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**REPORT OF THE WORKING GROUP ON THE HARMONIZATION
OF WORKING METHODS OF TREATY BODIES**

Geneva, 17 to 18 April 2007

Introduction

1. The working group on the harmonization of working methods of treaty bodies convened pursuant to a recommendation of the fifth Inter-Committee Meeting met for the second time from 17 to 18 April 2007 in order to elaborate on certain issues and finalize its report to the Inter-Committee Meeting.¹ The following representatives of treaty bodies participated in the meeting: Mr. Abdelfattah Amor (Human Rights Committee); Ms. Maria Virginia Bras Gomes (Committee on Economic, Social and Cultural Rights); Ms. Silvia Casale (Subcommittee on Prevention); Mr. Kamel Filali (Committee on the Rights of the Child); Mr. Raghavan Vasudevan Pillai (Committee on the Elimination of Racial Discrimination) and Ms. Hanna Beate Schöpp-Schilling (Committee on the Elimination of Discrimination against Women). No representative of the Committee against Torture or the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families was able to attend the meeting.

2. The working group was opened by Ms. Jane Connors, Senior Human Rights Officer of the Office of the United Nations High Commissioner for Human Rights (OHCHR). Ms. Maria Virginia Bras Gomes was re-elected as chairperson/rapporteur.

¹ The preliminary points of agreement of the first meeting of the working group on the harmonization of working methods of treaty bodies are contained in HRI/MC/2007/2. **The representative of the Human Rights Committee noted that the Committee does not consider the document to have an official status and does not subscribe to it.**

Developments in treaty bodies

3. Participants provided information on discussions related to harmonization in their various treaty bodies, with each indicating that harmonization was an important goal. The Human Rights Committee (HRC) had concluded that there were various areas where harmonization of working methods was possible, but that nothing could be done in contradiction to the treaties. In this context, the HRC continued to disagree with the proposal of the Committee on the Elimination of Racial Discrimination (CERD) to establish a unified body for the consideration of communications. The Committee on the Elimination of Discrimination against Women (CEDAW) was also opposed to the creation of a consolidated body for the consideration of communications, but was keen to see greater exchange of information among treaty bodies on their approach to communications and inquiries. The CEDAW Committee also recommended the establishment of a task force on working methods which would meet three times annually for two years, reporting to the Inter-Committee Meeting and the Meeting of Chairpersons (ICM/MC). The task force functions would not overlap with those of the ICM/MC. CEDAW also recommended that OHCHR collaborate with the Division for the Advancement of Women in order to conclude the tasks identified in paragraphs 27 to 31 of the preliminary points of agreement of the working group on harmonization of working methods as the information generated would provide the basis for further efforts to streamline and harmonize the treaty body system.

4. Several treaty bodies, including CEDAW, CERD and the Committee on Economic, Social and Cultural Rights (CESCR), had begun the task of revising their reporting guidelines in light of the guidelines for the common core document (HRI/MC/2006/3), and CERD had prepared a document which identified existing procedural and substantive gaps in the context of the follow-up to the Durban Conference and would impact on reporting to treaty bodies. The participants noted that the guidelines for the common core document were being used by several States parties, but doubted whether there would be sufficient experience to review those guidelines by 2008 as envisaged by the ICM/MC.

5. The representative of the Subcommittee on Prevention noted that it had held its first session in February 2007, and looked forward to working with other treaty bodies as it developed its working methods and programme. The Subcommittee's mandate was predominantly field-oriented in that its mandate required collaboration with national preventive mechanisms and visiting places where persons were deprived of their liberty in order to prevent torture.

Ideas in paragraph 20 of the concept paper

6. Several treaty bodies had had the opportunity to discuss the ideas put forward in paragraph 20 of the High Commissioner's concept paper on the unified standing treaty body (HRI/MC/2006/2). Convening simultaneous treaty body sessions was considered difficult due to the practical and logistical difficulties that could arise and because few States parties would be in a position to provide reports to different treaty bodies at the same time. The Committee on the Rights of the Child (CRC), however, saw merit in encouraging simultaneous submission of reports to allow for simultaneous consideration. It was noted that more general implementation of the guidelines for the common core document by States parties could create a situation in which simultaneous consideration of reports was more feasible. Joint consideration of reports was not considered to be feasible in the current context.

7. The formulation of joint general comments/recommendations was supported by participants, if they focused on issues affecting all treaty bodies, such as reservations, or equality between women and men, rather than provisions in individual treaties. A harmonized approach to general comments/recommendations, including their purpose, structure and rationale, was recommended, and it was suggested by some members that these issues could be dealt with by either one of the mechanisms to be set up to encourage harmonization of working methods, referred to in recommendation I of this report. The practice of treaty bodies requesting feedback on draft general comments/recommendations was regarded as one which should be a general working method of all treaty bodies. Participation of representatives of other treaty bodies **as observers** in initial thematic debates on general comments/recommendations could be very valuable, but time constraints could preclude representatives participating in all stages of the formulation of such comments.

8. There was some support for the idea of harmonization of agendas, priorities and objectives of treaty bodies, but more detail of the implications of this proposal was requested from the Secretariat. The representative of the CRC reiterated his Committee's view that a standing bureau of treaty body representatives should be established to ensure cooperation and joint activities amongst treaty bodies, as well as a positive and open approach. The representative of CEDAW indicated that this proposal had not been supported by her Committee. There was broad agreement that treaty body members should be provided with the opportunity to participate in the work of other treaty bodies **as observers**, and that convening joint thematic working groups of treaty body experts should be encouraged.

Mechanism to encourage harmonization of working methods

9. There was general agreement that a mechanism to encourage harmonization of working methods was required to ensure a more coherent and integrated approach by all treaty bodies to streamline reporting and assist States parties. This mechanism could serve as a vehicle for information exchange, and could make recommendations on specific areas where a common approach might be desirable, such as practices related to lists of issues, targeted reporting, country rapporteurs, harmonization of treaty-specific guidelines and terminology, procedures on follow-up and of the pre-sessional working group, formulation of general comments/recommendations, and consideration of the situation in a State party in the absence of a report. The mechanism could also reflect on the relationship between the treaty bodies and the Human Rights Council, as well as the new gender agency. The mechanism should not duplicate existing structures, nor should there be a multiplicity of mechanisms. The possibility of the ICM/MC itself acting as such a mechanism was discussed, as was its effectiveness, and whether it should meet more often.

10. There was very limited support for the creation of a standing bureau of treaty body representatives as suggested by the CRC, and it was generally agreed that the harmonization mechanism could be either a working group established for a limited period with a mandate to make recommendations to the ICM/MC on areas for harmonization or a body to coordinate harmonization of working methods composed of the chairperson of each treaty body, as well as other treaty body representatives, with a role similar to the Coordinating Committee of Special Procedures. If a body to coordinate harmonization of working methods were established, it should have a relationship with the Human Rights Council, including exchange of information in the context of universal periodic review, as well as the new gender agency that would be created.

11. There was significant potential for harmonization and coordination of working methods in respect of communications, in particular with regard to interim measures, the structure of decisions, the text of conclusions and the language used in relation to remedies and other issues. CERD reiterated its recommendation that there should be a unified body to deal with complaints and that this issue should be explored in depth, particularly as universal ratification would increase the delay in the disposal of complaints. Both the HRC and CEDAW opposed the idea of a single body for communications, with the former of the view that such an approach would be legally impossible. Both also rejected the establishment of a working group to consider the proposal, but supported greater communication across treaty bodies with respect to communications and the convening of seminars comprised of experts from other treaty bodies with complaints competence to identify areas of possible harmonization.

Points of agreement

1. The working group proposed the establishment of a mechanism to strengthen the coordination and harmonization of the working methods of the treaty bodies, which could consist of one of the following alternatives:

- Creation of a working group consisting of one representative of each treaty body with flexible membership in the light of items to be discussed, which would meet two to three times per year for an initial period of two years and could be mandated to develop concrete proposals and recommendations in consultation with and for the consideration of the treaty bodies. The working group could cover, inter alia, the process of consideration of States parties' reports - including lists of issues, targeted reporting, country rapporteurs, harmonization of treaty-specific guidelines and terminology, procedures on follow-up and of the pre-sessional working group, formulation of general comments/recommendations, consideration of the situation in a State party in the absence of a report - and any other area where a common approach might be desirable. The working group could also reflect on the relationship between the treaty bodies and the Human Rights Council as well as the new gender agency and would report to the ICM/MC which would meet more than once a year in order to reflect on the proposals and recommendations provided to it.
- Creation of a body to coordinate harmonization of working methods, composed of the chairpersons and representatives of the treaty bodies. This body could be responsible for the effective oversight of the harmonization of working methods, including reporting and communications procedures. The coordinating body could meet at least once a year, be mandated to develop and implement policies related to harmonization and, after evaluation, could replace or complement the ICM/MC. In the event that a coordinating body were established, it should have a relationship with the Human Rights Council, including exchange of information in the context of universal periodic review, as well as the new gender agency that would be created. The coordinating body could address the

following issues: procedures related to the harmonization of reporting, formulation of general comments/recommendations, substantive themes and individual communications.²

2. The working group welcomed and encouraged an enhanced exchange of information in relation to individual communications and recommended the convening of seminars or workshops with treaty body members involved in communication procedures to discuss harmonization of working methods in this regard and transmit their views to the harmonization mechanism to be established.
3. The working group agreed on the usefulness of treaty body members participating as observers in the public and private sessions of other treaty bodies and their pre-sessional working groups.
4. The working group suggested that treaty bodies could consider increasing their cooperation in the formulation of general comments/recommendations. It was proposed that seminars could be convened to discuss the purpose, structure and rationale of general comments/recommendations.
5. The working group recommended that the Secretariat should analyse concluding observations, general comments and views adopted in relation to communications. Some members further recommended the Secretariat should use the analysis to determine whether there were areas of divergence or inconsistency within or across treaty bodies.
6. The working group recommended that the Secretariat should analyse the working methods of treaty bodies in relation to reporting, communications and inquiries in order to determine whether there was scope for harmonization. Particular attention could be given to practices with regard to consideration of the human rights situation in States parties in the absence of reports, follow-up procedures and activities, interim measures and follow-up to views, practices with regard to NHRIs, NGOs, United Nations entities, and other parts of the human rights protection framework, such as special procedures mandate holders. The working group welcomed the

² Harmonization of reporting (including consideration of the situation in a State party in the absence of a report, exchange of information on lists of issues and concluding observations, follow-up to concluding observations); formulation of general comments/recommendations (including the exchange of information and the participation of treaty body experts as observers during meetings of other treaty bodies in the context of drafting general comments); substantive themes (including the convening of seminars on thematic issues of common interest and exchange of information on all substantive questions); individual communications (including reinforcement of the human and financial resources for the OHCHR petitions unit, finding a common approach to interim measures, harmonization of communications procedures, organization of meetings which bring together treaty body rapporteurs on communications, organization of seminars on aspects of jurisprudence and follow-up to views). The topics in this footnote could also be taken up by the working group if this alternative were adopted.

comparative chart of the working methods of the treaty bodies prepared by the Secretariat which is provided in an annex to the present report. The Secretariat was requested to keep the chart updated.

7. The working group recommended that OHCHR should develop and implement a wide dissemination strategy with regard to the guidelines for the common core document. It called on treaty bodies to consider drawing attention to these guidelines in their concluding observations, such as the stand-alone paragraph adopted by CESCR. It also recommended that all treaty bodies should review their reporting guidelines in the light of the guidelines on the common core document, with a view to adopting complete harmonized guidelines by the end of 2008, **if possible**.

8. The working group further recommended that OHCHR should develop and implement a dissemination strategy in relation to communications procedures.

9. The working group recommended the reinforcement and strengthening of the human and financial resources in OHCHR dedicated to supporting human rights treaty bodies, as well as the strengthening of conference services in this context.

10. The working group recommended that OHCHR should convene seminars of representatives of each treaty body to consider thematic issues of relevance to all treaty bodies, in particular integration of gender perspectives, including with respect to cooperation with existing and emerging gender architecture in the United Nations. It also recommended that OHCHR should facilitate interaction among treaty body country rapporteurs dealing with the same States parties in order to optimize constructive dialogue.
