



## International Human Rights Instruments

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### Inter-Committee Meeting of the human rights treaty bodies

#### Twelfth meeting

Geneva, 27-29 June 2011

Item 5 (b) of the provisional agenda

**Enhancing the effectiveness of the treaty bodies:  
a coordinated approach to the work of the treaty  
bodies: harmonization of working methods**

### Meeting of chairpersons of the human rights treaty bodies

#### Twenty-third meeting

Geneva, 30 June-1 July 2011

Item 4 (a) of the provisional agenda

**Enhancing the effectiveness of the treaty bodies:  
a coordinated approach to the work of the treaty bodies:  
discussion of the recommendations of the twelfth Inter-  
Committee Meeting**

## Report of the Inter-Committee Meeting working group on follow-up to concluding observations, decisions on individual complaints and inquiries\*

### I. Introduction

1. The Inter-Committee Meeting working group on follow-up met at the Office of the United Nations High Commissioner for Human Rights (OHCHR) at Geneva from 12 to 14 January 2011. The working group was established following the recommendation of the tenth Inter-Committee Meeting (A/65/190, annex 1, para. 40 (a)) and was composed of the members responsible for the follow-up activities of each treaty body, including rapporteurs on follow-up to concluding observations and the rapporteurs on follow-up to individual communications, as applicable. The working group met in private.

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

#### **Human Rights Committee**

Yuji Iwasawa (Chair)  
Abdelfattah Amor

#### **Committee on the Elimination of Discrimination against Women**

Barbara Bailey  
Pramila Patten

#### **Committee on the Elimination of Racial Discrimination**

Nourredine Amir

#### **Committee on Economic, Social and Cultural Rights**

Mohamed Ezzeldin Abdel-Moneim  
Zdzislaw Kedzia

#### **Committee on the Rights of the Child**

Yanghee Lee (Chair)  
Lothar Friedrich Krappman

#### **Committee against Torture**

Felice Gaer  
Fernando Mariño Menéndez

\* Late submission.

Régis de Gouttes

**Subcommittee on Prevention  
of Torture**

Víctor Manuel Rodríguez Rescia (Chair)  
Hans Draminsky Petersen

**Committee on the Rights of Persons  
with Disabilities**

Ana Peláez Narváez  
María Soledad Cisternas Reyes

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

Ana Elizabeth Cubias Medina  
Mehmet Sevim

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

3. The meeting was opened by Navanethem Pillay, United Nations High Commissioner for Human Rights, who greeted all chairs and members present. The High Commissioner noted that 2011 would hopefully be a decisive year for treaty bodies, as it would be for her Office. She informed the participants about a series of events that had taken place in response to her call in the autumn of 2009 to all stakeholders to initiate a process of reflection on ways and means to strengthen the treaty body system and noted that other events were scheduled in the coming months. She underlined that those events, organized by external partners and facilitated by her Office, were meant to gather the suggestions of different groups of stakeholders on how to bolster the treaty body system and make it more efficient and effective for rights holders worldwide.

4. The High Commissioner mentioned that, on 12 and 13 May, in cooperation with treaty body chairs and the International Institute for the Rights of the Child in Sion, Switzerland, her Office would hold a technical consultation for States parties with a view to hearing their suggestions on ways and means to strengthen the preparation of States party reports, enhancing the dialogue between States parties and treaty bodies as well as the implementation of treaty bodies recommendations at the national level. She also highlighted that, in parallel to those events, her Office was organizing a series of one-day consultations which brought together two treaty bodies while they were in session. The objective of those retreats was both to allow members of treaty bodies to discuss in advance the topics selected for the next Inter-Committee Meeting in June, and to provide members with a venue for creative thinking with a view to strengthening their working methods. Furthermore, the High Commissioner had consulted with the treaty body chairs and reached the conclusion that the various consultations on the treaty body strengthening process would culminate with a compilation of proposals stemming from that exercise which would be shared with all stakeholders involved.

5. The High Commissioner hoped that the joint effort to strengthen an ever expanding treaty body system faced with increasing challenges and increasing resource scarcity would result in tangible and innovative recommendations for a more robust and sustainable system. A vision was needed to capture lessons from the past, address current challenges and prepare for the future of the treaty body system, which represented one of the major achievements in the history of the human rights movement. In the High Commissioner's view, two considerations seemed to be of particular relevance. First, the role of treaty bodies in follow-up should be complementary to, and complemented by, other stakeholders' work, as treaty bodies benefitted greatly from cooperation and synergy with a variety of actors. Second, treaty bodies might wish to explore ways to maximize their comparative advantage and clout flowing from their role as custodians of the norms, as well

as from the quasi-judicial nature of their work in assessing country situations, formulating findings and suggesting remedies, approaches and policies.

6. In addition, the High Commissioner mentioned that the four treaty bodies that had adopted a follow-up procedure in respect of concluding observations would, following a recommendation of the tenth Inter-Committee Meeting, embark on an assessment of the effectiveness of those procedures in 2011. In that perspective, the question should be asked whether the current follow-up procedures had made a difference at the national level, whether they had enhanced the protection of rights holders and whether such follow-up procedures should be extended to all treaty bodies, and whether their added value actually outweighed the challenges they brought. The High Commissioner was aware that one of the challenges for some committees was the lack of procedural guidelines to assess follow-up reports submitted by States parties. She thus encouraged the working group to consider adopting common guidelines for their follow-up procedures that should include criteria regarding the assessment of reports in the four committees that have adopted the procedure to date.

7. The High Commissioner noted that she shared the view expressed by many treaty body members that prioritization in the field of human rights was particularly difficult, as it might conflict with the indivisibility of all human rights. However, she believed that the treaty bodies might wish to consider structuring their concluding observations around immediate, medium-term and long-term deliverables when transmitting them to States parties. In that respect, she noted that a restructuring of the concluding observations along more workable parameters would undoubtedly facilitate implementation by States parties, as well as follow-up by United Nations country teams, including her Office, and by national human rights institutions (NHRIs) and civil society actors.

8. Following the statement of the High Commissioner, Yanghee Lee, Chair of the Committee on the Rights of the Child, was confirmed as Chair/Rapporteur of the Inter-Committee Meeting working group on follow-up. Participants subsequently adopted the agenda (HRI/ICM/WGFU/2011/1) and the programme of work.

### **III. Meeting with United Nations entities and specialized agencies, and other intergovernmental organizations**

9. On the first day, the Inter-Committee Meeting working group on follow-up met with representatives of several United Nations entities, specialized agencies, and other intergovernmental organizations to discuss ways to further strengthen interaction with treaty bodies focusing on follow-up to treaty bodies' recommendations. The United Nations representatives present noted with appreciation the opportunity to contribute to the discussions of the working group regarding follow-up to such recommendations. They provided information on their current cooperation with the treaty bodies and suggested possible ways forward.

10. While welcoming the increasing number of treaty body recommendations on migration issues, the International Organization for Migration noted the need for consistent terminology and recommended that treaty bodies harmonize migration terminology and thereby encourage consistent and clear use of that terminology by States parties.

11. The Office of the United Nations High Commissioner for Refugees (UNHCR) expressed its strong support for initiatives aimed at enhancing the implementation of treaty body recommendations at the national level, considering that it remained one of the most significant challenges for the effective protection and promotion of human rights. UNHCR noted that it used treaty body concluding observations, recommendations and case law as protection advocacy tools. In order to allow treaty body members to obtain first-hand

information on the human rights situation of the respective countries and facilitate the follow-up on the implementation of recommendations on the ground, UNHCR suggested that country visits by treaty bodies be organized.

12. The Inter-Parliamentary Union highlighted the key role of Parliaments in setting up an institutional and legal framework and therefore in implementing international human rights instruments. With a view to fostering its collaboration with treaty bodies, the Inter-Parliamentary Union suggested that a recommendation on the active participation of Parliaments in implementing the treaty body recommendations be systematically inserted into the concluding observations.

13. The United Nations Children's Fund (UNICEF) underscored the need for concluding observations to be clear and concise and for recommendations to be coherent across treaty bodies, as well as concrete and operational. UNICEF suggested including a section in the concluding observations on urgent issues in cases where a State party would have consistently failed to implement a specific recommendation. It also suggested that, when deemed appropriate, treaty bodies include explicit references to the possibility of seeking technical assistance from United Nations partners, including UNICEF, in their concluding observations. UNICEF noted the need for a more systematic approach with regard to the possibility of in situ follow-up visits by the treaty body country rapporteurs.

14. Following the statements made by the United Nations entities, specialized agencies, and other intergovernmental organizations, the Director of the OHCHR Field Operations and Technical Cooperation Division, Anders Kompass, shared some thoughts on the role of field presences with regard to the implementation of treaty body recommendations. He noted the value of field presences in raising awareness, speeding up the reporting process, identifying core issues and in providing clear indicators.

15. The members of the working group on follow-up welcomed the active role played by United Nations partners in providing country specific information. The key role played by United Nations partners on the ground in assisting States parties in implementing treaty bodies' recommendations was also stressed by participants. Following the discussion, the working group recommended that treaty bodies explore ways to engage with United Nations partners more formally and systematically throughout the reporting process, including in the context of follow-up activities. It further recommended that United Nations partners be officially invited to participate in the work of the treaty bodies and encouraged them to provide country-specific input and follow-up information. Participants acknowledged the importance of ensuring consistency and coherence between treaty bodies' recommendations.

#### **IV. Meeting with the regional Chair of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights**

16. The regional Chair of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights, Ahmed Herzenni, addressed the Inter-Committee Meeting working group on follow-up on 12 January 2011. Mr. Herzenni highlighted the pivotal role of NHRIs in promoting implementation of the international human rights treaties and treaty bodies' recommendations at the national level and in providing authoritative information to treaty bodies.

17. He suggested that treaty bodies align their procedures as much as possible, notably with regard to their cooperation with NHRIs and other key national actors, through common rules of procedures and working methods. He also called upon treaty bodies to

adopt a coordinated approach to follow-up to their decisions, and to establish harmonized formal follow-up procedures. Mr. Herzenni further proposed that treaty bodies systematically inform NHRIs about opportunities to provide information on follow-up and to enhance accessibility to follow-up information, including through web pages and mailing lists.

18. Several committee members acknowledged the important and unique role that NHRIs played in the system. They suggested inviting NHRIs to contribute also to the treaty bodies' formal follow-up procedures and establishing processes to regularly seek and receive information from NHRIs on follow-up and implementation. Working group participants also suggested the publication of treaty body follow-up information on the respective treaty body web pages, and the dissemination of that information to NHRIs immediately after each session in order for treaty bodies to raise awareness about these procedures and facilitate NHRI follow-up activities.

## V. Meeting with non-governmental organizations

19. The Inter-Committee Meeting working group on follow-up met with representatives of non-governmental organizations (NGOs) who provided information on their interaction with the treaty bodies regarding follow-up to concluding observations, decisions, inquiries and visits of treaty body members. A number of NGOs attended the meeting, including Amnesty International, the Centre for Civil and Political Rights, the International Rehabilitation Council for Torture Victims), the International Women's Rights Action Watch Asia Pacific, the NGO Group for the Convention on the Rights of the Child, World Organisation Against Torture and the Quaker United Nations Office, and made short presentations.

20. At the beginning of the meeting, the NGO representatives referred to the 2010 joint response from 20 NGOs<sup>1</sup> to the Dublin Statement on the Process of Strengthening of the United Nations Human Rights Treaty Body System. They noted that the paper contained 30 recommendations to the treaty bodies, OHCHR and to States, including on follow-up. One point that was also reiterated during the discussion was the need to have a "master calendar" as a valuable planning tool. The NGOs noted that such calendar would hopefully provide not only dates of consideration of State party reports, but also deadlines for receipt of NGO information, including for the list of issues and list of issues prior to reporting, for input to the drafting of general comments, and deadlines for follow-up information.

21. The NGO representatives also highlighted that follow-up on implementation of treaty body recommendations, including concluding observations, was one of the least developed areas of the treaty bodies' activities and should be further strengthened and harmonized. The NGOs noted that efforts to pursue implementation of priority concluding observations were useful and that many more NGOs could be encouraged by the treaty bodies to engage with that procedure and to use it to advocate for implementation. Through follow-up procedures, the treaty bodies could have a public dialogue with States parties

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<sup>1</sup> Advocates for Human Rights, Alkarama, Amnesty International, ARC International, Association for the Prevention of Torture, Centre for Civil and Political Rights, Centro de Estudios Legales y Sociales, Center on Housing Rights and Evictions, Federation Internationale de L'Acad, Human Rights House Foundation, Human Rights Watch, International Commission of Jurists, International Disabilities Alliance, International Rehabilitation Council for Torture Victims, International Service for Human Rights, International Women's Rights Action Watch, International Women's Rights Action Watch Asia Pacific, Mental Disability Advocacy Centre, NGO Group for the Convention on the Rights of the Child and the World Organisation Against Torture.

during the (usually lengthy) periods between consideration of reports, and could encourage and measure implementation. Follow-up could provide a more qualitative assessment of the implementation of the treaty bodies' recommendations and that would enable the committees to have a more detailed and interactive role in guiding the implementation of such recommendations. The NGOs further highlighted that effective follow-up procedures would depend on good and actionable concluding observations, and the importance of the structure, wording and specificity of such concluding observations was highlighted in that respect.

22. The point was further made that follow-up activities included a variety of different methods, and the importance of country visits by a member, or members, of at least one treaty body, was stressed. The possibility of having a joint mission by more than one treaty body was also put forward. In that respect, the NGOs noted that some of their organizations had observed the real benefits that such country visits brought, particularly in terms of engaging relevant Government ministries and national partners.

23. The NGOs also suggested that in the future, consideration could be given to the creation of a specific follow-up mechanism for all treaty bodies, in the form of a dedicated treaty body follow-up coordination unit or a senior-level treaty body follow-up coordinator post within OHCHR. That proposal was also included in the joint NGO response referred to above. In addition to following up directly with States parties, that unit or individual would promote follow-up among different branches and divisions within OHCHR, including those working on the universal periodic review, and with other relevant United Nations partners. The point was made that the Inter-Committee Meeting working group on follow-up could be an initial step towards an inter-body mechanism.

24. The Centre for Civil and Political Rights and the International Rehabilitation Council for Torture Victims also presented their proposal for a new treaty body follow-up mechanism consisting of three main functions, i.e. the country rapporteurs of the respective committees, the follow-up rapporteurs and a new follow-up chamber composed of the follow-up rapporteurs from each treaty body. The rationale behind the proposal would be to ensure that all actors have the responsibilities for those functions that they are best placed to perform. The main objective of the follow-up chamber would be to collect, analyse and evaluate follow-up information on a country basis rather than a thematic basis as practiced in the individual treaty bodies. That would provide all actors in the United Nations human rights system with a complete country-based breakdown of compliance with the main issues of treaty body concern.

25. The members of the working group thanked the NGOs for the diversity and relevance of their proposals and emphasized the important role played by civil society, including NGOs, in respect of follow-up at the national level. The importance of different types of follow-up activities, including follow-up visits by treaty body members, regional seminars and visits of special procedures, was highlighted by the members, and they also stressed that inputs from NGOs were important for creating social networks in the countries. The members also asked for further details about the two proposals for treaty body follow-up mechanisms put forward by the NGOs. Some members found these ideas interesting while others noted that they were premature as it would be better to harmonize the existing practices rather than establish a common mechanism. The question was also asked as to whether one should invest in follow-up procedures or rather in efforts to improve and strengthen the reporting system in general and include reviews of States parties in the absence of reports. The members of the working group recommended that treaty bodies, in developing and refining their follow-up procedure, encourage NGOs to actively contribute to such procedure by submitting information which would constitute one of the elements for assessing follow-up reports submitted by the States parties.

## **VI. Enhancing the effectiveness of the treaty bodies: a coordinated approach to the work of the treaty bodies**

26. Under this agenda item, participants discussed the working methods of treaty bodies in relation to follow-up to concluding observations, decisions, inquiries and visits, including possibilities for harmonization. Pursuant to a recommendation of the tenth Inter-Committee Meeting, the working group was divided into two subgroups that met in parallel, one on follow-up to concluding observations, inquiries and visits and one on follow-up to individual communications.

27. The background documentation on follow-up (HRI/ICM/WGFU/2011/2 and HRI/ICM/WGFU/2011/3) prepared by the Secretariat constituted the basis for discussion.

### **A. Subgroup on follow-up to concluding observations, inquiries and visits**

28. The subgroup met on Thursday, 13 January 2011 (morning and afternoon meetings) and was composed of the following treaty body experts: Abdelfattah Amor (Human Rights Committee), Nouredine Amir (Committee on the Elimination of Racial Discrimination), Barbara Bailey (Committee on the Elimination of Discrimination against Women), Felice Gaer (Committee against Torture), Yanghee Lee (Committee on the Rights of the Child), Zdzislaw Kedzia (Committee on Economic, Social and Cultural Rights), Ana Elizabeth Cubias Medina (Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families), Ana Peláez Narváez (Committee on the Rights of Persons with Disabilities), Hans Draminsky Petersen (Subcommittee on Prevention of Torture) and Víctor Manuel Rodríguez Rescia (Subcommittee on Prevention of Torture).

29. At the opening of the meeting, the members of the subgroup designated Ms. Lee to act as its Chair, and Ms. Gaer to act as its Rapporteur. The subgroup discussed a number of different issues related to follow-up, which are summarized below.

#### **1. Added value of the follow-up procedure**

30. Most members of the subgroup agreed that there was an added value in having a written follow-up procedure. This was a way of maintaining the dialogue in the period between reporting years and focusing on key protective issues. It was also seen as a driving engine for the general implementation of concluding observations, and the members generally agreed that follow-up should be public from the beginning to the end of the process.

31. While noting that the goal should be enhanced implementation and compliance, representatives of a few committees indicated that they were unsure whether they would be in a position to absorb a written follow-up procedure at that stage, given the human and financial resources needed for such procedure. The subgroup therefore agreed that it should be left to each treaty body that did not already have a follow-up procedure to decide on the feasibility and timing for the establishment of such procedure.

#### **2. Preliminary assessment of the follow-up procedure**

32. Representatives of the four committees that had adopted written follow-up procedures so far informed the meeting of their experiences in that regard. All of them noted that their experiences had been both positive and encouraging. One member said that the follow-up experience had been a successful one, despite its limits. However, they also identified difficulties and challenges encountered, including an increased workload for the respective committees and the Secretariat as well as turnover of both committee members

and Secretariat staff. Another obstacle referred to was the issue of timely translation of follow-up documentation, which could delay the process and sometimes defeat its purpose.

33. The representative of the Committee against Torture noted that her Committee had recently undertaken a preliminary assessment of its follow-up procedure, identifying difficulties, obstacles and results. From the establishment of the procedure at the thirtieth session in May 2003 up until the end of the forty-fourth session in May 2010, the Committee had received approximately 70 per cent of follow-up reports that were due by 14 May 2010.

34. The members of the subgroup agreed that concluding observations should be streamlined, strengthened and prioritized and that the recommendations should be concise and formulated in a precise manner appropriate to the matter at hand in order to facilitate follow-up and implementation. In that context, the point was also made that the committees generally undertook systematic follow-up of all matters, beyond the priority matters, in the context of the next report.

### **3. Adoption of procedural guidelines for follow-up**

35. One of the main points discussed by the subgroup was the possible adoption of procedural guidelines for follow-up. The Human Rights Committee and the Committee on the Elimination of Discrimination against Women already had such procedural guidelines; the subgroup generally agreed that each treaty body with a written follow-up procedure should consider adopting procedural guidelines for follow-up and refining their procedure. To that effect, while noting that the list was not exhaustive, the subgroup agreed on the following common elements to be included in such guidelines:

- (a) Ways in which the Committee should interact with stakeholders;
- (b) Procedures for determining when follow-up recommendations have been fully implemented;
- (c) A timeline for requesting follow-up information;
- (d) Means of coordination between the follow-up rapporteur and the country rapporteur;
- (e) Methods for qualitative assessment of information received;
- (f) How follow-up should be considered in the context of other methods of work, including the early warning and urgent action procedure and lists of issues prior to reporting, where appropriate.

36. Another point discussed by the subgroup was whether to recommend a limit to the number of urgent and/or priority recommendations identified under the respective follow-up procedures. The experiences of the various committees were identified in this respect, and the number of follow-up issues currently varied from between one and six. The subgroup agreed that the number should be limited to between two and four to keep the procedure focused. In order to further enhance the effectiveness of the follow-up procedure, participants further agreed that all treaty bodies should consider formulating clear criteria for the selection of recommendations to facilitate their identification, such as, for example, feasibility and urgency.

37. With regard to the issue of reminders for overdue follow-up information, most committees with a written follow-up procedure had such a system in place, but the periodicity for sending such reminders varied. The subgroup agreed that reminders for overdue follow-up information should be transmitted to a State party two months after the expiration of the deadline for submitting such information and again after four months if the information remained overdue. The subgroup agreed that, if the information was not



received within six months, the treaty body concerned should seek to meet with representatives of the State party.

**4. Reporting guidelines for follow-up information**

38. The members of the subgroup discussed the possibility of developing guidelines for States parties to facilitate the preparation of their follow-up replies. There was general agreement that such guidelines would be useful, and one of the main issues discussed was whether to establish a page limit for follow-up reports. Rather than establishing a particular page limit, the subgroup agreed that States parties should be encouraged to the extent possible to submit concise and focused follow-up replies in order to ensure their more timely translation. States parties were also reminded of the possibility to submit supplementary information as annexes to such reports, where possible in electronic form.

**5. Interactions with non-governmental organizations, national human rights institutions and United Nations partners**

39. The subgroup discussed the importance of having a streamlined format for follow-up in order to increase the involvement of stakeholders in the procedure. Participants agreed on the need for treaty bodies to engage with all stakeholders at all stages of the reporting process. The necessity to work closer with NHRIs and United Nations agencies, and to rely upon them to gather follow-up information, was also mentioned. Participants agreed that United Nations agencies should be systematically invited to provide information on follow-up, and that formal briefings and written submissions from United Nations country teams should be encouraged. The need to systematize the involvement of United Nations country teams and OHCHR desk officers throughout the reporting process was also underlined.

40. In order to ensure systematic input from United Nations country teams, entities and mechanisms, including appropriate special procedures of the Human Rights Council, NHRIs and international, regional, and national civil society actors, the subgroup on concluding observations, inquiries and visits recommended that committees strengthen their efforts to increase the visibility of the written follow-up procedure.

**6. Integrated approach to follow-up**

41. The subgroup discussed areas of cooperation and harmonization with regard to follow-up among the various international human rights mechanisms. In view of the cross-cutting nature of many issues raised by the treaty bodies, participants recommended that committees communicate, ensure a joint dialogue and coordinate their actions in order to guarantee consistency and cross-fertilization between the follow-up procedures of the treaty bodies and with other mechanisms, including the universal periodic review.

**7. Restructuring concluding observations around short-term, medium-term and long-term deliverables**

42. In the course of the meeting, the subgroup discussed the High Commissioner's suggestion to structure concluding observations around immediate, medium-term and long-term deliverables to facilitate implementation of the treaty body recommendations at the national level. Subgroup participants agreed that the High Commissioner's proposal should be given due consideration at the forthcoming Inter-Committee Meeting in June, alongside the structure and length of concluding observations.

**8. Alternative follow-up activities**

43. Participants reflected on possible alternatives to the formal follow-up procedures, as suggested by the High Commissioner in her opening statement. They generally agreed that

other activities should be seen as complementary to the formal follow-up procedure but not as alternatives to it. The written follow-up procedure should be kept as an intact process.

#### **9. Regional follow-up workshops**

44. The subgroup discussed the possibility of organizing more systematically regional workshops on reporting and follow-up to treaty body recommendations. Participants of the subgroup highlighted the great impact on implementation that such workshops might have at regional and national levels in providing guidance to States parties. Given the financial constraints the treaty body system is facing, participants called upon OHCHR to conduct an assessment of the feasibility of organizing and funding follow-up workshops where treaty body experts would play a leading role.

#### **10. Follow-up visits**

45. The subgroup contemplated the conduct of in situ follow-up visits as another means to strengthen implementation of treaty bodies' recommendations. Members of the Subcommittee on Prevention of Torture highlighted the importance of such visits but also the difficulty it faced in selecting countries to be visited. The subgroup encouraged the Subcommittee to identify criteria with a view to ensuring non-selectivity and non-discrimination when identifying in which countries to conduct follow-up visits.

46. Most participants agreed on the usefulness of in situ visits to assess the reality of the situation on the ground, maintain the dialogue with States parties, clarify any misunderstandings and provide specific advice. The possibilities offered by such visits to liaise and create a network of implementing partners on the ground, including United Nations agencies, were also underscored. Participants recommended that treaty bodies, together with OHCHR, United Nations country teams and other relevant United Nations partners, explore the possibility of conducting in situ follow-up visits, within available human and financial resources.

### **B. Subgroup on follow-up to individual communications**

47. The subgroup met on Thursday, 13 January 2011 (morning and afternoon meetings) and was composed of the following treaty bodies experts: Mohamed Ezzeldin Abdel-Moneim (Committee on Economic, Social and Cultural Rights), Yuji Iwasawa (Human Rights Committee), Régis de Gouttes (Committee on the Elimination of Racial Discrimination), Fernando Mariño Menéndez (Committee against Torture), Pramila Patten (Committee on the Elimination of Discrimination against Women), María Soledad Cisternas Reyes (Committee on the Rights of Persons with Disabilities), Mehmet Sevim (Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families) and Lothar Krappmann (Committee on the Rights of the Child).

48. At the opening of the meeting, the members of the subgroup designated Mr. Iwasawa to act as its Chair, and Mr. Mariño Menéndez to act as its Rapporteur. The Chair briefed the participants on his recent visit to the European Court of Human Rights in his capacity as Chair of the Human Rights Committee, where he met with judges, representatives of the Registry and with the Unit working with the Council of Europe's Committee of Ministers in monitoring the execution of the Court's judgments. In that regard, it was pointed out that the treaty bodies' decisions emanated from quasi-judicial organs.

49. Participants then examined and discussed the background note (HRI/ICM/WGFU/2011/3) prepared by the Secretariat, in connection with document HRI/ICM/2009/7, and shared information and opinions on the follow-up practices, treaties

provisions thereon and existing rules of procedure on individual complaints of their respective committees, as well as on the work of the existing Special and other Rapporteurs dealing with follow-up to individual communications. It was suggested that consideration be given to the establishment, within the different committees, of working groups or co-rapporteurs on follow-up.

50. Among other issues, participants also discussed the length of the follow-up procedure in general, how specific the remedy part of the treaty bodies' decisions should be, and the possibility of systematic inclusion of questions and recommendations on follow-up to individual complaints in lists of issues and concluding observations in the framework of the reporting procedure. Another issue discussed was the length of time given to States to readdress violations of the relevant treaty under the individual complaints procedure, which currently varied from three to six months. The manner and format in which follow-up information to individual cases was reflected in the respective committees' annual reports was also examined. In that context, it was noted that some treaty bodies had introduced a categorization of the States parties' replies, for example as being "satisfactory" or "unsatisfactory", and used interim follow-up reports adopted at each session.

51. A number of experts were of the opinion that treaty bodies, when dealing with individual communications, should try to better develop the dispositive part of their decisions, so as to assist States in adopting an appropriate remedy. However, no agreement was reached on suggestions to have a detailed and more specific remedy section in the decision, or to include general recommendations as part of the remedy.

52. A number of participants suggested that NHRIs and international and local NGOs should be encouraged to submit comments on follow-up replies and on measures taken by States parties to facilitate the assessment by the committees of the follow-up information on individual cases received. Involvement of United Nations regional offices, specialized agencies and United Nations country teams was also raised. The possibility of using in situ follow-up missions was also discussed.

53. The need for decisions on individual cases, including the follow-up information, to be fully accessible was another issue discussed, in particular regarding persons with disabilities. On another point, it was noted that some treaty bodies have compilations - "selected decisions" - of their respective jurisprudence, including information on follow-up. The subgroup also discussed follow-up to interim measures of protection, aimed at the prevention of the occurrence of irreparable harm to victims.

54. While some treaty bodies have adopted rules of procedure on follow-up procedures, it was further pointed out that, to date, none of the treaty bodies had established written comprehensive procedural guidelines thereon. A number of participants pointed out that some committees systematically referred to their respective rules of procedure/article of the pertinent treaty relating to follow-up in the dispositive part of their decisions on individual cases, while others never did so.

55. A number of participants also noted that while certain committees dealt with follow-up issues in public meetings, others examined such information in private. It was suggested that information on follow-up to individual cases be included in the committees' end-of-session press conferences when considered relevant. One member suggested having specific press releases issued on follow-up matters, similar to the ones currently used by the European Court of Human Rights.

56. Lastly, a number of members expressed their opinions on the manner in which decisions on individual cases were currently drafted, and the need, according to them, to have such decisions better legally reasoned in order to facilitate their subsequent implementation and follow-up.

## **VII. Meeting with the Chair of the Coordination Committee of Special Procedures**

57. The Inter-Committee Meeting working group on follow-up met with the Chair of the Coordination Committee of Special Procedures, Najat Maalla M'jid, to discuss coordinated follow-up to the recommendations made by special procedures and treaty bodies.

58. One of the main points raised was that all treaty bodies should consider engaging more consistently with the special procedures mandate holders of the Human Rights Council in areas relating to the follow-up procedures, so as to ensure that the selected recommendations were given special attention in the context of a country visit or during a meeting with relevant Government officials. Participants also reiterated the call of the joint eleventh Inter-Committee Meeting and seventeenth annual meeting of special procedures mandate holders for a more consistent approach to the follow-up of respective recommendations by special procedures and treaty bodies, in particular by consistently sharing their respective priority issues in relation to country and thematic situations.

59. Participants further recalled the point of agreement of the joint meeting that recommendations should be specific, measurable, achievable, realistic and time bound in order to enable enhanced follow-up. They recommended that the joint twelfth Inter-Committee Meeting and eighteenth annual meeting of special procedures mandate holders further discuss this issue with a view to facilitating consistent cross-referencing and reinforcement of the recommendations of special procedures and treaty bodies. Participants further recommended that the meeting could discuss a joint effective media strategy. Participants stressed that the collective information produced by the treaty bodies and special procedures should be more available and accessible to all in order to better reflect the United Nations human rights system as a whole. Avenues to improve the information flow should be explored, including through a greater use of the Universal Human Rights Index.

60. Furthermore, it was recommended that treaty bodies and special procedures mandate holders should interact in a consistent and coordinated manner with regional and national mechanisms with a view to enhancing cooperation in the context of follow-up, and the participants asked the Secretariat to prepare a compilation of good practices of cooperation between treaty bodies and special procedures, including in the context of follow-up.

## **VII. Draft points of agreement of the Inter-Committee Meeting working group on follow-up**

61. The following points of agreement will be presented to the twelfth Inter-Committee Meeting for approval and subsequent endorsement by the twenty-third meeting of chairpersons, in June 2011.

### **A. Points of agreement on follow-up to concluding observations, inquiries and visits**

#### **Inter-Committee Meeting working group on follow-up**

(a) The Inter-Committee Meeting working group on follow-up, recalling the recommendation of the tenth Inter-Committee Meeting, recommended that the treaty body system as a whole, with the assistance of OHCHR, should continue and strengthen its efforts to harmonize treaty body working methods and strengthen their methodology, taking into account recommendations by the working group.

**Establishment of follow-up procedures**

(b) The Inter-Committee Meeting working group on follow-up, recalling recommendations of previous Inter-Committee Meetings, stressed that each treaty body that did not already have a follow-up procedure should decide on the feasibility and timing for the establishment of such procedure.

**Adoption of guidelines for the follow-up procedure**

(c) The Inter-Committee Meeting working group on follow-up recommended that treaty bodies that had a written follow-up procedure and that had not yet adopted procedural guidelines for that procedure consider doing so and refining their procedure. In that respect, the working group recommended that such procedural guidelines include, inter alia, the following common elements:

- (i) Ways in which the Committee should interact with stakeholders;
- (ii) Procedures for determining when follow-up recommendations have been fully implemented;
- (iii) A timeline for requesting follow-up information;
- (iv) Means of coordination between the follow-up rapporteur and the country rapporteur;
- (v) Methods for qualitative assessment of information received;
- (vi) How follow-up should be considered in the context of other methods of work, including the early warning and urgent action procedure and lists of issues prior to reporting, where appropriate.

(d) The working group on follow-up further recommended that the committees limit the number of urgent and/or priority recommendations identified under their respective follow-up procedures to between two to four to keep the procedure focused. In order to further enhance the effectiveness of the follow-up procedure, the working group recommended that treaty bodies consider formulating clear criteria for the selection of recommendations to facilitate their identification, such as, for example, feasibility and urgency.

(e) The Inter-Committee Meeting working group on follow-up recommended that reminders for overdue follow-up information be transmitted to a State party two months after the expiration of the deadline for submitting such information and again after four months if the information remains overdue. If the information is not received within six months, the working group agreed that the treaty body concerned should seek to meet with representatives of the State party.

**Developing reporting guidelines for follow-up information**

(f) The Inter-Committee Meeting working group on follow-up recommended that all committees concerned consider developing guidelines for States parties in order to facilitate the preparation of follow-up replies. The working group recommended that States parties be encouraged to the extent possible to submit concise and focused follow-up replies in order to ensure their more timely translation, and reminded States parties of the possibility to submit supplementary information as annexes to such reports, where possible in electronic form.

**Interaction with stakeholders in general**

(g) The Inter-Committee Meeting working group on follow-up recommended that the committees concerned, with the assistance of OHCHR, strengthen their efforts to increase

the visibility of the written follow-up procedure so as to ensure systematic input from United Nations country teams, entities and mechanisms, including appropriate special procedures of the Human Rights Council, NHRIs and international, regional and national civil society actors.

#### **Interaction with United Nations partners**

(h) The Inter-Committee Meeting working group on follow-up recommended that all committees, with the assistance of OHCHR, should explore ways to systematically engage with United Nations specialized agencies, field presences and country teams throughout the reporting process, including in the context of follow-up activities. The working group also recommended that United Nations partners be officially invited to participate in the work of the treaty bodies and encouraged them to provide country-specific input and follow-up information.

(i) The Inter-Committee Meeting working group on follow-up recommended that all treaty bodies consider including explicit references in their concluding observations to the possibility of seeking technical assistance from United Nations partners, where deemed necessary.

#### **Cooperation with national human rights institutions**

(j) The Inter-Committee Meeting working group on follow-up recommended that committees recognize the important role of and contribution from NHRIs in the follow-up procedure and establish processes to regularly seek and receive information from NHRIs on follow-up and implementation.

#### **Interaction with non-governmental organizations**

(k) The Inter-Committee Meeting working group on follow-up recommended that treaty bodies, in developing and refining their follow-up procedure, encourage NGOs to actively contribute to such procedure by submitting information which would constitute one of the elements for assessing follow-up reports submitted by the States parties.

#### **Format and length of concluding observations**

(l) To facilitate follow-up and implementation, the Inter-Committee Meeting working group on follow-up recommended that recommendations be concise and formulated in a precise manner appropriate to the matter at hand. In this context, the working group discussed the proposal to structure concluding observations around immediate, medium-term and long-term deliverables to facilitate implementation of the treaty body recommendations at the national level.

(m) The working group on follow-up also reiterated the recommendation of the eleventh Inter-Committee Meeting that each treaty body explore ways of reducing the length of its concluding observations to achieve greater efficiency and impact, without jeopardizing their quality or the exercise of the monitoring mandate of the respective treaty body.

#### **Visibility and accessibility of information**

(n) The Inter-Committee Meeting working group on follow-up also recommended that the committees concerned ensure that follow-up information be made public, unless the Convention requires otherwise, and that information on follow-up be included in the Committee's annual report to the General Assembly.

(o) In order to ensure the full participation of experts with disabilities in the work of treaty bodies, the Inter-Committee Meeting working group on follow-up recommended that

session and reference documentation be made available in accessible format well in advance of the meetings.

(p) The Inter-Committee Meeting working group on follow-up recommended that visibility and accessibility of follow-up information be improved, inter alia, through the creation by OHCHR of a general web page on follow-up procedures in order to enhance awareness about these procedures and to direct relevant stakeholders to the respective follow-up web page of each committee to intensify appropriate interaction with such stakeholders, including NGOs and other civil society actors.

#### **Regional follow-up workshops**

(q) The Inter-Committee Meeting working group on follow-up underlined the importance of organizing and assessing the results of regional workshops on reporting and follow-up to treaty body recommendations. The working group recommended that OHCHR assess the feasibility of organizing and funding such workshops and that treaty body experts should play a leading role in these workshops in providing guidance to States parties on concrete steps to be taken to implement the treaty body recommendations.

#### **Follow-up visits**

(r) The Inter-Committee Meeting working group on follow-up recommended that treaty bodies, together with OHCHR, United Nations country teams and other relevant United Nations partners, explore the possibility of conducting in situ follow-up visits, within available human and financial resources, which would enable the treaty bodies to assess more thoroughly the implementation of their recommendations at the national level.

(s) The Inter-Committee Meeting working group on follow-up encouraged the Subcommittee on Prevention of Torture to identify criteria for the selection of countries to be visited by the Subcommittee in the context of follow-up.

#### **Follow-up to inquiries**

(t) The Inter-Committee Meeting working group on follow-up recommended that the findings of treaty body inquiries, when completed and where applicable, should be followed up in the framework of the periodic reporting system, including in lists of issues and concluding observations.

## **B. Points of agreement on follow-up in respect of individual complaints**

#### **Adoption of procedural guidelines**

(a) The Inter-Committee Meeting working group on follow-up recommended that common procedural guidelines should be drafted in the context of the work of the Inter-Committee Meeting, with the purpose of complementing the existing rules of procedure and practices on follow-up and harmonizing the follow-up procedure of all of the committees. Treaty-specific elements should be included, while taking into account the basic common elements of the guidelines. Such guidelines would not only assist the committees, and the Secretariat, but also States parties and other stakeholders, thus improving the transparency of the procedure.

#### **Layout of decisions and annual reports - remedy and implementation section of committees' decisions**

(b) The Inter-Committee Meeting working group on follow-up recommended that the committees should continue to consider ways of further improving their recommendations

to States parties on remedies, with a view to enhancing implementation and ensuring effective follow-up to treaty body decisions. It also recommended that efforts be made to ensure the consistency of each Committee's own jurisprudence in the remedies recommended to States parties.

(c) The Inter-Committee Meeting working group on follow-up recommended that all committees include a table in their annual report, similar to that of the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, listing the decisions in which they found violations, as well as the status/categorization of the follow-up response.

(d) The Inter-Committee Meeting working group on follow-up recommended that all committees, in their decisions, systematically request States parties to publish treaty body decisions, translate them (if necessary) into the official language and distribute them widely, as is currently undertaken by the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination. It also recommended that all committees include a request to States parties to ensure that decisions are also made available in accessible formats for persons with disabilities.

(e) The Inter-Committee Meeting working group on follow-up recommended that all committees provide, in the "implementation section" of their decisions, the basis therein upon which they request information on follow-up. Thus, the Committee on the Elimination of Racial Discrimination would refer to its pertinent rule of procedure that is the basis for its request to the State party to provide information on measures taken to implement a decision.

(f) The Inter-Committee Meeting working group on follow-up recommended that all committees consider extending the deadline for responses from States parties from 90 to 180 days, except in the event of an emergency.

#### **Rapporteurs on follow-up and allocated time**

(g) The Inter-Committee Meeting working group on follow-up recommended that the committees consider reducing the burden on the rapporteurs on follow-up (in particular with respect to the Human Rights Committee) by encouraging other members of the committees to take a more proactive role, possibly through the establishment of working groups or co-rapporteurs on follow-up.

(h) The Inter-Committee Meeting working group on follow-up recommended that appropriate measures be taken to ensure that sufficient time is allocated to the discussion of follow-up reports, to ensure an in-depth analysis of follow-up submissions and a qualitative assessment of responses from States parties.

#### **Visibility**

(i) The Inter-Committee Meeting working group on follow-up recommended that:

(i) All committees publish their interim reports on the OHCHR website immediately after adoption;

(ii) All committees discuss and adopt their follow-up reports in public sessions;

(iii) All committees include the provision of information on follow-up to decisions as a standing item to be announced as appropriate during their press conferences;

(iv) Judicial colloquia that contribute to the awareness of the individual complaints procedure and increased reference to treaty-body jurisprudence in national and international instances should be revived;



- (v) All committees ensure that a paragraph on individual complaints is included in their lists of issues whenever appropriate and, when relevant, such complaints should be reflected in the concluding observations;
- (vi) All committees have the possibility of having “selected decisions” published, which should also include relevant follow-up information;
- (vii) A permanent database be set up and updated regularly by OHCHR to include all treaty-body decisions and follow-up information thereto;
- (viii) Specialized agencies, NHRIs, intergovernmental organizations and NGOs should be encouraged to actively contribute to the follow-up process and assessment of follow-up submissions;
- (ix) The e-mail list that currently informs subscribers of new jurisprudence of the treaty bodies should include key words next to the number and name of the decision.

### **Procedures for improved implementation**

- (j) The Inter-Committee Meeting working group on follow-up recommended that States parties to the relevant treaty be requested to provide information on the specific body responsible at the national level for following up on individual complaints, and on the procedures used by these bodies to implement treaty body decisions. Preliminary work in this regard could involve the transmission of a questionnaire to States parties in an effort to establish basic information on implementation.
- (k) The Inter-Committee Meeting working group on follow-up recommended the commissioning of a research project of best practices, possibly through a university with substantive contributions from treaty body experts, on examples of good implementation to date. The project should include not only what was done to implement decisions in particular States and regions, but also how it was done internally, the procedures and mechanisms used, and the specific systems in place, in the countries concerned, to address committees’ decisions on human rights violations.
- (l) The Inter-Committee Meeting working group on follow-up recommended that all committees consider ways in which they can assist States parties to receive technical cooperation from OHCHR, United Nations specialized agencies and other partners, to ensure implementation of treaty body decisions.
- (m) The Inter-Committee working group on follow-up recommended that all committees continue to take steps to improve the quality of their decisions, ensuring that they are based on sound legal reasoning, and are as succinct as possible and user-friendly.
- (n) The Inter-Committee Meeting working group on follow-up recommended that committees bear in mind that once a communication is found admissible, States parties cannot raise objections to the legal capacity of the author/victim of a communication under the follow-up procedure.
- (o) The Inter-Committee Meeting working group on follow-up recommended that those committees that had not yet established a mechanism to deal with follow-up to interim measures should do so.
- (p) The Inter-Committee Meeting working group on follow-up recommended that committees carry out follow-up missions/country visits more frequently, and possibly schedule such visits with the rapporteur on follow-up to concluding observations. In relevant situations, committees could enquire whether such visits could be supported by United Nations country teams, including at the financial level.

(q) The Inter-Committee Meeting working group on follow-up recommended that the committees engage in intersessional follow-up meetings with States parties (outside committee sessions). Such consultations with States parties could be undertaken either by the rapporteur/s on follow-up or other committee members, including country rapporteurs.

### **C. Points of agreement with regard to engagement with special procedures**

(a) The Inter-Committee Meeting working group on follow-up recommended that all treaty bodies consider engaging more consistently with the special procedures mandate holders of the Human Rights Council in areas relating to the follow-up procedures, so as to ensure that the selected recommendations are given special attention in the context of a country visit or during a meeting with relevant Government officials. The working group reiterated the call of the joint eleventh Inter-Committee Meeting and seventeenth annual meeting of special procedures mandate holders for a more consistent approach to the follow-up of respective recommendations by special procedures and treaty bodies, in particular by consistently sharing their respective priority issues in relation to country and thematic situations.

(b) The Inter-Committee Meeting working group on follow-up recalled the point of agreement of the joint meeting that recommendations should be specific, measurable, achievable, realistic and time bound in order to enable enhanced follow-up.

(c) The Inter-Committee Meeting working group on follow-up also reiterated the point of agreement of the joint meeting that the collective information produced by the treaty bodies and special procedures should be more available and accessible to all in order to better reflect the United Nations human rights system as a whole. To that end, the working group recommended that the Secretariat examine avenues to improve the information flow, including through a greater use of the Universal Human Rights Index.

(d) The Inter-Committee Meeting working group on follow-up recommended that treaty bodies and special procedures mandate holders interact in a consistent and coordinated manner with regional and national mechanisms with a view to enhancing cooperation in the context of follow-up.

(e) Recalling the point of agreement of the joint meeting, the Inter-Committee Meeting working group on follow-up recommended that the Secretariat prepare a compilation of good practices of cooperation between treaty bodies and special procedures, including in the context of follow-up.

(f) The Inter-Committee Meeting working group on follow-up further recommended that the joint twelfth Inter-Committee Meeting and eighteenth annual meeting of special procedures mandate holders further discuss ways and means to ensure that recommendations are specific, measurable, achievable, realistic and time bound with a view to facilitating consistent cross-referencing and reinforcement of the recommendations of special procedures and treaty bodies. The working group recommended that the meeting also discuss a joint effective media strategy.

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