MESSAGE FROM MR. IBRAHIM SALAMA, Director of The Human Rights Treaties Division

Strengthening The Treaty Body System: An Inclusive Process

Treaty bodies are at the heart of the UN human rights protection system. Constructive dialogue with States parties during treaty body sessions leads to the periodic formulation of recommendations by independent experts representing all parts of the world on the basis of State obligations under international human rights treaties. The treaty body system, supported by the Office of the High Commissioner for Human Rights (OHCHR), has seen a steady growth with the creation of new treaty bodies, more individual communications, and an increase in ratification and reporting, in part due to the Universal Periodic Review (UPR). In 2009, the UN High Commissioner for Human Rights, Ms. Navanethem Pillay, requested States parties to human rights treaties, treaty body members, National Human Rights Institutions and civil society to initiate a process of reflection on how to streamline and strengthen the treaty body system, which is suffering increasing workloads that call for innovative working methods.

Some very interesting developments have taken place in response to this call by the High Commissioner. First, in November 2009, a meeting of former and current treaty body members gathered in Dublin and adopted a statement providing a framework for strengthening treaty bodies.

Recently, this June, representatives from National Human Rights Institutions met in Marrakech [...] (Continued on p. 30).
INTERVIEW WITH MR. CLAUDIO GROSSMAN
CHAIRPERSON OF THE COMMITTEE AGAINST TORTURE

“It is crucial to fight both impunity and the misconception that torture works. [...] Symbolic acts such as asking for forgiveness from the victims play a meaningful role in socialization.”

You were re-elected last May for another term as Chairperson of the Committee against Torture (CAT). To avail of treaty body language, what “concluding observations” do you draw from your past experience as Chairperson of the Committee and what “follow-up” do you intend to pursue for the next two years?

I would like to begin by indentifying some organizing principles that I think would be important for me as Committee Chair. One is to enhance the quality and efficiency of the Committee’s dialogue with States parties, in particular in the context of article 19 (reporting). We need more time for such dialogue to allow the Committee to fully benefit from States parties’ responses to our questions. At present, the Committee asks questions, the State responds, we ask additional questions and then the time is over. In this context, I have discussed with my colleagues the possibility of considering six rather than seven States per session, which will allow the Committee to better organize its contributions and listen more to States parties.

The second important objective is to increase consistency in the Committee’s decision-making. For instance, concerning individual communications, it is essential to understand that legitimacy is a function of certain factors including affording coherent treatment to all cases. We must advance our understanding of some key principles that are critical for communications (e.g. the treatment of facts, the weight we accord to States’ internal proceedings such as administrative or judicial decisions, and the importance of linking our decisions with the Committee’s pre-existing jurisprudence). All these considerations raise issues of coherency and consistency that are crucial for the Committee’s legitimacy. In particular, I believe that the treatment of facts is something we need to look at more carefully.¹ I would also add that certain areas of the Convention that were considered essential at the time of its adoption warrant more attention on a consistent basis. One is article 14 concerning redress and compensation for victims of torture. There are different ways to engage more on this matter, including through the questions we present to States parties and the possibility of a General Comment.²

Let me also say that the dialogue with stakeholders is not just a dialogue with civil society in the context of the consideration of States parties’ reports. I think we have not yet developed mechanisms for hearing the views of civil society on the general work of the Committee. While the Committee does have such an exchange with the States through the annual informal meeting with States parties,³ it does not have an equivalent meeting with civil society. I think that we need to find opportunities to create and institutionalize that exchange and not leave it on an ad hoc basis.

At the Committee’s informal meeting with States parties at this session you described the situation of the Committee as “unmanageable” in view of its heavy workload. You referred, for instance, to the high number of pending individual complaints and the limited capacity and resources of the Committee and the Secretariat to address them: With ten members it is the smallest treaty body and meets only twice a year for three weeks. What measures, as a matter of priority, are needed to address this situation?

The Committee needs more resources to increase its meeting time. One way to be more efficient would be to increase each session by an additional week. The situation today is such that if countries that have not yet presented their reports were to do so, we could not examine them

¹ At its 44th session, the Committee decided to create a working group on evaluation of facts and evidence. The working group is composed of the following Committee members: Ms. Gaer, Mr. Gallegos, Mr. Grossman, and Mr. Mariño Menéndez.
² At its 44th session, the Committee decided to create a working group on reparation, composed of the following CAT members: Ms. Sveaass, Mr. Gaye, Ms. Gaer and Mr. Grossman.
³ Please see a summary of CAT’s informal meeting with States parties at its 44th session following this interview.
within a reasonable period due to the lack of time. The Committee has a backlog (22 reports) that we need to address. There is also an extensive number of States that are late in reporting and we need to address that as well so as to better fulfill the goal of contributing to the eradication and prevention of torture.

With regard to individual petitions, the Secretariat lacks the resources to process petitions received (draft proposals and translate individual petitions) and the Committee lacks the resources and capacity to address complaints. Accordingly, the Committee is discussing the creation of a rapporteur on principles for the allocation of these communications to Committee members. We would like to establish clear principles and guidelines affirming the importance of providing case materials and draft proposals to Committee members sufficiently in advance of the official session so as to allow adequate time for review and consideration. The main issue here again is one of insufficient resources for the Secretariat to prepare and provide such information to members in a timely manner.

As noted above, while CAT is the smallest of all nine treaty bodies, the Subcommittee on Prevention of Torture, established in 2007 under the Optional Protocol to the Convention against Torture, will increase in membership in 2011 from 10 to 25. In this vein, how can these two bodies further enhance their cooperation while maintaining their specificities to meet the shared objective of eradicating and preventing torture?

The expansion of the Subcommittee on Prevention of Torture (SPT) is a very important development, not the least in view of the complementary nature of its work vis-à-vis our Committee with emphasis on country visits and the work of national preventive mechanisms to prevent and eradicate torture, the common goal of both bodies. I believe that the communication and information-sharing between the members of these two organs must be strengthened and institutionalized. Currently, for example, the only two institutionalized mechanism as provided for in the Optional Protocol to CAT is the presentation of the annual report by the SPT Chairperson to CAT and the fact that we hold our sessions simultaneously at least once a year. Also, the fact that we meet in different locations and sometimes at different times of the year is not optimal and hinders the possibility of interacting on an informal basis, for instance over lunch, to unblock certain situations or issues. One positive development is the establishment of a contact group to enhance cooperation between the two bodies.

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4 At its 44th session, the Committee decided to create a working group on communication, composed of the following CAT members: Mr. Brunì, Mr. Grossman and Mr. Mariño Menéndez.

5 Please see further below a summary of the presentation of SPT’s annual report for 2009 to CAT.

The prohibition of torture is one of the few absolute human rights under international human rights law and constitutes one of the most abhorrent affronts to human dignity. Yet, torture and ill-treatment are “widespread practices in the majority of the countries of our planet.” Based on the Committee’s experience, what would you say are the main reasons for the perpetuation of torture and what are the most effective remedies?

Fighting impunity is a key objective of CAT.

In my experiences on both CAT and the Inter-American Commission on Human Rights (IACHR), one area of deep concern is the protection of human rights in emergency situations. In times of a perceived or real imminent threat, very few people have the wisdom to truly understand that there are certain principles from which humankind cannot derogate. The ends never justify the means. It is very important to understand the institutional context; the prohibition and prevention of torture are not only matters of sound ethics but of sound policies, and decisions taken are often a reflection of the policies in place.

“In times of a perceived or real imminent threat, very few people have the wisdom to truly understand that there are certain principles from which humankind cannot derogate.”

It is crucial to fight both impunity and the misconception that torture works. It is furthermore important to stress that reparations, both material (compensation or rehabilitation) as well as immaterial (official recognition, apologies), are integral to the right to freedom from torture, as stipulated in article 14 of the Convention. Symbolic acts such as asking for forgiveness from the victims play a meaningful role in socialization. In

6 Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Study on the phenomena of torture, cruel, inhuman or degrading treatment or punishment in the world, including an assessment of conditions of detention, UN Doc. A/HRC/13/39/Add.5, 5 February 2010, para. 9.

7 Mr. Grossman was a member of the IACHR from 1993-2001 and served in a variety of positions, including twice as the IACHR’s president.
this respect, truth commissions have made significant contributions and effectively engaged people in discussions and in rejecting impunity where serious human rights violations, including torture, have occurred.

Considering your question from an individual level, i.e. where torture is not practiced systematically as matter of state policy, the perpetuation of torture is attributable to factors such as inadequate training and an insufficient criminal legal framework. What is important here is to create a level of socialization of the prevention and prohibition of torture. This requires a consistent and systematic approach of subjecting individual cases of torture and other serious human rights violations (e.g. trafficking, violence against women, domestic violence) to the rule of law. It also requires strengthening the international framework regarding the prevention and eradication of torture. Currently, only 64 States have recognized the Committee's competence under article 22 of the Convention (individual complaints) and not all States have accepted article 20 (inquiries). Equally important for the legitimacy of the system is to strengthen the coordination and collaboration of the Committee, SPT, the UN Voluntary Fund for Victims of Torture and the Special Rapporteur on Torture.

Mr. Grossman: “It is important to create a level of socialization of the prevention and prohibition of torture.”

Enhanced implementation of the Convention is founded on the “constructive dialogue” that the Committee conducts with States parties - a two-way process aimed at mutual understanding. What are the current challenges in this respect and what are your proposals on how to strengthen dialogue?

We have introduced the preparation of lists of issues prior to reporting (LOIPR). By anticipating questions in advance of the submission of States parties' reports we have enhanced States parties' understanding of our concerns. However, we need to assess and evaluate this procedure as it utilizes scant resources and has significantly increased the workload of and pressure on the Secretariat. The Committee’s follow-up procedures are essential to enriching the dialogue with States parties, but more can be done to link the two mechanisms and thereby increase their effectiveness. The flow of information between the Committee and States parties is an important factor in ensuring that the Convention obligations are being fulfilled. In this connection, the ability of the Committee to present its activities and needs before the General Assembly is critical to achieving our goal of additional meeting time. Communicating with States parties and receiving feedback is a valuable opportunity. Moreover, we must create occasions for joint discussions on general issues related to the prevention and prohibition of torture with States parties, the Committee, SPT, and the Special Rapporteur on Torture.

As mentioned above, I believe in the importance of reducing the number of countries that the Committee reviews per session and we are experimenting with the possibility of considering six rather than seven countries per session. This will, of course, entail some sacrifices. Briefings by national human rights institutions (NHRIs), for example, on which the Committee relies heavily, currently take up seven hours per session. We must establish opportunities for NHRIs to address the Committee in other ways, for instance through direct meetings with country rapporteurs and other Committee members. There is also a need to establish criteria for appointing Committee rapporteurs for countries under consideration and to create a procedure whereby cases are more efficiently distributed among the members.

The Special Rapporteur on Torture, Mr. Manfred Nowak, has pronounced on the “urgent need for the UN to consider drafting a special Convention on the Rights of Detainees.” Do you agree? If such a Convention was to become a reality, how could it complement the Convention against Torture? And what role would you envisage for the Committee in terms of monitoring of such a Convention?

I commend Mr. Nowak for initiating this important discussion, as torture often takes place in detention. I have not yet studied Mr. Nowak's proposal in depth, so I would have to get back to you with a more precise answer once I have done so.

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8 See http://www.ohchr.org/EN/NewsEvents/Pages/ConditionsInDetention.aspx.
Engaging in Dialogue in the Common Aspiration to Live in a World Free From Torture: Informal Annual Meeting of CAT with States Parties

Every year, States parties to the Convention against Torture are invited to engage in a dialogue with the Committee against Torture (CAT). Known as the “informal meeting with States parties”, it aims at strengthening the relationship between States parties and the Committee with a view to achieving the objectives of the Convention. This year, representatives from 39 States parties to the Convention attended the meeting held in the context of the Committee’s 44th session (May 2010). On the agenda were the following items: (i) Developments related to the working methods of the Committee; (ii) harmonization; and (iii) additional meeting time.

39 States parties attended the meeting with CAT. Topics discussed included LOIPRs & General Comments.

In opening the dialogue, Committee Chairperson Mr. Grossman highlighted several important issues related to the implementation of the Convention. The Chairperson noted, among other things, that 33 of the current 146 States parties have never submitted their initial report and are hence in violation of article 19 of the Convention. Also, the Committee has received over 400 individual complaints to date, out of which 228 had been considered by the Committee and violations found in 48 cases. Ms. Gaer, the Committee’s rapporteur on follow-up to concluding observations, highlighted CAT’s follow-up procedure, initiated in 2003, by which States parties are requested to provide information, within one year, on selected recommendations that are protective, serious, and possible to implement within one year. The fact that 75 percent of States parties examined since 2003 have complied with such follow-up requests is testimony to the seriousness with which States parties assume their obligations under the Convention. Very often, follow-up procedures result in measures put in place to ensure persons deprived of their liberty the right to have access to a medical doctor, to a lawyer of their choice or to inform relatives as well as the existence of independent complaints mechanisms. The Committee’s rapporteur on follow-up to individual complaints, Mr. Mariño Menéndez, noted that the majority of individual complaints concern article 3 (non-refoulement), but also violations under articles 5 (jurisdiction) and 14 (right to redress and compensation). In this respect, Agiza v. Sweden (No. 233/2003), Suleymane Guengueng et al v. Senegal (No. 181/2001) and Hajrizi Dzemajl et al v. Serbia and Montenegro (No. 161/2000) were identified as three decisions of particular importance in the Committee’s jurisprudence.

Three States parties took the floor during the dialogue: Liechtenstein, the United States of America and Jordan. Comments and questions concerned, inter alia, list of issues prior to reporting (LOIPRs) and General Comments. List of issues prior to reporting were welcomed as an innovative method to encourage reporting by States. What was done to encourage States that had not yet submitted their initial reports? Could LOIPR be applied in this case, one State party wondered? General Comments were considered very useful in providing guidance to States parties in the implementation of the Convention. It was noted that the Committee had only adopted two General Comments to date (on article 3 in the context of article 27 and on article 2), and that it would be helpful if a General Comment could be elaborated on other articles, especially on article 16 (other cruel, inhuman or degrading treatments or punishment).
In responding to the above and other queries, the Committee noted that it sends reminders to States parties that are overdue with reports and if no report is submitted despite many requests, it can proceed with a consideration of the situation in a State party in the absence of a State report – this measure, however, has never been applied. Regarding the possibility of applying LOIPR to initial reports, the Committee has decided not to do so in view of the importance to receive comprehensive initial reports (see UN Doc. A/62/44, paras. 23 and 24). The reason for why only two General Comments have been issued to date is due to lack of time; General Comments are very important and the Committee will consider the possibility of dedicating a General Comment on article 16. Before closing, the Committee Chairperson reiterated that dialogue with States parties extended beyond the present meeting: The present meeting was hence an invitation to States parties to engage in a real and continuous dialogue with CAT in the common aspiration to live in a world free from torture and other forms of ill-treatment.

- This note does not provide an exhaustive account of the meeting. A more elaborate summary of the meeting is contained in Summary Record CAT/C/SR.292, 4 May 2010 (available in French only).
- For the jurisprudence of CAT and other treaty bodies: http://www2.ohchr.org/english/bodies/jurisprudence.htm

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Presentation by SPT Chairperson of the Subcommittee’s Annual Report to CAT

As provided for under article 16, paragraph 3, of the Optional Protocol to the Convention against Torture, the Chairperson of the Subcommittee on Prevention of Torture (SPT), Mr. Victor Manuel Rodriguez Rescia, presented the annual report of SPT to members of the Committee against Torture (CAT) on 11 May 2010 in the context of CAT’s 44th session.9

This was the third annual report of SPT and covered activities undertaken by the Subcommittee during the period April 2009 to March 2010. In introducing the report, Mr. Rodriguez Rescia highlighted the increase in membership of the Subcommittee from 10 to 25 as of 2011, making it the largest UN treaty body. In this context, the Chairperson noted that currently SPT members are primarily lawyers – only two are medical professionals – and informed that profiles of new members are being developed in cooperation with civil society organizations. In his presentation, Mr. Rodriguez Rescia focussed on, among others, the following issues:

- Relationship with CAT: Mr. Rodriguez Rescia highlighted that SPT holds very high regard for the normative importance of CAT recommendations to which it gives due consideration when issuing its own recommendations following country visits. The SPT Chair requested that the next meeting with CAT, to be held during their November 2010 sessions, focus on one or two thematic issues of common interest to the two committees.
- Activities of SPT, including country visits and activities in the UN system: Out of the eight SPT reports on country visits issued to date, three have been made public: on visits undertaken to Honduras, Maldives, and Sweden.10 He also mentioned that the first follow-up visit by the SPT will take place this year to Paraguay. Largely thanks to the assistance of the OPCAT Contact Group,11 SPT

9 See Summary Records, UN Doc. CAT/C/SR.949, 18 May 2010 (in French only).
10 It should be noted that there are now five reports on country visits available to the public: In addition to the three countries mentioned above, reports on visits to Mexico and Paraguay are now public. Please see: http://www2.ohchr.org/english/bodies/cat/opcat/spt_visits.htm
11 Composed of Amnesty International, APT, Bristol University OPCAT project, International Federation of Action by Christians for the Abolition of Torture (FIACAT), Mental Disability Advocacy Centre (MDAC), Penal Reform International (PRI), Rehabilitation and Research
has engaged in a number of awareness raising and capacity-building activities during the past year. The first ever joint briefing by CAT and SPT Chairpersons and the Special Rapporteur on Torture before the General Assembly last year was also highlighted; a success which will be repeated this year. The Chairperson also stressed the continued participation of SPT in the Inter-Committee Meeting.

- **Assistance to national preventive mechanisms (NPMs):** To date, 30 NPMs have been established among the current 51 States parties to the Convention against Torture (OPCAT). SPT’s mandate under the Optional Protocol with respect to NPMs include that of advising and assisting States parties in the establishment of national preventive mechanisms. He emphasized that there is no process of certification or ranking of NPMs as such; the distinct country contexts are taken into account in each case. SPT has issued Preliminary Guidelines on NPMs and continues to revise its NPM approach. Mr. Rodriguez Rescia further noted that SPT engagement to date with NPMs relies to a large extent on activities carried out by civil society actors due to lack of budgetary resources.

- **Special Fund:** The SPT Chairperson indicated that to date only three States parties (Czech Republic, Maldives, and Spain) have contributed to the Special Fund, which is still not fully operational. Mr. Rodriguez Rescia noted that SPT remains convinced that more States parties will contribute to the Special Fund once more country visits have been undertaken and more mission reports made public.

CAT members greatly appreciated the third annual report of the SPT and its presentation by Mr. Rodriguez Rescia. Members were especially interested in discussing certain topics relating to the substantial and practical cooperation between the two treaty bodies, in particular:

- The **issue of article 16, paragraph 4, of OPCAT** regarding the mandate of CAT, at the request of the SPT, to decide to publish an SPT country visit report, in the case of non-cooperation of a State party;

- The **inquiry procedure under article 20 of CAT**, and the role of the SPT in communicating to CAT systematic practices of torture found during SPT country visits, and the parameters of the rule of confidentiality in that regard;

- Possible **coordination** in the future of SPT visits with the reporting and review cycle of CAT.

After hearing Mr. Rodriguez Rescia’s responses to the above queries, Mr. Grossman noted in his concluding remarks that the discussion had been, as always, very interesting but too short. In this respect, the loss of opportunities for the two treaty bodies to meet and strengthen their dialogue due to the fact that they do hold sessions in different venues was much regretted.

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Centre for Torture Victims (RCT), World Organization against Torture (OMCT).

12 SPT Chairperson referred to Annex V of the Annual Report.

13 The briefing was followed by GA resolution 64/153, which, inter alia, encourages contributions to the Special Fund established under OPCAT and which requests the Secretary-General to ensure adequate staff and facilities for bodies and mechanisms established to prevent torture and assist victims of torture, in particular the SPT. See UN Doc. A/RES/64/153, 26 March 2010, paras. 33 and 36.

24 Article 26 of OPCAT specifies that: “1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms. 2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.”
First Mission to the MENA-region —
Subcommittee on Prevention of Torture Visits Lebanon

The Subcommittee on Prevention of Torture (SPT) visited Lebanon from 24 May to 2 June 2010. This was the ninth visit conducted by the SPT. Lebanon ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on 22 December 2008. Lebanon was the first, and is still the only, country in the Middle East and North Africa (MENA)-region to have ratified the Optional Protocol.

The SPT delegation that visited Lebanon was composed of SPT members Mr. Hans Draminsky Petersen (head of the delegation), Mr. Malcolm Evans, Mr. Emilio Ginés and Mr. Miguel Sarre. The delegation was supported by three OHCHR staff members and a UN security officer. It benefited from the support of the United Nations system in Lebanon, in particular the Office of the High Commissioner for Human Rights - Regional office for the Middle-East in Beirut. The SPT delegation visited a total of 16 places of detention in Beirut and in the governorates of North Lebanon, South Lebanon, Mount Lebanon and Bekaa. The delegation also held meetings with relevant official authorities, including the Minister of Foreign Affairs, the Minister of Interior, the Minister of Justice, the Commander General of the Armed Forces, the Director General of the Internal Security Forces (ISF), the Director General of the General Security, the General Prosecutor as well as the Chair and other members of the Parliamentary Human Rights Committee. In addition, the SPT delegation met with representatives of non-governmental organizations and other members of civil society.
Celebrating the 2000th Meeting of CERD: Reflections on 40 years of Combating Racial Discrimination

Two thousand meetings: As the first human rights treaty body to be established, the Committee on the Elimination of All forms of Racial Discrimination (CERD) on Friday 5 March held its 2000th meeting. To celebrate this symbolic event, a commemorative meeting on the past forty years of activity of the Committee was organized in the context of its 76th session (15 February - 12 March 2010). Alongside current Committee members, former CERD chairpersons also participated in the event and highlighted progress achieved in both substance and procedures. The meeting also provided an opportunity for reflection on the challenges ahead and the dynamics of the Committee in the medium term.

Experts emphasized that the work of the Committee was firmly grounded in the International Convention on the Elimination of Racial Discrimination (ICERD) and the practices of the Committee. The Committee has adopted a constructive interpretation of the definition of racial discrimination in article 1, and has succeeded over the past 40 years to continuously innovate and adapt its procedures and jurisprudence to a changing world, including the struggle against apartheid, the Cold War and post-Cold War era, successive cases of genocide and the new and changing forms of racial discrimination.

The definition in the Convention deals with issues of caste and descent and also considers indirect discrimination and dual or multiple forms of discrimination. It focuses on a formal legal analysis of indicators of racial discrimination, as well as on socio-economic and cultural indicators, such as unemployment, unequal access to housing, education or social services, and high detention rates, that have enabled it to identify social groups that are particularly vulnerable to marginalization and hence to racial discrimination.

Mr. Aboul-Nasr participated in the drafting of the ICERD and was a founding member of CERD which he served for 40 years (1970-2009).

With regard to sources of information, after a restrictive period during which the Committee relied solely on State party reports, it adopted a declaration on sources of information in 1991, stating that members of the Committee, as independent experts, must have access to a wide range of information from governmental and non-governmental sources. The Committee has taken steps to develop its relations with national human rights institutions, NGOs, special rapporteurs and independent experts, and with the Human Rights Council. Discussions underway include the need for strengthened relations with national human rights institutions and NGOs.

The general recommendations of the Committee are an interpretation of ICERD and provide useful reference for States parties regarding their obligations. For instance, in general recommendation No. 9 (1990) on the independence of experts, the Committee expressed alarm at “the tendency of the representatives of States, organizations and groups to put pressure upon experts, especially those serving as country rapporteurs”.

Special mention was made to former members of the Committee, as the collective wisdom of the Committee was responsible for its activities and progress in the implementation of the Convention. The list of recognition and appreciation included among others, Ms. January-Bardill, the first South African member of the Committee, Mr. Agha Shahi, who provided the Committee with the indicators on genocide and Mr. Aboul-Nasr, who participated in the drafting of the Convention.

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**Article 1**

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
The crisis in the former Yugoslavia in 1993, followed by those in Somalia and Rwanda, alerted the Committee to the need for preventing cases of systematic racial discrimination on a massive scale. In 1993, CERD adopted the “Prevention of racial discrimination, including early warning and urgent procedures” (A/48/18). This document was subsequently approved by the UN General Assembly and the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The early warning procedure was based on indicators of emergency situations, the list of which was extended in 2005 to include indicators of a risk of genocide (see UN Doc. A/60/18, pp. 10-12). The procedure has been applied in more than 20 countries. At recent sessions it has also been applied at the request of indigenous communities who had complained of violations of their right to ancestral land.

In 1991, the Committee instituted the review procedure enabling it to examine the situation in State parties whose reports were seriously overdue. In 2004, CERD inaugurated the follow-up procedure, a key innovation aimed at ensuring that States parties take effective action on the Committee’s concluding observations and opinions on individual complaints. Looking to the future, experts hoped to see a strengthened follow-up procedure, including a possible expansion to include country assessment and fact-finding visits. The Committee continues to rationalize its working methods and harmonize them with those of other treaty bodies, as is reflected in new procedures laid down in a revised version of the Committee’s reporting guidelines adopted in August 2007 (CERD/C/2007/1).

The Committee has gradually rationalized its working methods and aligned them with the recommendations of the Inter-Committee Meetings and meetings of chairpersons of human rights treaty bodies, in particular, in the appointment of country rapporteurs, the drafting of lists of issues and an increasingly interactive dialogue with States parties. The importance of consulting States parties and listening to their comments on the Committee’s working methods was also emphasized. The challenge of reaching gender parity within the Committee was highlighted and experts wished to draw the attention of States parties to select more women candidates to serve on the Committee.

Speakers also acknowledged the support of the OHCHR Secretariat, assistants and translators and expressed their appreciation for the fact that the High Commissioner for Human Rights had assigned high priority to the Committee’s work. In the Committee’s view, having a dedicated core Secretariat team was a positive reflection of the High Commissioner’s commitment to ensuring that, over the coming years, sufficient resources in terms of both Secretariat support and the capacity to undertake expert missions, were allocated to the Committee.

States parties’ reports considered by CERD 2000-2009: A Breakdown per Region

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Ratifications of the ICERD reached its peak in the 70s, the first decade after its entering into force. There are today 173 States parties to ICERD. The last State party to ratify the Convention was Montenegro (23 October 2006).

Gender representation

The commemoration on the 2000th meeting of CERD highlighted the lack of gender balance in the Committee with only two female members in 2010 (Ms. Dah and Ms. Crickley).

Recognition of Article 14

Article 14 of ICERD provides for an individual communications procedure. To date, only 52 out of the 173 States parties to the Convention has accepted article 14. The most recent States parties to do so were: Andorra (2006); Bolivia (2006); Morocco (2006); Argentina (2007) and San Marino (2008).
Engaging with UN Human Rights Treaty Bodies: Some Reflections on the Experience of the UN Country Team (UNCT) in Albania

In July 2009 and again in April 2010, the United Nations Country Team (UNCT) in Albania — a “Delivering as One” pilot country — provided written submissions to assist the Committee on the Elimination of Discrimination Against Women (CEDAW) and the Committee on Migrant Workers (CMW) in their preparation of lists of issues. The two submissions, while quite different in terms of scope and involvement of the UNCT, have provided opportunities to raise awareness of human rights treaties and highlight how UNCTs and treaty bodies can reinforce each other’s work. This article reflects upon some of the advantages of encouraging UNCTs to contribute to the work of treaty bodies and identifies some lessons learned from the Albanian experience.

Advantages of UNCT submissions to treaty bodies

Contributing information to treaty bodies has the obvious value of improving the quality of the dialogue between treaty bodies and States by increasing the amount of reliable information available. Reflecting the UN’s position as partner of all national stakeholders – whether the State, civil society, national human rights institutions and others – a UNCT submission provides a distinct perspective on the enjoyment of human rights which is neither the perspective of the public authorities found in the State Party report nor of civil society provided in their reports. In this way, a UNCT submission provides not only more information to the treaty body but a means of comparing and contrasting the information that the treaty body experts already have at their disposal.

In addition, the submission can provide a means of raising awareness of and advocating for specific issues of concern to the UNCT. For this reason, it is important that the UNCT considers what the scope of the submission should be. For the CEDAW submission, the UNCT in Albania provided a comprehensive overview of the country situation according to the provisions in the treaty. The CMW submission took a different approach and concentrated specifically on four issues which drafters felt were particularly important to its work and objectives in the country. This approach can be particularly helpful in drawing the treaty body’s attention to issues of concern to the UNCT. UNCT submissions can have other, no less important, effects beyond only the provision of information to treaty bodies. The act of identifying priority human rights issues as well as compiling and reviewing information is itself an educational process through which members of the UNCT can learn more about human rights treaties and the processes of reporting and monitoring under the treaty body system. A challenge facing the broader human rights mainstreaming exercise is the view that treaties are technical in nature and either irrelevant or too complicated. Providing information to treaty bodies can demystify this perception of human rights treaties. It can also help UNCT members to see how treaties relate to their own programmes and projects.

This should engage UNCTs in the treaty monitoring process. In highlighting the relevance of human rights to their work, UNCTs are more likely to keep an eye out for lists of issues and recommendations and ultimately consider how UNCT work can help public authorities implement those recommendations. When this occurs, it is a key achievement for human rights mainstreaming and another step in the process of ensuring that treaty body recommendations are not left on the shelf until the next reporting session. Finally, the act of the UNCT cooperating to compile information on human rights issues assists in a process of collective reflection on human rights. Particularly in countries where there is no OHCHR field presence, this could create a sense of ownership for human rights norms among UN entities member of the UNCT which is another pre-requisite for effective human rights mainstreaming. It is also in line with the spirit of “Delivering as One UN” policy.

15 Members of the UNCT in Albania are: International Monetary Fund (IMF); International Organization for Migration (IOM); United Nations Development Programme (UNDP); United Nations Volunteers (UNV); United Nations High Commissioner for Refugees (UNHCR); United Nations Children’s Fund (UNICEF); United Nations Development Fund for Women (UNIFEM); the World Bank; World Health Organization (WHO); and International Labour Organization (ILO).

16 Since 2007, Albania has been one of eight countries around the world to implement UN efforts to Deliver as One UN, designed to accelerate the UN’s efforts to increase coherence and effectiveness in its field operations based on four elements: One Programme, One Budgetary Framework, One Leader and One Office.
A process for preparing a UNCT treaty body submission

- **Step One:** An outside trigger sets the process in motion. For example, this could be the Committee Secretary in OHCHR, OHCHR desk officer or UN interagency support group sending a letter to the UN Resident Coordinator or sending an email to a UNCT focal point or WG on human rights or gender or HIV/AIDS, etc.

- **Step Two:** Someone in-country takes control of the process – this could be a human rights advisor, head of agency, member of a theme group or focal point who stewards the process.

- **Step Three:** The focal point sets up an initial meeting to establish the drafting process and the scope of the submission.

- **Step Four:** The UNCT drafting group prepares a first draft or, alternatively, a consultant is hired and begins work.

- **Step Five:** The draft is circulated to the members of the UNCT and comments provided, possibly at various levels – e.g. first with colleagues at the working level, then with the UNCT agency heads.

- **Step Six:** The final version is prepared and submitted to the Secretariat of the treaty body – ideally by the Resident Coordinator or alternatively by the head of a lead agency in the field of work.

**Lessons learned**

Some of the lessons learned from the process include the following. First, it is important to have *triggers* for the process, both at treaty body/Inter-Agency Support Group for the Convention on the Rights of Persons with Disabilities (IASSG) level and the country level so as to launch and steward the preparation of the submission. Many UNCT members are focused on delivering results under their own programmes and projects. They are not necessarily aware of the work of treaty bodies. Ideally, a formal letter to the Resident Coordinator, or at least an email to the Human Rights Advisor or human rights theme group can be a good incentive to action. This is particularly important in conventions that do not automatically have an identifiable lead agency. While, for example, UNICEF might not necessarily need a trigger to become involved in reporting under the Convention on the Rights of the Child or CEDAW, this is not necessarily the case for the CMW, CERD or even for the two Covenants since no corresponding UN entities with a specific mandate on rights under these treaties currently exist.

Similarly, having a **dedicated focal point** to steward the process at country level is also very important. Unless contribution to treaty body reporting is identified as part of an UN agency’s annual work plan, compiling a written submission will be additional work and therefore it can help to have someone, such as a human rights advisor or focal point, to guide the process. Persistence is essential. Particularly where the submission is additional work for the agency, the risk of it slipping down the ‘to-do’ list and being forgotten is forever present. Gentle prodding from someone can make a difference! Whatever ‘trigger’ mechanisms – HQ and field – are relied upon, it is essential that **sufficient time** is available for UNCTs to provide information. Preparing even a short submission can take time. A few months can be required for internal consultation, hiring of consultants where absolutely necessary and compiling and reviewing information. A very short time span is almost surely going to result in the request for information being ignored or alternatively being prepared by the human rights focal point alone without representing a comprehensive UNCT approach. Moreover, the educational benefits of the exercise are lost. It is very helpful if someone from the treaty body Secretariat can inform the UNCT of the use of the submission after the treaty body meets. This need not be complicated. A short email relaying the reaction of the treaty body to the information and sending through the LOI helps to maintain interest within the UNCT and also convey the message that the process was worth the effort.

There needs to be greater awareness of the process underlying the treaty body reporting and it would be helpful to have a **country time-line** available on the OHCHR treaty body website for treaty body reporting for each country and all treaties ratified. Such a time-line could be placed on the country page on OHCHR website and UNCTs could be encouraged to place it on the UNCT website as well. There is no single way of engaging UNCTs in the treaty monitoring process. The important thing is to promote UN engagement as much as possible, to improve the quality of information available to treaty bodies and to promote implementation of recommendations so that the work of treaty bodies can lead to real improvements of human rights on the ground.

**Contribution:** Simon Walker, Human Rights Advisor at the UNCT in Albania.
Joint Publication on UN Human Rights Recommendations on Honduras: A Vital tool for awareness-Raising, UPR and UNDAF

On 24 March 2010, during the first regional Human Rights Congress, the UN System in Honduras and the OHCHR Regional Office for Central America launched a compilation of recommendations issued by human rights mechanisms to Honduras: “Recomendaciones de Derechos Humanos, Órganos de Tratados y Procedimientos Especiales de las Naciones Unidas 2001-2009”.

The publication gathers recommendations formulated by treaty bodies and special procedures in the period 2001-2009, classified by four thematic areas: Security; discriminations; rule of law; and poverty and economic, social and cultural rights. The publication was widely distributed among inter alia public officials, civil society organizations, human rights NGOs, donor countries and law students.

The publication on recommendations by UN human rights mechanisms aims at providing a useful programmatic tool for State institutions.

The objective of the publication is two-fold: to promote greater awareness of the recommendations of human rights mechanisms and to provide a useful programmatic tool for State institutions responsible for their implementation. This seems particularly relevant in view of the current political context in the country and of the upcoming Universal Periodic Review (UPR) of Honduras in the Human Rights Council (November 2010). It is expected that the wide dissemination of the compilation will assist in promoting a wide and participatory national dialogue on the human rights situation in the country, including in the context of preparing for the UPR.

It is also expected that the document will provide a useful basis for the incorporation of a human rights-based approach in the on-going process of formulation of the common country analysis and the United Nations Development Assistance Framework (UNDAF), as well as a programmatic tool for individual agencies and programmes. Just as a way of illustration, it is interesting to mention that the UN Inter-agency Group on Gender used the document as a reference in its analysis of the Draft Second National Plan for Gender Equality and in the formulation of related advice to the national authorities.

Below follows the press release in Spanish on the launch of the publication.

PRESENTACIÓN DEL DOCUMENTO COMPLETACIÓN DE RECOMENDACIONES DE ÓRGANOS DE TRATADOS A HONDURAS HRO Tegucigalpa, 29 de marzo.


Al evento de presentación de la compilación asistieron 250 personas, incluyendo autoridades académicas y miembros de la comunidad universitaria, representantes de embajadas y
servicios de cooperación, trabajadores organizaciones de sociedad civil y activistas de derechos humanos.

El día martes 23 de marzo, la Sra. Carmen Rosa Villa asumió la ponencia central durante el evento de inauguración del Congreso Regional, donde realizó una reflexión en torno a los conceptos de Estado, Desarrollo y Derechos humanos, su interdependencia y los desafíos para su realización integral en la región centroamericana. El SNU en Honduras también apoyó la celebración del evento con la distribución de una edición realizada para la ocasión de 11 de los principales instrumentos del derecho internacional de los derechos humanos, de los que fueron repartidos 200 ejemplares durante el evento. En seguimiento a la presentación pública de la compilación, el SNU en Honduras ha emprendido diferentes acciones para socializar el documento con autoridades, comunidad cooperante, sociedad civil y la ciudadanía en general. Entre otras acciones emprendidas, merecen reseñarse:

• La Sra. Arias y la Sra. Carmen Rosa Villa hicieron una entrega privada del documento al Comisionado presidencial para Derechos Humanos, Sr. Bonilla, el 24 de marzo. Junto a las recomendaciones, el SNU transmitió sus inquietudes respecto a algunas situaciones actuales del país y recordó la necesidad de adoptar medidas decididas para dar cumplimiento a las obligaciones internacionales del Estado en materia de DDHH Esta reunión sirvió para conocer algunas de las iniciativas en materia de DDHH planificadas por las nuevas autoridades y para que el SNU transmitiera.

• La Sra. Arias entregó una copia del documental Presidente Porfirio Lobo Sosa, el día 25 de marzo, durante un almuerzo ofrecido en casa presidencial a los representantes de la comunidad diplomática presentes en el país.

• Una copia del documento ha sido remitida a todos los representantes diplomáticos presentes en Honduras agrupados en el espacio G-16.

• El SNU continuará trabajando para facilitar el mayor acceso a la compilación al mayor número posible de interesados, distribuyendo el material y procurando su acceso a través de la página web del SNU en Honduras. Adjunto al presente documento, podrán encontrar la versión informática de la compilación y la nota de Prensa difundida por el SNU en Honduras para difundir la presentación de la compilación y algunas fotos del evento.

The publication classified UN human rights recommendations by four thematic areas: Security; discriminations; rule of law; and poverty and economic, social and cultural rights.

Contribution:
Veronica Birga, Representante Regional Adjunta, y Lucas Valderas, Oficina Regional para América Central del Alto Comisionado de las Naciones Unidas para los Derechos Humanos.

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Ecuador first country to ratify the Optional Protocol to the ICESCR
Effective 11 June 2010, Ecuador became the first country to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR-OP). The Optional Protocol will enter into force three months after the date of the deposit with the UN Secretary-General of the tenth instrument of ratification or accession. At present, thirty-two UN member States have signed the ICESCR-OP, which allows for communications by or on behalf of individuals or groups of individuals “claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant [on Economic, Social and Cultural Rights]” (article 2).

Current signatories to the Optional Protocol are: Argentina; Armenia; Azerbaijan; Belgium; Bolivia (Plurinational State of); Chile; Congo; El Salvador; Finland; Gabon; Ghana; Guatemala; Guinea-Bissau; Italy; Luxembourg; Madagascar; Mali; Mongolia; Montenegro; Netherlands; Paraguay; Portugal; Senegal; Slovakia; Slovenia; Solomon Islands; Spain; Timor-Leste; Togo; Ukraine; and Uruguay.
The Committee on the Rights of the Child holds first joint meeting with the African Committee of Experts on the Rights and Welfare of the Child

On 18 to 19 March 2010, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) and the Committee on the Rights of the Child (CRC) held their first ever joint meeting. This historic meeting, held at the Headquarters of the African Union Commission (AUC) in the Ethiopian capital Addis Ababa, aimed at developing proposals for enhanced partnership and to identify common sectors of activity and a framework within which to carry out such activities jointly.

Three members of the Committee on the Rights of the Child, Ms. Agnes Akosua Aidoo (Vice-Chair), Mr. Awich Pollar and Ms. Kamla Devi Varmah, as well as the CRC Secretary, participated in the meeting. UNICEF, which on previous occasions had expressed its intention to facilitate modalities of cooperation between two expert bodies, provided important support to the meeting. Other participants at the meeting included the AU Commissioner of Social Affairs, Ms. Bience Gawanas, and other representatives of the Department of Social Affairs of the African Union Commission (AUC), Ms. Akila Selm-baogo, UNICEF AU Liaison Officer, as well as representatives of the Pan African Parliament and OHCHR East Africa Regional Office in Addis Ababa. The meeting was chaired by the Chairperson of the ACERWC, Ms. Seynabou Ndiaye Diakhate, with the support of Ms. Aidoo.

Prior to exploring avenues for strengthened cooperation, the ACERWC Chair and CRC Vice-Chair briefly presented the mandate and work of their respective committee. Ms. Ndiaye Diakhate noted the ambitious mandate of the ACERWC as outlined in the African Charter on the Rights and Welfare of the Child (1999) which due to scarce financial and human resources at its disposal presented the Committee with challenges. Apart from the reporting procedure, it also includes communications and investigations procedures. Ms. Aidoo presented the main activities of the CRC under the Convention and the two Optional Protocols and highlighted that the Committee is looking forward to strengthening its mandate with a communications and inquiry procedure.

In exploring prospects and challenges of partnership and cooperation, participants raised, among other things, the possibility of ACERWC inquiry missions based on recommendations from CRC concluding observations and the possibility of ACERWC members joining members of the CRC in missions they may undertake. Also, the possibility of joint follow-up to CRC concluding observations and ACERWC participation in CRC events such as days of general discussion, were discussed. All participants agreed that there was scope and need for enhanced cooperation. Specifically, members of both Committees highlighted the importance of improved cooperation in various areas, including information sharing, comparative analysis of the two treaties, identification of States that have (or have not) ratified one of the treaties, research and studies, promotion of both instruments (with a focus on the African Charter on the Rights and Welfare of the Child), follow-up to concluding observations (incl. workshops and visits) and modalities of interaction with civil society organizations. Members noted that increased and sustained support from the Committees’ respective secretariats, as well as funding, will be required to ensure enhanced interaction.
Following the very rich discussion of the meeting, the joint Working Group identified a number of recommendations to constitute a kind of framework for enhanced cooperation. These included activities relating to: (a) systematic information-sharing on the work of the Committees; (b) advocacy; (c) analysis of the two treaties; (d) workshops; and (e) participation in activities organized by one or both Committees. Participants also highlighted some other recommendations to be considered in the medium-term, including the possibility of creating a task force to study the reporting obligations under the two treaties with a view to facilitate reporting by States parties to the two treaties.

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**Reflections on the meeting by Ms. Agnes Akosua Aidoo**

*OHCHR took the opportunity to meet with Ms. Aidoo, in the context of the 54th session of the CRC, to ask her about her reflections on the meeting.*

“A extremely significant”: Ms. Aidoo, Vice-Chair of the CRC, is enthusiastic about the outcome of the first joint meeting between the two committees.

The meeting of last March between the ACERWC and CRC was groundbreaking in allowing members of both expert bodies to formally discuss areas of cooperation for the first time. What would you identify as the most important outcome of the meeting?

As you know, the African region is the only region that has developed a complete Charter for the rights of children. The CRC as well as the African Committee of Experts have always felt that it was important to link up and ensure that the work of the two committees reinforce each other. After many efforts we were able to meet in March, and it was extremely significant. It is very important that both committees, through their representatives at this joint Working Group, agreed that there was a need to meet and to cooperate to reinforce the rights of children in Africa. Certainly, the CRC, as a global committee, is eager to learn from experiences from different parts of the world and use that in our discussions with States parties and other stakeholders on the best ways forward to enhance the rights of the child.

A major outcome was an agreement on areas of cooperation that initially would be feasible. We realized that not a lot of information is shared between the committees, so one of the first decisions was to ensure regular information sharing about the annual programme of work of each committee. This also means that information on the African countries that are appearing before the Committee on the Rights of the Child would be shared with the African Committee and vice versa. A second area of cooperation discussed concerned possibilities of joint activities, such as joint visits to countries on follow-up to recommendations of the two committees.

Then there was the issue of ensuring that the mandates on complaints and investigations under the ACERWC – mandates which the CRC does not have as yet – could be further explored and utilized. So, when the African Committee plans to undertake investigations it will, as appropriate, share this information with the CRC and also share the outcome.

On our side, since the CRC is an older, bigger and perhaps a more active Committee, we have many activities such as Days of General Discussion and the issuance of General Comments. We wish to explore if we can do joint Days of General Discussion as well as joint General Comments on issues of mutual interest and concern, and that are particularly relevant to Africa. Finally, we will look into possibilities of organizing joint workshops on follow-up to CRC concluding observations and recommendations of the African Committee. We also need to ensure that the two committees are not issuing competing or contradictory recommendations to the same State party on the same issue - I hope it hasn't happened yet!
Now, these are the practical areas of cooperation that we could undertake. But we also realized that before we can move forward quickly and substantively, both committees need to understand some issues concerning their respective mandates and responsibilities. How do the two mandates of the two committees compare? There are some differences: For instance, as I said, the African Committee has complaints and investigations procedures. So we decided that the best way to handle this is to undertake a serious review study of the mandates of the two committees, identify similarities and differences and how the two mandates can be used to promote the rights of children in Africa. We also need to see where there may be differences in the reporting procedures and requirements. We have information, informally, from States parties that it is a burden to report twice to the two committees on children’s rights. We want to study how the reporting requirement can be harmonized so that it reduces the burden on State parties.

“We decided that the best way to handle this is to undertake a serious review study of the mandates of the two committees, identify similarities and differences.”

We decided to study this issue internally and agreed to establish a joint task force for this purpose which will be composed of four members from each committee. Members from the CRC are Mr. Pollar, Mr. Filali, Mr. Zermatten, and I. The African Committee is also designating their four members. This joint Task Force will study in-depth: (i) the two treaties; (ii) the mandates of the two committees; and (iii) the reporting requirements under the two treaties, and propose ways to harmonize them.

Is a likely scenario that this may perhaps result in one and the same report being submitted simultaneously to the two committees?

There are many scenarios possible. One is to have “a core document/report” that will cover the basic issues and can be submitted to each Committee, with a “supplement” on particular areas that are of specific concern to each Committee. For instance, for the CRC, if a country has ratified the two Optional Protocols, OPAC and OPSC, then we will be looking for very particular actions in legislation, and how State parties have criminalized the sale of children, child prostitution, forced labour, improper adoption through sale and the recruitment of children in direct hostilities, etc.

On the other hand, the African Charter goes in depth in some issues. For example, on harmful traditional practices, it devotes a whole article to the issue (article 21) which insists that such practices have to be criminalized and stopped. If a country has that issue, then it will have to present a more detailed report to the African Committee. The joint Task Force will identify the areas of particularity to each treaty and then see how the reporting can be organized.

At the meeting, both committees acknowledged serious resource constraints and that is why the areas of cooperation agreed upon were those that could be embarked upon immediately and that do not require extra funding. Among them is, as you mentioned, an analysis of the two treaties. Apart from harmful traditional practices, could you please give one or two examples on key differences between the Convention and the African Charter?
I think the African Charter highlights a lot of cultural issues and positive traditional values. You know, it starts in the Preamble that in the African society the child is held in a very special position and must be supported and protected. Secondly, the African Charter recognizes, more clearly than the Convention, the role of the extended family. Thirdly, I have mentioned the harmful traditional practices. Under the African Charter, for instance, child marriage is explicitly prohibited and States shall take action to specify the minimum age of marriage to be 18 years and to make registration of all marriages in an official registry compulsory (article 21). Also, when the Charter was adopted in 1990 there were, and unfortunately still are, many conflicts on the continent, and so the African Charter contains an elaborate article (22) on children in armed conflict. With the Convention on the Rights of the Child, Member States had to adopt an Optional Protocol in 2000 to raise the minimum age of recruitment and call for special protection and assistance for child victims. So these are some of the differences, and some of the analysis that the joint Task Force will do.

Do you believe that the Addis meeting also marks the beginning of stronger partnerships with other regional mechanisms working with child rights, such as the Rapporteurship on the Rights of the Child of the Inter-American Commission on Human Rights?

Yes, I hope that we will be able to develop some practices that may provide an approach for others to look at. I also believe that it should be possible for inter-regional exchange of experiences: The concrete situations in one region may be different from that of another region, but many of the issues of child rights are the same. Children in Latin America, for instance, may be working in plantations whereas children in Africa may be working in small farms or in mines, but the problem is the same: Children are being exploited, their right to develop properly is not being ensured. I certainly would like to see that the work we do in this task force, and in the CRC-ACERWC collaboration, can be an example for other regions.

I also believe that the Joint Working Group of the CRC-ACERWC should examine further means of collaboration with the special procedures and the Special Representatives of the Secretary-General (SRSGs) on children. The Joint Working Group should be able to invite the SRSGs on Children and Armed Conflict and on Violence against Children to provide inputs in its work as applicable, so that there is mutual support between the committees, the SRSGs and the special procedures on issues that are relevant for the region.

As you highlighted above, contrary to the CRC, the ACERWC is already empowered to consider communications and to undertake inquiries. How can the committees reinforce one another’s work in this respect, for instance with CRC recommending and joining ACERWC inquiries and vice versa, should an inquiry procedure under a new Optional Protocol to the CRC become a reality?

If the procedures of the ACERWC complaints mechanism allow for such participation, then definitely I believe that even before we have our own procedure it should be possible, at least through information sharing, to cooperate. For instance, if in a State party report that we have examined there are issues of violations of child rights involving so-called witchcraft of children and the African Committee has received complaints on that situation and decides to go to a specific country, then we can share information and highlight specific areas of concern to the ACERWC. If a CRC member could join the team, that would be even better. The first thing is to know what the different mandates and procedures allow. Then we can decide how we can use them creatively and productively in the interest of the children in Africa.

Ms. Aidoo hopes that the joint Task Force will identify ways how to use the mandates and procedures of the two committees creatively and productively in the interest of the children in Africa.

17 Noting with concern that the situation of most African children, remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child’s physical and mental immaturity he/she needs special safeguards and care; Recognizing that the child occupies a unique and privileged position in the African society and that for the full and harmonious development of his personality, the child should grow up in a family environment in an atmosphere of happiness, love and understanding.
Towards Universal Ratification:
Global Campaign launched as Optional Protocols to CRC Turn Ten

2010 marks an important year in the efforts of the United Nations to ensure respect and protection of the rights of the child. Twenty years ago, the Convention on the Rights of the Child (CRC) entered into force. Today, the Convention is close to universal ratification, with only two UN member States yet to become parties to the treaty.

This year also marks the tenth anniversary of the adoption of the Optional Protocols to the CRC on the Sale of Children, Child Prostitution and Child Pornography (CRC-OPSC) and on the Involvement of Children in Armed Conflict (CRC-OPAC).

This important anniversary was celebrated with a special commemorative event on 25 May at UNICEF House in New York, which included the launch of a two-year ratification campaign for the two Optional Protocols. The campaign aims to see universal ratification of OPAC and OPSC by 2012, the year of the 10th anniversary of their entering into force. The event was addressed by the Secretary-General Mr. Ban Ki-moon as well as by Ms. Yanghee Lee, Chairperson of the Committee on the Rights of the Child. Among the panelists were also Ms. Radhika Coomaraswamy, SRSG for Children and Armed Conflict, Ms. Marta Santos Pais, SRSG on Violence against Children, and Ms. Najat M’jid Maalla, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography.

In his introductory statement, the Secretary-General noted the significant support that the Optional Protocols already enjoy from the majority of States with 132 States parties to CRC-OPAC and 137 States parties to CRC-OPSC. In this respect, Mr. Ban highlighted some significant results already achieved. Regarding CRC-OPAC, the release three months ago, under UN supervision, of more than 2,000 children by the Maoist army in Nepal, was referred to. The Secretary-General also noted that the number of States that permit voluntary recruitment for the armed forces below the age of 18 years is diminishing steadily. In respect to CRC-OPSC, Mr. Ban highlighted that domestic legislation is being enacted in an increasing number of countries to criminalize sexual exploitation of children. Mr. Ban called on Member States “to work urgently towards universal ratification of these immeasurably important Optional Protocols”.

The CRC Chairperson, Ms. Yanghee Lee, expressed the great pleasure of the Committee over the “wide ratification of the Optional Protocol as it signifies an important commitment of States parties the abhorrent crimes they cover”. While noting that adherence is a first important step towards effective implementation, Ms. Lee took the opportunity to underline the need for effective measures at the national level in order to improve the protection of children. In this respect, she noted that both Optional Protocols share certain elements: Both require that States parties take concrete measures through legislative reform and specific penal provisions, and to take all feasible measures to provide child victims with assistance for their physical and psychological recovery and reintegration.

Drawing attention to the reporting procedure under the Optional Protocols, Ms. Lee informed that to date the Committee has reviewed 52 reports under CRC-OPAC and 39 reports under CRC-OPSC. In this respect, Ms. Lee shared some general observations on important obstacles and gaps in effective implementation based on the experience of review of State parties’ reports. Inadequate penal provisions remain. All too often, domestic legislation only contemplates the recruitment of children below the age of 15 years, failing to recognize the protection of persons
under the age of 18 years as set out in OPAC. Also, the CRC Chairperson highlighted that provisions of CRC-OPSC are only partially reflected in national legislation which fails to provide equal protection for all children up to the age of 18 years and distinctions according to age and sex are imposed. Legal reforms, Ms. Lee stressed, must be accompanied by practical measures, such as preventive action, awareness raising and training of professionals. In conclusion, Ms. Lee stated that:

“Only when we have achieved a shift in attitude and awareness of the children who have been victims of these horrendous crimes will we be able to fully guarantee their rights. Reinforced cooperation and exchanges of experiences between States, civil society and human rights monitoring mechanisms are crucial elements in order to achieve progress.”

Ms. Santos Pais and Ms. Coomaraswamy at a side event organized during the 13th session of the Human Rights Council to celebrate the 10th anniversary of the adoption of the two Optional Protocols to the CRC.

“There are a multitude of conflicts where children are used as soldiers, spies, human shields or for sexual purposes. Every additional ratification of the Optional Protocol [on the Involvement of Children in Armed Conflict] would therefore bring us closer to a world in which no child is participating in hostilities and forced to serve the national military or irregular armies.”

Radhika Coomaraswamy,
SRSG for Children and Armed Conflict

“The Optional Protocol is an important tool for tearing through the mantle of invisibility surrounding the sale of children, child prostitution and child pornography and other forms of sexual exploitation, to mobilize societies and to translate political commitment into effective protection of children from all forms of violence. It has led to significant law reforms to criminalize such crimes against children and safeguard the rights of child victims, and has also become the source of international agreements to fight impunity within and across borders.”

Marta Santos Pais,
SRSG on Violence against Children

For more information, please contact:
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Dublin Statement Launched in New York:
The Optional Protocol on the Involvement of Children in Armed Conflict

Article 3 (Minimum age for voluntary recruitment)

1. States Parties shall raise the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.

2. Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.

3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:

(a) Such recruitment is genuinely voluntary;
(b) Such recruitment is carried out with the informed consent of the person’s parents or legal guardians;
(c) Such persons are fully informed of the duties involved in such military service;
(d) Such persons provide reliable proof of age prior to acceptance into national military service. […]
Reaffirming the Importance Of Treaty Body Reform

On Tuesday 18 May 2010, the Dublin Statement on the Strengthening of the United Nations Treaty Body System was launched in New York at the Permanent Mission of Ireland to the United Nations Headquarters. The launch followed the first official presentation of the Dublin Statement in Geneva on 26 January 2010 and presented an excellent occasion for around 50 interested representatives from States, civil society organizations and UN entities in New York to familiarize themselves with this “road map” which sets out principles that should guide any reform process of the UN human rights treaty body system. Introduced by Ms. Ann Anderson, Permanent Representative of Ireland to the United Nations, the Dublin Statement was discussed and reflected upon by the panelists of the event, namely Mr. Michael O’Flaherty (member of the Human Rights Committee), Ms. Felice Gaer (Vice-Chair and member of the Committee against Torture), Mr. Ibrahim Salama (Director of OHCHR Human Rights Treaties Division); and Ms. Shanthi Dairam (excused).

Panelists referred, among other things, to the challenges that need to be addressed in order to reinforce the treaty body system. These include visibility, access, coherence, need for recalibration in the context of a changed UN context (the Universal Periodic Review (UPR)) and regional human rights systems, quality of outputs and impact of the treaty bodies; a lack of resources to support the work of treaty bodies; the need to further strengthen follow-up and implementation of treaty bodies’ output, including enhanced cooperation between the treaty bodies on this issue; and the self-expanding nature of the system.

Participants voiced strong support for the process of treaty body strengthening during the questions and answers session that followed. Some of the key issues raised by participants related to the importance of political will, including recognition that States carry the primary responsibility for the implementation of treaty obligations, the need to address non-reporting States while reducing backlog, and the need for enhanced visibility of treaty bodies, including through webcast. Questions were also raised about the list of issues prior to reporting (LOIPRs), with panelists affirming that this is a voluntary process which so far has received very positive response from States parties.

Quite some focus was given to the interrelationship between treaty bodies and the UPR: For instance, had the UPR contributed to an increase in reporting by States parties to treaty bodies? How could it be ensured that UPR recommendations were not contradictory to recommendations issued by the treaty bodies? Panelists responded that whereas time was still premature to draw conclusions on the issue, it could be ascertained that the UPR process had largely increased ratifications and reporting. It was clear, for instance, that the most frequently asked question in the UPR process related to ratification, and there were examples of States ratifying treaties prior to or in follow-up to UPR.
On another positive note, it was mentioned that inter-ministerial committees established in preparation of the national UPR report were subsequently being used in preparing periodic reports under the treaty body system. Concerning recommendations, panelists noted that, while contradictions and attempts at reformulation of treaty body recommendations existed and could potentially destabilize the system, UPR recommendations generally reflect treaty body recommendations and represent political follow-up of treaty body recommendations. Also, panelists stressed that treaty body considerations of States parties that had recently been under UPR had been better informed, with more up to date information available for the examination. The launch concluded with a reaffirmation of the importance of reform process of the treaty bodies and that the key challenges facing them should be address as a matter of priority.

*To access the Dublin Statement and to learn about its background and contents, please see:*

http://www.nottingham.ac.uk/hrlc/documents/specialevents/dublinstatement.pdf

**“Locating the Dublin Statement”:**

**Article by Mr. O’Flaherty, Member of HR Committee**


On 19 November 2009, a group of 35 serving or former members of United Nations (UN) human rights treaty monitoring bodies issued ‘the Dublin Statement on the Process of Strengthening of the UN Human Rights Treaty Body System’ (the Dublin Statement). This article locates the context for the statement and considers its principal elements. […]

[…] Whatever shape reform of the treaty body system may take, it is evident that the need for it remains as compelling as ever. It can be argued, taking into account of the multiplication of treaty bodies and procedures, as well as the changing environment for treaty body work, that this need grows increasingly acute. […] In recognition of the urgency of the situation, the current High Commissioner for Human Rights, in speeches to the HRC and General Assembly, has called for all concerned parties to speedily develop proposals which could enable the treaty body system to be more rational, coherent, coordinated and effective. She reiterated and further developed her comments in her exchange of views with participants at the Dublin Statement drafting meeting.

The Dublin Statement is a statement to the High Commissioner’s call. Its publication is in recognition of the new opportunity for a newly invigorated policy-level process of reflection and action created by the High Commissioner. The Statement is intended to galvanise such a process. As such, it does not present detailed solutions or specific reform outcomes. Instead it is intended to be a recapitulation of the elements necessary for an effective process of reform, marking out what its authors consider to be key parameters, objectives and methods for such a programme. The Dublin Statement seeks to identify what might be termed a ‘road-map’ for a reform that abides by identified standards of good practice. […]

You can download and read the full article at:

http://hrlr.oxfordjournals.org/content/10/2/319.full.pdf+html

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The NHRIs Marrakech Meeting on Strengthening the Human Rights Treaty Body System

The Advisory Council on Human Rights of Morocco organized, from 9 to 10 June 2010, a meeting in Marrakech (Morocco) of National Human Rights Institutions (NHRIs) to reflect on the future of human rights treaty bodies. This meeting was a response to the 2009 call of the United Nations High Commissioner for Human Rights, who requested States parties to human rights treaties, as well as NHRIs, treaty body members, civil society actors and other stakeholders to initiate a process of reflection on how to streamline and strengthen the treaty body system.

The meeting was attended by representatives of NHRIs from all regional networks of these institutions (Defensoría del Pueblo de la República Bolivariana de Venezuela, the Danish Institute for Human Rights, the German Institute for Human Rights, the Human Rights Commission of Ireland, the National Human Rights Commission of Korea, the Moroccan Advisory Council on Human Rights, the Human Rights Commission of New Zealand and the South African Human Rights Commission). Treaty body experts and representatives of OHCHR also participated as observers to the meeting.

A Statement was adopted with recommendations how to strengthen the human rights treaty bodies system, especially with regards to perspectives of national human rights institutions on the strengthening of the treaty body process, the cooperation between NHRIs and treaty bodies and on commitments of NHRIs to the process of strengthening the treaty bodies system.

Participants endorsed the Marrakesh statement at the conclusion of the meeting. The statement will be considered by the International Coordinating Committee of National Human Rights Institutions (ICC) at its next session in October 2010 when it will be made public.

***** ***** ****
CEDAW and CRC Informs
Critical Judgments of National Courts:
The Cases of the Dutch High Court and the US Supreme Court

Dutch High Court declares views on women of Orthodox-Reformed Party to be in violation of CEDAW

On 9 April 2010, the Dutch High Court issued an important decision for the advancement of the political rights of women in the Netherlands. The High Court declared that the exclusion of women from the electoral list of a political party - the Orthodox-Reformed Party Staatkundig Gereformeerde Partij, SGP - is contrary to the provisions of the Convention on the Elimination of All forms of Discrimination against Women (CEDAW). On this basis, it decided that the Netherlands is obliged to take effective measures to ensure that women can fully participate in political parties, including by ensuring the right of women to put forward their candidature on the electoral lists of political parties.

The case originates from a petition in 2003 by a number of non-governmental organizations demanding that the State, through a legal decision, declare illegal the discriminatory principles of the SGP. The groups argued that the State's tolerance of the political programme of the SGP was contradictory to CEDAW, the International Covenant on Civil and Political Rights and the European Convention on Human Rights and demanded that the State be obliged to take measures to end this illegal situation. The SGP has been represented in the Dutch parliament since 1922 and premises itself on the absolute authority of the word of the Lord as laid down in the Bible. Its political program pronounces itself against the right of women to be elected and, previously, women were not allowed to become members of the party.

In 2005, the district court in the Hague made a legal declaration as requested by the interest groups. It ordered the State to suspend the granting of subsidies to the party as long as it did not allow women to become regular members of the party (on the basis of the Law on financing of political parties). The Court of Appeal of the Hague later upheld the decision of the district court, except the order to suspend subsidies, but accepted the request by the SGP that it be considered a “party beside the State”. During the appeals process, the party changed its statute so as to accept women as party members, but maintained its position on the exclusion of women from their electoral lists of candidates.

The decision of last April by the High Court declared that CEDAW has direct effect in the country, why all parties, including the applicants, can rely on the provisions of the treaty. It decided that the State has to take measures that effectively lead the SGP to grant the right of women to be elected. To quote the press release of the High Court: “The State has to adopt a measure which is effective and at the same time is least intrusive to the basic rights of (the members of) the SGP.” In its decision, the Court recalled that in a democratic society based on law, political principles and programs can only be implemented within the boundaries determined by law and treaties. The right to vote and to be elected is essential for the democratic character of representative organs and therefore, the Court argued, it is unacceptable that a political group, in composing the list of candidates, acts contrary to the basic right that ensures the right to vote of all citizens. A democratic legal order demands tolerance with regard to religious convictions, but this does not impede that the judge decides that the manner in which the SGP practices its convictions in putting forward its candidates is not acceptable.

These were among the key reasons that led the High Court to reject the appeals of all parties and to affirm the legal declaration of the Appeals Court: That the State, in tolerating the views of the SGP regarding women, is acting contrary to, inter alia, CEDAW. The Court, however, decided that it is not empowered to prescribe the specific measures that the State should take. Such measures, including an order to suspend SGB’s subsidies, “requires a weighing of interests of a political nature that the judge can not make”.

The above text is a summary of the press release issued by the High Court on its decision of 9 April 2010. In case of a difference between this summary and the complete text of the decision, the latter is decisive. For the full text of the decision, see LJN BK4549 & BK4547.

Source: High Court of the Netherlands.
Date: 9 April 2010.
Article 37 (a) of the Convention on the Rights of the Child stipulates that States parties to the Convention shall ensure that: No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenders committed by persons below eighteen years of age.

Although the United States of America has not ratified the Convention, article 37(a) was noted in a groundbreaking opinion of the United States Supreme Court on 17 May 2010 – Graham v. Florida – which decided that “the Constitution of the United States prohibits the imposition of a life without parole sentence on a juvenile offender who did not commit homicide”. The petitioner, Mr. Terrance Jamar Graham from Florida, emphasized the Convention article to the Court in his petition, which also contended that the United States of America is “the only Nation that imposes life without parole sentences on juveniles in such nonhomicide cases”. While the Supreme Court noted that “the question before us is not whether international law prohibits the United States from imposing the sentence at issue”, the Opinion states that the US adheres to a sentencing practice rejected the world over and that “the climate of international opinion concerning the acceptability of a particular punishment […] is not irrelevant”.

The Opinion concerned a challenge to a sentence imposed by the State of Florida to life in prison without parole for a nonhomicide crime, committed by Mr. Graham at the age of 17. The petitioner held that the sentence was in violation of the Eight Amendment’s Cruel and Unusual Punishment Clause. Mr. Graham was sentenced by the trial court of Florida to life imprisonment for armed burglary and 15 years for attempted armed robbery. Given that Florida has abolished its parole system, a life sentence gives a defendant no possibility of release unless he or she is granted executive clemency. The crimes for which the sentence was issued were committed six months after Mr. Graham had been released, in advance, from a 12-months county jail as part of a 3-year terms of probation for involvement in a robbery attempt. Florida trial court stated in its explanation of the sentence:

[...] I don’t see where any further juvenile sanctions would be appropriate. I don’t see where any youthful offender sanctions would be appropriate. Given your escalating pattern of criminal conduct, it is apparent to this Court that this is the way you are going to live your life and that the only thing I can do now is try and protect the community from your actions.

The case presented the Supreme Court with an issue it had not previously considered: a categorical challenge to a term-of-years sentence. In its analysis, the Court studied, inter alia, (i) the national consensus on the sentence and (ii) whether the sentencing practice serves legitimate penological goals. Regarding national consensus, the Court concluded that the actual sentencing practice “discloses a consensus against its use”, noting that “only 12 jurisdictions nationwide in fact impose life without parole sentences on juvenile nonhomicide offenders – and most of those impose the sentence quite rarely – while 26 States as well as the District of Colombia do not impose them despite apparent statutory authorization”.

With respect to penological theory, the Court quotes in particular Roper v. Simmons which established that because juveniles have lessened culpability they are less deserving of the most severe punishments. The Court in
this case concludes that “none of the goals of penal sanctions that have been recognized as legitimate – retribution, deterrence, incapacitation, and rehabilitation – provides an adequate justification” with respect to life without parole for juvenile nonhomicide offenders. In its analysis, the Court notes that “by denying the defendant the right to reenter the community, the State makes an irrevocable judgement about that person’s value and place in society. This judgement is not appropriate in light of a juvenile nonhomicide offender’s capacity for change and limited moral culpability”. This determination and, quoting the Court,

the limited culpability of juvenile nonhomicide offenders; and the severity of life without parole all lead to the conclusion that the sentencing practice under consideration is cruel and unusual. This Court now holds that for a juvenile offender who did not commit homicide the Eight Amendment forbids the sentence of life without parole. This clear line is necessary to prevent the possibility that life without parole sentences will be imposed on juvenile nonhomicide offenders who are not sufficiently culpable to merit that punishment. Because ‘[t]he age of 18 is the point where society draws the line for many purposes between childhood and adulthood’, those who were below that age when the offence was committed may not be sentenced to life without parole for a nonhomicide crime.

The Supreme Court underlines that while this does not require a State to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime, a State “must […] give offenders like Graham some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. […] The Eight Amendment does not foreclose the possibility that persons convicted of nonhomicide crimes committed before adulthood will remain behind bars for life. It does forbid States from making the judgement at the outset that those offenders will never be able to reenter society.”

*** *** ***

“It follows that, when compared to an adult murderer, a juvenile offender who did not kill or intend to kill has a twice diminished moral culpability. The age of the offender and the nature of the crime each bear on the analysis.”

“Life without parole is an especially harsh punishment for a juvenile. Under this sentence a juvenile offender will on average serve more years and a greater percentage of his life than an adult offender. A 16-years-old and a 75-years-old each sentenced to life without parole receive the same punishment in name only.”

Committee on the Rights of the Child, General Comment No. 10

No life imprisonment without parole

77. No child who was under the age of 18 at the time he or she committed an offence should be sentenced to life without the possibility of release or parole. For all sentences imposed upon children the possibility of release should be realistic and regularly considered. […]

To read the Opinion Graham v. Florida, please see:

To read General Comment No. 10 on Children’s Rights in Juvenile Justice, please see:
http://www2.ohchr.org/english/bodies/crc/docs/GC10_en.doc
Academic Analysis of UN Treaty Bodies and the Core International Human Rights Treaties: Recently Published Articles32

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Abstract (Summary) At the 2009 Treaty Event held at UN Headquarters in New York, twenty-nine states signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. This new treaty had been adopted by consensus of the United Nations General Assembly on 10 December 2008, after decades of discussions and a surprisingly short nine months of intergovernmental negotiations over a draft. This article aims to share some of the history of discussions on economic, social, and cultural rights and on an optional protocol to the Social Rights Covenant within the United Nations. It also intends to show how this debate has evolved up until now, especially during the discussions within the UN open-ended working group on an optional protocol.

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Enhancing Enforcement of Economic, Social, and Cultural Rights Using Indicators: A Focus on the Right to Education in the ICESCR


Abstract (Summary) Nearly fifteen years ago, Audrey Chapman emphasized the importance of ascertaining violations of the International Covenant on Economic, Social and Cultural Rights (ICESCR) as a means to enhance its enforcement. Today, this violations approach is even more salient given the recent adoption of the Optional Protocol to the ICESCR. This article focuses on the right to education in the ICESCR to illustrate how indicators can be employed to ascertain treaty compliance and violations. Indicators are important to enforcing economic, social, and cultural rights because they assist in measuring progressive realization. The methodology that we propose calls for: 1) analyzing the specific language of the treaty that pertains to the right in question; 2) defining the concept and scope of the right; 3) identifying appropriate indicators that correlate with state obligations; 4) setting benchmarks to measure progressive realization; and 5) clearly identifying violations of the right in question.

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The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: An Ex Ante Assessment of its Effectiveness in Light of the Drafting Process


Abstract (Summary) In this article it is submitted that the text of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, as finally adopted on 10 December 2008, is to be seen as the outcome of a drafting process that was dominated by ideological prejudices rather than concerns with potential effectiveness. It goes without saying that political and ideological considerations always play a large part in negotiations of human rights instruments. However, the key question is whether this bargaining process has resulted in a potentially effective mechanism for addressing economic, social and cultural (ESC) rights violations, which takes into account the specificity of ESC rights, or rather an instrument which reflects the longstanding ideological prejudices against and scepticism towards ESC rights. Potential effectiveness is believed to have been jeopardised by weak wording, as a weak procedure is unlikely to be able to satisfactorily respond to violations of rights. At times an absolutist search for consensus seems to have been the driving force behind weakening the text.

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32 The selected articles have been identified through the search engine ProQuest, available to OHCHR staff, and include articles published in academic journals since the last issue of the Newsletter (Jan-March 2010). All abstracts are copied verbatim from the original source.
Unfinished Business: Concurrence of Claims Presented before a Human Rights Court or Treaty Body and through Diplomatic Protection

Abstract (Summary) International law has not, yet, defined the limits of concurrent cases involving resort to a human rights mechanism and diplomatic protection. The European Court of Human Rights has on occasion dealt with questions of simultaneous procedures and the International Law Commission (ILC) has described the relation of diplomatic protection to other mechanisms in international law. Even so, the question has not been answered clearly. The present article offers an analysis of the relevant case law and ILC documents, showing the importance of having regard to the facts of the particular case rather than just considering whether a settlement has been reached.

The Georgian Conflict, Racial Discrimination and the ICJ: The Order on Provisional Measures of 15 October 2008

Abstract (Summary) Until recently, it was rare for the International Court of Justice (ICJ) to decide cases based in international human rights law, particularly in its contentious jurisdiction. Yet, the ongoing Case concerning Application of the International Convention on the Elimination of All Forms of Racial Discrimination between Georgia and Russia has brought to the Court a dispute relating only, due to the limits of the Court's jurisdiction, to a specialised human rights treaty. Georgia brought the case during the recent armed conflict between it and the Russian Federation, after Russian forces had on 8 August 2008 entered Georgian territory. Russia had ostensibly acted to support the Georgian breakaway provinces of South Ossetia and Abkhazia, following armed action against the former by the Georgian government. But the roots of the conflict are much deeper. In the case now before the Court, Georgia complains not only of events in the recent armed conflict, but also more generally that Russia has, since 1991, materially supported the 'independence'-or 'separatist'--movements in the two regions. Georgia charges that those movements have, with Russian assistance, sought to dispel the ethnic Georgian populations from their regions, so as to advance their quest for independence. Russia is therefore said to be responsible for acts of mass violence and ethnic cleansing, as well as numerous other discriminatory acts against ethnic Georgian populations, both during the recent armed conflict (then committed also by Russian troops) and at earlier times. Shortly after bringing the case in the ICJ, Georgia also requested provisional measures, asking that Russia be ordered to refrain from and to protect against acts of racial discrimination. On 15 October 2008, the Court indicated provisional measures along those lines, but extended them of its motion to bind both parties.

Grounding Global Norms in Domestic Politics: Advocacy Coalitions and the Convention on the Rights of the Child in Argentina

Abstract (Summary) How do global rights regimes promote compliance? Can they form the basis for effective advocacy campaigns at the domestic level? In this paper, we address these questions via a case study of the role played by the Convention on the Rights of the Child in Argentinian politics. We argue that ratification of the convention strengthened the coherence and leverage of rights-based domestic activists and ultimately led to the introduction of a new rights-inspired legal code for children. We trace the emergence of a local compliance coalition for children's rights and the subsequent campaign for rights-based reform. Our analysis suggests that global rights conventions can alter the domestic political opportunity for advocacy, strengthen rights-based claims and bring about changes on the ground.

Advancing the Rights of Non-Citizens in Canada: A Human Rights Approach to Migrant Rights

Abstract (Summary) Focusing on seasonal agricultural migrant workers in Canada, this article illustrates how local migrant rights activists have utilized different judicial fora to claim rights for non-citizen migrant workers under the international human rights framework. The article underscores the role of litigation by activists who, citing international norms and conventions, claim that protections provided by domestic constitutional provisions and labor laws should be extended to non-citizen migrants. The importance of judges' willingness to recognize the international law framework is also underscored. This article contributes to human rights studies by emphasizing the transformative role of judicial agency in the fight for the extension of human rights protections.
NEW RATIFICATIONS: UPDATE since JANUARY 2010

Ratification status as at 29 June 2010

ICERD: 173 (53 States parties have accepted the communications procedure under art. 14)
ICCPR: 166 OP I (communication procedure): 113
       OP II (abolition of death penalty): 72
ICESCR: 160 OP (communication procedure): 1
CAT: 147 (64 States parties have accepted the communications procedure under art. 22)
       OPCAT (regular visits to places where people are deprived of their liberty): 51
CEDAW: 160 OP-CEDAW (communication procedure): 99
CRC: 193 CRC-OPSC (on sale of children, child prostitution and child pornography): 137
     CRC-OPAC (on the involvement of children in armed conflict): 132
CMW: 42 (2 States parties have accepted the communications procedure under art. 77)
CRPD: 87 CRPD-OP (communication procedure): 54
ICPPE33: 18

Strengthening the Treaty Body System:
An inclusive Process
(Message from the Director of the HRTD, continued from p. 1)

[...] Recently, this June, representatives from National Human Rights Institutions met in Marrakech and adopted a statement with proposals how to enhance the effectiveness of collaboration between NHRIs and treaty bodies. Other consultations are in the pipeline for this fall: One (or more) of civil society, one of treaty bodies’ members to follow-up on Dublin and internal consultations across treaty bodies. Of course, in parallel, the Inter-Committee Meeting (ICM) and Annual Meeting of Treaty Bodies Chairpersons will continue their work to harmonize and strengthen their working methods and impact at country level. We took note with great interest of the establishment of a new ICM working group on follow-up that will hold its first meeting next January 2011. Also, by the time this Newsletter will be published, for the first time the Annual Meeting of Chairpersons will have held its 22nd meeting outside of Geneva, namely in Brussels. The objective of this move is to bring the treaty bodies closer to the implementation level and to regional mechanisms as well as to civil society around the world. This pilot experience will be evaluated and, if positive, the Annual Meeting of Treaty Bodies Chairpersons could take place every other year at regional UN presences.

Your ideas are important to further improve and strengthen the treaty body system. We very much welcome your thoughts and initiatives. Ibrahim Salama

Meeting between the ICM and States parties in the Alliance of Civilizations Room in Palais des Nations on 29 June 2010.

33 The Convention for the Protection of All Persons from Enforced Disappearance has not yet entered into force. 18 States have ratified the Convention; upon the 20th ratification, the treaty enters into force.
ENGAGE WITH THE HUMAN RIGHTS TREATIES DIVISION!

You can be of crucial assistance to treaty-bodies

- By raising awareness with country-based constituencies about upcoming considerations of reports by treaty bodies
- By encouraging relevant partners to provide information to relevant treaty-bodies
- By facilitating and encouraging implementation of treaty body recommendations

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<tr>
<td>Human Rights Committee (HR Committee)</td>
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NEW STATE PARTIES’ REPORTS RECEIVED
During April - June 2010

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NORTH AFRICA AND MIDDLE EAST

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<td>Guyana</td>
<td>CEDAW: Seventh to eight periodic report (CEDAW/C/GUY/7-8) received on 10/05/2010</td>
</tr>
<tr>
<td>Paraguay</td>
<td>CEDAW: Sixth periodic report (CEDAW/C/PRY/6) received on 8 April 2010</td>
</tr>
<tr>
<td>Paraguay</td>
<td>COMMON CORE DOCUMENT: (HRI/CORE/PRY/2010) received on 21/05/2010</td>
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- Is issued on a quarterly basis since 2008 with a view to provide more in-depth and specific information on the work of the treaty bodies, including interviews, analysis of decisions, activities and reports from OHCHR field presences, etc.

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