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First Inter-Committee meeting of
the human rights treaty bodies
Geneva, 26-28 June 2002

**REPORT OF THE FIRST INTER-COMMITTEE MEETING OF
THE HUMAN RIGHTS TREATY BODIES**

Introduction

1. The first Inter-Committee meeting of the human rights treaty bodies was held at the Office of the High Commissioner for Human Rights (OHCHR) in Geneva from 26 to 28 June 2002. The meeting was held pursuant to a recommendation of the chairpersons of the human rights treaty bodies during their thirteenth meeting in June 2001 to hold a meeting to consider the subject of methods of work and reservations to the human rights treaties. The aim of the meeting was to provide recommendations to each of the treaty bodies on these issues. Each committee was to be represented as far as possible by its chairperson and two other members.

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

(a) Committee against Torture (CAT): Mr. P. Burns (Chair), Ms. F. Gaer, Mr. O. Rasmussen;

(b) Committee on the Elimination of Discrimination against Women (CEDAW): Ms. C. Abaka (Chair), Ms. I. Corti, Ms. A. Gonzales Martinez;

(c) Committee on the Elimination of Racial Discrimination (CERD): Mr. I. Diaconu (Chair), Mr. M. Aboul-Nasr, Mr. L. Valencia-Rodriguez;

(d) Committee on Economic, Social and Cultural Rights (CESCR): Ms. V. Bonoan-Dandan (Chair), Mr. P. Texier, Mr. E. Riedel;

(e) Committee on the Rights of the Child (CRC): Mr. J. Doek (Chair), Ms. M. Sardenberg, Ms. J. Karp;

(f) Human Rights Committee (HRC): Mr. H. Solari-Yrigoyen, Mr. M. Yalden.

I. OPENING OF THE MEETING AND ELECTION OF OFFICERS

3. The Deputy High Commissioner opened the meeting. He stressed that the treaty bodies constituted the foundations of the human rights work of the international community and that their importance had never been greater. He also underlined the importance of each State having national protection systems in place, and that it was the business of the international community to assist States in their efforts to uphold international human rights standards at the national level.

4. Ms. Abaka was elected Chairperson. Before proceeding, a minute of silence was observed to commemorate the International Day in Support of Victims of Torture.

II. ADOPTION OF THE AGENDA

5. A member of the secretariat introduced the provisional agenda and programme of work (HRI/ICM/2002/1). The agenda was drafted during the fourteenth meeting of chairpersons of treaty bodies held immediately prior to the Inter-Committee Meeting from 24 to 26 June 2002 and reflected the issues outlined in the background document entitled "Methods of work relating to the State reporting process" (HRI/ICM/2002/2). On the understanding that other matters could be added to the agenda if they arose during the course of the meeting, the agenda was adopted. The present report therefore reflects the actual discussions rather than the items of the agenda.

6. The background document prepared for the meeting outlined the approaches of the respective treaty bodies to a number of aspects of the reporting process, the reasoning behind them, and proposals that had been presented over the years from various sources, including the committees themselves, independent observers of the treaty system and the secretariats that service them. It also presented a number of options in response to the challenges outlined in the paper.

III. BRIEFING ON THE FOURTEENTH MEETING OF CHAIRPERSONS AND A SEMINAR FOR STATES PARTIES

7. A member of the secretariat presented a summary of the discussions and outcomes of the fourteenth meeting of chairpersons. He also reported on a separate seminar for States parties on the working methods of treaty bodies entitled "Towards best practices" held on 26 and 27 June and organized by the Permanent Mission of Australia to the United Nations Office at Geneva. Issues raised during the seminar included: coordination of the scheduling of reports to treaty bodies; periodicity of reports; the benefits of concise lists of issues; format of the dialogue and questioning

of delegations by experts; the need to avoid repetitive questioning by members of treaty bodies; the format of concluding observations; participation of non-governmental organizations (NGOs) in the work of treaty bodies and use of information submitted by them; technical assistance to non-reporting countries.

IV. NATURE OF THE MEETING

8. The participants discussed the aims and objectives of the Inter-Committee meeting, noting that while it was up to each committee to decide on its methods of work, the value of the Inter-Committee forum was the opportunity to exchange views and experiences and to formulate agreed recommendations which could then be discussed in each committee.

V. REPORTING BY STATES PARTIES

Periodicity and consolidated reports

9. The participants discussed the difficulties associated with the harmonization of reporting cycles for the various conventions, principally in view of the different provisions of each of the treaties. It was suggested that problems arising from the periodicity of reporting could be partly addressed through an attempt to avoid reporting by one State to several treaty bodies over a short period of time.

10. The presentation by States parties of a consolidated report including a number of periodic reports was a practice allowed by a number of treaty bodies. The participants discussed the benefits of this practice, principally in overcoming backlogs in the examination of reports by the committees and in reducing the reporting burden on States. However, they expressed doubts as to the effects this practice would have on the incentive for States parties to report in a timely manner. It might discriminate against States which complied with the reporting cycles. In order to avoid that as far as possible, requests to submit combined reports should be considered in light of the reasons why the State party in question had failed to report on time. Other participants expressed the view that the consideration of consolidated reports was a useful practice, in light of the different periodicity provided for in the treaty, for instance the International Convention on the Elimination of All Forms of Racial Discrimination. In cases where the reasons included a lack of resources or expertise, OHCHR could be requested to consider providing technical assistance. A further option for limiting the risks outlined above would be to publish the names of States parties which complied with the reporting cycles and those which did not. Participants also discussed the proposal that fixed dates for subsequent reports be set by the examining committee.

11. The participants agreed that the considerations outlined above suggested that consolidated reports were a useful tool to be used only in exceptional circumstances or taking into account the periodicity of reporting provided for by the respective treaty. They felt that while there was a need to strike a balance between a certain and predictable reporting cycle on the one hand and for a level

of flexibility for the sake of efficiency on the other, States parties should be urged to comply with the rules on periodicity rather than making exceptions. A number of participants felt that the answers often lay in greater publicity for the treaty body system at the national level and greater advocacy on the part of the High Commissioner. Other participants felt that delays in submitting an initial report could largely be attributed to a lack of understanding on the part of States parties of how to proceed. In this respect reporting was a learning exercise for which States should be provided with adequate support.

Focused periodic reports

12. Whilst the initial report of a State party under a treaty was to be comprehensive in nature, some treaty bodies requested States parties in subsequent reports to focus on a more limited set of relevant issues. Previous meetings of chairpersons had recommended the submission of such focused reports. The participants discussed the various benefits of this approach, including simplifying reporting requirements, shortening reports and greater focusing of the debate during the examination of the report. Those benefits were even more apparent in respect of treaty bodies with very broad mandates which made it difficult to consider at each reporting cycle every possible aspect of the many rights covered in the treaty concerned.

13. Some participants, however, felt that subsequent reports needed to proceed article by article to ensure that no substantive issue or problem was omitted and to ensure that there was no suggestion that some provisions or rights were more important than others. In addition, new concerns and priorities arose each year which some participants felt could and should be raised in the context of the reporting procedure, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance being one example. Participants felt that there was a need to ensure that consideration of such new matters was not omitted in subsequent reports. One option would be to return to a comprehensive report after a set number of years of focused reports, for example 10 years after the initial report.

14. It was felt that some of the problems posed by focused reports could be obviated by committees' acquainting themselves fully with the previous reports of the States parties, or even by perusing the summary records of the previous examinations. That would allow them to read a focused periodic report in the context of a broader picture of the position of the State party.

VI. CONSIDERATION OF REPORTS BY STATES PARTIES

Examination in the absence of a delegation or in the absence of a report

15. The practice among committees varied on the issue of considering reports in the absence of a delegation or considering the compliance of a State party in the absence of a report.

Absence of a delegation

16. A number of participants felt that it was crucial to have a delegation with which to enter into

dialogue. If at all possible, the members of the delegation should be officials based in the country concerned rather than members of the permanent mission in Geneva or New York. If possible, the individuals responsible for writing the report should attend. Some participants felt that while consideration of a report in the absence of a delegation was not contrary to their convention, the practice should be restricted to extreme cases.

17. Again, it was felt that the reasons behind the failure of a delegation to appear were important when deciding whether an examination should go ahead. Visa problems and national emergencies were clearly cases where latitude should be exercised. It was not clear that a lack of resources was a common reason and if it did occur, assistance from United Nations agencies or bilateral donors could be sought. The question of whether the State party had representation in Geneva or New York might also be relevant.

18. Many of the situations where delegations were absent arose from a request for a postponement by a States party of a scheduled consideration of their report. If such a request was made early enough then rescheduling was more likely to be possible. A number of participants felt that last-minute postponements would need to be considered very carefully in view of the disruption they caused to committee timetables and the waste of precious meeting time. Some participants felt that committees should aim to “reserve” States able to step in to fill gaps caused by last-minute postponements.

19. The participants agreed that there was a need to have clear criteria for the examination of reports in the absence of a delegation.

Absence of a report

20. The meeting noted the relationship between the absence of a report and the overall problems of reporting delinquency. States parties should be encouraged to fulfil their reporting obligations. In circumstances where they did not, some committees proceeded to consider the compliance of the State party in the absence of a report.

21. A number of participants reported positive experiences and results in pursuing that practice. They reported that it was often done in tandem, committee members contacting the delinquent State party to discuss reasons why a report had not been submitted. They reported highly positive experiences in that regard. A number of other participants felt that it was a practice worth exploring in the context of their own committees.

22. Noting that the issue remained unresolved in a number of treaty bodies, the meeting felt that examination in the absence of a report might be a useful tool, provided that it was only used in extreme cases. It was stressed that the practice should not be used in a discriminatory way.

Strategies to encourage reporting, including technical assistance

23. The meeting agreed that the role of technical assistance in the reporting by States parties was crucial. It noted that the States parties themselves had given priority to the provision and use of

technical assistance. Participants felt that the focus of technical assistance activities should be on the implementation of the respective conventions and of concluding observations.

24. In terms of training officials on procedures and reporting requirements of the committees, participants felt that that was best carried out at the national rather than the subregional or regional level. Other participants underlined the importance of including the committee members in training initiatives rather than only including officials of the secretariat.

25. It was crucial to coordinate training with the reporting timetable to ensure that the knowledge imparted was put to timely use. Coordination between the various technical assistance agencies was also highly important in order to avoid duplication of efforts.

26. Some participants pointed out the imbalance in funding for technical cooperation activities caused by the close links between certain committees and certain United Nations agencies. They felt that that situation could be rectified through the use of funds from, for example, the OHCHR Annual Appeal.

27. The meeting discussed the proposal that the establishment of a single unit at the national level to coordinate reporting to all committees be recommended to all States parties. While such entities already existed in a number of States parties, some participants felt that the experience could usefully be replicated elsewhere.

28. The proposal that States submit one consolidated report to all the committees was discussed, and participants found themselves unable to recommend to their committees that they adopt it. They felt, however, that there was significant scope for increasing cross-referencing between their own work and the work of other human rights actors in the United Nations system. That might avoid the situation of States parties being repeatedly asked the same questions on the same topics.

Information available to treaty bodies

29. The meeting agreed on the importance of information from other than the State party for the work of the committees. Much of the value of such information rested on the independence of those other actors, an independence that should not be compromised.

30. The meeting considered the various concerns raised by States parties about the information used by the committees, in particular that provided by NGOs.

31. A key issue was the use of NGO information provided on condition that either the information or the source be kept confidential. The practice of the committees varied on that point. The participants discussed the need to balance, on the one hand, the need to avoid placing NGOs at risk of persecution and, on the other hand, the need to ensure transparency.

32. Participants felt that in the interests of transparency, information from NGOs should always be provided to States parties, and noted that that was already the practice of some committees. Exceptionally, the information might be withheld if so requested and if it would place an individual

in peril. It was difficult to justify withholding information of a generic character.

33. Several participants expressed concern about establishing guidelines for NGOs on that question, noting that it was up to the NGOs to decide what to submit to the committees and that the Committee on Non-Governmental Organizations of the Economic and Social Council had broad responsibility in such matters.

34. Several participants also felt that it was incumbent upon the committees to identify sources of information unless there was a question of danger to individuals.

35. A number of participants raised the issue of the regulation of large amounts of NGO information which often arrived just prior to a session. It was felt that setting a deadline for the submission of NGO material might be advisable.

Use of pre-sessional working groups, country rapporteurs, and lists of issues and questions

36. The meeting discussed the various practices of the committees in relation to the holding of pre-sessional working groups, the preparation of lists of issues and the role of country rapporteurs. The utility of pre-sessional working groups was widely recognized, as was the involvement of a number of committee members in the drafting of lists of issues. Most participants agreed that the pre-sessional working group was the best time to draft lists of issues; however, the practice of some committees of using this time for considering individual communications should be respected.

VII. CONCLUDING OBSERVATIONS/COMMENTS

Structure and content

37. The participants of the meeting agreed that concluding observations should reflect as far as possible the dialogue with the State party, including oral presentations. There was divergence on the issue of including material not expressly discussed during the consideration of the report, with some members noting that it was often not possible to be precise about which issues were discussed and which not.

38. The practice of including a section on “factors and difficulties” in concluding observations was discussed, with some members feeling that such a section might be dispensed with in cases where there are no discernable “factors and difficulties”.

39. The meeting discussed the issue of when concluding observations should be released and to whom. It was agreed that no actors should receive concluding observations before the State party concerned. There were however a number of difficulties in finalizing concluding observations on the last day of the session, and the meeting noted the different practices among the committees in this regard.

Comments and follow-up

40. The differing practice among the committees in dealing with comments by States parties on concluding observations was noted. Participants felt that while State party comments on concluding observations should be made public, committees should not engage in a debate on the comments unless there was some factual error to be corrected. The various modes of publishing such comments (particularly electronic modes) was also discussed.

41. The meeting underlined the important role of United Nations agencies in follow-up to concluding observations. It was felt that each committee was responsible for coordinating its interaction with the agencies in as transparent a manner as possible.

VIII. OPPORTUNITIES FOR FURTHER COOPERATION AND COLLABORATION, AND FUTURE INTER-COMMITTEE MEETINGS

42. Participants discussed a wide range of possibilities for further cooperation and collaboration between the treaty bodies. The idea of systematically sharing concluding observations among all committees, as well as other means of information-sharing, received support. Another option was collaboration between committees in the drafting of general comments. Many possibilities to that end were discussed, from the seeking of comments on draft general comments before their adoption, through to proposals for the drafting of joint general comments on issues extending beyond the mandate of any one committee. A number of concerns were raised relating to the impact of such proposals on the time taken for committees to produce general comments.

43. The participants expressed support for the continuation of Inter-Committee meetings, citing the usefulness of the discussion, the sharing of information and their importance in underlining the indivisibility of human rights.

44. It was noted that a number of issues raised in the background document had not been discussed for lack of time. They should be raised at any future Inter-Committee meeting. In addition, the possibility of a theme for future meetings was discussed.

45. The role of the Inter-Committee meeting was discussed. Some members felt that while it was not possible for the meeting to make decisions that were binding on the treaty bodies, there was scope for more preparation within each committee before the next Inter-Committee meeting.

46. A further issue identified by the meeting was whether future Inter-Committee meetings would be private (as was the case for the first meeting) or public. The meeting noted the interest of civil society in participating in future meetings.

Points of agreement

47. The meeting agreed upon the following points.¹

General observations and recommendations

48. Recalling the United Nations Millennium Declaration, States should work towards the universal ratification of the six core United Nations human rights treaties.

49. States parties to United Nations human rights treaties should report in strict compliance with the periodicity set out in those treaties.

50. Taking account of the universality, indivisibility and interdependence of human rights, treaty bodies should work together in a complementary way in order to underline the holistic nature of the human rights treaty framework. Collaboration should be enhanced through, inter alia:

(a) Collaborative days of general debate or general discussion;

(b) Formulation, where appropriate, of joint statements, particularly with respect to United Nations conferences and summits;

(c) Formulation of joint general comments/recommendations by two or more treaty bodies; the subject of such general comments could be discussed in future Inter-Committee meetings, where appropriate;

(d) Circulation of draft general comments/recommendations to other treaty bodies for input;

(e) Cross-reference, where appropriate, to pertinent comments of other treaty bodies in concluding observations/comments;

(f) Information from and input of NGOs, which is critical to the effective functioning of the United Nations treaty body system.

51. Treaty body secretariats should assume a stronger role in ensuring greater consultation amongst treaty bodies.

Recommendations addressed to the treaty bodies

52. Treaty bodies should devise a framework to provide States parties whose reporting obligations under several human rights treaties are almost simultaneous with the option of staggering the dates of their appearance before the different treaty bodies.

53. Treaty bodies should seek to identify the date of submission of a State party's subsequent periodic report clearly in the concluding observations/comments on the previous report of the State party; where appropriate, this date may allow for consolidation of more than one reporting obligation.

54. Treaty bodies should elaborate criteria to govern circumstances in which the reports of States parties may be examined in the absence of representatives of the State party concerned.

55. Treaty bodies should consider the possibility of examining the situation in a State party in the absence of a report where that State party's initial/periodic report is long overdue.
56. Treaty bodies should convene meetings and establish a dialogue with representatives of States parties on a country-by-country basis in order to explore reasons for failure to meet reporting obligations and encourage the submission of reports.
57. As a general rule, all treaty bodies should make information submitted to them by NGOs available to the States parties concerned.
58. Treaty bodies should seek to convene pre-sessional and in-sessional working groups in order to formulate lists of issues and questions on the reports of States parties.
59. Lists of issues and questions, which should be as concise and precise as possible, should be transmitted to States parties well in advance of the examination of their reports.
60. Lists of issues and questions should ask for disaggregated and comparative data, spanning the time between the examination of the previous report and the examination of the report on which the list of issues has been drawn up.
61. Treaty bodies should seek to formulate concluding observations/comments which reflect as closely as possible the contents of the dialogue with the State party concerns.
62. Treaty bodies should seek to include concerns and their pertinent recommendations in the same section of the concluding observations/comments.
63. Treaty bodies should include a section on "factors and difficulties affecting the implementation of the Convention/Covenant" with caution and where appropriate in concluding observations/comments on the reports of States parties.
64. Treaty bodies should formulate country-specific concluding observations/comments, incorporating realistic recommendations.
65. Treaty bodies should formulate concluding observations/comments which include concise and concrete recommendations, to allow for follow-up.
66. Treaty bodies should ensure that their concluding observations /comments are made available first to the States parties concerned.
67. Treaty bodies should make available any comments by States parties on concluding observations/comments on their reports as public documents, as appropriate, including in electronic format.
68. Except where the correction of factual errors is concerned, treaty bodies should not engage in discussion with States parties on the form or content of concluding observations/comments.

69. Treaty bodies should develop procedures for follow-up on concluding observations/comments; the modalities of such procedures, which should be as transparent as possible, should be left to each committee.

Recommendations addressed to States parties

70. States parties should consider establishing, where appropriate, a reporting unit responsible for the preparation of reports required by human rights treaties.

71. Donors should coordinate technical assistance activities directed at reporting obligations.

Recommendation addressed to NGOs

72. NGOs should submit their reports to the treaty bodies well in advance of the examination of the relevant State party's report; NGO reports should not be submitted at the last minute.

Recommendations addressed to the United Nations

73. Efforts should be made to ensure that all treaty bodies that wish to do so are able to convene pre-sessional working groups.

74. Treaty body secretariats should institute a harmonized system of reporting reminders to States parties.

75. OHCHR should develop and implement a comprehensive technical assistance programme on reporting under the existing human rights instruments to create an enabling environment at the national level to enhance the implementation of substantive obligations and fulfilment of reporting obligations.

76. The secretariat should develop programmes to provide technical assistance to States parties to support them, at their request, in meeting their reporting obligations.

77. Technical assistance programmes to support States parties in meeting their reporting obligations is most appropriately provided at the country level.

78. Technical assistance provided at the regional or subregional level should concentrate on implementation of the instruments and concluding observations/comments.

79. The United Nations and its specialized agencies, funds and programmes should coordinate technical assistance activities directed at reporting obligations.

80. Treaty body members should participate in technical assistance activities directed at reporting obligations.

Recommendations addressed to the treaty bodies and the United Nations Secretariat

81. The second Inter-Committee meeting should be convened in two years to discuss issues that remain outstanding from the first Inter-Committee meeting, implementation of recommendations of that meeting and an appropriate substantive theme such as non-discrimination.

82. The fifteenth meeting of chairpersons of the human rights treaty bodies in 2003 should decide on the agenda of the second Inter-Committee meeting on the basis of the views of each treaty body.

Note

¹ The following issues remain outstanding for the second Inter-Committee meeting:

(a) The establishment of a generalized system of flexible periodicity, or general acceptance of combined reports;

(b) Allowing for the consolidation of outstanding reporting obligations, exceptionally and as an interim measure, to address both the backlog of reports awaiting review and to encourage States parties to meet their reporting obligations;

(c) The appointment of a special rapporteur on overdue reports. This should be left to each treaty body to decide;

(d) The preparation and submission of “single”(omnibus) reports as an appropriate way of assisting States parties in meeting their reporting obligations;

(e) The issue of harmonized timing of the release of concluding observations;

(f) Whether to allow treaty bodies to identify concerns in concluding observations/comments that were not raised in the dialogue with the State party;

(g) Providing CEDAW with the option of formulating lists of issues on States parties presenting initial reports;

(h) Recommending to the Department of Public Information that it address the matter of expressions of public concern over the accuracy of DPI press releases by involving treaty body members in strategies to ensure that its treaty-related output is accurate;

(i) The confidentiality requirements of United Nations entities with regard to information provided to treaty bodies.