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Draft report of the Tenth Inter-Committee Meeting

I. Introduction

1. The tenth inter-committee meeting of the human rights treaty bodies was held at the Office of the United Nations High Commissioner for Human Rights (OHCHR) at Geneva from 30 November to 2 December 2009.

2. The following members of human rights treaty bodies attended:

Human Rights Committee

Mr. Abdelfattah Amor
Sir Nigel Rodley

Committee on the Elimination of Discrimination against Women

Ms. Naela Gabr (Chair)
Mr. Meriem Belmihoub-Zerdani
Ms. Silvia Pimentel

Committee on the Elimination of Racial Discrimination

Ms. Fatima-Binta Victoire Dah
(Chair)
Mr. Nourredine Amir
Mr. Régis de Gouttes

Subcommittee on Prevention of Torture

Mr. Malcolm David Evans
Mr. Emilio Ginés Santidrian
Mr. Zbigniew Lasocik

Committee on Economic, Social and Cultural Rights

Mr. Jaime Marchan Romero (Chair)
Ms. María Virginia Bras Gomes

Committee on the Rights of the Child

Mr. Kamel Filali
Mr. Dainius Puras

Committee against Torture

Ms. Felice Gaer
Mr. Xuexian Wang

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

Mr. Abdelhamid El-Jamri (Chair)

Mr. Mehmet Sevim

Mr. Azad Taghizada

Committee on the Rights of Persons with Disabilities

Mr. Mohammed Al Tarawneh (Chair)

Mr. Mansur Chowdhury

Ms. Jia Yang

II. Opening of the meeting, election of officers and adoption of the agenda

3. The Chief of the Human Rights Treaties Branch, Ibrahim Salama, welcomed all Chairs and members present on behalf of the High Commissioner and delivered a statement in which he expressed satisfaction about the opportunity to discuss follow-up procedures, both in respect of concluding observations and decisions, in the context of this meeting and he noted that this reflected the importance that treaty bodies conferred to the implementation of human rights norms by States parties. In particular, he noted that four treaty bodies had established follow-up mechanisms in recent years.

4. Mr. Salama mentioned that discussions on the universal periodic review mechanism (UPR), including its relation to the work of the treaty bodies, would continue as well.

5. Mr. Salama informed participants of the six priority areas for the work of OHCHR for the next two years, notably 1) migration; 2) elimination of all forms of discrimination; 3) protection of economic, cultural and social rights; 4) protection of human rights in situations of armed conflict, violence and insecurity; 5) combating impunity and strengthening of the rule of law and democratic societies; and 6) strengthening international human rights mechanisms, including the treaty bodies.

6. He noted that he was pleased that efforts, including the convening of inter-committee meetings since 2002, had contributed to the increased coherence in the system. He further expressed the unquestionable need to consider further harmonization of working methods, coherence and efficiency, especially in light of the growing number of treaties and treaty bodies, with the Committee on Enforced Disappearances to begin its work the following year.

7. Mr. Salama also referred to the recent participation of former and current human rights treaty body experts in an informal meeting in Dublin, Ireland, to discuss possible broad lines for reform of the human rights treaty bodies and noted that the meeting had endorsed the Dublin Statement. He mentioned that participants to the inter-committee meeting would soon be contacted by the organizers of the Dublin meeting, requesting their comments and support. Finally, he reassured participants that throughout the process of reflection, numerous opportunities would be available for all experts to participate and contribute their views with regard to the issues at stake and he called for the participation of experts as the drivers of this process, as they were best placed to continue its exercise.

8. Following the statement of Mr. Salama, Naela Gaer, Chair of the Committee on the Elimination of Discrimination Against Women (CEDAW), was confirmed as the Chair/Rapporteur and Mohammed Al Tarawneh, Chair of the Committee on the Rights of Persons with Disabilities (CRPD) was confirmed as Vice-Chair. The other Vice-Chair, Yanghee Lee, Chair of the Committee on the Rights of the Child, was absent. The participants adopted the agenda (HRI/ICM/2009/1/Add.1), with an additional more general

agenda item entitled “Future activities of the inter-committee meeting”, and the programme of work.

III. Enhancing the effectiveness of the treaty bodies a coordinated approach to the work of the treaty bodies

9. Under this agenda item, participants discussed improvement and harmonization of the treaty body working methods. Pursuant to a recommendation of the ninth inter-committee meeting, the tenth inter-committee meeting focused on three issues: follow-up to concluding observations; follow-up to decisions; and the universal periodic review as a standing agenda item. States parties, specialized agencies, funds and programmes as well as non-governmental organizations (NGOs) present were provided with the opportunity to speak under each agenda item.

Discussion on follow-up to concluding observations

10. The inter-committee meeting emphasized the significance of follow-up to concluding observations and recommended that this issue be a standing agenda item for each treaty body session. Participants agreed that follow-up procedures of all treaty bodies be harmonized as far as possible.

11. Participants noted that all treaty bodies request States parties to provide information on implementation of the recommendations contained in the previous concluding observations in their subsequent reports or during the constructive dialogue.

12. Several treaty bodies, i.e. the Human Rights Committee (CCPR), the Committee on the Elimination of Racial Discrimination (CERD), and the Committee against Torture (CAT), have formal procedures to monitor more closely implementation of specific concluding observations and the respective mandate holders (Coordinator/Special Rapporteur/Rapporteur) for follow-up on concluding observations highlighted the main aspects of their treaty body specific procedures on follow-up (see also HRI/ICM/2009/6). The representatives of CEDAW noted that the Committee had recently adopted such a procedure and that its modalities would be discussed at its upcoming forty-fifth session in January-February 2010. The representatives of CERD mentioned that the Committee also identifies a number of recommendations to be followed up during the Universal Periodic Review process.

13. According to a recent preliminary review of the practice of CAT, 81 States parties' reports have been considered under its follow-up procedure since May 2003, when the procedure was adopted. From the assessment undertaken by the Rapporteur for follow-up, the overall response rate was deemed to be satisfactory with an approximately 75 per cent (50 States parties out of 67 had provided follow-up information), and generally within the deadline of one year or shortly thereafter. In the case of CAT, States parties were requested to provide follow-up information on three to six recommendations, with a majority being asked to provide information on prompt, impartial, and effective investigations into allegations of torture and ill-treatment.

14. In the absence of a written follow-up procedure, members of the Committee on the Rights of the Child (CRC) noted that they regularly engage and participate in follow-up activities inter-sessionally at national and regional levels, supported by OHCHR and UNICEF, among others. Representatives of the Committee on Economic, Social and Cultural Rights (CESCR) and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) informed the meeting that they are both planning to discuss and adopt a follow-up procedure and the representatives of the CRPD

indicated the Committee's interest in the current practices of treaty bodies with respect to the follow-up procedures. The members of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) underlined that the Subcommittee's practice differed from that of the other treaty bodies in that it did not consider State party reports, but carried out visits to States parties in a confidential procedure. Accordingly, follow-up to its recommendations would potentially differ from that of other treaty bodies, and could include follow-up visits, cooperation with national preventive mechanisms, and the Special Fund established through the Optional Protocol to the Convention against Torture.

15. Participants emphasized the need to make the follow-up procedure transparent, unless the treaty specified otherwise. In this respect, the inter-committee meeting discussed the possibility for each treaty body to create a webpage dedicated to follow-up, which has already been established by some treaty bodies. Participants agreed that the documents to be posted on such a webpage should include the recommendations identified for follow-up by the Committee, the follow-up information submitted by States parties, the letters sent by the Rapporteur/Committee, as well as information submitted by stakeholders such as national human rights institutions (NHRIs) and civil society organizations, including NGOs.

16. Participants highlighted the need to restrict the number of recommendations upon which States parties could be asked to provide follow-up information, although some participants noted that such a limitation could pose problems considering the inter-relatedness of certain recommendations. Based on the experience of different treaty bodies and the discussion held, most participants agreed that the identification of three recommendations for follow-up would be ideal.

17. Based on the experience of a number of treaty bodies, participants discussed the possibility of sending reminders to States parties upon their failure to submit a follow-up report. It was also noted that some treaty bodies request for consultations to be held with representatives of a State party from which a follow-up report is more than six months overdue with a view to discussing the delay and/or the progress made in implementing the recommendations of the Committee. Furthermore, some participants raised the possibility of involving the whole Committee and/or the country rapporteur in the assessment of the follow-up information received from States parties.

18. The issue of translation into working languages was highlighted by various participants given that a delayed translation of follow-up information would hamper a timely assessment of the information. While the difficulties associated with translation of lengthy follow-up reports were noted, the need to receive a follow-up report that contains all the information required to assess the implementation of the recommendation was also stressed. Participants agreed that certain modalities of a follow-up procedure were to be left to the practice of treaty bodies, such as the possibility of imposing a page limit for follow-up reports. The point was made that this should be done with a view to alleviating the reporting burden for States parties and facilitating the timely translation of documents. Some participants noted that the number of mandate-holder(s) and the criteria for the assessment of the follow-up information provided by States parties should be considered by each treaty body separately.

19. The inter-committee meeting emphasized the important role played by NHRIs and civil society organizations, including NGOs, in respect of follow-up at the national level. Participants agreed that the submission of information from such organizations and institutions on the implementation of recommendations at the national level should be encouraged and addressed the timing for the submission of information to the treaty bodies.

20. The inter-committee meeting raised the issue of technical assistance and cooperation. Some participants emphasized the need for technical assistance by inter-governmental entities, including the International Labour Organization and the International Organization for Migration, if requested by a State party for the implementation of treaty body recommendations. Participants also discussed the possibility of consolidating the identification of recommendations for follow-up by different treaty bodies with a view to receiving targeted technical assistance.

21. Some participants noted that the follow-up activities by OHCHR and other United Nations entities should be consolidated when organizing, inter alia, workshops, meetings, seminars and country visits.

22. All participants agreed that there was an urgent need for additional resources to be allocated to the Human Rights Treaties Branch of the OHCHR for the support of the follow-up mechanisms of respective treaty bodies.

23. The representative of the Inter-Parliamentary Union informed participants about their workshops with Parliamentarians and civil society in different countries with a view to implementing treaty body recommendations. The representatives of civil society organizations and NGOs noted that follow-up to concluding observations is essential for the work of the treaty bodies. They encouraged treaty bodies to further develop and strengthen their follow-up procedures with a view to adopting a procedure for qualitative assessment and to formally seek and accept information from NGOs. They also emphasized that a transparent procedure would be essential and reiterated their previous recommendation concerning the creation of a master calendar of deadlines by which information should be submitted to treaty bodies. One representative highlighted the need to publicize all relevant information on a webpage for each treaty body dedicated to follow-up and the importance of follow-up visits as well as the participation of civil society in reporting on progress made regarding implementation to the treaty bodies.

Discussion on follow-up to decisions

24. Under this agenda item, participants discussed ways to strengthen the follow-up to individual communications procedures or decisions with a view to obtaining the maximum response from States parties. Participants from each of the four treaty bodies currently dealing with individual communications, i.e. CCPR, CAT, CERD and CEDAW provided information on their existing formal follow-up procedures to monitor and encourage implementation by the State party of their decisions (see also HRI/ICM/2009/7). Such procedures included the publication of annual reports, notes verbales transmitted to States parties, meetings with States parties' representatives, and, on two occasions, missions to States parties. It was generally agreed that to a large extent these follow-up procedures had been successfully harmonized, making decisions more transparent and effective.

25. It was noted that CRPD had not yet registered any individual communications but members of the Committee mentioned that it would examine communications for the first time at its upcoming session in February 2010. It was also noted that neither CMW nor CESCR had yet considered individual communications as the provisions or instrument relating thereto had not yet become operative. Representatives of the CRC mentioned that a Human Rights Council Open-Ended Working Group on an Optional Protocol to the Convention on the Rights of the Child was currently discussing the possible establishment of an individual communications procedure to the Convention. However, the representatives of those treaty bodies that did not have an individual communications procedure expressed willingness to learn from the experiences of the committees with established systems.

26. Participants generally agreed that the issue of follow-up to decisions was fundamental and they noted that although many States parties implemented treaty body decisions, constraints and difficulties still remained, with a significant number of States parties failing to abide by their commitments. Some challenges highlighted included cases of non-cooperation, non-response and even cases where a State party would challenge the decision. Members of CERD reminded participants of its past proposal to create a single body dealing with individual communications and proposed collaboration between the Secretariat and a working group of follow-up rapporteurs. Representatives of CAT noted that non-compliance or rejection by the State party of the decisions of the Committee was a serious problem. At present, CAT was developing a General Comment on evaluation of facts and evidence.

27. Participants highlighted the importance of continued dialogue with States parties. In their view, ways and means of encouraging States parties to implement decisions of the Committees included workshops involving the special rapporteurs on follow-up procedures, technical support, discussions with the States parties and increased awareness-raising. Ways of implementing the recommendations of the treaty bodies which had been undertaken by the Committees included the education of professors, lawyers and jurists on the jurisprudence of a given State.

28. CRPD noted that with the future ratification of the Convention on the Rights of Persons with Disabilities by the European Union as a region, in addition to individual States parties, this would need to be reflected in follow-up procedures as well.

29. It was noted that all of the Committees' decisions included remedies for the victims following the finding of a violation and although it was mostly agreed that remedies and compensation were extremely complex issues, Committees had differences in their approach. CCPR, CAT, and CERD adopted remedies specific to the individual case, and, to the extent it may be pertinent, recommended amendments to legislation. CEDAW, however, adopted remedies specific to the victim as well as very detailed general recommendations on the issues raised in the communication. Representatives of CEDAW pointed out that the Committee would consider both existing approaches with a view to strengthening the procedure to ensure State party involvement and implementation of its decisions and it requested advice from other treaty bodies in this regard and asked them to share their experiences in handling remedies for cases.

30. Most participants agreed that given the complex nature of remedies, Committees should consider adopting a similar and consistent approach in this respect. They generally agreed that follow-up was most successful when processes were precise and conducted effectively. The question of technical assistance and resources needed by the State party to carry out the remedies recommended by treaty bodies was also addressed. Finally, participants requested the Secretariat to prepare a background paper on convergence and divergence of follow-up procedures to individual communications.

31. NGO representatives suggested that the treaty body system, as a whole, should issue and publish decisions on a more regularized basis to facilitate involvement by civil society, enhance the effectiveness of the system and improve the ability of NGOs and local media to follow up on implementation of decisions by their respective States parties.

32. The Secretariat reported on follow-up to decisions and challenges in this regard, noting that some Committees were affected to a larger extent than others given the number of rights and violations they dealt with. It was reiterated that information on follow-up to decisions was regarded as a public procedure unless otherwise decided by the Committee.

Discussion on inquiries and visits

33. Four treaty bodies, notably CAT, CEDAW, CRPD and CESCR may, on their own initiative, initiate inquiries if they have received reliable information containing well-founded indications of serious or systematic violations of the conventions in a State party. Inquiries may only be undertaken with respect to States parties who have recognized the competence of the relevant Committee in this regard. Only CAT and CEDAW have used this procedure so far. A brief introduction of the procedure by representatives of CAT and CEDAW triggered a number of questions from representatives of those treaty bodies who did not have such a procedure.

34. Members of the SPT informed the meeting that the objective of the Subcommittee as provided for by the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment was to establish a system of regular visits to places where persons were deprived of their liberty. They highlighted that their work was not separated into inquiries, visits, recommendations and follow-up but rather that the intention was to have an on-going exchange on a rolling basis.

35. Following the brief discussion, the inter-committee meeting recommended that treaty bodies able to conduct inquiries consider the feasibility and necessity of establishing a follow-up procedure that is specific to the inquiry procedure. It was further agreed that the theme of follow-up to inquiries and visits should also be discussed by the proposed working group on follow-up and that one subgroup would address follow-up to concluding observations and to inquiries/visits.

Other issues

Translation/resources

36. Participants discussed the importance of translation of documents into working languages, including Braille, as well as resources allocated to the work of the treaty bodies. In light of the difficulties faced in respect of translations, the meeting agreed to reiterate its previous request addressed to the United Nations Conference Services, as well as all other relevant entities, to provide sufficient services in terms of timely translations, including State party replies to lists of issues, so as to enable an effective functioning of treaty bodies. The meeting particularly emphasized the need to allocate additional resources to follow-up activities with regard to treaty body concluding observations and decisions/views, including the specific designation of financial and human resources within the OHCHR to assist the treaty bodies with their respective follow-up mechanisms.

Future activities of the inter-committee meeting

37. Under the additional agenda item, participants discussed the future activities of the inter-committee meeting. There was general agreement that focusing on one specific topic would be preferable and participants decided that the eleventh inter-committee meeting would focus on the theme of preparation and analysis as a basis for lists of issues, including lists of issues prior to reporting (targeted/focused reports), taking into account the application of the common core document and the treaty-specific reporting guidelines. It was also agreed that the meeting of chairs would identify such a specific theme to be discussed at subsequent inter-committee meetings which would allow the committees to take informed decisions concerning their representation at such meetings.

38. The meeting also agreed that background documentation prepared by the Secretariat on the specific theme with respect to current practices as well as suggestions for possible

areas for harmonization should be circulated well in advance of the meeting to allow the members to be well-prepared for the discussion.

39. Further to the establishment of the thematic working groups, including the working group on follow-up, participants agreed that the inter-committee meeting would meet once per year, with the participation of the chairs of human rights treaty bodies who are *ex officio* members for this purpose, as well as one additional member of each treaty body.

IV. Draft points of agreement of the tenth inter-committee meeting

40. The tenth inter-committee meeting decided on the following points of agreement, to be transmitted to the twenty-second meeting of chairpersons in 2010:

Inter-committee meeting

41. Recognizing the need to further improve and harmonize the working methods of the human rights treaty bodies, the tenth inter-committee meeting reiterated its previous recommendation (A/64/276, para. 49 (j) and (m)) to establish a working group on follow-up, with the composition of both the rapporteurs on follow-up to concluding observations and the rapporteurs on follow-up to individual communications of each treaty body, if applicable, or the members responsible for follow-up activities. It also recommended that the working group be divided into two sub-groups, one on follow-up to concluding observations and inquiries/visits¹, and one on follow-up to individual communications, and that the sub-groups meet in parallel once per year for a period of two days with a view to facilitating interaction. The tenth inter-committee meeting also recommended that the sub-groups commence their work by determining their modalities, terms of reference and working methods, and that the working group report to the inter-committee meeting. It further recommended that other thematic working groups be established as decided. The tenth inter-committee meeting requested the Secretariat to organize the meetings of the working groups within available resources.

42. The tenth inter-committee meeting recommended that the practice of establishing such thematic working groups be reviewed after two years, in view of its experimental nature.

43. Taking into account the establishment of the thematic working groups, the tenth inter-committee meeting recommended that the inter-committee meeting meet once per year, with the participation of the chairpersons of human rights treaty bodies who are *ex officio* members for this purpose, as well as one additional member of each treaty body.

44. The tenth inter-committee meeting recommended that a standing item on its agenda be the strengthening of the treaty body system through the improvement and harmonization of treaty body working methods. In addition to the standing agenda item, it decided that the eleventh inter-committee meeting would focus on the theme of preparation and analysis as a basis for lists of issues, including lists of issues prior to reporting (targeted/focused reports), taking into account the application of the common core document and the treaty-specific reporting guidelines. The tenth inter-committee meeting also recommended that the

¹ Visits refers to the visits undertaken by the Subcommittee on Prevention of Torture as provided for by the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

meeting of chairpersons identify such a specific theme to be discussed at subsequent inter-committee meetings. Furthermore, the tenth inter-committee meeting recommended that documentation for the inter-committee meetings include a background paper on such theme, prepared by the Secretariat, with respect to current practices as well as suggestions for possible areas for harmonization. This background paper will be circulated to all treaty bodies as early as possible prior to the inter-committee meeting to allow each treaty body to discuss the theme in preparation for the meeting.

Follow-up to concluding observations adopted in the context of the State party reporting process

45. The tenth inter-committee meeting agreed that follow-up procedures were an integral part of the reporting procedure and an important aspect of the work carried out by the treaty bodies in order to ensure effective follow-up to concluding observations, and reiterated the recommendation of previous meetings that each treaty body consider adopting a procedure within a reasonable time period. Such a procedure could include a request to States parties to respond, within a designated period of time, to priority issues identified by the Committee. The tenth inter-committee meeting recommended that reminders be sent to States parties who do not respond to the request for information within a given deadline, in accordance with the decision by each treaty body.

46. The tenth inter-committee meeting recommended that the modalities of follow-up procedures on concluding observations should be developed by each treaty body, further elaborated and acted upon within the working group on follow-up. The procedure should consist of one or more mandate holder(s) who will assess the information provided by States parties and develop, as necessary, pertinent criteria for analysis of the information received. The tenth inter-committee meeting recommended that the working group on follow-up serve as a tool for harmonization of such procedures. Furthermore, the tenth inter-committee meeting reiterated its previous recommendation that each treaty body complete an assessment and analysis of its follow-up procedure, identifying difficulties, obstacles and results, by 2011, with a view to facilitating the task of the working group on follow-up.

47. The tenth inter-committee meeting recommended that the follow-up procedure of each treaty body should be undertaken in a transparent manner and therefore be considered as a public procedure. The tenth inter-committee meeting recommended that all the information received from the States parties and correspondence between States parties and the treaty bodies should be made publically available, including information received from other stakeholders such as national human rights institutions and civil society, including non-governmental organizations. In this respect, the tenth inter-committee meeting recommended that a separate webpage on follow-up be created for each treaty body to include such information.

Follow-up to individual communications

48. The tenth inter-committee meeting requested the Secretariat to prepare a background paper on convergence and divergence of follow-up procedures to individual communications of the treaty bodies and to present such paper to the proposed sub-group on follow-up to individual communications, as referred to in paragraph a), with a view to facilitating their discussion.

49. The tenth inter-committee meeting recommended that decisions/views on individual communications be published in a regular and systematic way, and disseminated broadly,

with a view to enhancing the involvement of national human rights institutions and civil society, in encouraging States parties' implementation of decisions/views of treaty bodies.

Follow-up to inquiries

50. The tenth inter-committee meeting recommended that treaty bodies able to conduct inquiries consider the feasibility and necessity of establishing a follow-up procedure that is specific to the inquiry procedure.

Involvement of other stakeholders in follow-up activities

51. The tenth inter-committee meeting reiterated its previous recommendation concerning the important role played by national human rights institutions, national preventive mechanisms, and civil society, including NGOs, in respect of follow-up at the national level, and encouraged the support of such stakeholders in the implementation of treaty bodies' follow-up procedures. The tenth inter-committee meeting further recommended that each treaty body secretariat clarify and make public the deadlines for submission of such information.

Reservations

52. Further to the recommendation of the sixth inter-committee meeting that the working group on reservations be maintained and meet if required, the tenth inter-committee meeting requested the Secretariat to include in its report on reservations, prepared on a regular basis, information on the progress made by the United Nations International Law Commission with regard to reservations. In view of this information, the inter-committee meeting will then decide whether the working group on reservations should reconvene.

Technical assistance

53. The tenth inter-committee meeting encouraged all actors involved in international cooperation, including the Office of the High Commissioner for Human Rights (OHCHR), to engage in capacity building and technical assistance activities in relation to implementation of treaty body recommendations and decisions/views, in particular, through its regional and field presences, and to seek to involve relevant United Nations entities in such activities.

Human and financial resources

54. In light of the difficulties faced in respect of translations, the tenth inter-committee meeting reiterated its previous request (A/64/276, annex one, para. 49 (v)) addressed to the United Nations Conference Services, as well as all other relevant entities, to provide sufficient services in terms of timely translations, including State party replies to lists of issues, so as to enable an effective functioning of treaty bodies.

55. In this respect, the tenth inter-committee meeting expressly recommended that additional resources be allocated to follow-up activities with regard to treaty body concluding observations and decisions/views, and that financial and human resources be specifically designated within the OHCHR to assist the treaty bodies with their respective follow-up mechanisms. The tenth inter-committee meeting further recommended that a

specific request be transmitted to States parties and to United Nations Conference Services to ensure that sufficient resources be made available to the follow-up procedures, including for timely translations.
