

# HUMAN RIGHTS TREATIES DIVISION



## Newsletter Nos 16 - 17

April – September 2012

### IN THIS ISSUE

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#### **EDITORIAL** Message from the Director

1

#### **EVENTS**

Interview with Hon. Justice Gerard Niyungeko,  
President of the African Court of Peoples'  
and Human Rights (in English and French)

3

#### **TREATIES**

Meeting of the Chairpersons of the human rights  
treaty bodies in Addis Ababa

8

The Subcommittee on Prevention of Torture 2012  
visits to Latin America.

12

CEDAW regional consultations on women in  
conflict and post-conflict situations

14

#### **TREATY BODY STRENGTHENING PROCESS**

Adoption of resolution by the General Assembly

16

Consultations for States parties  
and civil society forum

17

#### **CURRENT DEVELOPMENTS**

Recent elections to the treaty bodies CRPD-HRC

18

Individual complaints

19

Laying the foundation for institutionalized  
cooperation between the European Court of  
Human Rights and the Human Rights Committee

21

The International Court of Justice's judgement  
in the Hissene Habre case

22

#### **TRAINING ON TREATY BODIES**

Training on reporting in Burkina Faso

28

Regional workshop in Kyrgyzstan on  
strengthening national implementation

29

#### **MISCELLANEOUS**

New Publications:

30

1. Commemorative publication: 30 years of working for women's rights
2. Selected *DECISIONS OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION*

31

Ratification status

33

New reports submitted to Treaty Bodies

38

Info on the Human Rights Treaties Division

2

Useful tools and links

### MESSAGE FROM IBRAHIM SALAMA

Director of the Human Rights Treaties Division

### **THE TREATY BODY STRENGTHENING PROCESS ENTERS A NEW PHASE**

### **TIME FOR IMPLEMENTATION**

**S**ince the launch of the High Commissioner's report on the strengthening of the human rights treaty system last June we have entered the phase of follow-up to the proposals made in this report.

Under GA resolution 66/254 States have engaged in a first round of informals between 16-18 July which has clearly shown that the level of knowledge about the treaty body system in New York has grown impressively. Debates were lively, delegations welcomed the High Commissioner's report, positions are still evolving and the Inter-Governmental Process has been extended by Member States through a resolution beyond current session of the General Assembly (see page 16). The Comprehensive Reporting Calendar proposal received much attention and questions. OHCHR is now aiming to provide in future all details on the possible operationalization of such a calendar. The issue of capacity building came up regularly and has been raised also with regard to treaty reporting and implementation during the informals. We are grateful to the co-facilitators and Member States for having invited the Chairperson and Vice-Chairpersons of the 24<sup>th</sup> Annual Meeting of Treaty Bodies Chairs, Mr. Abdlehamid El-Jamri and Mr. Claudio Grossman, to these informals as their inside knowledge and experience of the system was useful to the debates.

During the 24<sup>th</sup> Annual Meeting of Chairpersons held in Addis Ababa at the end of June, the ten Chairs of treaty bodies also welcomed the report of the High Commissioner. They recommended that each treaty body should carefully review the specific recommendations addressed to treaty bodies and, in coordination with other treaty bodies, keep the meeting of Chairs informed about progress made on a biannual basis. This will be done through an implementation report. Since July treaty bodies that had a session (CEDAW, Human Rights Committee, CERD, CMW, CRPD and CRC) have engaged in this process, even adopting decisions/resolutions in this regard. All the other treaty bodies are now following.

It is also worth mentioning that during their meeting in Addis Ababa, the Chairpersons endorsed the Guidelines on the independence and impartiality of members of the human rights treaty bodies (Addis Ababa guidelines). This did not come as a surprise as the 23<sup>rd</sup> Annual Meeting of Chairpersons requested such guidelines in June 2011; a request which followed over a decade of systematic recommendations made by the Annual Meeting of Chairpersons to guarantee and reinforce the independence of treaty bodies members. The need for such self-regulatory tool was therefore long overdue. The Addis

Ababa guidelines were largely inspired by the 1998 Guidelines adopted by the Human Rights Committee. Moreover, the endorsement of the guidelines constitutes the first step taken by treaty bodies to implement a recommendation stemming from the report of the High Commissioner,

The High Commissioner and her Office are remaining active in facilitating the follow-up to the report on the strengthening of the human rights treaty system. Many proposals can be implemented without additional resources but of course a major enhancement of the system will require an extra financial effort. Despite the current financial challenges of the United Nations and many Members States, we remain confident in the capacity of all actors to pull towards an agreed direction. We believe we share with all actors of the system a common responsibility vis-à-vis human rights treaty bodies: we cannot let this crucial human rights mechanism fail.■

## HRTD NEWSLETTER

- ❖ ... Is issued on a quarterly basis since 2008 with a view to provide more in-depth and specific information on the work of the treaty bodies, including interviews, analysis of decisions, activities and reports from OHCHR field presences, etc.
- ❖ ... Is available at the treaty bodies' webpage on OHCHR website:  
[http://www2.ohchr.org/english/bodies/treaty/newsletter\\_treaty\\_bodies.htm](http://www2.ohchr.org/english/bodies/treaty/newsletter_treaty_bodies.htm)
- ❖ ... Can be accessed by OHCHR staff on OHCHR Intranet, together with more information on the work of the Human Rights Treaties Division, at:  
<http://intranet.ohchr.org/Offices/Geneva/HumanRightsTreatiesDivision/Pages/HRCTDpage.aspx>
- ❖ ... Welcomes your views ! Please contact us at: [HRTD-newsletter@ohchr.org](mailto:HRTD-newsletter@ohchr.org)

## USEFUL TOOLS AND LINKS

- ❖ ... Webpage on the Treaty bodies strengthening process:  
<http://www2.ohchr.org/English/bodies/HRTD/index.htm>
- ❖ ... Universal Human Rights Index: A user-friendly search engine with access to all recommendations of treaty bodies, special procedures and soon the Universal Periodic Review (UPR): <http://www.universalhumanrightsindex.org>
- ❖ ... Civil Society Section mailing-list: subscribe to email updates about [human rights treaty bodies](#) and other UN human rights activities:  
<http://www.ohchr.org/EN/AboutUs/Pages/CivilSociety.aspx>



*Hon. Justice Gerard Niyungeko, President of the African Court on Human and Peoples' Rights.* © OHCHR/Danielle Kirby

### **Interview with Hon Justice Gerard Niyungeko, President of the African Court on Human and Peoples' Rights**

***"I see three main challenges which the Court has been facing."***

**I**n recent decades a number of regional human rights mechanisms have come into existence. Their work is based on their respective regional human rights instruments, which contain often similar provisions to those in the core international human rights treaties. Essentially these bodies consider the same countries as the UN human rights treaty bodies do. Both systems also deal with individual complaints of human rights violations. Therefore there is great potential for complementarity and coordination between the international and the regional human rights mechanisms.

*On the occasion of his visit to the Office of the High Commissioner for Human Rights and the human rights mechanisms based in Geneva, HRTD Newsletter interviewed Hon. Justice Gerard Niyungeko, President of the African Court on Human and Peoples' Rights (the Court).*

**1. As you are approaching the end of your second and last term as the first president of the**

**African Court on Human and Peoples' Rights, how do you look back on the first years of the Court? What have been the challenges for this institution?**

The first six years of the Court have gone well. After the first judges were sworn in 2006, the Court was provided with a budget and human resources and the Government of the Republic of Tanzania provided the premises for its seat. Thereafter, in the period 2008-2010, one application was received which, however, was considered inadmissible because the State in question had not made the declaration accepting the individual complaints procedure. As at July 2012, however, the Court has received 22 applications in contentious matters and 3 requests for advisory opinions of which one is pending.

I see three main challenges which the Court has been facing. The first challenge results from the low

number of ratifications of its founding Protocol (to the African Charter on Human and Peoples' Rights) on the Establishment of an African Court on Human and Peoples' Rights), namely only 26 out of 54 African Union Member States. The second challenge is that only five (5) States Parties to the Protocol have made the declaration under Article 34(6) thereto, allowing individuals and NGOs direct access to the Court. These State Parties are Burkina Faso, Ghana, Malawi, Mali and the United Republic of Tanzania. The third main challenge is the lack of awareness on the existence of the Court and the procedures the Court offers.

To tackle these challenges, the Court has engaged in a campaign to raise public awareness about the Court, encouraging the deposit of the Declaration under Article 34(6) of the Protocol of the Court; sensitizing would-be applicants on how to access the Court and the procedures before the Court; and encouraging the public to utilize the Court in settling human rights disputes and to render advisory opinions. Indeed I believe that the effective protection of human rights on the continent requires the involvement of all the key stakeholders, including in particular, the general population, NGOs, NHRIs and Member States themselves. As part of its campaign, the Court has therefore undertaken a number of country visits. In 2011, the Court had a mission to for instance Uganda, Mozambique, South Africa, Nigeria and Gabon whereas in 2012 it is planning to travel to Kenya, Senegal, Congo, Algeria and Tunisia.

## **2. Can you please explain the functioning and distinct roles of both the African Commission on Human and Peoples' Rights (the Commission) and the Court? How do both institutions ensure complementarity?**

The Court has a dual role to play. Firstly, it deals with contentious matters and it is worth noting in this regard that it is mandated to not only check compliance with the African Charter on Human and Peoples' Rights but also with any other international human rights obligation that the state in question has entered into. Importantly, in March this year the Court held its first public hearing - in the case of Femi Falana vs. the African Union - so likely we'll have the first decisions on the merits by the Court in the near future.

As indicated in its founding protocol, the Court is to complement the Commission but both institutions differ in the sense that the Court's decisions, unlike those of the Commission, are legally binding. In terms of cooperation between both institutions, I should flag that two of the contentious matters currently pending have been brought to the Court by the Commission. Moreover, the Commission and the Court have started holding Joint Annual Meetings to discuss ways of enhancing their collaborative partnership, address challenges in the

protection of human and peoples' rights and strengthen their bilateral cooperation. Furthermore, both institutions

**I welcome cooperation between the United Nations human rights treaty bodies and the Court, especially in relation to the development of jurisprudence on individual complaints.**

have now adopted harmonised rules of procedures. I also want to underline how complementarity works in both directions, I have mentioned that the Commission may refer cases to the Court, but the Court may also consult in relation to admissibility and refer cases back to the Commission.

**3. You have observed the session of the Committee on the Elimination of Racial Discrimination this week and your delegation will have the chance to get better acquainted with the various UN human rights mechanisms this week. In your view, where do you see the potential for greater synergies between the UN framework and the regional mechanisms for the promotion and protection of human rights, in particular from an African perspective?**



As I mentioned, the Court has the unique ability to take into account not only African instruments but any instruments ratified by the State concerned, which can often be international human rights treaties. In fact, without entering into detail I can disclose that some of the cases currently pending before the Court concern allegations of violations of both African and international human rights instruments. Surely, while the Court is not bound by the jurisprudence of such other bodies, it is only normal that it will consider the interpretation of similar provisions by other institutions. I welcome cooperation between the United Nations human rights treaty bodies and the Court, especially in relation to the development of jurisprudence on individual complaints. I

would be in favour of a systematic exchange of jurisprudence between the Court and these bodies so as to avoid different interpretations of similar provisions on fundamental human rights and freedoms. Such exchange could be facilitated by regular and institutionalised meetings much as we have between the Court and the Commission.

#### **4. Can you please clarify the roles between the African Court and the sub-regional courts in Africa such as that of ECOWAS and, until recently, also of SADC? Do you have any views on the recent decision to dismantle the SADC Tribunal?**

Again very much as the way the Court and the Commission have been constructing their relationship, and in the way we strive to develop a partnership with the UN mechanisms, we also aim to develop similar relationships with the sub-regional courts. For example, in October 2010, we organised a colloquium for African human rights courts and similar institutions in which the various continental human rights bodies participated: The Court and the Commission, as well as some of the various sub-regional bodies authorized to adjudicate human rights issues, such as the East African Court of Justice (EACJ), the Tribunal of the Southern African Development Community (SADC), and the Court of Justice of the Economic Community of West African States (ECOWAS). The sub-regional courts share a mandate similar to that of the Court so there could be a risk of overlapping subject matter jurisdiction. That is why we took this initiative and why we are currently planning for a 2nd judicial colloquium with all these institutions in the course of next year.

With regard to the SADC Tribunal, indeed the decision was taken to suspend this institution but I nevertheless heard encouraging information that States might be working on a new legal instrument for such a tribunal.

#### **5. The African Union has decided to merge the African Court on Human and Peoples' Rights and the African Court of Justice. While it is not clear when this may happen, how do you assess the impact of such merger on the promotion and protection of human rights in Africa?**

The merger of both institutions results from a political decision taken by the African Union Member States in 2004. The idea is to create a single institution which would have two sections, one on general affairs and one on human rights. In terms of human rights, the new body would essentially have the same role, powers and jurisdiction as the current Court. It is difficult to say when this merger will be put in practice as the Protocol on the Statute of the African Court of Justice and Human Rights requires 15 signatures to enter into force while currently only 5 States have signed. My hope is that

whenever the merger may be implemented, the new institution soon becomes operational. In fact, the African Court on Human and Peoples' Rights is doing its utmost to enhance its efficiency and impact exactly so that it may leave a significant inheritance to the unified court.

I may add that in 2009, the Member States of the African Union took the decision to draft a protocol with a view to invest the future African Court of Justice and Human Rights with international criminal jurisdiction. With at least 30 African Union Member States party to the Rome Statute (ICC), I believe that quite a number of States should be committed to setting up a similar institution on the African continent. ■

<http://www.african-court.org/en/>



# INTERVIEW EN FRANÇAIS

**Entretien avec le Juge Gérard Niyungeko,  
Président de la Cour africaine des droits de l'homme  
et des peuples**

**A**u cours des dernières décennies, un certain nombre de mécanismes régionaux des droits de l'homme ont vu le jour. Leur travail est basé sur les instruments régionaux respectifs en matière de droits de l'homme qui les ont établis. Ces derniers contiennent des dispositions similaires à celles des traités internationaux des Nations Unies relatifs aux droits de l'homme, en vertu desquels ces mécanismes examinent les mêmes pays que les organes de traités des Nations Unies. Il y a donc un grand potentiel de complémentarité et de coordination entre les mécanismes régionaux et internationaux en matière de droits de l'homme.

*A l'occasion de sa visite au Haut-Commissariat aux droits de l'homme et aux mécanismes relatifs aux droits de l'homme basés à Genève, la Newsletter de la*

*Division des Traités a interviewé le Juge Gérard Niyungeko, Président de la Cour africaine des droits de l'homme et des peuples (la Cour).*

**1. Vous approchez de la fin de votre second et dernier mandat en tant que premier Président de la Cour africaine des droits de l'homme et des peuples. Quel regard portez-vous sur les premières années de fonctionnement de la Cour ? Quels ont été les défis auxquels a dû faire face cette institution ?**

Les premiers six ans de fonctionnement de la Cour se sont bien déroulés. Après que les premiers juges ont prêté serment en 2006, la Cour a été pourvue d'un budget et de ressources humaines. Le Gouvernement de la République de Tanzanie a pourvu aux locaux dans lesquels la Cour siège actuellement. Par la suite, entre 2008 et 2010, une plainte a été reçue, laquelle a été déclarée irrecevable parce que l'Etat concerné n'avait pas fait de déclaration acceptant la procédure de plaintes individuelles. Au mois de juillet 2012, la Cour avait néanmoins reçu 22 plaintes concernant des contentieux et 23 demandes d'avis consultatifs devant être examinés.

Je vois trois défis principaux auxquels la Cour a dû faire face. Le premier défi découle du nombre limité de ratifications du Protocole qui l'établit (Protocole à la Charte africaine des droits de l'homme et des peuples). En effet, seuls 26 des 54 Etats membres de l'Union africaine l'ont ratifié. Le second défi est que seulement cinq Etats parties au Protocole ont fait une déclaration à l'article 34(6) y relatif, permettant aux particuliers et aux ONG d'avoir un accès direct à la Cour. Ces Etats parties sont le Burkina Faso, le Malawi, le Mali et la République –Unie de Tanzanie. Le troisième défi consiste dans le manque de connaissance des procédures de la Cour.



Afin de répondre à ces défis, la Cour a initié une campagne de sensibilisation, encourageant le dépôt de la déclaration sous l'article 34(6) du Protocole, expliquant aux potentiels plaignants comment accéder à la Cour et aux différentes procédures existantes ; et

encourageant le public à faire usage de la Cour pour le règlement de contentieux en matière de droits de l'homme et la prononciation d'avis consultatifs. Je crois en effet que la protection efficace des droits de l'homme sur le continent requiert la participation de toutes les parties prenantes, y compris notamment la population au sens large, les ONG, les INDH, et les Etats membres eux-mêmes. Dans le cadre de sa campagne la Cour a entrepris un certain nombre de visites de pays. En 2011, la Cour s'est rendue en mission en Ouganda, au Mozambique, en Afrique du Sud, au Nigéria et au Gabon. En 2012, elle envisage de se rendre au Kenya, au Sénégal, au Congo, en Algérie et en Tunisie.

**2. Pourriez-vous expliquer le fonctionnement et le rôle distinct de la Commission africaine des droits de l'homme et des peuples (la Commission) et celui de la Cour ? Comment les deux institutions se complètent-elles ?**

La Cour a une double fonction. Tout d'abord, elle traite de contentieux. A cet égard, il faut noter qu'elle a pour mandat non seulement de s'assurer du respect de la Charte africaine des droits de l'homme et des peuples, mais aussi des obligations découlant de n'importe quel traité international relatif aux droits de l'homme que l'Etat en question aurait ratifié. Notons que la Cour a tenu sa première audience publique en mars cette année dans l'affaire Falana contre l'Union africaine. Il est probable que nous aurons les premières décisions sur le fond par la Cour très prochainement.

Comme l'indique le Protocole qui l'établit, la Cour complète la Commission, mais les deux institutions diffèrent en ce sens que les décisions de la Cour, contrairement à celles de la Commission, sont contraignantes. En matière de coopération entre les deux institutions, je dois signaler qu'environ la moitié des contentieux devant être examinés ont été adressés à la Cour par la Commission. Par ailleurs, la Commission et la Cour ont commencé à tenir des réunions annuelles conjointes afin de discuter de moyens de renforcer leur partenariat, de répondre aux défis relatifs à la protection des droits de l'homme et des peuples, et de renforcer leur coopération bilatérale. Par ailleurs, les deux institutions ont adopté des règles de procédure harmonisées. Je voudrais aussi souligner que la complémentarité va dans les deux sens. J'ai mentionné que la Commission peut référer des cas à la Cour, mais la Cour peut aussi consulter la Commission en matière d'admissibilité.

**3. Vous avez observé la session du Comité sur l'élimination de la discrimination raciale cette semaine et votre délégation a eu la possibilité de mieux connaître les différents mécanismes des droits de l'homme de l'ONU. A votre avis, où voyez-vous un potentiel pour de plus grandes synergies entre le cadre normatif onusien et les mécanismes**

**régionaux pour la protection et la promotion des droits de l'homme, en particulier depuis une perspective africaine ?**

Comme je l'ai mentioné, la Cour a la particularité de pouvoir prendre en compte non seulement les instruments africains, mais n'importe quel instrument ratifié par l'Etat concerné, lesquels peuvent souvent être des traités des Nations Unies relatifs aux droits de l'homme. En effet, sans aller dans les détails, je peux vous dire que certains des cas en attente d'examen concernent des allégations de violations d'instruments africains et des Nations Unies en matière de droits de l'homme. Bien entendu, même si la Cour n'est pas liée par la jurisprudence de ces autres organes, il est normal qu'elle considère l'interprétation des dispositions similaires par d'autres institutions. Je me réjouis de la coopération entre les organes de traités des Nations Unies relatifs aux droits de l'homme et la Cour, notamment en ce qui concerne le développement de la jurisprudence en matière de plaintes individuelles. Je serais en faveur d'un échange systématique entre la Cour et ces organes de manière à éviter les différentes interprétations des dispositions similaires relatives aux droits et libertés fondamentales. Un tel échange pourrait être facilité par des réunions régulières et institutionnalisées, semblables à celles que nous avons entre la Cour et la Commission.

**4. Pourriez-vous clarifier les rôles entre la Cour africaine et les cours sous-régionales en Afrique, telles que le CEDEAO, et jusqu'à récemment la SADC ? Que pensez-vous de la décision récente de suspendre le Tribunal de la SADC ?**



De même que la Cour et la Commission ont bâti leur relation, et comme nous nous efforçons de développer une relation similaire avec les mécanismes onusiens, nous cherchons à développer pareil partenariat avec les cours sous-régionales. Par exemple, en octobre 2010, nous avons organisé un colloque pour les cours africaines des droits de l'homme auquel les divers organes continentaux

ont participé : la Cour et la Commission, ainsi que quelques organes sous-régionaux autorisés à rendre des jugements sur des questions relatives aux droits de l'homme, tels que la Cour de justice de l'Afrique de l'Est, le Tribunal de la Communauté de développement d'Afrique australe (SADC), et la Cour de justice de la Communauté économique des Etats de l'Afrique de l'Ouest (CEDEAO). Les cours sous-régionales ont un mandat semblable à celui de la Cour, et il pourrait y avoir un risque de duplication en matière de compétence. C'est pour cette raison que nous avons pris cette initiative et que nous planifions un deuxième colloque judiciaire avec toutes ces institutions au cours de l'année prochaine.

En ce qui concerne le Tribunal de la SADC, il est vrai que la décision a été prise de suspendre cette institution, mais j'ai néanmoins entendu des nouvelles encourageantes selon lesquelles des Etats seraient en train de préparer un nouvel instrument juridique pour un tribunal de ce type.

**5. L'Union africaine a décidé de fusionner la Cour Africaine des droits de l'homme et des peuples et la Cour africaine de justice. Bien qu'il soit difficile de déterminer quand elle aura lieu, quel impact pensez-vous qu'une telle fusion pourrait avoir sur la promotion et la protection des droits de l'homme en Afrique ?**

La fusion de ces deux institutions découle d'une décision politique par des Etats membres de l'Union africaine en 2004. L'idée est de créer une seule institution divisée en deux sections, l'une traitant de questions générales et l'autre de droits de l'homme. En matière de droits de l'homme, le nouvel organe aurait essentiellement le même rôle, les mêmes pouvoirs et les mêmes compétences. Il est difficile de dire quand cette fusion sera effective, étant donné que le Protocole relatif au Statut de la Cour africaine de justice et des droits de l'homme requiert 15 signatures pour entrer en vigueur alors que pour le moment seulement trois Etats l'ont signé. J'espère que lorsque la fusion aura lieu, la nouvelle institution sera rapidement opérationnelle. En fait, la Cour africaine des droits de l'homme et des peuples fait tout son possible pour améliorer son efficacité et son impact précisément dans le but de léguer un héritage substantiel à la cour unifiée.

Je me permets de rajouter qu'en 2009, les Etats membres de l'Union africaine ont pris la décision d'élaborer un protocole dans le but de doter la future Cour africaine de justice et des droits de l'homme d'une compétence en matière de justice pénale internationale. Avec au moins 30 Etats membres de l'Union africaine également parties au Statut de Rome (TPI), je pense qu'un nombre important d'Etats devraient être déterminés à établir une institution similaire sur le continent africain.■



*Mr. Abdelhamid El-JAMRI Chair of the Committee of Migrant Workers and Chair of 24<sup>th</sup> Meeting of Chairpersons (25-29 June 2012, Addis Ababa), being interviewed during the 24<sup>th</sup> Meeting of Chairpersons in Addis Ababa (25-29 June 2012). © OHCHR/Paulo David*

### **The ten human rights treaty body chairs held their twenty-fourth annual meeting in Addis Ababa (Ethiopia)**

### **Treaty bodies dialogue with the African Mechanisms**

Following a decision of the treaty body chairs that their annual meeting be organized every other year in a different region, the ten chairs of the human rights treaty bodies held their twenty-fourth meeting in Addis Ababa (Ethiopia), at the United Nations Economic Commission for Africa (UNECA) from 25 to 29 June 2012. The meeting was facilitated by the OHCHR East Africa Regional Office (EARO). The objective of holding the meetings of chairs outside of Geneva is to a) strengthen synergies and complementarity between international and regional human rights mechanisms, institutions and stakeholders; b) enhance accessibility and visibility of the treaty bodies, particularly through meetings with grass root civil society organizations; and c) raise awareness about the work of treaty bodies by taking them outside Geneva and New York at the national level. This meeting was the second of this kind after the twenty-second meeting of chairs in Brussels in 2010 which confirms the success of this experience.

During the first two days the chairpersons met in private, notably to discuss the report of the High Commissioner on strengthening the treaty body system released on 22 June 2012. The chairpersons "welcomed the report of the High Commissioner [and] endorsed the vision as contained [therein] and emanating from the almost three years consultation process during which treaty body experts played a key role." The chairs "expressed support for the valuable proposals contained in the report, particularly the proposals for a comprehensive reporting calendar ensuring reporting compliance with treaty obligations, a simplified reporting procedure, the issue of page limitations relating to the reporting process, and the use of modern technologies, such as webcasting and video conferencing". They "recommended that each treaty body should carefully review the recommendation addressed to the treaty bodies in the High Commissioner's report and compare these with their current working methods in order to determine whether



**24<sup>th</sup> Meeting of Chairpersons in Addis Ababa (25-29 June 2012)** .© Dereje Wondimu

and what steps are required for the implementation of these recommendations".

Following the discussion on the High Commissioner's report, the Chairpersons held a videoconference with the two co-facilitators of the General Assembly process on "strengthening and enhancing the effective functioning of the human rights treaty body system" as established by resolution 66/254. In this context, the chairs "highlighted the fact that although the process of the General Assembly [...] is inter-governmental in nature, the treaty body system is by definition a multi-stakeholder system where both States parties and treaty bodies have specific competencies under the respective treaties". The Chairs "reiterated that they have a central role to play regarding the future of the treaty body system and as such their presence during the deliberations of the open-ended intergovernmental process referred to in paragraph 4 of the resolution is essential". Furthermore, they "stressed that the treaty bodies as relevant UN bodies should participate in the deliberations as resource persons and are confident that the States will make such arrangements", as requested by the Chair of the twenty-third meeting of chairpersons in a letter dated 1 June 2012 to the President of the General Assembly and the co-facilitators.

Subsequently to their decision in 2011 and after consulting their respective committees, the chairs discussed and endorsed guidelines on the independence and impartiality of treaty body members

(the "Addis Ababa guidelines") which they strongly recommended for prompt adoption by the respective treaty bodies, *inter alia* through inclusion, in an appropriate manner, in their rules of procedure. These guidelines will be annexed to the chairpersons' report to the 67<sup>th</sup> session of the General Assembly which will be available shortly.

During the second part of their meeting, the chairs held a fruitful dialogue with the African human rights mechanisms, namely the African Commission on Human and People's Rights, the Committee of Experts on the Rights and Welfare of the Child, the African Peer Review Mechanism, the African Court on Human and People's Rights, the East African Court of Justice, and the ECOWAS Court of Justice, as

well as stakeholders including United Nations agencies, national human rights institutions and civil society organizations. The meeting adopted joint recommendations that the chairs encouraged each treaty body to give appropriate attention to with a view to strengthening their cooperation with the African human rights mechanisms and stakeholders. The joint recommendations will also be annexed to the



**Ms. Natacha Foucard and Mr. Musa Gassama, Regional Representative of the OHCHR-Regional Office-Addis Ababa at the 24<sup>th</sup> Meeting of Chairpersons in Addis Ababa (25-29 June 2012)** .© Dereje Wondimu

chairpersons' report to the 67<sup>th</sup> session of the General Assembly.



*From left to right, 1<sup>st</sup> raw, Ms Zonke Majodina, Chair of the Human Rights Committee (HRCtee), Ms. Felice Gaer, Vice-chairperson of the Committee against Torture (CAT), Ms Silvia Pimentel, Chair of the Committee on the Elimination of Discrimination against Women (CEDAW), Mr. Ibrahim Salama, Director of the Human Rights Treaties Division (HRTD), Mr. Abdelhamid El-Jamri, Chair of the Committee on Migrant Workers (CMW), Mr. Ronald McCallum, Chair of the Committee on the Rights of Persons with Disabilities (CRPD), Ms. Mary Crock, his assistant, Ms. Helle Iversen, OHCHR Staff; Second Raw: Mr. Alexei Avtonomov, Chair of the Committee on the Elimination of Racial Discrimination (CERD), Mr. Malcolm Evans, Chair of the SubCommittee on Prevention of Torture (SPT), Mr. Emmanuel Decaux, Chair of the Committee on Enforced Disappearances (CED), Mr. Jean Zermatten, Chair of the Committee on the Rights of the Child (CRC), Mr. Paulo David, Chief Section 3 HRTD, Mr. Ariranga Pillay, Chair of the Committee on Economic, Social and Cultural Rights (CESCR), Mr. Musa Gassama, Regional Representative, OHCHR-Regional Office-Addis Ababa at the 24<sup>th</sup> Meeting of Chairpersons in Addis Ababa, (25-29 June 2012). © Dereje Wondimu*

Participants discussed the possibility of exploring future avenues for better collaboration and cooperation, including joint missions, press statements, training programmes as well as exchange of information and sharing of best practices. The institutional partnership between the United Nations Committee on the Rights of the Child and the African Committee of Experts on the Rights and Welfare of the Child was referred to as an example that other treaty bodies could follow, as it provides a framework for common action. Participants explored ways and means to enhance the use by the United Nations treaty bodies of the regional instruments, policies and actions and their impact when reviewing the reports of States parties from the region and vice versa, notably through cross-referencing to each other's recommendations, including as reference points or benchmarks, in their respective concluding observations and other outputs, where deemed relevant. The crucial role of national human rights institutions and civil society organizations under both systems was acknowledged and their participation in the work of the United Nations treaty bodies and the African human

rights mechanisms was equally encouraged. Discussions highlighted the need for the United Nations treaty bodies, the Commission, the Court, the African Committee of Experts on the Rights and Welfare of the Child, and sub-regional courts to take into consideration and reference their respective jurisprudence with a view to seeking coherence and avoiding the fragmentation of international human rights law.

Finally, the chairpersons met with the Ethiopian Ministers of Justice, Health, Education, Women, Children and Youth Affairs, Foreign Affairs, Labour and Social Affairs, Federal Affairs, as well as with the Director General of the International Organizations Affairs Directorate, and the International Legal Affairs Directorate. The purpose of the meeting was to exchange views on interactions and cooperation between Ethiopia and the treaty bodies. ■



**Mr. Musa Gassama, Regional Representative OHCHR-Regional Office -Addis Ababa © Dereje Wondimu**

**Q1: Do you have some practical examples in mind of how your office successfully used the treaty body output?**

For the Regional Office based in Addis, the recommendations of the UN treaty bodies are advocacy tools for our engagement with national government and authorities. We use them to provide advisory services to member states who are working on the development of National Human Rights Plans of Actions. We rely heavily on the treaty body outputs while providing technical and advisory services to both in Ethiopia and Tanzania, who are at an advanced stage of the elaboration of National Human Rights Action Plans. We also use treaty body outputs in our mainstreaming programs within the various UNCTs UNDAF processes of the countries we cover.

**Q2: Do you have examples of situations in which the treaty body output was integrated in the work of the African regional mechanisms?**

The June 2012 dialogue that took place in Addis Ababa between the regional protection mechanisms, in particular the African system, emphasized that peer-to-peer learning is an invaluable tool in the framework of enhanced collaboration and building synergies.

This first initial dialogue has exposed the Africa regional system to the UN treaty body system. They have seen the possibility of enriching their work through information sharing, materials and joint consultations on thematic issues, including using the UN Treaty body jurisprudence in their daily work when reviewing countries. The fact that the President of the African Court on Human and Peoples' Rights observed the CERD session is an example of how to enhance capacity of the regional treaty body system.

**Q3: In your view, how can we best achieve better complementarity between the treaty body system and regional protection mechanisms, in particular the African system?**

The ongoing dialogue between the UN human rights treaty body system and the African human rights mechanisms highlights the need to recognize the complementarity between both systems in the promotion and protection of human rights standards, especially with regard to implementation at the national level. The experts agree on the need to enhance the collaboration between the UN treaty bodies and the African mechanisms in respect of exchange of information and awareness-raising, consideration of States parties' reports and individual communications, and promotion of the implementation of treaties. ■



## CONTACT US !

Your comments are important:  
[HRTD-newsletter@ohchr.org](mailto:HRTD-newsletter@ohchr.org)

## ***The Subcommittee on Prevention of Torture 2012 visits to Latin America***

**D**uring the first half of 2012, the Subcommittee on Prevention of Torture (SPT) carried out two visits to the Latin American region in the context of its preventive visiting and advisory mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

### **Visit to Argentina**

From 18 to 27 April 2012, the SPT conducted its first regular visit to Argentina, focusing the geographic scope of the visit on the Province of Buenos Aires and the Autonomous City of Buenos Aires. The SPT held meetings with the relevant national and provincial authorities, as well as with members of civil society organizations. In total, the SPT carried out visits to 24 places of deprivation of liberty: eight penitentiary institutions, ten police stations, two facilities for children and adolescents in conflict with the law, and four psychiatric establishments.

Regarding the establishment of a National Preventive Mechanism (NPM), which remains an outstanding obligation of Argentina under article 17 of the OPCAT, the Head of the SPT Delegation, Víctor Rodríguez-Rescia, noted that the creation of an NPM in Argentina would be an opportunity to enhance and monitor the recommendations of the SPT visit for the future through the federal NPM that is envisaged, as well as through the provincial mechanisms that have already been or are being created.

The preliminary observations of the SPT on its visit were presented during confidential meetings with the provincial and national authorities at the conclusion of the visit on 27 April 2012. The final report on the visit, containing the SPT's observations and recommendations, will be transmitted in confidence to the Argentinian authorities. In accordance with OPCAT article 16, Argentina can request the subsequent publication of the SPT report.

The SPT Delegation to Argentina was composed of the following SPT members: Víctor Rodríguez-Rescia (Head of Delegation), Marija Definis-Gojanovic, Emilio Ginés-Santidrián, Zdenek Hajek, Lowell Goddard and Miguel Sarre. The Delegation was accompanied by OHCHR staff members, and the mission was supported by the United Nations system in Argentina.■



*Mr. Víctor Rodríguez-Rescia (Head of the SPT Delegation) on their first regular visit to Argentina 18 to 27 April 2012 © OHCHR  
Ms. Marija Definis-Gojanovic, Mr. Emilio Ginés-Santidrián, Mr. Zdenek Hajek, Ms. Lowell Goddard and Mr. Miguel Sarre during the 13th SPT Session in Geneva (21-25 Feb 2011) © OHCHR/Danielle Kirby*

#### **TO READ AND LEARN MORE**

For more information on the SPT visit to Argentina, please see:

<http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=12095&LangID=S>

## The Subcommittee on Prevention of Torture 2012 visits to Latin America

### NPM advisory visit to Honduras

From 30 April to 4 May 2012, the SPT conducted its first ever NPM-advisory mission to Honduras. The SPT is mandated by article 11.b) of the Optional Protocol to the Convention against Torture to advise and assist national preventive mechanisms (NPM) in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment; and to make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the NPM.

In addition to providing advice and assistance regarding the NPM in Honduras, the SPT visit to Honduras reviewed the implementation of the recommendations made by the SPT after its previous mission to the country, which took place in September 2009.

During its mission, the SPT held high level meetings with Government officials, civil society, and with the NPM. The SPT devoted a large part of its visit to advise and provide technical assistance to the Honduran NPM, with which it jointly visited places of detention and carried out interviews with persons deprived of their liberty.

Among the places of deprivation of liberty visited was the Comayagua prison, which burnt during the night of 14 February 2012, causing more than 360 deaths.

The members that participated to the SPT mission to Honduras were Mario Coriolano (Head of Delegation), Zbigniew Lasocik, Hans Petersen and Maria Margarida Pressburger. They were assisted by OHCHR staff members, and counted with the support of the office of the OHCHR Human Rights Advisor to the UN Country Team in Honduras. ■

#### TO READ AND LEARN MORE

For more information on the SPT visit to Honduras, please see:

<http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=12121&LangID=S>



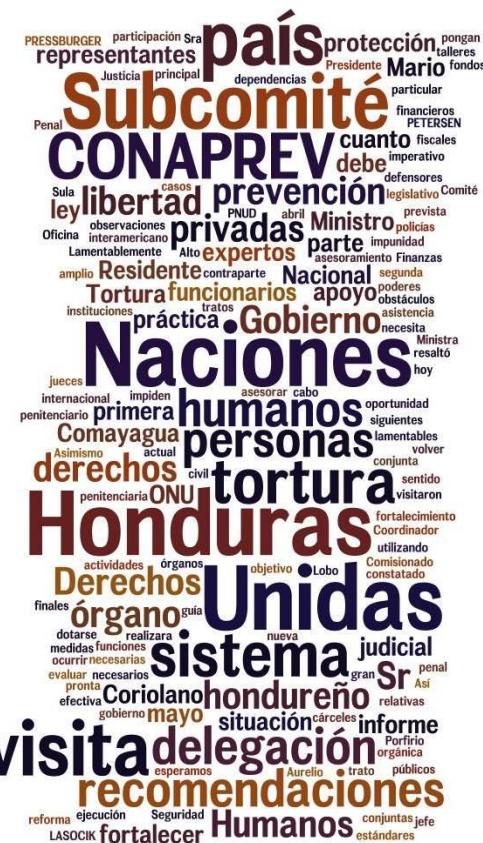
Mr. Mario Coriolano (Head of Delegation), Mr. Zbigniew Lasocik, Mr. Hans Petersen and Ms. Maria Margarida Pressburger during the 13th SPT Session in Geneva (21-25 Feb 2011) © OHCHR/Danielle Kirby

#### TO READ AND LEARN MORE

For more information on the work of the Subcommittee on Prevention of Torture (SPT), please see:

<http://www2.ohchr.org/english/bodies/cat/opcat/index.htm>

To date, the SPT has conducted 15 regular country visits, one follow-up visit, and one NPM advisory visit.





Lebanon/Al Beereh/Registration centre/Syrian families who arrive to north Lebanon crossing Wadi Khaled and other villages continue to register at UNHCR registration centres. © UNHCR/Salah Malkawi /July 2012

## **CEDAW regional consultations on women in conflict and post-conflict situations**

In the context of the elaboration of its General Recommendation on women in conflict and post-conflict situations, the Committee on the Elimination of Discrimination against Women (CEDAW) held four regional consultations, with the support of OHCHR and UN Women. The purpose of the General Recommendation is to provide appropriate and authoritative guidance to States Parties to the Convention on the measures to be adopted to ensure full compliance with their obligations to respect, protect and fulfil women's human rights during times of conflict and in all peace-building processes, which include the immediate aftermath of conflict and long-term post-conflict reconstruction.

The consultations took place in Bangkok (27-28 March 2012), Addis Ababa (12-13 April 2012), Istanbul (11 May 2012) and Guatemala (29-30 May 2012) with the aim to receive first-hand information from a variety of regional stakeholders from South-East Asia and the

Pacific, Africa, Eastern Europe and Central Asia as well as from Latin America, to better reflect women's reality on the ground in its General Recommendation. The participants included regional experts, government authorities, academics, activists and representatives of national women's machineries and national human rights institutions, as well as UN agencies. A fifth

**(...)while all civilians are affected by armed conflict and contexts of political instability, women suffer disproportionately because these situations exacerbate existing gender inequalities, placing women at a heightened risk of various forms of gender-based violence.**



**The former Yugoslav Republic of Macedonia /Returnees from Kosovo to Mikustak village, Skopje region © UNHCR /B. Betzelt September 2001**

regional consultation in the MENA region is envisaged for the end of 2012.

During the regional consultations, the Committee acknowledged that while all civilians are affected by armed conflict and contexts of political instability, women suffer disproportionately because these situations exacerbate existing gender inequalities, placing women at a heightened risk of various forms of gender-based violence. It also mentioned that the proposed General Recommendation will seek to cover the diversity of conflicts and broaden its application to address violations occurring in international and non-international armed conflicts as well as in situations of extreme violence and internal disturbances. It also affirmed that despite the numerous global commitments to end impunity for human rights violations and to address the gender-specific challenges related to post-conflict participation, women continue to be marginalised from conflict resolution processes and their priority concerns are systematically excluded from the post-conflict reconstruction agenda. Therefore and in order to be able to address the complexity of issues affecting women in conflict and post-conflict situations, the Committee will undertake a dynamic and progressive interpretation of the Convention when drafting the General Recommendation on women in conflict and post-conflict situations.

In each consultation issues related to women's access to justice, participation in peace-building processes and economic opportunities in post-conflict settings as well as violence against women were analysed from a regional perspective by the participants. The discussions also touched upon issues related to the legal vacuums in countries facing a protracted conflict and its consequences for women's rights; the multifaceted roles of women during conflict situations – as victims and combatants; the lack of redress mechanisms as well as the lack of access to housing and health care services and psychological support for

victims; and the lack of accountability of non-state actors. Participants also flagged the need to situate the CEDAW Convention within the wider context of the United Nations efforts on women, peace and security.

It was recommended to the Committee that the General Recommendation on women in conflict and post-conflict situations should, among others, address the situations, motivations, capacities and restraints on women and their gender specific needs during conflict, transition and post-conflict periods; acknowledge the different roles of women during conflict situations such as combatants and non-combatants; elaborate on the States' obligation to address the barriers to women's participation in peace-building efforts; address the difficulties for women victims of sexual violence during conflict and post-conflict situations to access justices and to reparations; explore ways to strengthen the capacity of civil servants to ensure gender responsive



**Chad / Sudanese refugees who fled to Kourbileke Chad from their village of Habila in Sudan following bombing in mid-January. Some of the refugees had time to take belongings such as mattresses and blankets with them when they fled © UNHCR /H. Caux / January 26, 2004**

economic recovery and to implement specific measures to address needs and priorities of the most excluded groups ; reflect the links and synergies between the CEDAW Convention and the Security Council resolutions on women, peace and security; and elaborate on the accountability of non-state actors and UN peacekeepers in conflict and post-conflict settings.

The wealth of information gathered during the regional consultations along with the inputs received on the occasion of the day of general discussion on women in conflict and post-conflict situations, held in July 2011, have provided the Committee with a solid basis to commence the drafting of the General Recommendation. It is envisaged that a first draft could be already discussed by the Committee during its 54th session in 2013. Later on, the draft would be shared with key stakeholders for comments. The final adoption of the CEDAW Committee General Recommendation on women in conflict and post-conflict situations is foreseen in 2014. ■

## ***Adoption of resolution on the treaty body strengthening process by the General Assembly***

The UN General Assembly adopted, by consensus, a resolution on the “Extension of the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system” (document [A/66/L.62](#)), as orally corrected. By its terms, the Assembly decided to extend that intergovernmental process to the sixty-seventh session. It further requested the General Assembly President to extend the mandate of the two facilitators of the intergovernmental process.

Speaking in explanation of position after the adoption was the representative of the Russian Federation, who said, on behalf of the “Cross-Regional Group” of States, that the text would help States parties fulfil their obligations to the treaty body system. Among proposals that the Group had made in that regard were the elaboration of a code of conduct for members of treaty bodies; establishing a relevant accountability mechanism for experts; and guaranteeing observance of the principle of equitable geographic representation in electing members of the treaty bodies.

Also making a statement on that matter were the representative of Iceland, who spoke on behalf of the co-facilitators of the international process to elaborate the text, and the representative of the United States. The latter emphasized that her country did not support the establishment of a code of conduct, and that non-governmental organizations must continue to be included throughout the discussion.

Please find the text of the resolution in the box to the right.

*The General Assembly,*

*Recalling* its resolution 66/254 of 23 February 2012, by which it launched the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system,

*Taking note* of the report of the United Nations High Commissioner for Human Rights on strengthening the United Nations human rights treaty body system, which contains recommendations addressed to different stakeholders,<sup>1</sup>

*Taking note also* of the report on the open-ended intergovernmental process to conduct open, transparent and inclusive negotiations on how to strengthen and enhance the effective functioning of the human rights treaty body system,<sup>2</sup>

*Expressing appreciation* for the efforts of the President of the General Assembly and the co-facilitators in the framework of the intergovernmental process,

*Noting* the participation and contributions of Member States during the intergovernmental process, as well as of experts of the human rights treaty bodies, national human rights institutions, the Office of the United Nations High Commissioner for Human Rights and non-governmental organizations,

*Emphasizing* that strengthening and enhancing the effective functioning of the human rights treaty body system is a common goal shared by stakeholders who have different legal competencies in accordance with the Charter of the United Nations and international human rights instruments establishing treaty bodies, and recognizing in this regard the ongoing efforts of different treaty bodies towards strengthening and enhancing their effective functioning,

*1. Decides* to extend the intergovernmental process to the sixty-seventh session of the General Assembly, in order to build upon the discussions held thus far with a view to identifying in the upcoming session of the Assembly concrete and sustainable measures to strengthen and enhance the effective functioning of the human rights treaty body system;

*2. Requests* the President of the General Assembly at its sixty-seventh session to extend the mandate of the two co-facilitators to continue open, transparent and inclusive negotiations, with the view to considering a possible outcome during the sixty-seventh session of the Assembly.

## ***Consultations for States parties and civil society forum on the treaty body strengthening process***

The consultations for States Parties on the strengthening of the human rights treaty bodies, held in New York from 16 to 18 July 2012, marked the beginning of the intergovernmental process established by General Assembly resolution 66/254. The Chair and Vice-Chair of the 24th Annual Meeting of treaty body chairpersons, Mr. Abelhamid El Jamri and Mr. Claudio Grossman respectively, participated in this consultation.

The meeting was structured by the co-facilitators – the Permanent Representatives to the United Nations in New York of Indonesia and Iceland – around four main themes: the master calendar; working methods (including the independence of treaty bodies); the reporting process and the capacity to implement. The financial aspect was a cross cutting issue discussed under the four segments. The report of the High Commissioner for Human Rights and the report of the Secretary-General to the 65th session of the General Assembly were background documents for the discussions that took place.

All States recognized the high quality and relevance of the report of the High Commissioner for Human Rights on the treaty body strengthening process and thanked the High Commissioner for having provided detailed facts, innovative proposals and costs estimates.

The idea of installing a fixed periodic reporting calendar (master calendar) was well received and a number of questions were raised regarding its feasibility and operationalization. The discussion on working methods and the reporting process showed that States are in general favourable to the Simplified Reporting Procedure. Furthermore, better aligning treaty body procedures, including for the constructive dialogue, is also an aspect which was praised. Many States- but not all- said that they were in favour of limiting the number of pages of their reports to the treaty bodies.

Many welcomed the new guidelines on the independence and impartiality of members of the human rights treaty bodies which were endorsed at the earlier meeting of the Chairs of the human rights treaty bodies in Addis Ababa, Ethiopia (25-29 June 2012), stating that a self-regulatory tool is most adequate to strengthen the independence of treaty bodies.

On the question of implementation, a large number of States explained that reporting obligations have become too numerous and that the number of recommendations to implement is equally too important. For this reason, States highlighted the importance of technical assistance in both areas. The proposal of the High Commissioner's report to establish or reinforce national standing coordination mechanisms for the preparation of reports and the implementation of treaties was well received by a number of States.

On 4 September 2012, a civil society forum on treaty body strengthening was held at the United Nations headquarters in New York and, through video conference, also in Geneva. The meeting was moderated by the co-facilitators of the treaty body strengthening process and enjoyed the participation of sixty-three civil society organisations, twenty of which made statements. Some NGOs felt that arrangements for the civil society forum had been insufficient as they did not permit the participation of grassroots level organisations which could have been facilitated by webcasting the meeting. A number of Member States and NGOs objected to the use of the “non-objection” procedure that had resulted in excluding a non ECOSOC-accredited organisation from participating in the forum.

In their presentations and comments, civil society representatives raised observations and made recommendations on the following issues regarding treaty body strengthening: reprisals, independence of treaty bodies, resources, the master calendar, transparency, implementation of treaty body recommendations, general comments, individual complaints, the location of treaty body sessions and civil society participation.

The co-facilitators conveyed that civil society will be kept informed about the process through the civil society network of the OHCHR.■



**Secretariat Building on Eve of Assembly's 67th General Debate UN** A view of the newly renovated Secretariat Building of the UN Headquarters complex, on the day before the opening of the general debate of the General Assembly's sixty-seventh session. 24 September 2012 - United Nations, New York © Photo/Paulo Filgueiras



**Ballot box during the SPT Elections in October 2010 at the Palais des Nations, Geneva © OHCHR/Danielle Kirby**

**New York, 12 September 2012**

**Today, during the first day of the Fifth Conference of States Parties (CoSP) to the Convention on the Rights of Persons with Disabilities (CRPD) (12-14 September) the election for the CRPD Committee has taken place in which 9 of the 18 positions on the CRPD Committee were renewed.**

**E**ach candidate had to be presented by a country that is a State Party to the Convention. The Committee on the Rights of Persons with Disabilities is composed of 18 independent experts and in accordance with article 34, paragraph 7, the term of nine of the members elected at the second election (September 2010) will expire on 31 December 2012.

Members are elected for a term of four years by the Conference of States Parties. Committee Members serve in their personal capacity and may be re-elected once if nominated.

The elections were conducted by secret ballot. During the first round of the election, the following candidates got the required absolute majority and were elected as members of the CRPD Committee: Ms. María Soledad Cisternas Reyes (Chile), Ms. Ana Pelaez Narvaez (Spain), Ms. Diane Mulligan (United Kingdom), Ms. Safak Pavey (Turkey), Mr. Monthian Buntan (Thailand), Mr. László Gábor Lovászy (Hungary) and Ms. Silvia Judith Quan Chang (Guatemala). During the afternoon session, a second round was conducted to elect the final two members, who finally were: Mr. Martin Mwesigwa Babu (Uganda) and Mr. Mohammed Al-Tarawneh (Jordan). ■

## **6 September 2012 - States Parties to International Covenant on Civil and Political Rights Elect Nine Members to Human Rights Committee for Four-Year Terms**

**T**he Meeting of States Parties to the International Covenant on Civil and Political Rights this morning re-elected four members and elected five new members to its monitoring body, the Human Rights Committee.

Elected by secret ballot for four-year terms beginning on 1 January 2013 and ending on 31 December 2016, the new members will replace those whose terms expire on 31 December 2012. The current terms of the four re-elected members were also set to expire by year's end.

The re-elected members included Lazhari Bouzid (Algeria), Ahmed Amin Fathalla (Egypt), Nigel Rodley (United Kingdom) and Fabian Salvioli (Argentina). Newly elected to the Committee were Kheshoe Parsad Matadeen (Mauritius), Victor Manuel Rodriguez-Rescia (Costa Rica), Anja Seibert-Fohr (Germany), Yuval Shany (Israel) and Konstantine Vardzelashvili (Georgia).

### **TO READ AND LEARN MORE**

For more information on the ICCPR election,  
<http://www.un.org/News/Press/docs//2012/hr5104.doc.htm>

## ***INDIVIDUAL COMPLAINTS***

### ***First oral hearing by the Committee against Torture in an individual case***

**O**n 8 May 2012, the Committee against Torture held its first ever oral hearing in relation to an individual case presented to the Committee under article 22 of the Convention. Rule 117 (4) of the Committee's rules of procedure allows the Committee to invite the complainant or his/her representative and representatives of the State party concerned to be present at specified closed meetings of the Committee in order to provide further clarifications or to answer questions on the merits of the complaint.

In complaint No. 444/2010, Abdussamatov et. al (29 complainants) v. Kazakhstan, the State party had requested an oral hearing with the Committee. In accordance with the rules of procedure, counsel for the complainants also attended the private hearing.

The complaint was presented to the Committee on behalf of 29 individuals who were extradited to Uzbekistan on charges of terrorism and extremism. The hearing focused on the question whether or not there were substantial grounds for believing that the complainants were in danger of being subjected to torture upon their extradition to Uzbekistan.

After the hearing, the Committee continued examining the complaint and concluded that by extraditing the complainants to Uzbekistan, the State party had breached article 3 of the Convention. It noted in particular that Uzbekistan had a consistent pattern of gross, flagrant and mass human rights violations and that the State party failed to individually examine the complainants' claims of absence of fair trial and their foreseeable, real and personal risk of torture upon return to Uzbekistan. It further noted that the diplomatic assurances provided by Uzbekistan, without any form of independent monitoring cannot be an instrument to avoid the application of the non-refoulement principle. ■

For the text of the Committee's final decision, please see:

<http://www2.ohchr.org/english/bodies/cat/jurisprudence.htm>

[http://www2.ohchr.org/english/bodies/cat/docs/jurisprudence/CAT-C-48-D-444-2010\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/jurisprudence/CAT-C-48-D-444-2010_en.pdf)

## ***Committee on the rights of persons with disabilities adopts its first views on an individual case***



**Committee on the rights of persons with disabilities during the 8<sup>th</sup> session in September 2012 © OHCHR/Danielle Kirby**

25 (health) and the State party's obligations under article 26 (habilitation and rehabilitation) of the Convention, read alone and in conjunction with articles 3 (b), (d), and (e), and 4(1) (d) of the Convention. It also found a violation of article 19(b) of the Convention. ■

The full text of the View can be found on the Committee's webpage, direct link:  
<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Jurisprudence.aspx>.

### **DECISIONS AND VIEWS OF HUMAN RIGHTS TREATY BODIES IN INDIVIDUAL CASES NOW MORE EASILY ACCESSIBLE**

Since the beginning of this year, all final decisions and views of the treaty bodies in individual cases are posted on the respective webpages of the treaty body concerned. The decisions are reflected in a table indicating the subject matter of the case concerned.

Please see

For CERD: <http://www2.ohchr.org/english/bodies/cerd/jurisprudence.htm>

For HRCttee: <http://www2.ohchr.org/english/bodies/hrc/HRCCommitteeCaseLaw.htm>

For CAT: <http://www2.ohchr.org/english/bodies/cat/jurisprudence.htm>

For CEDAW: <http://www2.ohchr.org/english/law/jurisprudence.htm>

For CRPD: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Jurisprudence.aspx>



*The first ever high level meeting between Judges of the European Court of Human Rights and members of the Human Rights Committee took place in Strasbourg on 29 June 2012 © Council of Europe*

## **Laying the foundation for institutionalized cooperation between the European Court of Human Rights and the Human Rights Committee**

The first ever high level meeting between Judges of the European Court of Human Rights and members of the Human Rights Committee took place in Strasbourg on 29 June 2012 as part of the on-going efforts to strengthen institutionalised cooperation between the United Nations Treaty Bodies and the European Court, as well as between their respective Secretariats. The European Court was represented by Sir Nicolas Bratza, President; Françoise Tulkens, Vice-President; Nina Vajić, Section President; and Helen Keller, Judge. The delegation from the Human Rights Committee consisted of Nigel Rodley, member; Christine Chanet, member; Michael O'Flaherty, Vice-Chairperson; and Fabian Salvioli, Vice-Chairperson. The meeting was also attended by senior members of the Registry of the European Court, Chief of the Petitions and Inquiries Section and a Secretary of the Working Group under the Optional Protocol to the International Covenant on Civil and Political Rights. The Judges of the European Court and members of the Human Rights Committee had a very stimulating and enriching discussion on the interim measures of protection, prohibition of discrimination as an independent right, recent case-law on freedom of religion, and disappearances and investigative obligations. It is planned to publish a compilation of written presentations made by the participants in order to document a strong commitment of the Registry of the European Court and the Secretariat of the United Nations Treaty Bodies to continue their cooperation on the procedural and substantive issues in the future.

It is also noteworthy that two staff members of the Petitions and Inquiries Section and a lawyer of the European Court took part in the staff exchange programme in June – July 2012, thus increasing the understanding of each other's procedures. ■



**The International Court of Justice's judgment on the Hissene Habre case ICJ Rules Senegal Must Prosecute or Extradite Former Chadian President - Members of the Delegation of Senegal during the reading of the Judgment of the International Court of Justice (ICJ) in the case concerning Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal).**

**The Court ruled that, in compliance with its obligations under the Convention Against Torture, Senegal must prosecute or extradite former Chadian President Hissène Habré. This session took place, exceptionally, in the Japanese Room of the Peace Palace. The ICJ's role is to settle, in accordance with international law, legal**

**disputes submitted to it by States (its Judgments are final and binding) and to give advisory opinions on legal questions referred to it by authorized UN organs and agencies. Its official languages are English and French. ICJ news and archives can be accessed via its Website ([icj-cij.org](http://icj-cij.org)). 20 July 2012 The Hague, Netherland UN Photo/ICJ-CIJ/Frank van Beek**

## ***The International Court of Justice's judgement in the Hissene Habre case***

### ***The ICJ has provided interpretation of the Convention Against Torture***

**O**n 20 July 2012, the International Court of Justice ("ICJ") handed down its judgement on a request filed by Belgium v. Senegal, concerning the obligation under the United Nations Convention on against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") and under international customary law, to prosecute or to extradite Mr. Hissene Habre to Belgium for the purpose of criminal proceedings for alleged crimes of torture and crimes against humanity.

The judgement of the ICJ encompasses many legal technicalities with regard both to the competence of the ICJ and the admissibility of the request, and the merits. Aside from such technicalities, the ICJ's judgement is of great interest for the interpretation and application of the CAT and for the fight against impunity. Given the authority of the ICJ's judgements, it may have some influence on how States parties implement the provisions of the CAT, in particular its articles 5, 6 and 7.

This article aims to highlight the main issues examined in the ICJ's judgement, in particular the nature, the scope and the meaning of some obligations set forth in articles 5, paragraph 1; article 6, paragraph 2 and article 7, paragraph 1 of the CAT. This article describes the factual and historical background of the case (I), analyses the main points of the judgment regarding the competence and the admissibility (II), and the highlights on the merits with regard to the interpretation and application of the CAT (III) and the remedies (IV) requested by the ICJ.



*The International Court of Justice's judgment on the Hissene Habre case" © UN Photo/ICJ-CIJ/Frank van Beek*

## I. Historical and factual background

On 19 February 2009, Belgium filed an application before the ICJ launching proceedings against Senegal regarding a dispute concerning « Senegal's compliance with its obligation to prosecute Mr. Hissene Habré or to extradite him for the purpose of criminal proceedings ». The claim was based on the alleged violation of obligations set forth in articles 5, paragraph 2; 6 paragraph 2; and 7, paragraph 1, as well as of international customary law. In its application, Belgium invoked two grounds to establish the competence of the ICJ, namely the compromise clause of article 30 of the CAT to which both Belgium and Senegal are parties, and declarations under article 36, paragraph 2 of the Statute of the ICJ, by which both States recognised the competence of the ICJ.

When filing its application before the ICJ on 19 February 2009, Belgium also requested that the ICJ indicate provisional measures pending the final judgement, requiring Senegal to take all steps possible within its power to keep Mr Hissene Habré under the control and surveillance of judicial authorities so that the rules of international law of which Belgium requested compliance could be correctly applied. By its Order of 28 May 2009, the ICJ found that the circumstances did not justify the exercise of its power under article 41 of its Statute to indicate provisional measures.

The main request of Belgium comprises three claims. Firstly, Belgium asked the ICJ to declare and adjudicate that Senegal breached its international obligations by failing to incorporate in due time in its domestic law the provisions necessary to enable the judicial authorities to exercise the universal jurisdiction provided for in article 5 paragraph 2 of the CAT; secondly that Senegal has breached and continues to breach its international obligations under article 6, paragraph 2, and article 7, paragraph 1 of the CAT and other rules of international law by failing to bring criminal proceedings against Mr. Hissene Habré for facts characterized in particular as crimes of torture, war crimes, crimes against humanity and the crime of genocide alleged against Mr. Habré as perpetrator, co-perpetrator or accomplice, or, otherwise, to extradite him to Belgium for the purposes of such criminal proceedings; and thirdly that Senegal may not invoke financial or other difficulties to justify the breaches of its international obligations. In terms of remedies, Belgium requested that the ICJ require Senegal to cease these international wrongful acts, by submitting without delay the Hissene Habré case to its competent authorities for prosecution, or, failing that, by extraditing him to Belgium without further delay.

From its side, Senegal developed five arguments to contest the requests made by Belgium, *inter alia*, it contended that a) the Court lacks jurisdiction as a result of the absence of a dispute between Belgium and Senegal and contested the inadmissibility of Belgium's application; b) Senegal has not breached any of the provisions of the CAT, in particular those prescribing the obligation to « prosecute or extradite », or any rule of conventional law, general international law or international customary international law in this area ; c) that in taking various measures, it was fulfilling its commitments under the CAT ; d) in taking appropriate steps and measures to prepare the trial of Mr. Habré, it was complying with the declaration in which it made a commitment before the Court.

Before appearance before the ICJ, the "Habré case" has its origin in internal proceedings.

It should be recalled that Hissene Habré, former President of Chad, was overthrown on 1 December 1990 and then settled in Dakar, Senegal, where he was granted political asylum from the Senegalese authorities. He has been living in Dakar since.

The first phase of the case started when, on 25 January 2000, seven Chadian nationals residing in Chad, together with an association of victims, filed a complaint before the *Tribunal régional hors classe* against Mr. Hissene Habré, alleging crimes he had committed during its presidency. On 3 February 2000, after a questioning at the first appearance to establish his identity and acquire information on the alleged acts

attributed to him, Mr Hissene Habré was indicted for having “aided and abetted X...in the commission of crimes against humanity and acts of torture and barbarity” and placed under house arrest.

On 18 February 2000, upon an appeal by Mr Habré, the *Chambre d'accusation* of the Dakar Court of Appeal requested the annulment of the proceedings against him, on several grounds, in particular that the courts of Senegal have no jurisdiction and no legal basis for the proceedings. Moreover, in a judgment of 4 July 2000, the Chamber of the Court of Appeal found that the investigative judge lacked jurisdiction and annulled the proceedings, on the grounds that they concerned crimes committed outside the territory by a foreign national against foreign nationals and that they would involve the exercise of universal jurisdiction which was not provided for by the Senegalese Code of Criminal Procedure in force. This judgment was confirmed by the *Court de Cassation* of Dakar in a judgment of 20 March 2000, following an appeal filed by the complainants.

The second phase of the Habré case started on 30 November 2000 when a Belgian national of Chadian origin and later on 20 other persons filed a complaint against Mr. Hissene Habré, not in Senegal, but in Belgium for, inter alia, serious violations of international humanitarian law, crimes of torture and genocide. These complaints were based on crimes covered by the Belgian Law of 16 June 1993, concerning the punishment of serious violations of international humanitarian law, as amended by the Law of 10 February 1999, and by the Convention of Torture.

The designated Belgian investigative judge took various steps to cooperate with the Chadian and the Senegalese authorities on the matter, including by issuing two international rogatory letters and took further investigative steps between 2002 and 2005. On 19 September 2005, he issued an international arrest warrant *in absentia* for the arrest of Mr Hissene Habré, as a perpetrator or co-perpetrator, inter alia, of serious violations of international humanitarian law, torture, genocide, crimes against humanity and war crimes. However, in a judgment of 25 November 2005, the *Chambre d'accusation* of the Dakar Court of Appeal ruled that, as ordinary court, it could not adjudicate the lawfulness of the proceedings and the validity of the arrest warrant against a Head of State.

After the above-mentioned judgment, Senegal referred the issue of instituting criminal proceedings against Mr Habré to the African Union. In July 2006, the Union's Assembly of Heads of State and Government mandated Senegal to prosecute and try him with guarantees of fair trial.

Many exchanges took place between the two Parties mainly regarding the judicial implications of the

judgment of the *Chambre d'accusation* of the Dakar Court of Appeal. Senegal's position was that it considered the said judgment to put an end to judicial proceedings as it had been referred to the African Union.

During further exchanges, a difference of views with regard to the interpretation of CAT, specially the *aut dedere aut judicare* principle of article 7, paragraph 1. Belgium then asked Senegal to inform it as to whether the referral of the Habré case to the African Union is to be interpreted as meaning that Senegal no longer intended to extradite him or to have him judged by its own courts.

In 2007, Senegal conducted legislative reforms to bring its legislation in compliance with Article 5 of the CAT by amending its Penal Code and its Code of Criminal Procedure, and informed Belgium of such amendments. Senegal informed of its intention to try Mr Habré but requested financial assistance from the international community due to its lack of financial means to organise the trial. In 2008, Senegal further amended article 9 of its Constitution in order to provide for an exception to the principle of non-retroactivity of its criminal laws to prosecute and punish any act or omission which, at the time of its commission, was defined as criminal under the rules of international law concerning acts of genocide, crimes against humanity and crimes of war.

Belgium requested Senegal several times for recourse to an arbitration procedure as provided for in article 30 of the CAT, and in the absence of a response, it made an offer for judicial-cooperation to Senegal. Such arbitration however never took place.

Therefore, after the failed attempt of arbitration, Belgium filed, on 19 February 2009, an application before the International Court of Justice. After having filed its application, Belgium made three other requests for extradition of Mr Hissene Habré, which were declared inadmissible by the Senegalese authorities.

## **II. The main points of the ICJ's judgment regarding the competence and the admissibility**

### **a) The jurisdiction**

Before examining the case on the merits, the ICJ had to examine its jurisdiction. The ICJ first examined the first ground of its jurisdiction invoked by Belgium but which was contested by Senegal on the grounds that conditions set forth in such instruments have not been met. It also contested the existence of a dispute with Belgium with regard to the interpretation or application of the CAT or any other relevant rule of international law.

The ICJ first examined the issue of the existence of a dispute between the Parties and found that a difference of views existed and that a dispute has arisen between Senegal and Belgium at the time of the submission of application only with regard to alleged violations of obligations set forth in Article 6, paragraph 2 and Article 7, paragraph 1 of the CAT. It rejected the request of its jurisdiction regarding Article 5, paragraph 2 and the international customary law.

Secondly, the ICJ examined whether the two main conditions set forth in Article 30, paragraph 1 of the CAT, namely negotiation and arbitration had been met. Regarding the condition of negotiations, the ICJ found that such negotiations took place<sup>1</sup> and concluded that the condition of negotiations had been met. Concerning the condition of arbitration, the ICJ stated that “the present case is one of which the inability of the Parties to agree on the organization of the arbitration results from the absence of any response on the part of the State to which the request for arbitration was addressed<sup>2</sup>”. It concluded that this condition of arbitration had also been met. In addition, the ICJ found that the request before the Court was timely filed complying with the time condition provided for in Article 30, paragraph 1 of the CAT.

### b) Admissibility

The main issue on admissibility was to examine whether Belgium had a *jus standi*, i.e. was entitled to invoke the international responsibility of Senegal, specially as none of the alleged victims of acts to be attributed to Mr. Hissene Habré was of Belgian nationality at the time when such acts occurred, as argued by Senegal.

The ICJ found that Belgium, as a State party to the CAT, has standing to invoke the responsibility of Senegal for the alleged breaches of its obligations under its Article 6, paragraph 2 and Article 7, paragraph 1. It concluded that the claims made by Belgium were admissible. It should be noted that, to reach its conclusion, the ICJ had to interpret the CAT in light of its object and purpose which is “to make more effective the struggle against torture...throughout the world” (para. 68), as set forth in its Preamble and to refer to own jurisprudence. To the ICJ, “the State parties to the Convention have a common interest to ensure, in view of their shared values, the acts of torture are prevented and that, if they occur, their authors do not enjoy impunity...The common interest implies that the obligations in question are owned by any State party to



*The International Court of Justice -An interior shot of the Peace Palace, the seat of the International Court of Justice, the principal judicial body of the United Nations. The Hague, Netherlands.* © UN Photo/Andrea Brizzi.

all the other States parties to the Convention. All the States parties have a “legal interest” in the protection of the rights involved.” (para. 68).

### III. The main points of the ICJ’s judgment on the merits: interpreting the nature and the meaning of Article 6, paragraph 2 and Article 7, paragraph 2 of the CAT

To examine the request on merits, the ICJ had to consider issues relating to the interpretation and application of the above-mentioned articles of CAT, in particular the arguments on the close link between such articles, the time frame of the implementation of provisions of Article 6, paragraph 2, the nature and the meaning of Article 7, paragraph 1, as well as other arguments invoked by the Parties. The examination on merits aimed at establishing whether Senegal has violated such obligations. For that purpose, the ICJ first considered the argument on the close link between such articles, put forward by Belgium<sup>3</sup>, and the time frame of their implementation while Senegal contended that there

<sup>1</sup> According to the ICJ “the basic positions have not subsequently evolved confirms that negotiations did not and could not lead to the settlement of the dispute”.

<sup>2</sup> Para. 61 of the judgment.

<sup>3</sup> “Belgium requested the Court to declare and adjudicate that Senegal has violated obligations of Articles 5, paragraph 2; 6, paragraph 2 and 7, paragraph 1. The interpretation of Belgium was that those obligations are closely linked to achieve the object and purpose of the Convention, in sense that “incorporating the appropriate legislation into domestic law (Article 5, paragraph 2) would allow the State in whose territory a suspect is present immediately to make a preliminary inquiry into facts (Article 6, paragraph 2), a necessary step in order to enable that State, with knowledge of the facts, to submit the case to its competent authorities for the purpose of prosecution (Article 7, paragraph 1)”. (para. 7 of the judgment.).

was no precise timeframe with regard to the fulfilment of an international obligation as laid down in such articles and maintained that it has taken appropriate steps, including by revising its legislation, to try Mr. Hissene Habré. In addition, Senegal put forward the fact that a State party has a very large extent left at its discretion to fulfil an international obligation, in particular in a case where it must take internal measures (para. 73).

The ICJ found that there is a link between such articles of the CAT and that the fact that the required legislation has been adopted only in 2007 necessarily affected the implementation by Senegal of the obligations imposed in Article 6, paragraph 2, and Article 7, paragraph 1 of the CAT. (para. 77) In addition, the ICJ stated that to establish the universal jurisdiction of its courts over the crime of torture is a necessary condition for a preliminary inquiry and submission for prosecution to its competent authorities, and that all these obligations aim at enabling proceedings against the suspect, in the absence of extradition, and to achieve the object and purpose of the Convention by avoiding impunity for perpetrators of such acts. It further highlighted that this obligation arises as soon as the State party is bound by the Convention, and that it has a preventive and deterrent character, since by equipping themselves with the necessary legal tools to prosecute this type of offence, the States parties ensure that their legal systems will operate to that effect and commit themselves to co-ordinating their efforts to eliminate any risk of impunity. (para. 75). Then, by not adopting the necessary legislation until 2007, Senegal delayed the submission of the case to its competent authorities for the purpose of prosecution. (para. 76).

Examining the alleged breach of Article 6, paragraph 2, of the CAT, the ICJ found that Senegalese authorities did not immediately initiate a preliminary inquiry as soon as they had reason to suspect Mr Hissene Habré, who was in the territory, of being responsible for acts of torture.

This interpretation made by the ICJ on provisions of Article 6, paragraph 2, merits attention. Senegal contended that the inquiry referred to in Article 6, paragraph 2, aims at establishing the facts but that it does not necessarily lead to prosecution and is simply an obligation of means which it claimed to have fulfilled.

The ICJ rejected this interpretation, by stating that the preliminary inquiry under Article 6, paragraph 2, is intended to corroborate or not the suspicions regarding the persons in question and is conducted by those authorities who have the task of drawing up a case file and collecting facts and evidence..." (para. 83). In addition, the ICJ observed that if the inquiry remains in the hands of the State party, Article 6, paragraph 2, requires that steps must be taken as soon as the suspect is identified in the territory of the State, in order

to conduct an investigation of that case. Such provisions must be interpreted in light of the object and purpose of the Convention.

The Court emphasized that Senegal has not demonstrated that it conducted such an inquiry against Mr Habré, and that it is not sufficient, as Senegal maintained, to have adopted legislative measures, it must also exercise its jurisdiction over any act of torture which is at issue, starting by establishing the facts. In that vein, the appearance of Mr Hissene Habré before the investigating judge of the *Tribunal hors classe* in Dakar cannot be regarded as performance of the obligation laid down in Article 6, paragraph 2, as it did not involve any inquiry into charges against Mr Habré. (para. 86).

Regarding whether Senegal has violated the obligations of Article 7, paragraph 1 "*aut dedere aut judicare*", of the CAT, the ICJ went first to interpret this provision. According to the ICJ, "the obligation to prosecute was formulated in such a way as to leave it to those authorities to decide whether or not to initiate proceedings, thus respecting the independence of their judicial systems. It follows that the competent authorities remain responsible for deciding on whether to initiate a prosecution in light of the evidence before them and the rules of criminal procedure."



*International Court of Justice at The Hague - The Peace Palace, seat of the International Court of Justice, at The Hague, Netherlands. . 26/08/2005. The Hague, Netherlands. © UN Photo/ICJ/Jeroen Bouman*

It is however important to note that according to the ICJ, Article 7, paragraph 1, is normally interpreted after the State party has performed the obligations of Article 5 and 6. These obligations, taken as a whole, may be regarded as elements of a single conventional mechanism aimed at preventing suspects from escaping the consequences of their criminal responsibility. (para. 91).

The ICJ turned to interpreting the nature and meaning of the obligation "to prosecute or to extradite"

laid down in Article 7, paragraph 1 of the CAT, as a difference of views appeared on this issue between Belgium and Senegal<sup>4</sup>.

To the ICJ, Article 7, paragraph 1, means that the State party has to submit the case to its competent authorities for the purpose of prosecution, irrespective of the existence of the prior request for extradition of the suspect. This obligation may or may not result in the institution of proceedings, in light of evidence before them and relating to the charges against the suspect. (para. 94.). This obligation then appears as an obligation of means rather than an obligation of result.

In addition, to the ICJ, “if the State party in whose territory is present has received a request for extradition, it can relieve itself of its obligation to prosecute by acceding to that request”. In clear terms, “the choice between extradition or submission for prosecution, does not mean that the two alternatives are to be given the same weight. Extradition is an option offered to the State party by the Convention, whereas prosecution is an international obligation under the Convention, the violation of which is a wrongful act engaging the responsibility of the State.” (para. 95). By this interpretation, the Court set priorities in the implementation of Article 7, paragraph 1. In fact, what is requested is not to achieve a result (the prosecution) but to submit for the purpose of criminal proceedings. By doing that, the State party fulfils its obligation. Moreover, the priority is to submit for prosecution and not to extradite, the former constituting an international obligation while the latter an option at the discretion of the State party.

Regarding the temporal scope of the obligation of Article 7, paragraph 1, the ICJ, while recognizing that the prohibition of torture is part of international customary law and has become a *jus cogens* norm, found that the obligation to prosecute under Article 7, paragraph 1, only does not apply to acts alleged to have been committed before the Convention entered into force for Senegal on 26 June 1987. Therefore, Senegal is under the obligation to submit the allegations regarding those acts to its competent authorities for the purpose of prosecution. (para. 102). However, it should be noted that the ICJ left an open door to Senegal to

decide or not to submit - for the purpose of prosecution - acts allegedly committed before that date, as nothing in Convention prevents it from doing so. In stating that, the ICJ interpreted and applied the non-retroactivity rule in a restrictive way on the basis of the international law of treaties.

The ICJ also ruled on the other elements invoked by Senegal which could have appeared as barring its international responsibility of Senegal, namely its financial difficulties to organize the Habré's trial and the referral of the case to the African Union.

Referring to the international law of treaties, the ICJ found that, neither financial difficulties nor referral of the matter to the African Union, cannot justify the failure by Senegal to initiate proceedings against Mr Hissene Habré. It also stated that while the obligation of Article 7, paragraph 1 of the Convention does not contain a time frame for its performance, it is necessarily implicit in the text that it must be implemented in a reasonable time in a manner compatible with the object and purpose of the Convention. In addition, according to the Court, it is for that reason that proceedings should be undertaken without delay. (para. 115).

The Court concluded that Senegal has breached and remains in breach of its obligations under Article 7, paragraph 1 of the CAT.

#### IV. Remedies

While emphasizing that Senegal was in breach of Article 6, paragraph 2 and continued to be in breach of Article 7, paragraph 1, the ICJ requested that Senegal cease this continuing wrongful act and without further delay take the necessary measures to submit the case to its competent authorities for the purpose of prosecution, if it chooses to not extradite Mr. Hissene Habré.■

<sup>4</sup> To Belgium, the State party has to prosecute the suspect as soon as the latter is in its territory, whether or not a request for extradition exist against him. Thus, if the State does not opt for extradition, its obligation to prosecute remains unaffected. It is only if for one or another reason the State party does not prosecute and a request for extradition is received, that it has to extradite (para. 92 of the judgment). Senegal contested such an interpretation and maintained that it has no obligation to extradite to Belgium.(para. 93 of the judgment. )

## ***Training on reporting to treaty bodies Ouagadougou, Burkina Faso, 24-26 April 2012***

**F**rom 24 to 26 April 2012, the OHCHR West Africa regional office (WARO) and the Ministry for Human Rights and Civic Promotion of Burkina Faso, with support from HRTD and FOTCD, jointly organized a training workshop on reporting to UN treaty bodies, in Ouagadougou, Burkina Faso, bringing together 30 participants from 11 different ministries, the NHRI and the Interministerial Committee on Human Rights and International Humanitarian Law.



The first day of the training focused on the Common Core Document, whereas the second and third day paid specific attention respectively to the reporting to the Human Rights Committee and to the Committee on Economic, Social and Cultural Rights.

The workshop, which was well received by all participants, was facilitated by several resource persons: Komi Gnondoli, Human Rights Advisor in Niger, presented the ICCPR and the reporting to the Human Rights Committee, while Virginia Bras-Gomez presented the ICESCR and the reporting to the Committee on ESCR. The session on the Common Core Document was facilitated by a WARO staff member.

During the opening ceremony, the Minister for Human Rights and Civic Promotion of Burkina Faso, informed the audience that Burkina Faso is planning to submit its due reports to the Human Rights Committee and to the Committee on ESCR in the course of 2012. ■

### ***International workshop on regional arrangements for the promotion and protection of human rights from 12 to 14 December 2012 in Geneva, Switzerland.***

**I**n compliance with Human Rights Council resolution 18/14, OHCHR will hold an international workshop on regional arrangements for the promotion and protection of human rights from **12 to 14 December 2012** in Geneva, Switzerland.

The workshop will focus on the three main areas of cooperation identified during the previous workshop on enhancing cooperation between UN and regional human rights mechanisms held in 2010: information sharing, joint activities and follow up to recommendations from both UN and regional human rights mechanisms. For each of these areas there will be an underlying theme of discussion which will allow participants to hold concrete discussions and to produce solid recommendations on the three areas of cooperation. The themes are the result of consultations with regional human rights mechanisms and with UN States Members.

The themes will be organized as follows:

- Information sharing: prevention of torture
- Joint activities: women's rights
- Follow up to recommendations: the rights of the child

Participants will share experiences, lessons learned and best practices on these three areas of cooperation. They will also identify common priorities and challenges as well as the ways and means to overcome them. The role of National Human Rights Institutions (NHRIs), National Preventive Mechanisms (NPMs) and Non-Governmental Organisations (NGOs) in this process of cooperation will also be discussed.

The workshop will also allow to take stock of achievements on cooperation between UN and regional human rights mechanisms since the last workshop, held in 2010. They will discuss lessons learned and best practices in relation to cooperation tools already in place. For more information please contact Vivian Lozano [vlozano@ohchr.org](mailto:vlozano@ohchr.org) and Noris Liza-Doyen [nliza-doyen@ohchr.org](mailto:nliza-doyen@ohchr.org) ■

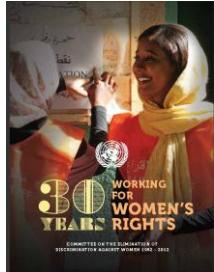
## ***Kyrgyzstan: Regional workshop on strengthening national implementation of recommendations from UN human rights mechanisms***

The OHCHR organized jointly with UNDP Regional Office for Europe and Commonwealth of independent States (CIS) a workshop in Bishkek for countries of the Central Asia region on strengthening national implementation of recommendations from the Human Rights Mechanisms from 24-26 April 2012. The workshop aimed at contributing towards a more coordinated, effective and efficient engagement by stakeholders in the follow-up to all recommendations of the treaty bodies, special procedures and UPR and sharing experiences in the implementation of those recommendations.

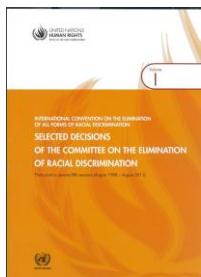
Participants included representatives of State Institutions, National Human Rights Institutions and civil society organizations (including Bar Associations). There was a particular focus on introducing tools that might facilitate a coherent and coordinated approach to effective and holistic implementation of recommendations such as the Universal Human Rights Index (<http://uhri.ohchr.org>), Human Rights Indicators, and sharing of experiences of clustering of recommendations.

The workshop was attended by approximately 50 participants from Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, as well as UN system partners in these countries. This was the last of a series of three sub-regional workshops together covering about 20 countries from East Europe, South East Europe, Southern Caucasus and Central Asia. ■

# New publications on human rights treaties



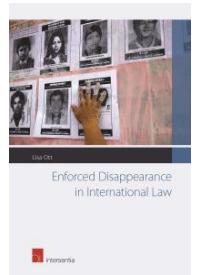
"Commemorative publication: 30 years of working for women's rights"  
<http://www2.ohchr.org/english/bodies/cedaw/30thAnniversaryCEDAW.htm>



**SELECTED DECISIONS OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION** (Thirty-sixth to seventy-fifth sessions (August 1988- August 2011) – Volume I  
<http://www.ohchr.org/Documents/Publications/CERDSelectedDecisionsVolume1.pdf>



Marthe Lot Vermeulen, *Enforced Disappearance: Determining State Responsibility under the International Convention for the Protection of All Persons from Enforced Disappearance*, School of Human Rights Research vol. 51, Intersentia, Utrecht.  
<http://www.intersentia.com/SearchDetail.aspx?bookid=102273>



Lisa Ott, *Enforced Disappearance in International Law*, Cambridge, Antwerpen, Portland, Intersentia.  
<http://www.intersentia.com/searchDetail.aspx?bookid=101824>



Gabriella Citroni and Maria Giovanna Bianchi, "The Committee on Enforced Disappearances: Challenges Ahead" in *Diritti Umani e diritto internazionale*, no. 1 (2012), pp. 127-168.  
<http://www.francoangeli.it/riviste/sommario.asp?IDRivista=148>

 <h2 style="text-align: center;">NEW SIGNATURES AND RATIFICATIONS</h2> <p style="text-align: center;"><b>April – September 2012</b></p>	
<p><b><u>CRPD</u></b> - <i>Convention on the Rights of Persons with Disabilities</i></p> <ul style="list-style-type: none"> <li>▪ Accession by <b>Mauritania</b> (3 April 2012)</li> <li>▪ Ratification by <b>Greece</b> (25 May 2012)</li> <li>▪ Ratification by <b>Estonia</b> (30 May 2012)</li> <li>▪ Accession by <b>Djibouti</b> (18 June 2012)</li> <li>▪ Accession by <b>Nauru</b> (27 June 2012)</li> <li>▪ Ratification by <b>Benin</b> (5 July 2012)</li> <li>▪ Ratification by <b>Liberia</b> (26 July 2012)</li> <li>▪ Ratification by <b>Ghana</b> (31 July 2012)</li> </ul>	
<p><b><u>OP-CRPD</u></b> - <i>Optional Protocol to the Convention on the Rights of Persons with Disabilities.</i></p> <ul style="list-style-type: none"> <li>▪ Accession by <b>Mauritania</b> (3 April 2012)</li> <li>▪ Ratification by <b>Greece</b> (25 May 2012)</li> <li>▪ Accession by <b>Estonia</b> (30 May 2012)</li> <li>▪ Accession by <b>Djibouti</b> (18 June 2012)</li> <li>▪ Ratification by <b>Benin</b> (5 July 2012)</li> <li>▪ Ratification by <b>Ghana</b> (31 July 2012)</li> </ul>	
<p><b><u>CMW</u></b> - <i>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families</i></p> <ul style="list-style-type: none"> <li>▪ Ratification by <b>Indonesia</b> (30 May 2012)</li> </ul>	
<p><b><u>CAT</u></b> - <i>Convention against Torture and Other Cruel or Degrading Treatment or Punishment</i></p> <ul style="list-style-type: none"> <li>▪ Accession by <b>United Arab Emirates</b> (19 July 2012)</li> </ul>	
<p><b><u>CRC-OPSC</u></b> - <i>Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography</i></p> <ul style="list-style-type: none"> <li>▪ Accession by <b>Malaysia</b> (12 April 2012)</li> <li>▪ Ratification by the <b>Federates States of Micronesia</b> (23 April 2012)</li> <li>▪ Ratification by <b>Suriname</b> (18 May 2012)</li> <li>▪ Ratification by <b>Finland</b> (1 June 2012)</li> </ul>	
<p><b><u>CRC-OPAC</u></b> - <i>Optional Protocol to the Convention on the Rights to the Child on the Involvement of Children in armed conflict</i></p> <ul style="list-style-type: none"> <li>▪ Accession by <b>Malaysia</b> (12 April 2012)</li> </ul>	
<p><b><u>CRC-OPIC</u></b> - <i>Optional Protocol to the Convention on the Rights of the Child on a communications procedure</i></p> <ul style="list-style-type: none"> <li>▪ Signature by <b>Malta</b> (18 April 2012)</li> <li>▪ Signature by <b>The former Yugoslav Republic of Macedonia</b> (23 May 2012)</li> <li>▪ Signature by <b>Romania</b> (13 June 2012)</li> <li>▪ Signature by <b>Argentina</b> (25 July 2012)</li> <li>▪ Signature by <b>Cyprus</b> (27 July 2012)</li> <li>▪ Signature by <b>Mauritius</b> (13 August 2012)</li> </ul>	

**CED** - International Convention for the Protection of All Persons from Enforced Disappearance

- Ratification by **Austria** (7 June 2012)
- Accession by **Djibouti** (21 June 2012)
- Ratification by **Colombia** (11 July 2012)

**OPCAT** - Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

- Accession by **Philippines** (17 April 2012)

**CCPR-OP2** - Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

- Accession by **Benin** (5 July 2012)

For information on the status of ratification and signature of UN member states of UN human rights treaties and other international treaties, as well as reservations and declarations, please see:

<http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

An overview of the ratification status by UN member states is accessible on:

<http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>



S.E. M. Milan Jaya Nyamrajsingh Meetarbhain, Ambassador Extraordinary and Plenipotentiary and Permanent Representative of Mauritius, during the signature on 13 August 2012 in New York of the **CRC-OPIC** - Optional Protocol to the Convention on the Rights of the Child on a communications procedure © UN Photo

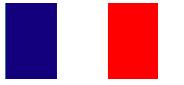
**KINDLY NOTE THAT ANY DOCUMENT AND/OR CORRESPONDENCE FOR OHCHR  
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**NEW STATE PARTY REPORTS RECEIVED  
April – September 2012**

		AFRICA	
	Burundi	<a href="#">CAT</a>	2 <sup>nd</sup> periodic report CAT/C/BDI/2 received on 19 April 2012
	Chad	<a href="#">CCPR</a>	2 <sup>nd</sup> periodic report CCPR/C/TCD/2 received on 20 July 2012
	Gambia	<a href="#">Common Core Document</a>	HRI/CORE/GMB/2012 received on 9 May 2012
	Ghana	<a href="#">CEDAW</a>	6 <sup>th</sup> to 7 <sup>th</sup> periodic report CEDAW/C/GHA/6-7 received on 11 June 2012
	Guinea	<a href="#">CEDAW</a>	7 <sup>th</sup> to 8 <sup>th</sup> periodic report CEDAW/C/GUI/7-8 received on 19 April 2012
	Mauritius	<a href="#">CERD</a>	15 <sup>th</sup> to 19 <sup>th</sup> periodic report CERD/C/MUS/15-19 received on 1 May 2012
	Sierra Leone	<a href="#">CCPR</a>	Initial report CCPR/C/SLE/1 received on 4 June 2012
	Sudan	<a href="#">CESCR</a>	2 <sup>nd</sup> periodic report E/C.12/SDN/2 received on 27 July 2012
		<a href="#">CCPR</a>	4 <sup>th</sup> periodic report CCPR/C/SDN/4 received on 21 September 2012
	Tanzania	<a href="#">Common Core Document</a>	HRI/CORE/TZA/2012 received on 20 July 2012
		NORTH AFRICA AND MIDDLE EAST	
	Algeria	<a href="#">CERD</a>	15 <sup>th</sup> to 18 <sup>th</sup> periodic report CERD/C/DZA/15-18 received on 23 April 2012

## NEW STATE PARTY REPORTS RECEIVED

### April – September 2012

	Jordan	<a href="#"><u>CRC</u></a>	4 <sup>th</sup> to 5 <sup>th</sup> periodic report CRC/C/JOR/4-5 received on 16 August 2012
	Morroco	<a href="#"><u>CMW</u></a>	Initial report CMW/C/MAR/1 received on 12 July 2012
	<a href="#"><u>Common Core Document</u></a>	HRI/CORE/MAR/2012 received on 6 August 2012	
	Syria	<a href="#"><u>CEDAW</u></a>	2 <sup>nd</sup> periodic report CEDAW/C/SYR/2 received on 24 July 2012
	<b>EUROPE, NORTH AMERICA AND CENTRAL ASIA</b>		
	Armenia	<a href="#"><u>CRC-OPAC</u></a>	Initial report CRC/C/OPAC/ARM/1 received on 4 April 2012
	<a href="#"><u>CRC - OPSC</u></a>	Initial report CRC/C/OPSC/ARM/1 received on 4 April 2012	
	Belarus	<a href="#"><u>CERD</u></a>	18 <sup>th</sup> to 19 <sup>th</sup> periodic report CERD/C/BLR/18-19 received on 2 August 2012
	Belgium	<a href="#"><u>Common Core Document</u></a>	HRI/CORE/BEL/2012 received on 31 July 2012
	<a href="#"><u>CAT</u></a>	3 <sup>rd</sup> periodic report CAT/C/BEL/3 received on 31 July 2012	
	Finland	<a href="#"><u>CEDAW</u></a>	7 <sup>th</sup> periodic report CEDAW/C/FIN/7 received on 10 May 2012
	France	<a href="#"><u>CCPR</u></a>	5 <sup>th</sup> periodic report CCPR/C/FRA/5 received on 3 August 2012

## NEW STATE PARTY REPORTS RECEIVED April – September 2012

	Greece	<a href="#"><u>CESCR</u></a>	2 <sup>nd</sup> periodic report E/C.12/GRC/2 received on 31 August 2012
	Ireland	<a href="#"><u>CCPR</u></a>	4 <sup>th</sup> periodic report CCPR/C/IRL/4 received on 25 July 2012
	Italy	<a href="#"><u>CESCR</u></a>	5 <sup>th</sup> periodic report E/C.12/ITA/5 received on 9 August 2012
	Hungary	<a href="#"><u>CRC</u></a>	3 <sup>rd</sup> to 5 <sup>th</sup> periodic report CRC/C/HUN/3-5 received on 8 August 2012
		<a href="#"><u>CRC-OPAC</u></a>	Initial report CRC/C/OPAC/HUN/1 received on 8 August 2012
		<a href="#"><u>CRC - OPSC</u></a>	Initial report CRC/C/OPSC/HUN/1 received on 8 August 2012
	Kazakhstan	<a href="#"><u>Common Core Document</u></a>	HRI/CORE/KAZ/2012 received on 11 June 2012
	Kyrgyzstan	<a href="#"><u>CAT</u></a>	2 <sup>nd</sup> periodic report CAT/C/KGZ/2 received on 3 April 2012
		<a href="#"><u>CERD</u></a>	2 <sup>nd</sup> periodic report CERD/C/KGZ/2 received on 3 April 2012
		<a href="#"><u>CESCR</u></a>	2 <sup>nd</sup> periodic E/CN.12/KGZ/2-4 received 3 April 2012
	Latvia	<a href="#"><u>CCPR</u></a>	3 <sup>rd</sup> periodic report CCPR/C/LVA/3 received on 4 May 2012
	Lithuania	<a href="#"><u>CRPD</u></a>	Initial report CRPD/C/LTU/1 received on 19 September 2012
	Malta	<a href="#"><u>CCPR</u></a>	2 <sup>nd</sup> periodic report CCPR/C/MLT/2 received on 24 July 2012

## NEW STATE PARTY REPORTS RECEIVED April – September 2012

	Montenegro	<a href="#"><u>Common Core Document</u></a>	HRI/CORE/MNE/2012 received on 19 September 2012
	Poland	<a href="#"><u>CAT</u></a>	5 <sup>th</sup> to 6 <sup>th</sup> periodic report CAT/C/POL/5-6 received on 8 May 2012
	Portugal	<a href="#"><u>CRPD</u></a>	Initial report CRPD/C/PRT/1 received on 8 August 2012
		<a href="#"><u>CAT</u></a>	5 <sup>th</sup> to 6 <sup>th</sup> periodic report CAT/C/PRT/5-6 received on 30 August 2012
	Slovakia	<a href="#"><u>CERD</u></a>	9 <sup>th</sup> to 10 <sup>th</sup> periodic report CERD/C/SVK/9-10 received on 30 May 2012
	Sweden	<a href="#"><u>CERD</u></a>	19 <sup>th</sup> to 21 <sup>st</sup> periodic report CERD/C/SWE/19-21 received on 2 July 2012
	Switzerland	<a href="#"><u>CRC</u></a>	2 <sup>nd</sup> to 4 <sup>th</sup> periodic report CRC/C/CHE/2-4 received on 19 July 2012
	<b>LATIN AMERICA AND THE CARIBBEAN</b>		
	Chile	<a href="#"><u>CCPR</u></a>	6 <sup>th</sup> periodic report CCPR/C/CHL/6 received on 1 June 2012
	Guyana	<a href="#"><u>CESCR</u></a>	Initial to 4 <sup>th</sup> periodic report E/C.12/GUY/1-4 received on 11 Sept. 2012
	Peru	<a href="#"><u>CEDAW</u></a>	7 <sup>th</sup> to 8 <sup>th</sup> periodic report CEDAW/C/PER/7-8 received on 10 Sept. 2012
	Uruguay	<a href="#"><u>CAT</u></a>	3 <sup>rd</sup> periodic report CAT/C/URY/3 received on 14 September 2012
		<a href="#"><u>CED</u></a>	Initial Report CED/C/URY/1 received on 4 September 2012

## NEW STATE PARTY REPORTS RECEIVED

### April – September 2012

	Venezuela	<a href="#"><u>CERD</u></a>	19 <sup>th</sup> to 21 <sup>st</sup> periodic report CERD/C/VEN/19-21 received on 9 July 2012
		<a href="#"><u>CEDAW</u></a>	7 <sup>th</sup> to 8 <sup>th</sup> periodic report CEDAW/C/VEN/7-8 received on 21 Sept. 2012
		ASIA AND THE PACIFIC	
	Japan	<a href="#"><u>Common Core Document</u></a>	HRI/CORE/JPN/2012 received on 1 June 2012
	India	<a href="#"><u>CEDAW</u></a>	4 <sup>th</sup> to 5 <sup>th</sup> periodic report CEDAW/C/IND/4-5 received on 9 July 2012
	Thailand	<a href="#"><u>CESCR</u></a>	Initial to 2 <sup>nd</sup> periodic report E/C.12/THA/1-2 received on 21 August 2012

## **ENGAGE WITH THE HUMAN RIGHTS TREATIES DIVISION !**

### **YOU CAN BE OF CRUCIAL ASSISTANCE TO TREATY BODIES**

- *By raising awareness with country-based constituencies about upcoming considerations of reports by treaty body*
- *By encouraging relevant partners to provide information to relevant treaty bodies*
- *By facilitating and encouraging implementation of treaty body recommendations*

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