

Fourth inter-committee meeting, Geneva, 20-22 June 2004

Report by Mr Filali, Rapporteur of the third inter-committee meeting on discussions in the treaty bodies concerning the draft harmonized reporting guidelines

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Dear Colleagues,

As you know, I was entrusted, by the third inter-committee meeting in June 2004, with the task, as rapporteur, of following the consultations between the committees on the proposed harmonized guidelines and other matters relating to the harmonization of their reporting guidelines during the past year.

The process leading to the drafting of these guidelines was initiated by the request of the Secretary-General in his second reform report, "Strengthening of the United Nations: an agenda for further change" (A/57/387, 9 September 2002), that the treaty bodies adopt a more coordinated approach to their activities and harmonize their various reporting requirements. In particular, the Secretary-General had suggested that each State party be allowed to produce a single report summarizing its adherence to the full range of international human rights treaties to which it is a party".

Extensive consultations involving the treaty bodies, States parties, United Nations entities, non-governmental organizations and others, including a brainstorming meeting held in Malbun, Liechtenstein in May 2003, revealed support for the Secretary-General's aims, although, in preference to a single "summarizing" report, consensus favoured expanding the core document, which States have been able to submit since 1991, to include a wider range of information relevant to all committees, including information on substantive human rights provisions congruent to all or several treaties. This expanded core document would be submitted together with a targeted treaty-specific report to the relevant treaty body.

The second inter-committee meeting and fifteenth meeting of chairpersons, endorsed the idea of an expanded core document, and requested the secretariat to draft harmonized guidelines for reporting under the international human rights treaties, including guidelines setting out the form and content of the proposed expanded core document.

The secretariat formulated guidelines which were contained in document HRI/MC/2004/3. These draft guidelines provide a common basis for reporting under all seven international human rights treaties.

They are divided into three sections:

Section 1 provides guidance on the recommended approach to the reporting process that States parties should adopt, including the recommendation that they set up appropriate institutional structures on a permanent basis to support sustained and timely reporting in accordance with their treaty obligations;

Section 2 provides guidance on the recommended form for all reports, including suggested page limits; and

Section 3 provides guidance on the content of reports, including the expanded or common core document to be submitted to all treaty bodies in conjunction with targeted, treaty-specific documents.

The draft guidelines propose a common document structured in the following way:

- (1) general factual and statistical information about the reporting State;
- (2) the general framework for the protection and promotion of human rights in the State, including:
 - acceptance of international human rights norms;
 - the general legal framework within which human rights are protected at the national level;
 - the general legal framework within which human rights are promoted at the national level;
 - the role of the reporting process in promoting human rights;
 - and certain other related human rights information.
- (3) The guidelines would also cover implementation of substantive human rights provisions common to all or several treaties and suggest that the areas of non-discrimination and equality, effective remedies, procedural guarantees and participation in public life might form a starting point for States to incorporate in the common document for all treaty bodies information which would otherwise be repeated in their various reports.

The common core document would constitute a common first part of each report presented to any treaty body; a targeted treaty-specific document to be prepared in accordance with the specific requirements of each committee would constitute the second part of a State party's report to the relevant treaty body.

The draft guidelines were considered by the third inter-committee meeting which recommended that they should be forwarded to each committee for further discussion.

I was able to attend a number of these discussions during the course of the year and would like to present to you my impressions of what emerged from those discussions.

Unfortunately, I was unable to meet with the **Committee on the Elimination of Discrimination against Women** this January as planned, but the Committee prepared a very detailed comment which has been produced as document HRI/MC/2005/6/Add.1

I attended a discussion of the **Committee on the Elimination of Racial Discrimination** during its 65th session in August 2004. The Committee generally welcomed the ideas set out in the document, which it considered would facilitate reporting by States parties and the work of the treaty bodies.

- The Committee underlined the importance of reporting in accordance with the periodicities set by the Convention;
- CERD believes that the consideration of reports and the adoption of as concluding observations and recommendations by the treaty bodies constitute the most appropriate mechanism to monitor the realization of the aims of the international human rights treaties;
- The Committee considers that a broadly representative and permanent national institutional mechanism for the elaboration of reports is indispensable;
- The Committee considers that the common core document should contain general information on the situation in the State party, including complete information on the demographic social and cultural characteristics of the country. It is essential to indicate as precisely as possible the ethnic characteristics of the population, disaggregated by racial, ethnic, indigenous, linguistic and religious groups, persons with disabilities, minorities, non-nationals, refugees, IDPs and migrants. The measures taken by the Government must be described in the context of the equality between men and women and the socioeconomic situation must be shown;

- The Committee places emphasis on the importance of the annex to the document which contains as list of indicators which are relevant to the treaty bodies, and in particular to CERD;
- The Committee is also of the opinion that updates and corrections of the core document must be made each time the State party will present the core document with a treaty-specific document.

A list of the essential information which the Committee considers should be contained in the common core document is set out in its formal position in annex 1 of the document HRI/MC/2005/6

My own committee, the **Committee on the Rights of the Child**, discussed the draft guidelines during its 37th session in September 2004. The Committee reiterated its doubts about the feasibility of a single report. The Committee welcomes the proposed structure and content for the common core document and treaty-specific reports set out in the guidelines.

The Committee agrees with the general structure and content of the common core document, but nevertheless:

- The Committee believes it necessary to limit the extent of the congruent provisions, since the elaboration of the comprehensive list of common substantive provisions for all committees would slow down the process of the reform;
- States parties wishing to use the guidelines should be able to do so as soon as possible;
- The Committee has concerns about the content of the treaty-specific document;
- The Committee finds that it would be preferable to place the information requested in section III (K) in I (B) regarding the legal structure of the State.

The Committee would like to understand better how reporting using the common core document and treaty-specific document would facilitate States in abiding by their reporting obligations in a timely manner.

The Committee also expressed its concerns about the risks that a common core document would bring about a loss of specificity, and should not be allowed to undermine the dynamic process that has been developed over the years involving UN specialized agencies and NGOs.

The Committee encourages cooperation between the treaty bodies with regard to concluding observations and general comments. The Committee recommends the common drafting of

general comments and supports the idea of creating a working group composed of Committee members to improve the draft guidelines. The CRC intends to finalize without delay its new reporting guidelines, and will adapt them to the new harmonized guidelines as soon as these are adopted.

I attended a meeting of the **Human Rights Committee** during its 83rd session in New York this March. The Committee welcomed the principle of an expanded core document and targeted reports. The Committee accepted the general structure of the core document as proposed in sections A-G of the draft. Regarding information on substantive human rights provisions common to all or several international instruments, as contained in the draft guidelines, the Committee considered that the integration of information on non-discrimination and procedural guarantees merits clarification and discussion because of the specific approaches of each treaty body to these provisions.

The treaty-specific document should be limited to the information solely or chiefly of interest to the treaty body concerned. Initial reports under the ICCPR should contain all information relative to the implementation of the Covenant not covered in the expanded core document. Subsequent reports should be more targeted, limited to the responses to specific issues and questions formulated by the committees in their concluding observations or before the session, although the State should also draw the Committee's attention to any new information relating to the implementation of the Covenant.

Cooperation between the different mechanisms, both treaty-based and others, for the promotion and protection of human rights must be strengthened or progressively developed.

I met with the **Committee on Migrant Workers** during its second session here in Geneva in April. The Committee agrees in principle with the draft guidelines as a way to harmonize and simplify reporting. The Committee has adopted its own reporting guidelines in order to assist States parties who are required to report under the Convention but these were drafted taking into account the harmonized guidelines that have not yet been adopted. These guidelines address the specificities of the Convention.

The Committee favours greater harmony between the working methods of the different treaty bodies, but emphasized that harmonization should not prevent each treaty body retaining its core competence.

I meet with the **Committee against Torture** at the end of its 34th session in May, since I was unable to attend their first discussion which had taken place during the previous November.

The Committee agreed in principle with the reform proposed. Nevertheless it remained worried by the lack of clarity with regard to when the new guidelines would enter into force.

The Committee remained concerned that the specificity of its work in monitoring implementation of the Convention against Torture should not be lost. The Committee, through its chairperson, stated that much uncertainty remained and that the Committee would defer a decision on the guidelines until after the inter-committee meeting. The Committee also drew the rapporteur's attention to the fact that new reporting guidelines were currently being considered by the Committee.

The **Committee on Economic, Social and Cultural Rights** discussed the guidelines on several occasions during the course of the year, and I was able to meet with the Chair and with some members during the pre-sessional working group at the end of the Committee's 34th session this May.

The Committee supports the draft guidelines, though, like other committees, it recognizes that the task is difficult and complex. The Committee recognizes the benefits that would flow, both for the treaty bodies and for States parties, from such a document, especially in encouraging a more holistic approach to human rights implementation. The Committee would like to see a date fixed for the adoption of the guidelines.

The Committee considers that the secretariat should revise the table of congruent rights, which does not incorporate economic, social and cultural rights to the fullest extent possible.

Finally the Committee was in favour of forming a working group of experts to finalize the guidelines.

Points of agreement between the treaty bodies

Following the successive consultations with the treaty bodies, I would arrive at the following conclusions:

- a) That the committees favourably welcome the guidelines and consider that they will strengthen the process of elaborating reports by States parties in accordance with their treaty obligations;
- b) The committees share the common concern that the changes might result in incomplete information being presented to them and the possible weakening of their specificities and particularities, particularly if insufficient care is taken with regard to congruent provisions. It is absolutely necessary that the committees continue to

examine reports according to a specific approach linked to the requirements of each treaty.

- c) The committees consider that the secretariat should further elaborate the guidelines, taking into account the specific preoccupations of each committee and the suggestions resulting from the present inter-committee meeting.
- d) The committees share a common concern about the reservations made by States parties at the time of deposit of the instrument of ratification.
- e) The question of non-respect of periodicities by States in the submission of reports is a constant which must be taken into consideration. The committees are in favour of a coordinated calendar for the presentation of reports.
- f) The length of the common core document and the treaty-specific document as set out in the guidelines is acceptable to the treaty bodies.
- g) The committees are in favour of more sustained and regular cooperation.
- h) The Committees favour OHCHR providing technical assistance, upon request, to States parties wishing to use the draft guidelines as a means of testing the extent to the proposed common core document and treaty-specific guidelines are practicable.
- i) The Committees consider it indispensable that each State party set up a broadly representative and permanent institutional mechanism to draft and submit their reports to the different treaty bodies.
- j) The Committees insist on the importance of follow-up to treaty body recommendations.
- k) The Committees favour producing lists of issues before the examination of reports. Written responses from governments to these lists of issues could constitute, as the Human Rights Committee has suggested, the targeted part of the report.
- l) The Committees would like to create a working group of treaty body experts to work on finalizing the draft guidelines on the common core document.
- m) The Committees would like to see the creation of workshops for States parties to familiarize them with the new coordinated reporting methodology.

Conclusion and recommendations.

It is worth highlighting that there is no important divergence of opinion between the treaty bodies.

The Committees have expressed their concern to preserve and protect their specificities and particular focus. They would like an opportunity to collaborate together in order to improve the guidelines, taking into account not only the suggestions that have emerged during the consultation but also the conclusions of the inter-committee meeting.

At the same time, several States have already started to work on their reports using the draft guidelines in accordance with the agreement of the third inter-committee meeting, and these States should be encouraged in their efforts.

I would suggest the following recommendations:

That the inter-committee set up a technical working group, made up of a member from each committee, in order to finalize the draft guidelines for adoption by the committees during the course of the year. The members of the working group need not be participants in the inter-committee meeting. The secretariat should arrange for the working group to convene as soon as possible after the inter-committee meeting;

That the secretariat, in consultation with the working group charged with the finalization of the guidelines, should produce a final draft for adoption by the autumn of this year;

That, in accordance with the recommendation of the third inter-committee meeting and sixteenth meeting of chairpersons, States parties who wish to produce reports in accordance with the guidelines should be encouraged to do so with the support of OHCHR and the Division for the Advancement of Women;

That all States parties should be encouraged to adopt a coordinated approach to their reporting, and should set up appropriate institutional structures in a permanent basis in order to support coordinated, timely and sustained reporting in accordance with their obligations under the treaties to which they are party;

That the guidelines, once adopted, should be reviewed periodically by the inter-committee meeting and further improved, based on the practical experiences of State parties which have used them in the preparation of their reports;

That a mechanism, charged with supervising the general calendar for presentation of reports to the treaty bodies, should be instituted (this could be assigned to the inter-committee meeting).

Finally, I would reiterate that the inter-committee meeting and meeting of chairpersons are extremely useful forums for the exchange of views, coordination and harmonization between the committees and that the inter-committee meeting provides an appropriate venue for treaty body experts to engage in debates on strengthening the effectiveness of the treaty system.

Thank you.
