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Committee on Economic, Social and Cultural Rights Sixty-fifth session

Summary record (partial)* of the 29th meeting**

Held at the Palais de Nations, Geneva, on Friday, 8 March 2019, at 11.40 a.m.

Chair: Mr. Zerbini Ribeiro Leão

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- * No summary record was prepared for the rest of the meeting.
** No summary records were issued for the 18th to 28th meetings.

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The discussion covered in the summary record began at 11.40 a.m.

Miscellaneous matters

Informal meeting with States

1. **The Chair** said that it was a pleasure to welcome the States parties to the meeting, which was an opportunity to update them on various aspects of the Committee's work, including individual communications under the Optional Protocol, follow-up to concluding observations, new general comments and the simplified reporting procedure.
2. **Mr. Uprimny** (Chair-Coordinator of the Working Group on Communications) said that the past year had seen an exponential increase in the number of individual communications. Prior to 2018, the Committee had received a cumulative total of 23 communications, but in 2018 alone it had received 162. Many of those petitions requested interim measures and therefore required urgent attention, so compounding the impact of the increase in submissions. The Committee had so far registered approximately 120 of the communications received and had reached a decision in 6 cases. Assuming no change in resourcing levels and, by extension, no change in the number of cases settled each year, it would take the Committee around 20 years to clear the current backlog. The Working Group was using every available opportunity to expedite the process and was receiving very good support from the secretariat. However, States parties should be aware of the implications of resourcing constraints.
3. Of the six cases resolved, one had been declared inadmissible and four had been discontinued. The sixth communication had involved two claims, one of which had been declared inadmissible. The Committee had found a violation of the Covenant in respect of the other claim and would publish its recommendations in the near future.
4. **Ms. Liebenberg** said that the Committee had completed its assessment of follow-up reports received from Australia, Liechtenstein, the Netherlands and Uruguay under the new follow-up procedure. The outcomes would be communicated to the States concerned at the end of the session. The new procedure, which had been adopted on a pilot basis in 2017, involved identifying three recommendations deemed to require urgent attention and asking States parties to report on action taken to implement them within 24 months. Parallel submissions were invited from national human rights institutions and non-governmental organizations. The Committee had been pleased with the responses received and looked forward to the opportunities for more continuous interaction with States parties that the new procedure offered. The new set of follow-up reports prepared under the new procedure was expected in April and would be considered during the sixty-sixth session.
5. **Ms. Shin** said that the simplified reporting procedure, which the Committee had decided to offer on a pilot basis as of November 2014 to States parties that had already submitted at least three periodic reports, had been favourably received by Bulgaria, New Zealand and Spain, the first States to avail themselves of the option. Lists of issues prior to reporting had since been issued to a further four States, namely Belarus, Belgium, Norway and Ukraine, all of which were scheduled for review in 2020, and would be issued to five more, namely Austria, Chile, Finland, Italy and Mongolia, in the near future. The information that the Committee had received in response to the lists of issues prior to reporting had varied in quantity and quality and no comprehensive assessment of the new procedure's merits had been conducted as yet. The pilot would be extended to all States parties that agreed to use the new procedure.
6. **Mr. Mancisor de la Fuente** said that the contributions of international organizations, including the United Nations Educational, Scientific and Cultural Organization, representatives of civil society and academia and other participants during the day of general discussion held in October 2018 had been used to formulate a new draft of the general comment on science-related rights. The new draft had been discussed during the session and agreement had been reached on the general structure and main lines of action. The aim was to have a final version ready for approval during the sixty-sixth session.
7. **Mr. De Schutter** said that, in the preparatory discussions for the 2020 treaty body review, the committees had been working to agree on common positions. There was a

consensus that the meeting time available for State party reviews should not be reduced: six hours, or two meetings, per session was considered the minimum time required to review a periodic report and nine hours, or three meetings, the minimum acceptable for initial reports. In addition, sessions should include sufficient time to interact with other stakeholders and to consider communications and general comments. Ideally, therefore, meeting time should be increased. There was also strong support for extending the use of lists of issues prior to reporting, making them the default option for periodic reports, but there were doubts as to the suitability of the simplified reporting procedure for initial reports.

8. Support for closer coordination of reporting calendars was more tentative because of the differing levels of ratification and lengths of reporting cycles. However, coordination between the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, as the two committees with general mandates, was certainly feasible when States parties were reporting to the two committees simultaneously, as had been demonstrated during the current session in the reviews of Estonia and Finland.

9. The possibility of having committee subgroups sitting in parallel chambers – an arrangement that the Human Rights Committee had used on a trial basis to increase the time available to process communications – had also received only limited support, and the practice was certainly not considered suitable for State party reviews. A proposal from the Committee against Torture and the Subcommittee on Prevention of Torture that small groups of country rapporteurs might visit the States concerned to meet with representatives of governmental and non-governmental institutions in situ in order to gain a more informed view of the challenges faced had also failed to garner widespread support. A general reluctance among States parties to agree to such visits was anticipated, although the procedure might be offered as an option to acquiescing States.

10. Late reporting, or non-reporting, and the incentives that might be offered to encourage States parties to report on time, were also among the issues under the spotlight in the discussions. While some committees conducted reviews in the absence of a report and the absence of a delegation, for want of an alternative, the consensus was against systematic use of that practice. It had been suggested that universal periodic reviews might be used as a tool for ensuring compliance with reporting obligations. There was also a general agreement that States parties should be encouraged to strengthen national mechanisms for reporting and follow-up and, in particular, to expand the scope of preparatory consultations and discussions.

11. **Mr. Windfuhr** said that the Committee was working on two new general comments in addition to the general comment on science. A first draft of a general comment on Covenant obligations related to land had already been discussed in plenary. The next step was to organize a day of general discussion at which States parties and other stakeholders could comment on the key issues identified. A general comment on sustainable development and economic, social and cultural rights was also in the pipeline. Because the view of development enshrined in the Covenant reflected the view that had prevailed in the 1960s – a time of optimism when the belief had been that using more resources would result in fuller progressive realization of the Covenant rights – but it was now recognised that sustainable development meant limiting resource utilization and limiting growth, at least to an extent, the Committee had been reviewing the Covenant's development-related provisions, notably those of article 2, drawing on input from scientists, academics, non-governmental organizations and other stakeholders. The draft was still in the early stages and wider consultations were planned in the second half of 2019 or first half of 2020. A day of general discussion would be organized in 2020, provided that sufficient time and resources could be made available.

12. **Mr. Lee Jang-keun** (Republic of Korea) said that the update on preparations for the 2020 review had been very helpful and he would like to thank the Committee for its contributions to the treaty body strengthening process and its efforts to enhance procedures. The simplified reporting procedure should help to reduce the burden for reporting States and improve the overall efficiency of the treaty bodies system. With that goal in mind, he would be interested to know whether the possibility of the Committee joining forces with the Human Rights Committee to produce a consolidated list of issues had been considered.

13. **Mr. Plangprayoon** (Thailand) said that it would be useful to be provided with weblinks through which further information about the ongoing developments could be obtained. He supported many of the proposals described but was concerned that economic rights might not always be given the same prominence as other rights. Clarification as to the difference between progressive rights and immediate rights, and as to how States should address the undertaking to maximize available resources, would be appreciated in that context. Similarly, he would like to hear more about initiatives that highlighted the contribution of economic rights to the 2030 Agenda for Sustainable Development and the interrelationship between their role and the role of political rights. While it was widely recognized that the realization of economic rights served to reduce poverty and improve standards of living, there was less widespread awareness of their relevance to the 2030 Agenda and of the importance of political rights in facilitating the realization of economic rights, and vice versa. Some specific examples would be useful.

14. **Mr. Stevens** (Belgium) said that the Committee's efforts to increase efficiency in a difficult budget scenario were greatly appreciated, as were its commitments to the treaty body strengthening process, greater dialogue and closer cooperation. He would like to know what the next steps in the preparations for the 2020 review would be and whether a formal report detailing the scope of the discussions and any related recommendations would be issued. He would also appreciate specific information about the benefits that the introduction of the simplified reporting procedure, which his Government fully supported, was expected to yield in terms of the quality of dialogue and ongoing monitoring. Noting lastly that there was also scope for closer coordination and consultation between treaty bodies in the processing of individual communications, he suggested that greater harmonization of working methods in that area might have a positive impact on the consistency and coherence of treaty body case law.

15. **Ms. Lazarevic** (Switzerland) said that her Government supported the call for closer reflection on the links between the Covenant rights and the 2030 Agenda. It was also a supporter of the simplified reporting procedure and of greater cross-committee harmonization. In that context, she asked which aspects of the treaty body system, in the Committee's view, required the most urgent attention and on which of those areas it was currently focusing its efforts.

16. **Mr. Wise** (Australia) said that although the most recent periodic report of Australia had not been submitted under the simplified reporting procedure, his Government was very much in favour of the new procedure. However, with regard to the trend towards increased alignment of working methods, the Government of Australia was not generally supportive of joint general comments for reasons of clarity: one committee's interpretation might not necessarily be consistent with that of another. It would also like to encourage the Committee to give States parties more time to consider draft comments.

17. **Mr. De Schutter** said that attempts to consolidate lists of issues had so far been limited to informal consultation and coordination between the respective country rapporteurs whenever a country was reviewed more or less simultaneously by more than one committee. Despite the clear advantages, the possibility of doing that on a more formal basis was not currently under serious consideration. For consolidated lists of issues to be adopted, joint meetings would need to be organized and, logistically, given current meeting resources, that would be very difficult. Furthermore, the priorities of one committee did not necessarily match those of another. The proposal to have country rapporteurs take part in working sessions with government officials and other stakeholders in situ might be trialled on an experimental basis but, again due to resourcing implications, its use was unlikely to be anything more than marginal.

18. The next stage in preparations for the 2020 review was the Meeting of Chairs to be held in New York in June, at which the treaty bodies would work to build on the consensus reached to date. However, it was impossible to anticipate whether sufficient consensus could be achieved to allow for a formal document detailing the agreements reached to be issued to States parties at that stage. If a document was issued, it would certainly make provision for differing positions and differing practices to be maintained within the broader framework: a fully unified approach was not envisaged at present. There was not currently any plan to

conduct a cross-committee harmonization of the case law resulting from the consideration of individual communications; nor was that, in his view, necessarily a desirable goal.

19. **Ms. Liebenberg** said that initiatives and projects that highlighted the synergies between the Covenant and the 2030 Agenda included, in addition to the general comment on which Mr. Windfuhr had reported, the statement on the “leave no one behind” principle adopted by the Committee at the current session, which considered how the Covenant could help States to fulfil their pledges “to leave no one behind” and contribute to the realization of the 2030 Agenda. The statement would be released after the session.

20. **Ms. Shin** said that the simplified reporting procedure had a two-fold goal: firstly, to ease the reporting burden for States parties and, secondly, to focus discussions around a limited number of issues. The general aim was to limit lists to around 25 questions, meaning that, in some cases, not all sections of the Covenant were covered, and to address only those questions in the interactive dialogue. For example, in its dialogue with Spain, the Committee had focused on the impact of austerity measures on enjoyment of the Covenant rights and had touched only briefly on other issues. However, in the list of issues prior to reporting, the Committee always asked States parties for details of any important new developments in policy, legislation or programmes that they would like to share. Concerns that ongoing use of the simplified procedure may result in some Covenant obligations receiving insufficient coverage had prompted a suggestion that the standard and simplified procedures might be used on an alternating basis, but discussion on that proposal remained in the exploratory stages.

21. **Mr. Uprimny** said that several committees had made efforts to highlight the indivisibility and interdependence of the rights and obligations assumed under different human rights treaties. His Committee, for example, had recently highlighted the close relationship between civil and political rights and the right to housing. The Human Rights Committee, meanwhile, in its general comment No. 36 on the right to life, established that the right to life implied an obligation for States to guarantee its citizens the material conditions for a dignified life as well as an obligation not to arbitrarily deprive persons of life. To ensure that due consideration could be given to issues of indivisibility and interdependence, particularly when examining individual communications, he urged more States to become parties to the optional protocols to both Covenants.

22. **Mr. Windfuhr** said that the pre-sessional working group made considerable efforts to align its work with that of other committees, routinely checking which issues were being addressed under other treaties in order to prevent duplication. He also wished to highlight that, under the simplified reporting procedure, the Committee had no State party report to draw on and had therefore to rely on information gathered by other means to identify and inform itself about the key issues. A lot of careful research was required, placing considerable demands on Committee members’ time.

23. **Mr. Plangprayoon** (Thailand) said that it appeared that one of the changes implied by adoption of the simplified reporting procedure was that the Committee would in future draft its lists of issues not solely, or even primarily, on the basis of previous State party reports and the related concluding observations but rather on the basis of issues identified in the course of its own research that may not have been covered in previous reports.

24. **Mr. Windfuhr** said that the point of departure under the standard reporting procedure was States parties’ self-assessment of their progress in implementing the Covenant whereas, under the simplified reporting procedure, input from other sources provided the point of departure. The change eased the burden for States but required more initial research by the Committee. That was not a problem, but did indeed mark a significant change for the identification of issues and the distribution of time and effort.

25. **Mr. Abdel-Moneim** said that he would like to urge States parties to give greater attention to the statistical annexes attached to their reports, providing the Committee with as much statistical detail as possible and clarifying the calculation methods used. The Committee could not work without adequate accurate statistics, as a comparative approach was essential to assessing progress over the reporting cycle.

26. **Mr. Kedzia** said that while, in his view, the advantages of the simplified reporting procedure were clear, the Committee needed strengthened, expanded and enhanced analytical capacity in order to exploit its full potential and thus, by extension, required more extensive support from the Office of the United Nations High Commissioner for Human Rights. That need must be addressed as part of the 2020 review. Without sufficient support for in-depth analysis, the Committee might have no choice but to focus on its previous concluding observations when drafting lists of issues prior to reporting, and that would be to the detriment of its work, to the detriment of States parties and to the detriment of human rights. He urged States parties to reflect on the relationship between the availability of analytical capacity and the success of the new reporting procedure, which represented an unprecedented opportunity for progress towards a more integrated system-wide approach.

The meeting rose at 12.55 p.m.