 2005 he told me that he was receiving treatment for those pains.

56. The family of Mr. Khader spoke of major difficulties regarding visits to him in prison, particularly the fact that his brothers and sisters have never been allowed to visit him (the authorities have nevertheless stated that one of his brothers was able to visit him in December 2004 and January 2005), and the fact that his mother was unable to meet him for two years.

He may receive visits from his children but without any physical contact between them, since they remain behind a glass separation and have to communicate through an interphone. His lawyer has taken steps to obtain the right for Mr. Khader and his children to have physical contact, but so far to no avail.

## CONCLUSION

57. The role of an observer is naturally not to take the place of the court in giving an opinion on the guilt or otherwise of the accused or in ruling on the prosecution or the arguments of the defence; but his role is to gather elements enabling the Inter-Parliamentary Union to appreciate whether the internationally recognized standards of fair trial have been respected.

The public hearings before the court (which I attended only very partially) constitute only the final phase of the trial. Deciding whether or not it has been fair involves taking account of all the preparatory stages, from the arrest of the accused until the time of his court appearance.

For the reasons given in this report, this examination led me to conclude that these international standards were not respected in regard to a number of points:

- international law does not permit a situation where, when individuals are arrested, their families are denied information as to their situation for a whole week; the transfer of a prisoner from occupied territories to the territory of the occupying power is a grave breach of the Fourth Geneva Convention;
- Mr. Khader was not brought before a judge until 10 days after his arrest, a time lag which is excessive, and without him or his lawyer having had access to the investigation file, in which respect the authorities failed to abide by their international obligations to inform any person detained of the charges against him or her;
- Mr. Khader was subsequently held incommunicado on several occasions in 2003 and 2004, without any possibility of contact with his lawyer, again in breach of the applicable international rules;
- these phases of incommunicado detention finally work against the authorities, for they lend credence to the allegations of use of interrogation methods prohibited under international law, together with the failure of the authorities to investigate such allegations. Sleep deprivation is accepted in some case by Israeli justice whereas it constitutes, in international law, an instance of cruel, inhuman or degrading treatment under a total and absolute ban;
- all statements taken in such a context (whether those of an accused or, in the present trial, those of witnesses) are consequently open to doubt, and in the very interests of the justice system and its credibility, their admissibility as evidence should be made conditional on the guarantee that they have been obtained in a manner respectful of the physical and psychic integrity of the person heard; now the Israeli system does not at present provide this guarantee;
- the maintenance of a system of military courts in the occupied territories, competent to try acts by local civilian populations directed against the occupying power creates a situation incompatible with the requirement of *objective* impartiality on the part of the judge, who should be a neutral third party not involved in the conflict. Even though the military jurists making up these courts may individually offer the requisite conditions of competence, independence and impartiality, that does not suffice to offset this intrinsic defect of military justice, nevertheless accepted and even provided for in the Fourth Geneva Convention, but whose justification is impaired with the duration of the occupation and whose maintenance becomes difficult to reconcile with the development of international law in the matter.

One is forced to the conclusion that Mr. Khader has not, since his arrest two-and-a-half years ago, had the benefit of compliance with the international rules of fair trial.

58. These shortcomings give the impression that Israel has, for the sake of combating terrorism, abandoned the idea of ensuring absolute respect in all circumstances for the physical and psychic integrity of prisoners, which is nonetheless an overriding obligation from which no exceptional circumstance allows of any derogation.

Yet this is of no help to Israel in confronting the acts of terror of which it is a victim and against which it must protect its population. On the contrary, the shortcomings in question undermine the legitimacy of the decisions of its courts and nourish such sentiment of injustice as the accused may experience, besides causing verdicts to be rebuffed by public opinion, or in any case by Palestinian opinion and a part of international opinion.

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### **CASE No. SING/02 - JOSHUA JEYARETNAM - SINGAPORE**

#### ***Resolution adopted by consensus by the IPU Governing Council at its 177th session\* (Geneva, 19 October 2005)***

The Governing Council of the Inter-Parliamentary Union,

*Having before it* the case of Mr. Joshua Jeyaretnam, a former opposition member of the Parliament of Singapore, which has been the subject of a study and report of the Committee on the Human Rights of Parliamentarians in accordance with the "Procedure for the examination and treatment, by the Inter-Parliamentary Union, of communications concerning violations of human rights of parliamentarians",

*Taking note* of the report of the Committee on the Human Rights of Parliamentarians (CL/177/11(a)-R.1), which contains a detailed outline of the case,

*Referring also* to the resolution it adopted on this case at its 170th session (March 2002), a copy of which is attached to the present resolution,

*Taking account* of a letter, dated 27 September 2005, from the Speaker of the Parliament of Singapore,

*Recalling* that Mr. Jeyaretnam, having become in 1981 the first opposition candidate in Singapore to be elected to parliament since the country attained independence in 1965, faced a series of defamation charges brought against him in 1995 and 1997 by, among others, the then Prime Minister and the then Minister for Law and Foreign Affairs; Mr. Jeyaretnam was declared a bankrupt in January 2001, and lost his parliamentary seat and was barred from practising as a lawyer; *recalling* also that the concerns it expressed in its previous resolution on this case relate in particular to the sequence and timing of the defamation and bankruptcy proceedings brought against Mr. Jeyaretnam, which, in its view, suggested a clear intention to target him for the purpose of making him a bankrupt and thereby removing him from Parliament; and the fact that, although Mr. Jeyaretnam is jointly liable with other defendants in the cases in question and that at least one of them was more likely to be able to pay the sum owed to the creditors, the latter have never made any attempt to recover the moneys from them,

*Considering* the following new information on file:

- In March 2004 Mr. Jeyaretnam filed an application for discharge from bankruptcy. The creditors, including Mr. Goh Chok Tong, now Senior Minister in the Prime Minister's Office, and Professor Jayakumar, now Deputy Prime Minister and Minister for Law, opposed the discharge. In April 2004 the High Court refused Mr. Jeyaretnam a discharge from bankruptcy, and this ruling was upheld by the Appeal Court in November 2004;
- The Appeal Court rejected the discharge on the grounds that the administration of Mr. Jeyaretnam's estate had not been completed, and that Mr. Jeyaretnam had not been cooperative and had concealed assets, which he denies, for which reason it was not even possible to grant him a conditional discharge. The main issue raised by Mr. Jeyaretnam, namely that the creditors' real reason for opposing his discharge was to prevent him from taking part in the next parliamentary elections, which are scheduled for 2007, a purpose which would amount to abuse of the court's process, was found by the courts to be an irrelevant, extraneous factor in this case;

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\* The delegation of Singapore took the floor to express its reservation regarding the Resolution, and to state its position regarding the cost review hearings in this case, and its general position on the case as outlined in the present Resolution and the one adopted at the 170th session of the Governing Council (annexed).

- Mr. Jeyaretnam subsequently lodged a new application for discharge from bankruptcy, as some previously outstanding matters, which the court had considered were blocking it from granting discharge, had in the interim been treated. He offered to pay the creditors 40 per cent of the debts due to them, instead of the one third that he had offered in his first application. The creditors refused the offer, without providing any reasons. On 23 June 2005, the court dismissed his application, and Mr. Jeyaretnam filed an appeal, the consideration of which was stayed until payment of legal costs that had arisen out of the first discharge from bankruptcy proceedings, a sum that Mr. Jeyaretnam considered exorbitant;
- After payment of the creditors' costs, the Court of Appeal rejected Mr. Jeyaretnam's second appeal for discharge from bankruptcy on 1 September 2005; according to Mr. Jeyaretnam, had his offer been accepted, Mr. Jayakumar would have recovered 93.33 per cent of the debt and Mr. Goh Chok Tong 83.5 per cent,

*Noting* that the Bankruptcy Act gives the court broad discretion as to the granting of discharge, including on conditions with respect to any property devolving to the bankrupt or acquired by him after his discharge (subsections 3 and 4 of the Bankruptcy Act, cited in the judgement of the Court of Appeal),

*Noting* that the Speaker of Parliament has stated that it was clearly erroneous to suggest that the rejection of Mr. Jeyaretnam's discharge from bankruptcy could be justified on other than legal grounds, and has rejected the view that any political considerations were involved,

1. *Thanks* the Speaker for his letter and consistent cooperation in this case;
2. *Deeply regrets* that Mr. Jeyaretnam, who is now 75 years old, was not granted a discharge, despite his offer to pay 40 per cent of the damages still due and the possibility for the Court to grant conditional discharge, so that he remains debarred from practising as a lawyer and may be debarred from standing in the next elections;
3. *Cannot share* the Speaker's view that this case involves purely private interests without any political connotation, when important government authorities, among them the former Prime Minister, at present Senior Minister in the Prime Minister's Office, and the Deputy Prime Minister and Minister for Law, are judgement creditors and have driven a staunch opponent, Mr. Jeyaretnam, into bankruptcy;
4. *Acknowledges* that Mr. Jeyaretnam is jointly liable with other defendants for paying the damages; nevertheless *can but consider* that, had the purpose of the creditors been to recover the damages awarded to them, they would not have driven Mr. Jeyaretnam into bankruptcy and would have attempted to recover the sum from the other defendants as well; *strongly believes* therefore that their actions were based on other than legal considerations;
5. *Deeply regrets* having to conclude, as it did in 2002, that the state of affairs in the bankruptcy proceedings clearly suggests that Mr. Jeyaretnam was targeted for the purpose of making and keeping him bankrupt, thereby debarring him from politics;
6. *Requests* the Secretary General to convey this resolution to the authorities and to the source.

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### **CASE N° SING/02 - JOSHUA JEYARETNAM - SINGAPORE**

***Resolution adopted without a vote by the Council of the Inter-Parliamentary Union  
at its 170th session (Marrakech, 23 March 2002)***

The Council of the Inter-Parliamentary Union,

*Having before it* the case of Mr. Joshua Jeyaretnam, a former opposition member of the Parliament of Singapore, which has been the subject of a study and report of the Committee on the Human Rights of Parliamentarians in accordance with the "*Procedure for the examination and treatment,*

by the Inter-Parliamentary Union, of communications concerning violations of human rights of parliamentarians",

Taking note of the report of the Committee on the Human Rights of Parliamentarians, which contains a detailed outline of the case (CL/170/13(c)(ii)-R.1),

Considering that Mr. Jeyaretnam was first elected in 1981 when he won a by-election and became the first opposition member in over 15 years; he was re-elected in 1984 but lost his seat in 1986 as a result of a criminal conviction, which the Privy Council deemed grievously unjust, and was barred from standing for election until 1997, when he ran and was returned as a non-constituency member of Parliament representing one of the three opposition members out of the 85 members of the Singapore Parliament; considering that the Committee on the Human Rights of Parliamentarians examined his case in relation with the following judicial proceedings:

- In 1984, Mr. Jeyaretnam was convicted on a charge of fraudulent use of funds belonging to his party, the Workers' Party; owing to the conviction, he lost his parliamentary seat and was debarred from the Law Society of Singapore; Mr. Jeyaretnam took the case to the Privy Council in London with respect to his debarment from the Law Society; in October 1988, the Privy Council concluded that Mr. Jeyaretnam had suffered grievous injustice and been found guilty of offences he had not committed; despite that ruling, the President of Singapore rejected Mr. Jeyaretnam's pardon petition in May 1989, primarily on the ground that *"he had not expressed any sense of remorse, contrition or repentance in respect of the crimes for which he was convicted"*;
- Shortly after the 1997 election, Senior Minister Lee Kuan Yew, Prime Minister Goh Chok Tong and other senior members of the ruling People's Action Party (PAP) filed suits against Mr. Jeyaretnam alleging that he had defamed them at an election rally by saying the words *"And finally, Mr. Tang Liang Hong has just placed before me two reports he has made to the police against, you know, Mr. Goh Chok Tong and his people"*; Tang Liang Hong, a fellow parliamentary candidate, had filed a police report alleging that the PAP leadership had defamed him during the campaign by publicly labelling him an "anti-Christian, Chinese chauvinist"; in his suit against Mr. Jeyaretnam, the Prime Minister was awarded S\$ 20,000, increased on appeal to S\$ 100,000 plus full costs; in 1998, the Prime Minister began bankruptcy proceedings against Mr. Jeyaretnam but later agreed to accept payment of the damages awarded to him in instalments; in December 2000, Goh Chok Tong's co-plaintiffs, including Lee Kuan Yew and other PAP members, took steps to revive their 1997 suits; in July 2001 Mr. Jeyaretnam's appeal for a dismissal of these libel actions was turned down;
- An article published in 1995 in the Workers' Party newspaper alleged that an event called the "Tamil Language Week" was an ineffective means of advancing Tamil language and that a number of those involved in its organisation were political opportunists; the article resulted in two libel suits against the author of the article, Mr. Jeyaretnam as editor and members of the Workers' Party Central Committee; in the first suit, involving Minister of Foreign Affairs S. Jayakumar and four other PAP MPs, the defendants agreed to apologise publicly and to pay S\$ 200,000 in damages. In February 1998, after paying S\$ 100,000, the defendants were unable to make further payments and the plaintiffs did not pursue the matter at the time; the second suit was lodged by Indra Krishnan and nine other members of the Tamil Language Week organising committee, one of whom is now a PAP MP; although the author admitted that he was wholly responsible for the article, the High Court awarded the ten plaintiffs S\$ 265,000 in damages and S\$ 250,000 costs jointly against all the defendants; two of the plaintiffs then began bankruptcy proceedings against Mr. Jeyaretnam alone, but were paid off in instalments; subsequently, the remaining eight plaintiffs also started bankruptcy proceedings against Mr. Jeyaretnam and, one day after he failed to pay an agreed instalment in January 2001, he was declared bankrupt; on 16 July 2001, Mr. Jeyaretnam offered to pay off the remaining damages in three further instalments; Mr. Jeyaretnam's final appeal against that bankruptcy order was rejected by

- the Court of Appeal on 23 July 2001; on the strength of Articles 45.1b and 46.2e of the Constitution, Mr. Jeyaretnam was thus automatically removed from Parliament; his name was officially struck from the Singapore parliamentary roll on 25 July 2001 and he will be barred from standing for the next elections if he fails to repay the creditors;
- Mr. Jeyaretnam's failure to pay the agreed instalment to Indra Krishnan and her fellow parliamentarians by one day in January 2001 is largely due to a petition by the Minister of Foreign Affairs Mr. Jayakumar and the four other PAP plaintiffs; after making no demands since receiving a third instalment towards their S\$ 200,000 award in 1998, those plaintiffs applied successfully to the courts in December 2000 to seize a sum of S\$ 66,666.66 awarded to Mr. Jeyaretnam in a lawsuit he had brought against a lawyer who owed him costs. Mr. Jeyaretnam intended to use that sum to pay the instalment due on 2 January 2001; the Minister of Foreign Affairs pressed Mr. Jeyaretnam alone for payment of outstanding damages, and not the other Workers' Party defendants;
  - Mr. Jeyaretnam and the international observer of the appeal court hearings in July 2001 point out that the Appeal Court did not address the most important argument advanced by Mr. Jeyaretnam, namely abuse of process; as Mr. Jeyaretnam argued in his appeal, pushing him into bankruptcy would only ensure no further payments, and that consequently the only purpose of the Krishnan bankruptcy proceedings was to remove him from public office by disqualifying him from continuing as a Member of Parliament; in his report, the trial observer referred to extensive Commonwealth jurisprudence to the effect that courts have the discretion to dismiss a petition if it is brought for collateral or improper purpose; moreover, as regards the application of Mr. Jayakumar and others to garnish money awarded to Mr. Jeyaretnam, the sources point out that the money had been due since February 1998 and that none of the judgment creditors had taken any action to recover it; moreover, one of the defendants in the case was more likely to be able to pay the sum since he earned S\$ 12,000 a month, as against Mr. Jeyaretnam's S\$ 1,600;
  - In a press release of 3 September 2001, Mr. Jeyaretnam stated that Prime Minister Goh Chok Tong was now demanding that he pay the outstanding balance of the sum awarded to him in August 1997; moreover, Mr. Jayakumar and the other plaintiffs in the Krishnan case have filed proof of debt for the balance due to them, claiming it only from him and not from the other defendants in that case;
  - The authorities, in particular the Minister of Law, have observed that Singaporeans enjoy freedom of speech but that, as in other countries, it was subject to the law of the land. Even foreigners had noted that Singaporeans expressed critical views of the Government. The two elected opposition MPs were making fierce speeches in Parliament. However, there was no international standard for free speech and the limits of tolerance varied from country to country. Even the common law approach as to whether the words uttered would "*lower the plaintiff in the estimation of right-thinking members of society in general*" was applied differently in common law countries because of different levels of tolerance; moreover, Singaporeans, both politicians and non-politicians, guard their reputation and honour zealously, "*otherwise, untruths will linger in people's minds*"; the authorities have also stressed the independence of the Singapore judiciary stating that: "*Many seek legal redress before our Courts knowing that they receive a fair trial. Our Courts' and Singapore's adherence to the Rule of Law have earned top marks in international polls, surveys and rankings conducted by reputable bodies such as the World Economic Forum, Heritage Foundation and the Political and Economic Risk Consultancy*";
  - As regards the proceedings in question, they maintain that the Krishnan case was "*really a private matter between Mr. Jeyaretnam and ten private citizens who felt that they had been defamed ...*"; they pointed out that the plaintiffs can take action against any of the defendants as their liability is joint and several and that there was nothing to prevent the other two defendants in this case from paying the judgment debt; in their view, "*it is quite natural for the Plaintiffs to go against Mr. Jeyaretnam who is the editor of the official Party publication, The Hammer, which published the offending article. In addition, Mr.*

*Jeyaretnam is Secretary-General of the Workers' Party; as regards the dismissal of Mr. Jeyaretnam's final appeal, they have specified that: "The Court of Appeal dismissed Mr. Jeyaretnam's appeal because the bankruptcy court's decision to make the bankruptcy order was correct in law. There was incontrovertible evidence produced at the bankruptcy court hearing to prove that Mr. Jeyaretnam was unable to pay his debts as they fell due, and thus ought to be made a bankrupt." The evidence, the Minister stated, "included a direct admission by Mr. Jeyaretnam's lawyers, when questioned by the Judge, that Mr. Jeyaretnam was unable to pay his debts"; they have moreover insisted that, if PAP members wanted to drive Mr. Jeyaretnam out of Parliament by making him a bankrupt, "they could have tried to do so earlier. The truth is that much forbearance and patience have been extended to Mr. Jeyaretnam. ... Mr. Jeyaretnam's problem is not that PAP leaders want to drive or keep him out of Parliament but that he makes wild allegations too readily",*

Noting finally that in no single case has an opposition member in Singapore won a defamation suit in court; there were, as the authorities stated, instances when members of the ruling People's Action Party (PAP) have been sued for defamation. Mr. Chiam See Tong, an opposition member since 1984, had successfully obtained damages for defamation from PAP members in three instances. In all three, the PAP members made public apologies before trial to Mr. Chiam See Tong, who then agreed to out-of-court settlements; according to Mr. Jeyaretnam, the Workers' Party brought a suit in 1972 against a PAP candidate who had accused the Party of having received S\$ 600,000 from Malaysia, thus suggesting that the Party was acting in the interest of a foreign power; in 1981 Mr. Jeyaretnam brought action against Mr. Goh Chok Tong; although it found that the words were defamatory, the court dismissed the claim, arguing that they were fair comment and Mr. Jeyaretnam had not proven any damage, and ordered Mr. Jeyaretnam to pay the costs; a suit brought by a Workers' Party election candidate against the government newspaper *Straits Times* was dismissed on the ground that the plaintiff had not called any witness to prove that he was the person referred to in the incriminated publication,

1. *Thanks* the authorities for the observations they have regularly provided;
2. *Stresses* that freedom of speech constitutes one of the principal foundations of parliamentary democracy as it is a prerequisite for that debate and exchange of ideas which nurtures democracy;
3. *Affirms* that in making the statement at an election rally found defamatory of Prime Minister Goh Chok Tong and others, Mr. Jeyaretnam merely exercised his right to freedom of speech; *points out* that, in the Krishnan case, he is not the author of the incriminating article; therefore *cannot share* the view of the authorities that, unlike PAP members, "he makes wild allegations too readily";
4. *Affirms* that the right to the protection of one's honour and reputation is a fundamental right which the plaintiffs in question, like anyone else, were entitled to defend; *considers nevertheless* that the sequence and timing of the defamation and bankruptcy proceedings brought against Mr. Jeyaretnam suggest a clear intention to target him for the purpose of making him a bankrupt and thereby removing him from Parliament;
5. *Deeply regrets* his removal from Parliament;
6. *Requests* the Secretary General to convey this resolution to the authorities and to the sources.



Headquarters:  
INTER-PARLIAMENTARY UNION  
Chemin du Pommier 5  
Case postale 330  
CH - 1218 Le Grand-Saconnex/Geneva  
SWITZERLAND  
Telephone: (41 22) 919 41 50  
Fax: (41 22) 919 41 60  
E-Mail: [postbox@mail.ipu.org](mailto:postbox@mail.ipu.org)  
<http://www.ipu.org>

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Office of the Permanent Observer to the United Nations in New York:  
INTER-PARLIAMENTARY UNION  
Suite 3002  
220 East 42nd Street  
NEW YORK, N.Y. 10017  
USA  
Telephone: (1 212) 55 75 880  
Fax: (1 212) 55 73 954  
E-Mail: [ny-office@mail.ipu.org](mailto:ny-office@mail.ipu.org)  
<http://www.ipu.org>