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COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS

CASE No. AFG/01 - MALALAI JOYA - AFGHANISTAN

*Decision adopted by the Committee at its 122nd session
(Geneva, 14 - 17 July 2008)*

The Committee,

Referring to the outline of the case of Ms. Malalai Joya, a member of the House of the People of Afghanistan, and to the resolution adopted by the Governing Council at its 182nd session (April 2008),

Recalling the following information on file:

- on 21 May 2007 the House of the People of Afghanistan decided to suspend the parliamentary mandate of Ms. Joya, member of parliament for Farah province, until the end of her term for violating the Standing Orders (more particularly Article 67, which has become, in an extensively modified version, Article 70 of the new Standing Orders) in respect of words she spoke on television; referring to Parliament, and more particularly to some of its members, Ms. Joya, who is a staunch critic of the former warlords, a defender of human rights and a powerful voice for Afghan women, said in a television interview that: "They are criminals and worse than the animals in a stable or zoo; at least an animal like a cow is useful in that it provides milk and a donkey can carry a load. Or even an animal like a dog which is the most loyal animal";
- according to the sources, at the time of Ms. Joya's suspension the Standing Orders existed in draft form only and had not yet been officially adopted by Parliament; under those Orders, a member can be suspended for a period of longer than one day only at the request of the Administrative Board and with the subsequent approval of Parliament; the sources also affirm that members of parliament have regularly criticized one another, but that no one else has been suspended on such grounds, not even those who have called Ms. Joya a "prostitute" and a "whore" and have reportedly called for her to be raped and killed; the parliamentary authorities insist that the decision against Ms. Joya, which was not made by the Administrative Board but taken by the majority of the members of the House of the People in open session, was not taken in connection with her criticism but because her words were an affront to Parliament and the entire nation;
- Ms. Joya immediately protested against her suspension and the procedure followed to secure it; after having finally collected the money to pay for legal counsel and found a lawyer willing to take up her case, she was able to file a petition with the Supreme Court in February 2008,

Taking account of the information provided by the source on 11 July 2008, according to which no serious progress had been made in the petition before the Supreme Court as the judge had asked Parliament to provide its observations and to assign a representative to follow the case on its behalf, and Parliament had yet to do so,

Recalling that Ms. Joya has been continuously threatened owing to her outspoken stance, that she has survived four assassination attempts and that her security is assured by members of her family,

Bearing in mind that Afghanistan is a party to the International Covenant on Civil and Political Rights and is therefore bound to respect the rights to security and to freedom of expression guaranteed in Articles 9 and 19,

1. *Remains deeply concerned* at Ms. Joya's continued suspension on account of outspoken remarks she made about the functioning of the Parliament of Afghanistan and about some of her fellow parliamentarians; *reaffirms* in this respect that freedom of expression is a fundamental tenet of democracy that must be construed as broadly as possible in the case of parliamentarians, the elected representatives of the people who draw attention to the people's concerns and defend their interests, and that necessarily entails the right to sharply criticize parliament and the government and their performance, and should therefore be particularly cherished by parliament;
2. *Considers* that the suspension of the parliamentary mandate is a serious measure that not only keeps the parliamentarians concerned from exercising their mandate but also prevents their electorate from being represented by the person of their choice, and that it must therefore be taken in strict compliance with the law and the relevant legal procedures and be limited in time; *is therefore deeply concerned* that no time limit was set for the suspension, which has been in effect for more than a year, and that, contrary to the Standing Orders of Parliament (new and old versions), the Administrative Board appears to have been in no way involved in the decision to suspend Ms. Joya;
3. *Calls on* the parliamentary authorities to cooperate fully and speedily with the Supreme Court so that it can decide on Ms. Joya's petition without delay; *would appreciate* receiving detailed information in this respect;
4. *Remains alarmed* at the persistent death threats against Ms. Joya and the absence of any security detail offered by the authorities; *insists* that the general insecurity in Afghanistan makes it abundantly clear that threats against her safety have to be taken extremely seriously and require an effective response;
5. *Consequently urges* the authorities, in compliance with their obligation to protect the right to life and to security, to provide her with a full security detail as a matter of urgency; *would greatly appreciate* being informed of the steps taken to this end;
6. *Reiterates its call to* the authorities to do everything in their power to identify and bring to justice those making the death threats against Ms. Joya; *reaffirms* in this respect that the Parliament of Afghanistan has a special responsibility when the security of one of its members is at stake; *calls on* the parliamentary authorities to take appropriate action to help ensure that the required protection for Ms. Joya is put in place without delay and that the threats are diligently investigated; *would appreciate* being informed of any steps taken in this respect;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities and to the source;
8. *Decides* to continue examining this case at its next session, to be held during the 119th Assembly of the IPU (Geneva, October 2008).