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MEETING OF THE
TREATY BODIES -
CONTRIBUTION OF
NON-
GOVERNMENTAL
ORGANIZATIONS

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**AMNESTY
INTERNATIONAL**



9TH INTER-COMMITTEE MEETING AND 21ST MEETING OF TREATY BODY CHAIRPERSONS, 29 JUNE TO 3 JULY 2009 – CONTRIBUTION BY NON- GOVERNMENTAL ORGANIZATIONS

AGENDA ITEM 5(B), ENHANCING THE EFFECTIVENESS OF THE TREATY BODIES: A COORDINATED APPROACH TO THE WORK OF THE TREATY BODIES.

INTRODUCTION

This paper is presented to the 9th Inter-Committee Meeting (ICM) of the Treaty Bodies and 21st meeting of Chairpersons on behalf of the following non-governmental organizations (NGOs): Alkarama for Human Rights, Amnesty International, ARC International, Association for the Prevention of Torture, Centre for Civil and Political Rights, Human Rights House Network, International Disability Alliance, International Federation of Action by Christians for the Abolition of Torture, International Federation for Human Rights, International Service for Human Rights, International Women's Rights Action Watch, International Women's Rights Action Watch Asia Pacific, Mental Disability Advocacy Centre, NGO Group for the Convention on the Rights of the Child, the Quaker UN Office, Save the Children, and the World Organization against Torture. Our organizations contribute to many aspects of the on-going work of the treaty bodies, including encouraging national partners to submit information in advance of the consideration of a State party report and to follow up on recommendations afterwards. We have a strong interest in the strengthening of the treaty system through the enhanced harmonization of working methods across the different committees. Consequently, while most of the recommendations contained in this paper relate to the treaty bodies, some are also directed to the Office of the High Commissioner for Human Rights (OHCHR) and to the treaty bodies' secretariats. The recommendations contained in this paper relate to the items included under item 5(b) of the agenda for the ICM and meeting of Chairpersons. A

summary of recommendations aimed at the treaty bodies, and recommendations aimed at the OHCHR, is provided at the end of this document.

1. Identity/role of country rapporteur/country task force

For the purposes of providing NGO information in the most effective manner (eg translated into a language that the rapporteur can understand), we recommend that the identity of the country rapporteurs/members of a country task force for the relevant States parties reports should be public information. Some treaty body members have come under intense pressure from stakeholders once it has become known that they were the committee's rapporteur on a particular country, including receiving personal criticism from some States parties. We encourage the treaty bodies to address such situations.

2. Cross referencing the work of other treaty bodies

Some committees have occasionally cross-referenced the findings or recommendations of another treaty body, which adds weight to the recommendations of both bodies (see below, Universal Periodic Review mechanism). We suggest that for the benefit of all stakeholders, the treaty bodies reference relevant work by the others. We propose that all treaty bodies designate a member to monitor the work of the other committees.

3. Standardization of terminology

The terminology of Concluding Observations/Recommendations and General Recommendations/Comments is confusing. Standardizing the language so that all stakeholders understand what is being referred to would be helpful in facilitating their access to the treaty body system.

4. Participation of NGOs in the Treaty Body process

The following recommendations are made with a view to providing for effective and consistent NGO participation across different treaty bodies and in respect of all aspects of the treaty bodies work.

General

The creation of the OHCHR Civil Society Unit has been an important initiative and one which has led to, for example, the publication of the NGO Handbook. However, the section dealing with NGO participation around the work of the treaty bodies is generic and not specific enough to guide NGOs on the necessary practical details. When the Handbook is next revised, we recommend that it include more detail on matters that could be standardized, such as deadlines for pass requests, and information about contacting the secretariats to communicate with experts or set up meetings. In addition, each treaty body webpage could provide a clear link to the NGO Handbook.

Guidelines on NGO participation in the work of each treaty body, which reflect the most inclusive and progressive relations with NGOs, and provide guidance on how to contribute effectively to the process overall, including by explaining all stages of the process, would be

very useful for NGOs. The guidelines should contain practical information, such as deadlines for the submission of materials. These could be drafted by each treaty body secretariat and made available on the respective treaty body's webpage. For an example, please see the webpage developed by the Committee against Torture (CAT): "*Participation of non-governmental organizations (NGOs) and National Human Rights Institutions (NHRIs) to the reporting process to the Committee against Torture*".

The treaty body secretariats publish links to NGOs that are involved with each treaty body on their webpages, and could add a link to our respective materials which specifically relate to NGO interaction with that treaty body.

We welcome the efforts of the treaty body secretariats to standardize the session listings. The publication of a "master calendar", a proposal which arose from both the 6th and 7th ICMs, would be a valuable tool for planning.¹ The calendar needs to reflect not only dates for sessions, but also for those pre-session meetings which are open to all NGOs, and information about deadlines for receipt of information of NGO materials, including for the list of issues. The calendar should also reflect the proposed schedule for the consideration of General Comments, with a deadline for submission of comments from NGOs.

We welcome the renewed interest of the treaty bodies in reviewing States parties in the absence of a report, and request that all committees ensure that the procedure for consideration of a state without a report is transparent and allows for effective NGO participation. For example, the "master calendar" could indicate the schedule of consideration of states in the absence of a report, with such reviews to be held in public session. Documents, including the concluding observations, should also be made public as soon as they have been shared with the state.

The posting of both lists of issues on the treaty bodies' webpages, and documentation which has been translated into the working languages of the committees, greatly facilitates our work. We recommend that these be posted in timely fashion.

Recommendations concerning NGO participation before the consideration of a State party report

- In addition to efforts made by NGOs already, the OHCHR could proactively seek the early engagement of a broad range of NGOs, including at the national level, by notifying them of upcoming sessions and deadlines for receipt of NGO information. It may be appropriate for the Civil Society Unit to carry out this function.
- Some treaty bodies benefit from country profile information, containing compilations of materials provided for other treaty bodies, relevant Special Procedures and the Universal Periodic Review mechanism (UPR). We suggest that

¹ See UN Doc: HRI/MC/2008/2, 22 May 2008, Report on the implementation of recommendations of the sixth inter-committee meeting and the nineteenth meeting of chairpersons, para 13 (ix) and UN Doc. A/63/280, 13 August 2008, Report on the twentieth meeting of treaty body chairpersons and the seventh inter-committee meeting, para.26.

the committees identify what kinds of country information would be useful to them in their work and that this is made available to them by the OHCHR.

- NGOs should continue to have the option of requesting that their information be kept confidential, but in such cases, the information should still be considered by the committee concerned.
- Where NGOs do not request confidentiality, their submissions can be posted on the individual treaty body websites. In situations where there are significant amounts of NGO information, it might be necessary to post the submissions on an alternative website with a clear indication on the treaty body webpage where they can be located, and the fact of this made clear to NGOs in advance

Recommendations concerning NGO participation during the consideration of a State party report

- We recommend that all treaty bodies provide for adequate and dedicated time during their formal meeting schedule to meet with NGOs regarding the States parties reports to be considered. These meetings ensure that NGO (oral) presentations benefit from interpretation and that *all* committee members can receive that information.
- In our experience, the Committee against Torture (CAT) and Committee on the Rights of the Child (CRC) provide the most effective models for NGO briefings. The CRC dedicates three hours per state party for NGO and IGO briefings at pre-sessional meetings, thus providing adequate time for NGOs to present their findings and for in-depth discussion. CAT provides for one hour per state party the day before the consideration of the State's report, thereby making it easier for NGOs to travel and stay in Geneva for the minimum period necessary to contribute to and follow the committee's review of the State party.
- It would be useful if the informal and additional breakfast and lunch briefings that are sometimes set up by NGOs for committee members in situations where there has not been adequate time to cover all issues in sufficient depth in the formal NGO discussion period were to be announced on the treaty body webpage, unless otherwise requested by NGOs.
- On occasion, States parties have failed to send representatives at the very last minute and a treaty body has had to decide whether or not to go ahead with the consideration. We recommend that, in such circumstances, treaty bodies consult with NGOs present to hear their views on how to proceed and, if relevant, to receive information from those NGOs at that time.

- We strongly recommend that all meetings of treaty bodies' considerations of States parties reports be webcast. If there are resource constraints to doing so in the OHCHR budget, we suggest that a minimal approach would be to make available and archive the audio recording of the public meetings. This would enable NGOs who cannot travel to and stay in Geneva to listen to the debate which can assist in further advocacy efforts, including at the national level and in relation to follow up.
- We also recommend that all public meetings of the treaty bodies be transcribed and produced as summary records, which are then made accessible through the existing OHCHR database in timely fashion and can be used for textual searches. We recommend that the summary records be made available in the same language for the entire session of a State party review or agenda item, and not different languages according to whether it is a morning or afternoon session, pending translation.

Concluding Observations/Recommendations

- All stakeholders would benefit from continued efforts to strengthen the structure, wording, and specificity of Concluding Observations/Recommendations, as well as efforts to prioritize recommendations, including in the context of the UPR, and to follow up on them. However, this process would benefit from a deeper analysis of what the Concluding observations aim to achieve which may vary between, or perhaps even within, the treaty bodies. A common understanding of the possibilities and limitations of the treaty bodies' recommendations in this respect may assist future work to strengthen them. We hope that NGOs would be able to have input to such an analysis.

Reprisals

- We urge all treaty bodies to pay close attention to incidents of reprisals against individuals, their families or organizations who provide information or bring communications to the treaty bodies, including by reporting instances of reprisals to the relevant Special Procedures, such as the Special Rapporteurs on human rights defenders and on freedom of opinion and expression. Treaty bodies could consider what measures should be put in place to protect individuals interacting with them with a view to preventing reprisals. Treaty bodies could alert the High Commissioner for Human Rights and the President of the Human Rights Council to incidents of reprisals and take up such cases with the State party concerned. The OHCHR could be encouraged to designate a staff member as the focal point to receive information about credible allegations of reprisals to ensure appropriate follow up.

5. NGO participation in communications procedures

- We recommend improving access and search functions on individual communications on the OHCHR website.

- It would be useful if the e-mail which is distributed at the end of each treaty body's session included a brief summary of the individual communications adopted.
- NGOs could be consulted regarding the follow up and implementation of decisions made under the individual communications procedures.

6. NGO participation in inquiry procedures

- We recommend that specific guidelines should be adopted by the CAT, Committee on the Elimination of Discrimination against Women (CEDAW) and Committee on the Rights of Persons with Disabilities (CRPD) to clarify the nature of information required to trigger an inquiry procedure.
- It would be useful for these committees to ensure that NGOs can provide information on state implementation of recommendations and to clarify the scope for NGO involvement on follow up to inquiry procedures.

7. NGO participation in the drafting and adoption of General Comments

- The treaty bodies could consider adopting a consistent, open and transparent procedure for the drafting and consultation on draft general comments, to be adopted by all committees, including (a) soliciting and consideration of NGO contributions; (b) posting NGO, specialized agency, and other comments on the treaty body's website (c) holding public discussion on draft general comments during sessions, with the opportunity for NGOs to intervene.
- We take this opportunity to note that the recent adoption of the Convention on the Rights of Persons with Disabilities has shown that a number of General Comments of other treaty bodies might require revision.

8. Follow up procedures to concluding observations

- The practice of prioritizing some concluding observations and setting the deadline of one year by which States parties are to report on progress made in the implementation of some key recommendations is very useful. We recommend that all treaty bodies continue to develop follow up procedures which provide for a qualitative assessment, including through undertaking country visits to review implementation, and to formally seek and accept information from NGOs regarding steps taken. Some NGOs are engaged in very diverse and exciting follow up projects, which would be useful for the treaty bodies to know about. We note that the CAT gave NGOs the opportunity to take the floor during its November 2008 session for this purpose.

- Clarity about dates for the submission of information for the committee's follow up procedures is essential and should be included in the master calendar referred to previously.
- The CAT's webpage contains a section on its follow up procedure and how NGOs and national human rights institutions may contribute to it. The Human Rights Committee and the Committee on the Elimination of Racial Discrimination (CERD) webpages also include a section on follow up. In addition, the CAT and the CERD make public the letters which they send to States parties as part of their follow up procedures. We suggest the creation of a specific section on each treaty body webpage which is devoted to follow up and includes letters from the committee to the state, the response of the state and relevant submissions from NGOs.

9. Universal Periodic Review Mechanism

- The UPR can contribute to the work of the treaty bodies by giving an increased attention to their Concluding Observations/Recommendations, urging ratification, implementation of recommendations, withdrawal of reservations, submission of overdue reports, and so on.
- The treaty bodies could ask for and make use of information prepared for the UPR, including reports from NGOs.
- Some of the treaty bodies are making interesting use of the recommendations coming out of the UPR process in their dialogue with States parties and this approach could be further pursued.
- Concluding observations crafted with specificity would increase their effectiveness as contributions to the UPR.
- We are concerned that some states have rejected recommendations which are based on treaty body Concluding observations during the UPR process. We recommend that the treaty bodies determine the exact scope of this problem and consider their options to address it, while ensuring their independence from the Human Rights Council.

SUMMARY OF RECOMMENDATIONS FOR THE TREATY BODIES

We recommend that:

- the treaty bodies make public in advance of the review of a State party the identity of the country rapporteur/members of a country task force
- individual treaty bodies reference relevant work by other committees and designate a member to monitor the work of the other treaty bodies
- the treaty bodies standardize their terminology
- the treaty bodies ensure that the procedure for consideration of a state without a report is transparent and allows for effective NGO participation
- NGOs continue to have the option of requesting that their information be kept confidential, and that the committee concerned considers this information
- all treaty bodies provide for adequate and dedicated time during their formal meeting schedule to meet with NGOs regarding the States parties reports
- when a State fails to attend the session at short notice, the treaty body consults with NGOs on how to proceed and, if necessary, to receive their information
- a study be prepared to facilitate a common understanding of the possibilities and limitations of the treaty bodies' concluding recommendations
- the treaty bodies consider what measures should be put in place to protect individuals interacting with them from facing reprisals and what steps should be taken in the event of reprisals occurring
- the treaty bodies consult NGOs regarding the follow up and implementation of decisions made under the individual communications procedures
- the CAT, CEDAW and CRPD develop guidelines to clarify the nature of information required to trigger an inquiry procedure and consult with NGOs about follow up to inquiry procedures
- the treaty bodies adopt a consistent, open and transparent procedure for the drafting of and consultation on draft general comments
- the treaty bodies continue to develop follow up procedures which provide for a qualitative assessment and seek information from NGOs regarding steps taken
- the treaty bodies request and make use of all information prepared for the UPR, and of the recommendations from the UPR in their dialogue with States parties
- treaty bodies craft their Concluding observations with specificity to increase their effectiveness as contributions to the UPR

- treaty bodies determine the exact scope of the use of their Concluding observations in the UPR process and consider their options to address any problems, while ensuring their independence from the Human Rights Council.

SUMMARY OF RECOMMENDATIONS FOR THE OHCHR AND THE TREATY BODIES' SECRETARIATS

We recommend that:

- The next revision of the NGO Handbook include more detail on treaty body matters that could be standardized, and that each treaty body webpage provide a clear link to the NGO Handbook
- each treaty body secretariat draft guidelines for NGO contributions and make these available on the respective treaty body's webpage;
- each treaty body secretariat add a link on its webpage to NGO materials which specifically relate to NGO interaction with that treaty body
- the OHCHR publish on the website a "master calendar" to reflect dates for sessions, pre-session meetings, deadlines for receipt of information of NGO materials, and the proposed schedule for the consideration of General Comments
- each treaty body secretariat post documentation on its webpage in a timely fashion
- the OHCHR proactively seek the early engagement of NGOs in the consideration of States parties reports by notifying them of upcoming session and deadlines
- the OHCHR provide treaty bodies with country profile information, including from Special Procedures and UPR
- each treaty body secretariat post NGO submissions on its webpage, or else indicate clearly where such NGO submissions can be located
- each treaty body secretariat post notification of breakfast and lunch briefings for committee members on its webpage
- the OHCHR webcast all public meetings of the treaty bodies or, at a minimum, post the audio files on the webpages
- the OHCHR continue to produce summary records in a timely fashion, which can be used for textual searches, and which are available in a single language for the duration of a state party review (pending translation)
- the OHCHR continue to improve access and search functions on individual communications on the website
- the relevant treaty bodies secretariats provide a summary of the individual communications adopted as part of the end of session summary
- the treaty bodies secretariats clarify and make public dates for submission of information for follow up procedures

- the treaty bodies secretariats create a separate page on follow up, into which information from States parties, NGOs and others can be accommodated.