



International Covenant on Civil and Political Rights

Distr.: General
6 September 2010

Original: English

Human Rights Committee Ninety-ninth session

Summary record of the 2731st meeting*

Held at the Palais Wilson, Geneva, on Thursday, 22 July 2010, at 3 p.m.

Chairperson: Mr. Iwasawa

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3.10 p.m.

Organizational and other matters

1. **The Chairperson** reported on the points of agreement reached at the tenth and eleventh Inter-Committee Meetings (ICMs) and on the recommendations of the twenty-second Meeting of Chairpersons of Human Rights Treaty Bodies, held in June 2010. The treaty bodies had been represented at the ICMs by their Chairpersons and one of their members. The tenth ICM had been attended on his behalf by Sir Nigel Rodley and Mr. Amor. He had himself been present at the eleventh, also held in June 2010, with Ms. Keller, the Rapporteur for the question of lists of issues prior to reporting (LOIPRs).
2. He summarized the points of agreement reached by the eleventh ICM. It had discussed the new optional LOIPR procedure, which was already being implemented by the Committee against Torture (CAT). CAT and the Human Rights Committee had agreed to share their experience of the new procedure and their reasons for adopting it. The Meeting had encouraged all treaty bodies to consider whether such a procedure could be applicable to them, and had recommended that CAT and the Human Rights Committee report back to the twelfth ICM on their experience of implementing the procedure.
3. The Meeting had emphasized the essential role played by national human rights institutions (NHRIs) and civil society, including NGOs, in preparing lists of issues prior to reporting and had encouraged their active participation in the process. It had recommended that human, technical and financial resources be allocated to the secretariat for the purpose. It had reiterated that the strengthening of the treaty body system, through the improvement and harmonization of working methods where possible, should be a standing item on its agenda.
4. On the question of concluding observations, the Meeting had recommended that each treaty body should explore ways of reducing their length without sacrificing quality or jeopardizing the exercise of its monitoring mandate. That recommendation was not specifically aimed at the Human Rights Committee since other treaty bodies produced longer concluding observations.
5. The Meeting had welcomed the initiative by the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women in preparing a joint general comment, and had recommended that other Committees explore the possibility of doing likewise. He had proposed the insertion of "as appropriate" in that recommendation, and although that addition had not been adopted, it was implicit in the language used. At his initiative on behalf of the Human Rights Committee, the Meeting had also expressed concern at the fact that the General Assembly had unfortunately, in its resolution A/RES/64/152, taken note on a selective basis of the general comments adopted by treaty-monitoring bodies.
6. The Meeting had also agreed to express its concern at the increasingly limited ability of United Nations conference services to provide translations of documents submitted by States parties to treaty bodies, and had reiterated the page limits for State party reports included in the harmonized guidelines for reporting (HRI/GEN.2/Rev.6, para. 19).
7. The Meeting had expressed its appreciation of the dialogue with States parties, and in that connection many of them had welcomed the idea of preparing LOIPRs. It had been decided that the twelfth ICM would discuss the structure of the dialogue with States parties and interaction with stakeholders, and would continue to discuss the structure and length of concluding observations.
8. The twenty-second Meeting of Chairpersons had taken place in Brussels, with the participation of members of the European Parliament and representatives of the European

Commission and NGOs. It was felt that it would be useful to hold a Meeting of Chairpersons in a regional location every other year.

9. **Ms. Keller** said that one topic of discussion at the eleventh ICM had been the excessive length of State party reports. The Deputy High Commissioner for Human Rights had said that the only way to make any headway on that problem would be to enforce the page limits applicable to all United Nations documents, and that if that was done the reports and resulting recommendations would be better focused.

10. **The Chairperson** said that, when representations were made about translation delays, the Conference Services Division had drawn attention to the page limits and the excessive length of reports.

11. **Mr. O'Flaherty** thanked the Chairperson and Ms. Keller for their reports. He questioned the view that the eleventh ICM, when discussing the length of concluding observations, had not been referring to the Human Rights Committee; it had been referring to all the treaty bodies. But, in fact, the Committee's concluding observations were not excessively long and some treaty bodies were producing longer ones. The recommendation by the Meeting that each treaty body should explore ways of reducing their length was not appropriate for the Human Rights Committee. There was a risk that details of the Committee's methodology and opinions would be lost. Moreover, the recommendation on preparing joint general comments failed to take account of the difficulties and challenges involved. It should be made clear where joint general comments would and would not be appropriate. As to page limits for State party reports, enforcing them would act as a deterrent to reporting. It would be better for the secretariat to review the reports as they arrived and invite States parties to resubmit them if they were too long; but they should not be asked to rewrite them. The matter needed clarification.

12. The points of agreement of the eleventh ICM mentioned a statement made at the recent Marrakech meeting, recommending enhanced cooperation with NHRI but omitting any reference to civil society organizations. He requested the secretariat to provide copies of the statement, which had not yet been distributed. He regretted that the call for enhanced cooperation was not repeated in the recommendation made by the Meeting to facilitate the participation of civil society in the work of the treaty bodies. Concerning the indicators project, there seemed to be no mention of the deadline adopted two years previously.

13. The Meeting had recommended more systematic cross-referencing and reinforcement of the recommendations by special procedures mandate holders and treaty bodies. However, the treaty bodies were producing policy guidelines; they were not preparing projects according to "SMART goals", and that kind of approach should not be allowed to creep in. Moreover, it was not always possible to make time-bound recommendations.

14. The Meeting had recommended joint action by treaty bodies and mandate holders to call upon Governments to ratify treaties; but it was no part of the mandate of the Human Rights Committee to call for the ratification of treaties.

15. As to the "points for discussion" raised at the twenty-second Meeting of Chairpersons, he wondered in what direction the Meeting was heading on the question of acquiring decision-making powers, whether it had competence to do so, and whether the Meeting itself would cease to exist in the future.

16. **Mr. Thelin**, agreeing with most of the previous speaker's remarks, observed that the Human Rights Committee did, by implication, encourage ratification of treaties. The focus of the Committee was on implementation. It was in the interest of all the treaty bodies to address the problem of overdue State party reports. The secretariat had not, however, suggested how reports could be presented in a more succinct and coordinated manner. As to

lengthy lists of issues and overdue reports, including overdue initial reports, other treaty bodies had the same problem and a joint effort was called for by all those concerned. He wondered what had been done to promote discussion of the problem between the various treaty bodies themselves. On the question of translation, part of the problem in Geneva was that the translation of replies to lists of issues was not given the correct priority. At its previous session in New York, the Committee had been promised that its needs would be properly attended to.

17. **The Chairperson**, responding to the points raised, said he too objected to the criticism of the length of concluding observations. Concluding observations lay at the heart of the Committee's work, and it must have sufficient space to express its concerns through that medium. He reminded the Committee, however, that the eleventh ICM had said that efforts to reduce the length of concluding observations should not jeopardize quality or the exercise of treaty body mandates.

18. **Ms. Keller** asked whether the Chairperson had intended, in his remarks, to refer to the point she had made at the eleventh ICM that every page of translation cost \$1,000 to produce. She had also said that there were thousands of ways of reducing costs, but cuts must not be allowed to impair the Committee's work.

19. **The Chairperson** said he had made it clear that the Committee was making every effort to meet the concerns of the Inter-Committee Meeting. With regard to the enforcement of page limits for periodic reports, States parties which had submitted very lengthy reports could, of course, be asked to resubmit them in a shorter form or to place parts of them in an annex which need not be translated. There had been no discussion of the question of indicators. As to systematic cross-referencing and joint general comments, other treaty bodies tended to feel that the Human Rights Committee was blocking joint action, but he had told them that the Committee would do what it could to meet the recommendations.

20. At the twenty-second Meeting of Chairpersons, mention had been made of the future of the Meetings and their format, but very little of the possibility of their having decision-making powers. The Human Rights Committee representatives had emphasized that no such powers existed. He had told the Meeting that the Committee did not intend to stand in the way of harmonizing treaty body working methods. As to overdue reports, he did not know if that question would become a topic for the Inter-Committee Meeting. With regard to translation problems, written replies from States parties did not receive priority because they were not mandated. He had told the Meeting that the Human Rights Committee was doing what it could to get those documents translated. However, if the LOIPR procedure was adopted the written replies would become mandatory.

21. **Mr. O'Flaherty** thanked the Chairperson for his clarifications. Concerning the disparity of treatment as between NHRIs and NGOs, he hoped that representatives of the Committee would be alert to the problem in future. Regarding the length of concluding observations, representatives were urged to emphasize the importance of retaining the necessary nuances. As to the Meeting of Chairpersons, he simply wanted to know what plans were afoot; he had not taken a negative stance on its activities.

22. **Mr. Amor** also thanked the Chairperson for his statement and explanations. He welcomed the efforts made so far to boost the effectiveness of the treaty bodies and harmonize their work, but it was important to be as specific as possible because the present situation regarding harmonization was unsatisfactory. The "points of agreement" which had emerged from the eleventh ICM were short on specificity, common sense and efficacy. What exactly had been achieved? Harmonization should be tackled in specific terms and on the basis of consensus agreements consistent with the treaties themselves and their purposes.

23. It would be a good idea to examine the reporting delays experienced by the various Committees, ascertain whether certain States parties were chiefly responsible for them and why, and focus on a dialogue with those States with a view to solving the problem. It was no coincidence that most of the tardy States were developing countries, and the problem could lie in a lack of resources. The question therefore arose as to what could be done to help them. It deserved detailed investigation and joint action, with the support of the High Commissioner and her Office.

24. **Mr. Salama**, Director of the Human Rights Treaties Division, said that one major recent achievement in the area of harmonization was, in his view, the fact that the treaty bodies were now convinced of the importance of acting in unison on issues that were not related exclusively to their own treaty. He agreed, however, that very little else had been achieved to date. One or two difficulties had been resolved. For instance, the reduction in the number of issues addressed at ICM sessions and in the number of participants had enhanced the quality of the discussions.

25. The question of decision-making had been touched upon, albeit only superficially, at the Meeting of Chairpersons in Brussels. He agreed with the Chairperson of the Committee that it was really a matter of empowering treaty body representatives by discussing negotiating positions in advance on issues that were unrelated to the substance of the treaties they dealt with. They could then be sure that the views they presented reflected those of most members of the treaty body concerned. Unfortunately, time pressures were a limiting factor in that regard. However, it was important to ensure that ICM recommendations were acceptable to all so that the same issues were not raised repeatedly.

26. The secretariat was implementing a decision by the most recent Meeting of Chairpersons concerning the compilation of a list of decisions and actions taken to date. It would be made available to all treaty bodies in due course. The High Commissioner had also advocated a process of brainstorming so that a compendium of individual and collective views could be compiled.

27. He noted in passing that if a magic formula was invented to ensure that all States parties submitted their reports on time, the treaty body system would collapse.

28. An independent consultant had been working with the secretariat for the past six months on workloads and procedures. One objective was to assess the scale of the assistance required to fulfil the Secretary-General's mandate in respect of each legal instrument. A second objective was to identify ways in which OHCHR divisions and field offices could assist in preparing LOIPRs.

29. The secretariat was also working with the Conference Services Division on the identification of entitlements and established practices. For instance, it was seeking to resolve the controversy over what constituted a mandated document. He planned to travel to United Nations Headquarters during the General Assembly and to press for action on specific treaty body demands, for instance in connection with existing backlogs of reports and petitions. He also hoped to take the opportunity to discuss the consultant's findings with Member States that were particularly interested in treaty body issues. The findings would, of course, be made available to the treaty bodies.

30. He was pleased to report very positive feedback from his Division's contacts with NGOs, some of which had highlighted the Dublin Statement on the Process of Strengthening of the United Nations Human Rights Treaty Body System on their websites. The spontaneous response of civil society and European institutions to the Meeting of Chairpersons in Brussels had been an eye-opener and had indicated the desirability of holding more meetings in venues other than Geneva. The ICM Working Group on Follow-up also had considerable potential.

31. He drew attention to the fact that the first round of the universal periodic review (UPR) was coming to an end and that it was as yet unclear what form the second round would take. The Human Rights Council could not simply reiterate the content of the compilation of treaty bodies' observations. As the treaty bodies would be meeting in early 2011, they could perhaps set the tone for the Council's discussion later in the year.

32. **Mr. Rivas Posada** said that he was seriously concerned about the possible assignment of decision-making authority to the Chairpersons of treaty bodies. Any such move was, in his view, bound to hamper the treaty bodies' work. The Committee had been informed that a majority were against the idea and that in any case decisions would only be taken on procedural matters. He nonetheless emphasized that the issue was not being addressed with the requisite frankness. He was also strongly opposed to the idea of replacing the ICM by the Meeting of Chairpersons.

33. **Ms. Motoc** said that she shared Mr. Rivas Posada's concern. It would be wrong to hand over authority to the Meeting of Chairpersons because of the substantial differences between the treaty bodies.

34. She also drew attention to the phenomenon of "forum shopping", a trend that had become increasingly discernible since the introduction of the UPR. States parties opted to submit their reports to forums that were less exacting. She suggested that the Human Rights Committee should follow the example of the Committee on the Rights of the Child, for which NGOs had designed a special webpage. It would then be able to interact more effectively with States parties and would not be in danger of losing prominence.

35. **Mr. O'Flaherty** said that it was premature to discuss the question whether additional powers should be conferred on the ICM or the Meeting of Chairpersons. Such a proposal might assume many different forms. He felt that it would be preferable for Committee members to reserve their views until concrete proposals had been made.

The meeting was suspended at 4.15 p.m. and resumed at 4.35 p.m.

36. **The Chairperson** invited the Committee to resume its discussion of the draft revised guidelines for State reports under the Covenant (CCPR/C/2009/1/CRP.3).

Paragraphs 62 to 65

37. *Paragraphs 62 to 65 were adopted.*

Paragraph 66

38. **Mr. El-Haiba** noted that the Committee had agreed to delete the word "detailed" before "information" in all cases.

39. *Paragraph 66, as amended, was adopted.*

Paragraphs 67 to 72

40. *Paragraphs 67 to 72 were adopted.*

Paragraph 73

41. **The Chairperson** said that the word "detailed" in the second line should be deleted.

42. **Mr. Salvioli** said that the penultimate subparagraph seemed to imply that there were circumstances in which military courts could try civilians. He proposed replacing the phrase "their competencies, including circumstances under which such courts may try civilians" with "their competencies *ratione materiae* and *ratione personae*".

43. **Mr. Thelin** proposed instead replacing “courts may try civilians” with “courts can try civilians”.

44. *It was so decided.*

45. **Ms. Motoc** proposed amending the last subparagraph to read: “The existence of courts based on customary law, religious courts, their competencies and appeal procedures, including information on their practices.”

46. *Paragraph 73, as amended, was adopted.*

Paragraph 74

47. **Ms. Motoc**, referring to the first subparagraph, proposed that the right to a fair trial and the right to a public hearing should be mentioned in separate subparagraphs.

48. **Mr. Salvioli** said that, in his view, the paragraph was sufficiently clear and should be kept as it was.

49. *Paragraph 74 was adopted.*

Paragraphs 75 to 77

50. *Paragraphs 75 to 77 were adopted.*

Paragraph 78

51. **Mr. Amor** said that the right to life, the beginning of life and the acquisition of legal personality were increasingly affected by the evolution of bioethics. It might therefore be appropriate to include a question on the impact of the evolution of bioethics on those rights. He would be interested in other members’ views on that question.

52. **Ms. Motoc** agreed that the issue was of crucial importance. Most topical was discrimination based on genetic tests. Gender-based abortions in Asia and elsewhere, facilitated by the use of advanced technology that enabled the sex of the embryo to be determined, were also a cause for grave concern. Despite the relevance of those issues, it was unclear how they could be linked to the acquisition of legal personality in the present context.

53. **Mr. Thelin** said that, while he appreciated his colleagues’ concerns, the question reflected in paragraph 78 was sufficiently broad to cover relevant issues. To date, research in biogenetics and genetic engineering had not advanced to a level where it would cause specific concern under article 16.

54. **Mr. Amor** said that bioethics were of growing importance and issues such as cloning, abortion and medically assisted reproduction potentially infringed human dignity, the right to life and the acquisition of legal personality. The issue would certainly require consideration in the future. However, he agreed that it might be premature to include a question relating to it in the guidelines; the issue might best be addressed orally during the Committee’s examination of State party reports.

55. **Mr. Salvioli** proposed broadening the scope of the paragraph by amending it to read “Provide information as regards the regulations governing the definition of legal personality in the country”. The part of the paragraph referring to the moment at which an individual became a subject before the law could be deleted.

56. *Paragraph 78, as amended, was adopted.*

Paragraphs 79 and 80

57. *Paragraphs 79 and 80 were adopted.*

Paragraph 81

58. **Ms. Motoc** said that, given the importance of genetics-related issues, it might be useful to include a question about the rules governing the collection and gathering of information for genetic databanks.

59. **Ms. Keller** said that the reference to the “right to request rectification or elimination of such data” in the last subparagraph was sufficiently broad to cover the issue.

60. **Ms. Motoc** disagreed. A brief, specific reference to problems arising in connection with biogenetics should be included.

61. **Mr. Thelin** suggested inserting the phrase “including on genetic data” after “databanks” in the last subparagraph.

62. *Paragraph 81, as amended, was adopted.*

Paragraph 82

63. *Paragraph 82 was adopted.*

Paragraph 83

64. **Mr. Amor** proposed including a question on the taxation of religions, which was often discriminatory. At the end of the paragraph, the following should be added: “The fiscal provisions applicable to religions.”

65. *It was so decided.*

66. **Ms. Motoc** said that the display of religious symbols in schools was also a matter of growing concern in many countries. It would therefore be useful to add the following at the end of the paragraph: “Please indicate how the presence of religious symbols in schools is legally regulated.”

67. **Mr. Salvioli** objected. While the issue raised by Ms. Motoc was certainly relevant, the document before the Committee pertained to the organization of basic information to be provided by the State party. It was therefore important to avoid entering into too much detail.

68. Supported by **Mr. Amor**, he said that questions relating to the display of religious symbols were best asked orally if the circumstances in the State party so warranted.

69. **The Chairperson** said he took it that the Committee did not wish to include a reference to religious symbols.

70. *It was so decided.*

71. *Paragraph 83, as amended, was adopted.*

Paragraph 84

72. **Mr. Salvioli** proposed inserting the word “legal” before “status and position of conscientious objectors”.

73. *Paragraph 84, as amended, was adopted.*

Paragraph 85

74. *Paragraph 85 was adopted.*

Paragraph 86

75. **Ms. Motoc** said that, given the growing importance of the Internet, it would be useful to include a reference to electronic media.

76. **Mr. Thelin** agreed and proposed inserting the phrase “Internet and Internet service-providers” after “media” in the first subparagraph.

77. *Paragraph 86, as amended, was adopted.*

Paragraph 87

78. *Paragraph 87 was adopted.*

Paragraph 88

79. **Mr. Amor** proposed that the request in paragraph 88 should be limited to information under article 20, paragraph 1, of the Covenant and that a new paragraph should be inserted concerning information under article 20, paragraph 2.

80. *Paragraph 88, as amended, was adopted.*

Paragraphs 89 to 91

81. *Paragraphs 89 to 91 were adopted.*

Paragraph 92

82. **Mr. Salvioli** proposed adding the words “by the State” at the end of the paragraph since other sources of financial support were not the Committee’s concern.

83. **Ms. Motoc**, supported by **Mr. Bhagwati**, said that, since some NGOs were financed by political parties and were therefore not independent, it would be useful to have any available information on sources of financial support for NGOs.

84. **Mr. Thelin**, supported by **Mr. Rivas Posada**, said that, since private sources of funding fell outside the purview of the Committee, the phrase “by the State” should indeed be added to the end of the paragraph.

85. *Paragraph 92, as amended, was adopted.*

Paragraph 93

86. **Mr. Amor** said that, since trade unions often chose not to reveal their membership numbers in order to facilitate negotiations, it was unrealistic for the Committee to ask for information on the size of trade union membership broken down by sector of industry and the percentage of the total workforce belonging to a trade union.

87. **Ms. Keller** said that, while she understood that such data were not available in some States parties, where the information existed it would be interesting for the Committee to see how many trade unions there were in each sector and which sectors were dominated by the Government.

88. **Mr. Amor** said that, in order to compile information on freedom of association, the Committee should request information on the number of trade unions in a State party, the number in each sector of industry, and how many were in the public and private sectors. Membership data from individual trade unions worldwide were notoriously unreliable; it was pointless requesting them.

89. **Mr. El-Haiba** proposed that, in the first subparagraph, the phrase “the size of their membership broken down by industry sector” should be deleted. In any case, the word “industry” should be deleted since some sectors were not covered by that qualifier.

90. **Ms. Keller** suggested deleting the phrase “broken down by industry sector”.

91. **Mr. Thelin** proposed that, in that case, the first subparagraph should be simplified to read “The organizational structure and size of trade unions and the percentage of the total workforce belonging to a trade union”.

92. *Paragraph 93, as amended, was adopted.*

Paragraphs 94 to 103

93. *Paragraphs 94 to 103 were adopted.*

94. **Ms. Keller** recalled that paragraphs 25 and 54 remained pending, as did the question of whether to specify a page limit for State party reports.

Paragraph 25

95. **The Chairperson** said that, if there was no objection, he took it that the Committee wished to adopt paragraph 25.

96. *It was so decided.*

Paragraph 54

97. **The Chairperson** said that, if there was no objection, he took it that the Committee wished to adopt paragraph 54.

98. *It was so decided.*

Paragraph 9

99. **Ms. Keller** noted that, since the harmonized reporting guidelines specified a limit of 60 pages for initial reports and 40 pages for periodic reports, the Committee could choose not to include any reference to page limits in its guidelines, on the understanding that those limits were applicable. If members wished to include an explicit reference, she suggested that it could be located in paragraph 9.

100. **The Chairperson** said that, since the meeting of Chairpersons had agreed on the harmonized guidelines, the Committee was not in a position to change the page limits. The question was whether to include an explicit reference to them.

101. **Mr. Thelin** proposed including such a reference.

102. **Mr. Rivas Posada** said that it would be useful to go through the exercise of preparing a report on a hypothetical State party, following the guidelines on the information to be included. That would reveal whether the page limits were realistic, given that any State party that wished to follow the guidelines to the letter would surely produce a report of between 400 and 500 pages. The level of detail envisaged in the guidelines was completely at variance with the current page limit.

103. **Mr. Amor** proposed making no reference to the page limits.

104. **The Chairperson** drew the Committee’s attention to paragraph 27, which urged States parties to focus on the most urgent problems arising in the reporting period. He would therefore support the idea of including an explicit reference to the page limits.

105. **Ms. Keller** said the idea was not that States would include information under every paragraph of the guidelines. Rather, the guidelines were intended to help State officials to choose the most relevant data, in which case the page limits should be explicitly mentioned as they would assist in the task of selecting which information to include.

106. **The Chairperson** said that, if there was no objection, he took it that the Committee wished to include an explicit reference to the page limits in paragraph 9.

107. *Paragraph 9, as amended, was adopted.*

108. *The draft revised guidelines for State reports under the International Covenant on Civil and Political Rights (CCPR/C/2009/1/CRP.3) as a whole, as amended, were adopted.*

The meeting rose at 6.05 p.m.