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Human rights questions: implementation of human rights instruments

Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

Note by the Secretary-General

The Secretary-General has the honour to submit to the General Assembly the report of the chairpersons of the human rights treaty bodies on their sixteenth meeting, held at Geneva from 23 to 25 June 2004, pursuant to General Assembly resolution 57/202 of 18 December 2002.

* A/59/150.

Report of the chairpersons of the human rights treaty bodies on their sixteenth meeting

Summary

The General Assembly, in its resolution 57/202, requested the Secretary-General to submit to the General Assembly the reports of the persons chairing the human rights treaty bodies on their periodic meetings. The present document contains the report of the sixteenth meeting of chairpersons of human rights treaty bodies; the report of the fifteenth meeting was submitted to the General Assembly at its fifty-eighth session (A/58/350).

The sixteenth meeting of chairpersons of human rights treaty bodies was convened in Geneva from 23 to 25 June 2004, pursuant to General Assembly resolution 49/178 of 23 December 1994. The chairpersons considered follow-up to the recommendations of the fifteenth meeting and reviewed developments relating to the work of the treaty bodies. They also considered draft guidelines on an expanded core document and treaty-specific targeted reports and harmonized guidelines on reporting under the international human rights treaties. The chairpersons met with representatives of the specialized agencies and United Nations departments, funds and programmes, with representatives of States parties and with members of the Bureau of the Commission on Human Rights, including the Chairperson. The sixth joint meeting of treaty body chairpersons, special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights, which included a meeting with the Chairperson of the Board of the Voluntary Fund for Technical Cooperation, was also held. The chairpersons adopted recommendations, which are contained in section IX of the present report. The report of the third inter-committee meeting of human rights treaty bodies (Geneva, 21 and 22 June 2004), which was considered by the chairpersons, appears in annex I to the present report.

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Annex

Report of the third inter-committee meeting of human rights treaty bodies

(Geneva, 21 and 22 June 2004)

I. Introduction

1. The third inter-committee meeting of the human rights treaty bodies was held at the Office of the High Commissioner for Human Rights (OHCHR) in Geneva on 21 and 22 June 2004, pursuant to the recommendation of the fifteenth meeting of the chairperson of the human rights treaty bodies that the inter-committee meeting should be convened annually, immediately prior to the annual meeting of chairpersons (A/58/350, para. 50).

2. The following members of human rights treaty bodies attended the meeting: Human Rights Committee (HRC): Mr. Abdelfattah Amor (Chairperson), Mr. Rafael Rivas Posada, Mr. Maxwell Yalden; Committee on Economic, Social and Cultural Rights (CESCR): Ms. Virginia Bonoan-Dandan (Chairperson), Ms. Maria Virginia Bras Gomes, Mr. Eibe Riedel; Committee on the Rights of the Child (CRC): Mr. Jakob Egbert Doek (Chairperson); Mr. Kamel Filali, Ms. Nevena Vuckovic-Sahovic; Committee on the Elimination of Discrimination against Women (CEDAW): Ms. Feride Acar (Chairperson), Mr. Cees Flinterman; Committee on the Elimination of Racial Discrimination (CERD): Mr. Mario Jorge Yutzis (Chairperson), Mr. Alexei S. Avtonomov, Ms. Patricia N. January-Bardill; Committee against Torture (CAT): Mr. Fernando Mariño Menendez (Chairperson), Mr. Sayed El Masry, Mr. Ole Vedel Rasmussen; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW): Mr. Prasad Kariyawasam (Chairperson), Mr. Francisco Carrión-Mena, Mr. Arthur Gakwandi.

II. Opening of the meeting and election of officers

3. The meeting was opened by Mr. Bertrand Ramcharan, Acting United Nations High Commissioner for Human Rights, who welcomed all members, including representatives of the new treaty body, CMW, and observers from the African Commission on Human and Peoples' Rights whose presence would set the framework for close and fruitful collaboration between the African and international systems for the protection and promotion of human rights. The Acting High Commissioner reminded the participants of the strategic importance of the international human rights treaties and stressed the mutually reinforcing nature of each organ, as well as the importance of the treaty bodies' interaction with other parts of the United Nations system, including the specialized agencies, the Commission on Human Rights and the Security Council's Counter-Terrorism Committee. Further harmonization of working methods of treaty bodies during the year, in particular with regard to list of issues and follow-up procedures, was welcomed. The Secretariat's efforts to strengthen the implementation of the concluding observations at the national level, including by reinforcing the capacity of national actors, were underlined. In this context, the global review of the OHCHR

technical cooperation programme and the key role of treaty body recommendations in the discussions were mentioned. The Acting High Commissioner reiterated the commitment of OHCHR to maintain a high standard of servicing for the treaty bodies and drew attention to the draft harmonized reporting guidelines presented for discussion to the inter-committee meeting, which were the result of a year-long effort and wide consultations by the Secretariat. The draft guidelines emphasized the role of the reporting process in providing a framework for national-level stocktaking, popular participation and constructive public scrutiny of implementation; they built upon the guidelines for the current core document but went further, calling for information concerning substantive provisions which were common to all or several treaties.

4. Mr. Kariyawasam was elected Chairperson-Rapporteur. Mr. Mariño was elected Vice-Chairperson. At the opening meeting, the participants adopted the agenda and programme of work (HRI/ICM/2004/1).

III. Strengthening the human rights treaty body system: harmonization of working methods and follow-up to the recommendations of the second inter-committee meeting and the fifteenth meeting of chairpersons

5. Mr. Doek, Chairperson of the second inter-committee meeting and the fifteenth meeting of chairpersons, commented on the report on the implementation of the recommendations of the second inter-committee meeting and of the fifteenth meeting of chairpersons (HRI/MC/2004/2). He noted with satisfaction the number of recommendations that had been implemented, including the adoption of lists of issues and the convening of pre-sessional working groups by most treaty bodies. In light of the progress achieved in the implementation of the recommendations of the second inter-committee meeting and the fifteenth meeting of chairpersons, the value of those meetings, and particularly the inter-committee meeting, was underlined and further opportunities to dialogue informally with the specialized agencies, States parties and other actors on strengthening the human rights treaty body system were encouraged.

6. Some participants considered that a number of previous recommendations had not been implemented and should remain on the agenda for the next meeting in 2005. The need for consistent policies and coordinated approaches was recognized, but the emphasis should not be on uniformity of working methods, but harmonization where it was necessary to improve efficiency and reduce contradictory practices.

List of issues and pre-sessional working groups

7. It was agreed that all committees should adopt lists of issues with regard to all reports of States parties. Members of CAT, which had used lists of issues for the first time at its session in May 2004, noted that this had been welcomed by States parties and, despite some challenges, the Committee intended to continue with the practice. Members of CEDAW indicated that the Committee planned to adopt list of issues for all reports and not only for periodic reports, as had been the case. Some participants highlighted the need for an agreed structure for lists of issues, which

should incorporate updated statistical information, new developments since the submission of the previous report and specific questions on matters of particular concern. These lists should be used to frame the constructive dialogue with the State party during the session, implying that the questions should be specific and non-adversarial. The Secretariat should assist with processing complex statistical information. Lists of issues should also systematically request information on steps taken to implement the last set of concluding observations of the relevant committee, where this information had not been included in the State party's report. Some discussions took place on whether answers to lists of issues should be written, when these answers should be submitted, whether they should be translated, whether they should be subject to page limitations, the procedure to be followed when States parties did not respond, and the status of information received from NGOs. There was also some discussion on the linkage between concluding observations, lists of issues, country task forces and the follow-up procedures being introduced by some committees.

Cooperation with the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights

8. In light of the experience of the chairpersons at the sixtieth session of the Commission, the participants considered how their interaction with the Commission could be enhanced and again suggested that they should be able to engage in an interactive dialogue with the Commission and that a proper amount of time be allocated to ensure meaningful interaction. Participants also emphasized the importance of collaboration with the Sub-Commission.

Cooperation with the specialized agencies and other United Nations bodies

9. Participants placed a high value on input by specialized agencies, especially where information provided was country specific. Ways to encourage greater participation by representatives of the specialized agencies at the sessions of the treaty bodies were discussed. The practice of nominating a focal point from among the members of each treaty body to liaise with the specialized agencies was noted, but it was emphasized that the liaison's role should be clear.

Cooperation with special procedure mandate-holders

10. Cooperation with special procedures was considered to enhance the work of the treaty bodies, and it was recommended that funds be secured to facilitate a real dialogue between the special procedures and the treaty bodies during sessions of treaty bodies, and that a mechanism be created to ensure the systematic exchange of written information between the treaty bodies and special procedures.

Press releases

11. Although increased collaboration by the Department of Public Information was noted, difficulties with some press releases remained and ways of ensuring the accuracy of press releases were discussed. The press releases should bear a disclaimer indicating that they were not an official record.

Role of national human rights institutions

12. In light of the important role played by national human rights institutions (NHRIs) in encouraging States to report, as well as in monitoring the implementation of concluding observations, the establishment of well-functioning and independent NHRIs was encouraged. In order to enhance the participation of NHRIs in the treaty body system, it was suggested that during the next inter-committee meeting, representatives of NHRIs from different countries be invited to make a presentation on their best practices with respect to the treaty body system.

Capacity-building and technical assistance

13. Participants noted that, although technical assistance should be provided, as far as possible, to States committed to preparing their reports, it should also be available to strengthen their capacities to implement the various human rights treaties. Capacity-building should also focus on the establishment of a structure within the State system to coordinate, evaluate and monitor legislation and programmes relating to the national implementation of human rights treaties.

Mutual exchange of information with respect to general comments/recommendations

14. The meeting welcomed instances of information-sharing, including consultations among committees in the preparation of general comments/recommendations. Collaboration could be further enhanced by establishing and each committee sharing their long-term programmes of work for the preparation of general comments.

Working methods

15. It was proposed to extend to all committees the practice adopted by some treaty bodies of including in their annual or session reports an overview of their working methods. It was further recommended that the Secretariat should provide updated information on the working methods of each treaty body.

Follow-up

16. Participants reaffirmed the recommendation of the second inter-committee meeting that all treaty bodies should consider introducing procedures to follow up their concluding observations or recommendations. Several committees had taken steps to introduce such procedures in the light of the procedures adopted by HRC. However, representatives of CEDAW and CRC explained that they had considered the matter and had decided, for the moment, not to introduce such procedures owing to their heavy workloads resulting from the backlog of States parties' reports awaiting review and other responsibilities. The organization (during 2003 and 2004) of workshops on follow-up to recommendations in treaty bodies' concluding observations was welcomed.

Non-reporting

17. The existing procedure, introduced by most treaty bodies, whereby the State party's implementation of a particular human rights treaty was considered in the absence of a report, was recognized as a useful tool to address non-reporting. In many cases, it provided sufficient motivation for the State in question to produce a report. Other solutions were explored with a view to reducing the number of States

that did not report or that did so with considerable delay. The point was made that States that reported appeared to be at a disadvantage in comparison to non-reporting States, because the former had to face public questioning by the treaty bodies regarding implementation of their obligations. Ways to ensure that reporting and non-reporting States both took on public accountability and to draw attention to the reporting practices of States parties were also discussed.

Reservations

18. It was agreed that it was appropriate for treaty bodies to request the withdrawal of reservations to the treaties they monitored. The question of whether the treaty bodies could decide on the admissibility of reservations made by States (and the legality of their provisions) was discussed. Participants stressed that although not all treaty bodies were confronted with this issue, it would be useful to adopt a common approach. It was proposed that the Secretariat should prepare a report (including a table showing all reservations made to the core human rights treaties and the nature of the provisions covered) with a view to establishing a working group, consisting of a representative of each committee, to consider this report and report to the next inter-committee meeting.

IV. Strengthening the human rights treaty body system: streamlining of reporting requirements

19. The meeting considered the report of the Secretariat presenting proposed guidelines on an expanded core document and treaty-specific targeted reports as well as harmonized guidelines for reporting to all treaty bodies (HRI/MC/2004/3), which had been requested by the second inter-committee meeting and fifteenth meeting of chairpersons. The Secretariat introduced the document, which had been produced as part of a collaborative effort involving members of the treaty bodies, States parties, parts of the United Nations system, NGOs and other parts of civil society, OHCHR — in particular its Treaties and Commission Branch — and the Division for the Advancement of Women as the secretariat of CEDAW. The proposed change of name of the “expanded core document” to “common core document” was intended to reinforce the linkage between the two documents which would be submitted in tandem to each treaty body, i.e. the common core document and the treaty-specific document.

Facilitating reporting by States

20. Participants agreed that the revised proposed reporting system should facilitate reporting, as well as implementation of States’ substantive treaty obligations. It would not become clear whether the addition of congruent provisions to the common core document would achieve this aim until States began to test the format. The paragraphs relating to the establishment of an appropriate institutional framework for the preparation of reports (HRI/MC/2004/3, annex, paras. 12-15) were emphasized, as was the link between reporting and the monitoring of implementation of the treaties at the national level. The common core document could provide a tool in the overall attempt to make reporting more efficient and effective, but States parties needed to take their treaty obligations seriously, including their reporting obligations.

21. Among the diverse views expressed by participants was the concern that the guidelines might discourage States parties, both large and small, from reporting. It was emphasized that States should be assisted to ensure that they had the capacity to report and that reporting requirements should not provide an excuse for not reporting and should not deter ratification of treaties.

Content of common core document and treaty-specific document

22. The basic structure and content of the proposed common core document were approved in principle, although further work on the draft was required and comments from treaty bodies should be sought. Some participants suggested additional requirements, including the disaggregation of data by age and the inclusion of the outcomes of special sessions of the General Assembly following up on specific world conferences. Should the concept of the common core document and treaty-specific document be agreed by the committees, an appropriate balance needed to be struck between the two documents to ensure that the reporting remained focused on the treaties rather than on the common core document.

23. A number of areas were identified as requiring further work. Information on the practical implementation of the human rights treaties, including examples, should be provided, rather than indicating whether the treaties were directly applicable, as should information on the laws regulating civil society, including NGOs, and the restrictions imposed on their activities. Participants suggested that additional provisions could usefully be included in the guidelines for the common core document that would require reporting on congruent provisions of the treaties. It was also suggested that further review and contributions from members of all committees were needed. The imposition of page limits and the approach to poorly presented reports were particular concerns. The inclusion of lists of treaties, world conferences and statistical information was welcomed as a useful guide for States, but also for other interested parties. Such lists should not be seen as exhaustive. The link between human rights and the Millennium Development Goals was seen as important. The chart of congruence (*ibid.*, p. 9), although only intended as an indication of where congruence might lie, also required further work. It was suggested that all committees should standardize their technical terminology.

Testing the proposal

24. With the approval of the committees, it was agreed that testing the proposal through the preparation of a report based on the proposed guidelines would be important to gauge its efficacy and identify areas requiring further refinement.

Technical assistance and capacity-building

25. The provision of technical assistance to States was essential to ensure their capacity to fulfil reporting obligations. Capacity to report was closely linked to the capacity to implement the provisions of the treaties themselves. It was also important to ensure that the Secretariat had the necessary resources and capacity to provide technical assistance, in particular with regard to the proposed draft guidelines.

V. Dialogue with non-governmental organizations

26. The representatives of the following NGOs were present during the dialogue: Amnesty International, Association for the prevention of torture, Centre on Housing Rights and Evictions, Human Rights Watch, International Catholic Migration Commission, International Commission of Jurists, International Federation of Human Rights Leagues, International Service for Human Rights, International Women's Rights Action Watch-Asia Pacific, People's Health Movement, Quaker United Nations Office and World Organization against Torture.

27. NGOs welcomed the invitation extended by the meeting to discuss the matters of mutual concern, and participants thanked NGOs for their valuable contributions to the work of treaty bodies and the promotion of national implementation of the human rights treaties. Several NGOs highlighted the impact on human rights of counter-terrorism measures, which they considered should be an important concern for all treaty bodies. They also recommended that the treaty bodies collaborate further with the Counter-Terrorism Committee.

28. The rights of women in prison and the rights of their children, human rights violations relating to sexual orientation, housing rights and violence against women were also raised as issues requiring further attention. There was also a need for wider adherence to CMW.

29. A number of NGOs addressed the working methods of the committees and the draft guidelines for an expanded core document and treaty-specific targeted report (HRI/MC/2004/3). Several raised concerns about the approach outlined in the report, whereas others welcomed the process of its formulation and looked forward to its further refinement and their involvement in that process.

30. The issue of non-reporting required further analysis and action on the part of the treaty bodies. States should not see the common core document and the treaty-specific report as excusing them from fulfilling their reporting obligations. Treaty bodies that did not have follow-up procedures were urged to consider adopting them. NGOs also requested that the scheduling of the examination of States parties' reports occur well before the sessions at which they would be considered in order to allow them to plan their work, in particular with respect to the preparation of shadow reports. Treaty bodies were also invited to schedule the briefings with NGOs during sessions, so as to allow for a better dialogue and for interpreters to be obtained.

VI. Points of agreement of the third inter-committee meeting to be transmitted to the sixteenth meeting of chairpersons

Mandate of the Chairperson

- I. **The third inter-committee meeting recommended that the Chairperson of the current inter-committee meeting should coordinate implementation of the present recommendations together with the chairpersons of the other treaty bodies and report on their implementation at the beginning of the next inter-committee meeting, before the election of the chairperson of that meeting.**

Inter-committee meeting

- II. The third inter-committee meeting noted that the convening of the inter-committee meeting had been generally welcomed and recommended that such meetings be convened on an annual basis. It also underlined the value of informal meetings of treaty bodies to discuss matters of mutual concern and recommended that such meetings be convened regularly.

Reporting guidelines

- III. The third inter-committee meeting recommended that the Chairpersons forward the draft guidelines on an expanded core document and treaty-specific targeted reports (HRI/MC/2004/3) and the report of the inter-committee meeting to their respective committees for discussion as a priority item of their agenda.
- IV. The third inter-committee meeting recommended the establishment of a mechanism for further consultations between the committees on the draft proposed guidelines and other matters relating to the harmonization of their reporting guidelines during the coming year. The meeting decided to entrust this task to Mr. Kamel Filali as rapporteur.
- V. Bearing in mind the importance and complexity of the proposed guidelines, the third inter-committee meeting requested OHCHR, in consultation with the Division for the Advancement of Women, to continue to work on the draft proposed guidelines, incorporating the comments and suggestions made by each committee during the course of the year, as well as those received from NGOs, NHRIs and States parties, with a view to producing revised guidelines for consideration, if possible at the fourth inter-committee meeting, in 2005.

States parties wishing to report using the draft guidelines

- VI. The third inter-committee meeting generally agreed that any States parties wishing to prepare reports using the draft guidelines should be entitled to do so and encouraged them to seek technical assistance from OHCHR and the Division for the Advancement of Women, which were requested to provide technical assistance to States engaged in this process.

Working methods

- VII. The third inter-committee meeting recommended that each committee should include in its agenda for each session a specific item on working methods if it had not already done so. The secretariat of each committee was requested to produce a document detailing its working methods for inclusion in its annual report, or issued as a separate document.
- VIII. The third inter-committee meeting requested OHCHR, in collaboration with the Division for the Advancement of Women, to produce a comparative report on the working methods of all committees, to be updated on a regular basis.
- IX. The third inter-committee meeting recommended that OHCHR, in collaboration with the Division for the Advancement of Women, submit a proposal to the fourth inter-committee meeting on the standardization of

terminology used by treaty bodies relating to the technical elements of their work.

List of issues

- X. The third inter-committee meeting recommended that each committee, if it had not already done so, consider adopting the practice of producing a list of issues and questions to be submitted to States parties before the session at which the respective State party's report is to be considered by the Committee.

Reference to concluding observations

- XI. The third inter-committee meeting recommended that States parties should specifically address the steps taken to implement the Committee's concluding observations/recommendations in their periodic reports. Where this information is not included, it was recommended that committees request it in their list of issues for the State party.

Follow-up

- XII. The third inter-committee meeting recommended that each committee continue to consider adopting procedures to ensure effective follow-up to their concluding observations, taking into account the procedures that are already being implemented and their respective workloads.

Liaison with specialized agencies and United Nations programmes and funds

- XIII. The third inter-committee meeting recommended that each committee consider appointing a focal point to liaise with specialized agencies and other bodies of the United Nations system to encourage their participation in its work. In particular, the committees should encourage United Nations bodies to provide country-specific input relating to the human rights situation in the State party under consideration.

National human rights institutions

- XIV. The third inter-committee meeting recommended that all committees strongly support the work of national human rights institutions and, where they did not exist, call on States to create them in accordance with the Paris Principles. The meeting encouraged national human rights institutions to participate in treaty body sessions, including by providing input to the work of the pre-sessional working groups, while maintaining their independence. National human rights institutions were also encouraged to play a role in providing early warning of cases of human rights violations and in following up on treaty body recommendations. The meeting recommended that a number of NHRIs be invited to the next inter-committee meeting.

Non-reporting

- XV. The third inter-committee meeting recommended that the Secretariat produce a comprehensive report highlighting the situation with regard to non-reporting by States parties and reports that are overdue.

Reservations

- XVI. The third inter-committee meeting recommended that the Secretariat prepare a report, including a table showing all reservations made to the core human rights treaties and the nature of the provisions covered, with a view to establishing a working group consisting of a representative of each committee to consider this report and to report to the next inter-committee meeting.

Statistical information relating to human rights implementation

- XVII. The third inter-committee meeting requested the Secretariat to provide assistance to the treaty bodies in analysing statistical information relating to human rights presented in States parties' reports, replies to lists of issues and core documents.

Interactive dialogue with the Commission on Human Rights

- XVIII. The third inter-committee meeting reiterated the recommendation of the second inter-committee meeting that the Commission on Human Rights set aside appropriate time for an interactive dialogue with the chairpersons of human rights treaty bodies during its annual session.

Cooperation with special procedures mandate-holders

- XIX. The third inter-committee meeting recommended that funds be made available to support the interaction of special procedures mandate-holders with the treaty bodies, including through attendance at sessions of treaty bodies.

Press releases

- XX. The third inter-committee meeting recommended that committees establish a liaison point with the Department of Public Information to ensure the accuracy of press releases.
- XXI. The third inter-committee meeting recommended that the press releases of each committee should include a disclaimer stating, "This press release is not an official record and is provided for public information only".

Technical assistance and capacity-building

- XXII. The third inter-committee meeting recommended that technical assistance be provided to States, at their request, to enhance their capacity to meet their reporting obligations.

Recommendations of the second inter-committee meeting

- XXIII. The third inter-committee meeting recalled the recommendations of the second inter-committee meeting and recommended that each committee continue to seek to implement those recommendations that remained outstanding.
