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HUMAN RIGHTS COMMITTEE

Ninety-third session

SUMMARY RECORD OF THE 2550th MEETING

Held at the Palais Wilson, Geneva,  
on Monday, 14 July 2008, at 10 a.m.

Chairperson: Ms. PALM (Vice-Chairperson)

CONTENTS

ORGANIZATIONAL AND OTHER MATTERS (continued)

Working methods

Revision of the guidelines for State party reports under the Covenant

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In the absence of Mr. Rivas Posada, Ms. Palm (Vice-Chairperson) took the Chair.

The meeting was called to order at 10.10 a.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Working methods

1. The CHAIRPERSON proposed that the discussion of rule 96 (g) of the rules of procedure on undue delay should be continued at a later date. She invited those Committee members who had attended to summarize the outcomes of the seventh Inter-Committee Meeting and the twentieth Meeting of Chairpersons of the Human Rights Treaty Bodies.
2. Mr. O'FLAHERTY, speaking also on behalf of Mr. Rivas Posada and Mr. Amor, introduced the report on the Inter-Committee Meeting (document without a symbol, distributed in the Committee room). A large number of information briefings had competed for time with reform proposals from the secretariat on harmonization of working methods, as well as standing items, including dialogue with NGOs. The purpose of the briefings had not always been clear and some considered that the secretariat's reform proposals had not addressed the most urgent concerns. However, the Meeting had resulted in a number of points of agreement which, it was hoped, could advance matters.
3. It had been agreed that one of the biannual inter-committee meetings should be devoted to harmonization of working methods. It had been proposed that all treaty bodies should adopt their revised harmonized reporting guidelines by the end of 2009; a number of other committees had in fact already done so. With respect to follow-up to concluding observations, the good practice of the Committee and its established procedures had been mentioned in the discussion. An expert meeting on follow-up would be held during the coming year for Committee members and rapporteurs. Discussions should pay particular attention to qualitative assessment.
4. The proposal on consideration of the situation in a State party in the absence of a report had been endorsed. With regard to discussion of the relationship between the treaty bodies and the Human Rights Council, the Committee's nomination of two members to observe the Council had aroused considerable interest and other committees would follow suit. In view of points raised by NGOs regarding the independence of experts under the current electoral system and procedures, a 1997 decision of the Chairpersons on the need for members to protect their autonomy and independence had been reaffirmed.
5. As to access to treaty body deliberations through various media, the valuable contribution of Ms. Wedgwood had enabled the Committee to address the meeting with confidence. The need to improve the participation of national NGOs had been emphasized. Discussion of the form and structure of lists of issues, although not a priority for participants, had taken up considerable time. It had been accepted that joint general comments should address procedural and technical issues, rather than substantive ones. The information briefing on the continuing work of the secretariat on indicators for human rights violations had been useful, and it had been proposed that a comprehensive set of indicators should be established by the end of 2009.

6. Mr. AMOR added that the Inter-Committee Meetings provided a valuable opportunity to exchange information and points of view. However, their working methods must be rigorous if they were to be effective and care was needed in setting the agenda.
7. Much remained to be done in order to harmonize working methods. The identification of common ground to determine which good practices could be drawn upon was a priority. A common approach to examining situations and to follow-up was important, although the same was not necessarily true of joint comments. However, joint approaches to other matters, such as reservations, could be formulated and joint clarifications on relations with the Human Rights Council could be useful.
8. If harmonization was to be achieved, it would require determination, careful thought and a realistic attitude. The inter-committee meetings could be most beneficial for sharing experiences; the Committee was not adverse to harmonization where feasible or necessary.
9. The CHAIRPERSON invited questions from members.
10. Ms. MOTOC agreed on the need to be realistic about harmonization within limits, based on the specific tasks of each committee. She asked whether the specific ideas behind the notion of the independence of experts had been invoked, or whether the issue had been discussed in general terms. She sought clarification as to whether it had been decided that the publication of the deliberations and conclusions of the Committee on the Internet, in parallel with the Human Rights Council, might compete with the Universal Periodic Review (UPR). She further asked whether tangible issues had been raised with regard to improving contacts and communication with NGOs.
11. Ms. CHANET requested further clarification on the relationship with the Human Rights Council, as the report made particular reference to the responses of States parties following the UPR. Her own research into a report on relations between the Committee and the Council had found numerous references during the debates and recommendations to special procedures and to the treaty bodies; she proposed that that should be a topic for discussion.
12. It was necessary to address the issue of whether States made proper or opportunistic use of the Committee's recommendations, and also the proper response of treaty bodies in cases where a State rejected a recommendation. The issue should be discussed by the various committees and resolved at the next Inter-Committee and Chairpersons' Meetings. A joint approach was also needed for the follow-up stage to deal with States which had rejected Council recommendations.
13. Mr. IWASAWA said that the discussion at the expert meeting on statistical information in monitoring the implementation of human rights, held in April 2008, had been interesting, and he requested the secretariat to distribute the report (HRI/MC/2008/3) to the Committee. Although the secretariat was requested to brief all treaty bodies periodically and to consult with them, attendance had been poor at the briefing given at that meeting. Committee members should take the next opportunity to familiarize themselves with the interesting work being done. During that meeting he had also had the opportunity to acquaint himself with the activity of the Working Group on the Universal Periodic Review and would comment on it at the appropriate time.

14. Sir Nigel RODLEY proposed that, given the apparent gap between the priorities of the secretariat and those of the treaty bodies, a mechanism for pre-session approval of the agenda should be established and that, pending its establishment, no item should be added to the standing agenda without the agreement of the Chairpersons of the treaty bodies.
15. His informal contacts in the International Law Commission had given the impression that the issue of reservations might be dealt with conclusively at its next session. A method would therefore be needed to monitor the issue and, perhaps, to identify the extent to which the treaty bodies could continue to have their views taken into account, at a possibly crucial stage for the Commission's deliberations on those issues.
16. Ms. WEDGWOOD said she had been pleased to note the frequent references to treaty body recommendations by States parties. However, she had been distressed to learn that, during the UPR, meetings had been held to negotiate the recommendations that the countries under examination might accept. That practice could seriously reduce the impact of the recommendations and increase States' resistance to the treaty bodies' observations. On the other hand, the UPR process gave great impetus to efforts to deal with overlap between treaty bodies and eliminate redundancy.
17. She asked whether the Inter-Committee Meeting had considered ways of expediting translation; such a step would reduce the length of sessions, save money and facilitate the participation of a greater number of women with family commitments in treaty body meetings.
18. Mr. O'FLAHERTY, responding to questions, said that the discussion in the Inter-Committee Meeting regarding the independence of experts had been stimulated by an excellent NGO paper. He requested the secretariat to distribute it to the Committee, together with the statement made by the eighth Meeting of Persons Chairing the Human Rights Treaty Bodies (A/52/507). He pointed out, however, that the independence of experts was an issue to be addressed by States parties rather than treaty bodies.
19. The Meeting had made no progress on the subject of webcasting. Indeed most of the other treaty bodies had only just become aware of its potential.
20. The NGO paper contained many recommendations on how the treaty bodies could improve their work. The Meeting had also suggested ways in which NGO participation might be made more effective. In particular, it had emphasized the need to promote the involvement of national-level organizations and urged NGOs to provide material to the treaty bodies before the adoption of lists of issues.
21. With regard to the Human Rights Council and the UPR, the main issue was how to achieve an appropriate and balanced reflection of the findings of treaty bodies in the secretariat's compilation of comments by United Nations bodies on States under review. Concern had been expressed at the fact that, for instance, findings regarding the rights of the child had been inadequately reflected. There had been no major discussion of the points of concern raised by Ms. Chanet, largely because the UPR was still in its infancy and no firm conclusions could yet be drawn regarding any aspect of the project.

22. The Meeting had agreed on an agenda for the eighth Inter-Committee Meeting. It had further suggested that one Meeting a year should be devoted entirely to substantive issues. He noted, however, that the secretariat had been able to identify a specific request by the Inter-Committee itself for the inclusion of each agenda item complained of at the seventh Meeting.
23. The Committee had been fortunate to receive a briefing on statistical information. Not every treaty body had been able to mobilize the resources to attend such meetings.
24. Documentation and translation had been discussed by the Chairpersons of the treaty bodies following a meeting with representatives of the Conference Services Division. He feared that the increasing burden being placed on the Division by the Council and the UPR was detrimental to the treaty bodies. The Division's resources had not kept pace with its increasing workload.
25. Mr. AMOR, referring to the independence of experts, said that the main point made was that Governments should not nominate candidates who held high office in a country's executive or legislature. Personally, he took the view that independence was more a personal than a procedural issue.
26. Noting that very few representatives of NGOs had attended the Inter-Committee Meeting, he concurred with the view that NGOs should submit information to the Committee before it drew up its lists of issues.
27. Some treaty bodies had unofficially queried the funding of the participation by two Human Rights Committee observers in the recent session of the Human Rights Council. He was personally convinced that the Committee had taken the right decision in that regard.
28. He emphasized the need to enhance awareness among all treaty body members of the various dimensions of the issue of reservations so that a common position could be developed.
29. With regard to translation, it was important to bear in mind that the United Nations was not an English-speaking organization. The status of other languages should be maintained and even enhanced. The workload increased whenever new mechanisms were created and provision should be made for a corresponding increase in the relevant budget.
30. Mr. LALLAH said that the independence of experts was a matter to be dealt with by the States parties. The Committee had discussed a code of conduct in the past. It should consider what practical steps could be taken to implement such a code without overstepping its mandate.
31. He was pleased to hear that the concluding observations of some treaty bodies had been reflected in the secretariat's compilations for the purposes of the UPR. He drew attention, however, to the risk of selectivity at the level of both the secretariat and the Council itself. He wondered whether the concluding observations of all treaty bodies could not be annexed to the relevant documents.
32. Mr. SCHMIDT (Secretariat) said the secretariat fully agreed that the United Nations system should remain as multilingual as possible. At the meeting between the Chairpersons of the treaty bodies and representatives of the Conference Services Division on 27 June 2008, it had been noted that the Division had been operating under major constraints since 2002, when the

General Assembly had decided to economize on its resources. Documentation for the Council, including the UPR, was imposing additional constraints. The UPR exercise generated a total of some 2,000 pages a year, to which should be added the review outcome documents published by the plenary Council. The Conference Services Division had indicated that it would make every effort to produce all documents for the treaty bodies on time. It encouraged the secretariats of treaty bodies to meet regularly with a view to prioritizing documents for translation. The Council had recently designated a focal point to deal with documentation. In addition, the Acting High Commissioner for Human Rights had held a follow-up meeting with the Deputy Director-General of the United Nations Office at Geneva and the Chief of the Conference Services Division at the end of June 2008, during which some issues raised by the Committee had been addressed.

33. The Committee should not expect draft concluding observations to be translated within 24 hours because there was no provision for shift work in the Conference Services Division.
34. Ms. WEDGWOOD proposed that the inter-committee meetings and meetings of Chairpersons of treaty bodies should address the perennial problem of the dearth of women candidates for treaty bodies. She suggested that the matter should be raised with States parties in appropriate forums.
35. She pointed out that the idea of an annex to the secretariat's compilation for the UPR containing the concluding observations of all treaty bodies would not entail additional translation work because the documents in question had already been translated.
36. Ms. PROUVEZ (Secretary of the Committee) said that the secretariat was unable to influence the Council's decision that the compilation of recommendations by treaty bodies and special procedure mandate-holders should be limited to 10 pages.
37. Ms. MAJODINA drew attention to the risk to treaty bodies arising from the proliferation of reporting obligations, which was giving rise to the phenomenon of "reporting fatigue". Many countries had not set up special reporting mechanisms, so that they were faced with a huge backlog. She asked whether there had been any discussion of the idea of a consolidated report by treaty bodies at the Inter-Committee Meeting or the Meeting of Chairpersons.
38. Mr. O'FLAHERTY said that the idea had not been discussed since it had been decisively rejected by the Inter-Committee Meeting several years previously. However, there had been a discussion of the harmonization of treaty body working methods and of possible improvements in reporting procedures, which would relieve some of the burden on States parties. A deadline of 2009 had been proposed for the development of revised reporting guidelines, which would take account of the new common core document, thereby making it easier for States parties to meet their reporting obligations.
39. Mr. AMOR said that the idea of a consolidated report or a single treaty body was purely academic. However, the other treaty bodies might be encouraged to follow the Committee's example by allowing States parties that had already submitted an initial report to confine their

subsequent periodic reports to replies to questions raised by the Committee. States were certainly overburdened, especially those with limited means, but they persisted in setting up new special procedures and treaty bodies.

The meeting was suspended at 11.25 a.m. and resumed at 11.45 a.m.

Revision of the guidelines for State party reports under the Covenant

40. Mr. O'FLAHERTY, introducing his updated report on revision of the guidelines for State reports under the Covenant (CCPR/C/93/CRP.2), said that he had taken into account the discussion of his initial report at the previous session in March 2008. He highlighted the status of revision of reporting guidelines in other treaty bodies referred to in paragraph 6. The purposes of revising the guidelines, including making them consistent with the guidelines for a common core document, were outlined in paragraph 7. He drew particular attention to the information requested for a common core document set out in paragraph 8 (c) and (d), concerning the legal framework for the protection of human rights at the national level, which would require further discussion.

41. Another purpose of revising the current guidelines was to take account of evolving Committee practices and procedures. Many Committee members had made it clear that they would welcome revising the reporting guidelines in order to clarify for States all the elements of the procedures, including the drafting, submission, consideration and follow-up of the reports. Some procedural questions had not yet been settled, such as whether the list of issues should be further developed and concerns listed by order of priority, and whether a time limit should be set on the length of statements in order to improve dialogue with States. It was for the Committee to decide whether or not to include such matters in the guidelines.

42. Turning to another purpose of revising the guidelines, harmonizing treaty body practices and procedures, he drew particular attention to paragraph 16 on whether the Committee should opt for guidelines which treated initial and periodic reports separately or in the same manner. He favoured dealing with them in an integrated manner, which was the practice of most other treaty bodies.

43. He emphasized paragraphs 18-23, which dealt with the adoption of an "enhanced list of issues" approach in guiding States on the preparation of reports. In summary, for periodic reports, the Committee might consider doing away with the general reporting format entirely and simply have the State respond to a written list of specific questions. Paragraph 20 included arguments for and against such an approach. Paragraphs 21 and 22 included variants of the enhanced list of issues. He highlighted the third variant in paragraph 21 involving a continuing obligation to submit a comprehensive but very brief report, which had received some support from the Committee. He drew particular attention to paragraph 22, which proposed maintaining the requirement of a comprehensive report while concentrating on a relatively small number of key issues, perhaps ranked in order of importance, when drawing up the list of issues. Paragraph 23 set out matters on which the Committee must take decisions.

44. The CHAIRPERSON said that, as there seemed to be no new information in the document up to paragraph 16 aside from the status of revision of reporting guidelines by other treaty bodies, she took it that the Committee could adopt the document up to that paragraph.

45. Ms. CHANET said that Mr. O'Flaherty had been correct in reminding members at the previous session of the shortcomings of limiting reports to a list of issues, particularly with respect to States which had already submitted several reports, and in proposing a compromise solution. The Committee should therefore focus on such a solution. The Committee must decide on what to include in a comprehensive, yet brief report, how it could put concise and specific questions, whether it would set priorities by theme or area of concern and what follow-up procedure to take, including a list of issues which would be limited to new questions only. Although the report format should be kept, the report should be brief.
46. Referring to paragraph 3, she said the number of paragraphs did not in itself make the guidelines any more or less succinct. States parties were currently shouldering a heavy reporting burden. She warned against weighing them down even further with overly long and detailed guidelines.
47. Ms. WEDGWOOD said that the reporting guidelines depended on how frequently the State party submitted its reports. The Committee could offer an incentive by means of which the more often a State submitted reports the more focused and shorter the report could be. The French report had been structured around the questions put by the Committee, albeit 10 years previously. NGOs should be given sufficient notice of when the Committee would take up task force reports to help it set priorities when formulating questions. However, the Committee must avoid giving any truncated set of questions too narrow a focus.
48. Mr. LALLAH said that the requirement of a comprehensive report would indeed depend on the frequency with which States parties submitted their reports. He noted that the brief report of San Marino had been submitted after a 17-year delay. The requirement also depended on the level of resources of the State party. The Committee should insist on a comprehensive report for a number of reasons, including its changing membership. Some new members might not have the opportunity to review all the past summary records. A good comprehensive report was therefore needed to properly brief them. The Committee must have a list of issues which was not too elaborate and which focused on each country's specific problems. Although the United States and the United Kingdom were both confronted with the problem of how to deal with terrorism, for example, there were other issues which they did not share.
49. The information provided to the Committee by NGOs was valuable even when it was sent after the Committee had drafted its list of issues, as it helped to move the dialogue with the delegations forward. The briefings with Irish NGOs were an excellent example of how NGOs enhanced the Committee's dialogue with the State party. Lastly, he favoured even shorter guidelines than the ones proposed. Every effort should be made to make them as succinct as possible.
50. Mr. AMOR said that State party reports should be composed of (a) replies to the concluding observations, and (b) replies to questions addressing current issues put by the Committee shortly before the State party drafted its report. The working methods of the task forces would have to be revised for that purpose. It would be for the task forces to identify any problems which arose concerning any of the provisions of the Covenant. The questions to be put to the State party before it sent its report could then be drafted accordingly.

51. Concerning the periodicity of reporting, some treaty bodies had a set deadline for submitting reports, while others, such as the Committee, had not. The Committee should establish a general rule on a deadline of between three and five years for the submission of subsequent reports in order to avoid the appearance of arbitrariness. On several occasions, too many questions considered to have priority had been put to States parties. Some States felt harassed by the high number of priority concerns raised by the Committee and other treaty bodies. It was essential that States should not consider that they were being singled out. Even if there were reasons to give one State party more attention than another, by avoiding selectivity the Committee could enjoy enhanced cooperation with States, particularly those with limited resources to comply with their obligations.
52. Mr. BHAGWATI agreed with Mr. Lallah. Lists of issues should focus on two elements: firstly, the concerns expressed in the Committee's previous concluding observations which the State party had failed to address in its periodic report; and secondly, significant developments in the State party's legal system or executive action. Such an approach would ensure that the information provided by the State party was both precise and comprehensive.
53. Ms. MOTOC expressed her preference for a list of specific questions to be submitted to States parties. In the experience of the Committee, even countries with highly developed judicial systems avoided answering some of its questions. Since the Committee had a wealth of general information about States parties at its disposal, it would be more advantageous to request specific information in lists of issues.
54. Ms. CHANET said that the Committee had a tendency to place too much emphasis on issues that related to other treaties, in particular violence against women, and children's rights. While those issues were within the Committee's remit, it would be more judicious to focus on rights specific to the Covenant. The country report task forces should bear that in mind when drafting lists of issues. The Committee had a reputation for being legalistic and should accordingly take a legalistic approach to questioning States parties.
55. Mr. O'FLAHERTY thanked the members of the Committee for their guidance on a number of issues, and said that it must decide how to proceed with the drafting process. While there had been consensus on some issues, there had been differing opinions on others, and the draft text should provide options for the Committee to discuss. There was a certain amount of inconsistency between members' wish to see a short, concise document, and the amount of information they wished to include. While it would not be necessary to devote an entire page to each article of the Covenant, the guidelines could not be short. He welcomed the suggestions on how to maintain focus in lists of issues.
56. Ms. CHANET said she did not feel that there had been any fundamental inconsistencies in the suggestions put forward by Committee members. The draft guidelines should include options that the Committee could reflect on and discuss.
57. The CHAIRPERSON, supported by Mr. AMOR, said the Committee agreed that the guidelines should be revised, and suggested that Mr. O'Flaherty should be appointed to draft the revised text.

58. Ms. WEDGWOOD said that while she appreciated the work that Mr. O'Flaherty had done, she felt that there was an unequal distribution of tasks among Committee members. It would therefore be appropriate to consider which members had been allocated tasks, and ensure that all members' potential was being used.

59. Ms. MOTOC agreed with Ms. Wedgwood, and pointed out that two years previously she had requested that the secretariat compile a list of Committee members and the tasks entrusted to them. Such a list had never been provided.

60. The CHAIRPERSON said that a public meeting was not appropriate for a discussion on task distribution. The Committee would therefore debate that issue and appoint a member to revise the guidelines in closed session. The Committee should decide whether to use an article-by-article approach to drafting the guidelines, or whether a cluster approach would be preferable.

61. Mr. KHALIL, supported by Mr. LALLAH, considered that an article-by-article approach would be easier for States parties to follow.

62. Mr. O'FLAHERTY, supported by Mr. BHAGWATI, said that when the issue had been discussed at the Committee's previous session there had been a general preference for an article-by-article approach. That did not, however, mean that the guidelines could not be concise.

The meeting rose at 12.40 p.m.