

Consultation on treaty body strengthening with UN entities and specialized agencies

28 November 2011

This consultation was organized as a follow-up to a UN Agency Consultation on strengthening the treaty body system which was held in New York on 20 November 2011.

Participants: Yehenew Walilegne (WHO), Marcus Stahlhofer (WHO), Nicolette Moodie (UNICEF), Erik Nyman (UNICEF), Ksenia Glebova (UNICEF), Alanna Armitage (UNFPA), Jason Sigurdson (UNAIDS), Simone Schwartz-Delgado (UNHCR), Alice Edwards (UNHCR), Rogier Huizenga (IPU), Barbara Ruis (UNEP), Christina Touzenis (IOM), Ibrahim Salama, Director HRTD (OHCHR), Paulo David (OHCHR), Liza Sekaggya (OHCHR), Alfonso Barragues (OHCHR), Christian Curtis (OHCHR), Naomi Miyashita (Office of the SRSG on Children and Armed Conflicts), James Turpin (OHCHR New York), Karin Lucke (DOC), Alessio Bruni (member of the Committee against Torture), Dzidek Kedzia (member of the Committee on Economic, Social and Cultural Rights).

The United Nations Deputy High Commissioner for Human Rights, Kyung-wha Kang, opened the meeting. She referred to the call of the High Commissioner for Human Rights to all stakeholders in 2009 to reflect on the future of the treaty body system, provided a brief update on the treaty body strengthening process, and highlighted some of the proposals made in respect of enhanced involvement of United Nations entities and specialized agencies in the work of human rights treaty bodies, including in the Dublin outcome document.

While noting that a solid partnership had developed over the past twenty years between the treaty bodies and UN entities and specialized agencies at all phases of the reporting process, the Deputy High Commissioner highlighted that such cooperation still needs to be strengthened and systematized, including in the context of the UNCTs. In this respect, she reiterated that the normative work of the treaty bodies can serve as an entry point for the UN entities and specialized agencies to promote policy changes at national level, as well as a tool to benefit from the human rights framework in their respective areas of work. She also referred to the recommendation in the Dublin II outcome document that UN agencies, offices and programmes should engage in treaty body reviews and follow-up, including by providing visibility to the system, human rights education, training and maintaining dialogue with national actors before and after reporting. The Deputy High Commissioner referred to the UPR process, highlighting its complementarity with the treaty body system, the visibility it has given to the work of the treaty bodies, as well as its built-in follow-up function in respect of treaty bodies' recommendations.

I. Strengthening the initial phase of the reporting procedure

At the beginning of the meeting, the representatives of the various UN entities and specialized agencies referred to their individual experiences with regard to the preparation of inputs to the treaty bodies. UNICEF noted that it had prepared guidelines for submissions to the Committee on the Rights of the Child (CRC) in close cooperation with the Committee and that such guidance was sent to its country offices. In the case of the Committee on the Elimination of Discrimination against Women (CEDAW), the UN Country Teams (UNCTs) coordinated such inputs. Some good examples were highlighted where the UNCTs had been involved in the preparation, dialogue and follow-up phases. **Participants generally agreed that there was a need to consider how to best coordinate inputs and thus to ensure the most constructive way of engaging with the treaty bodies. There was a need to focus, be strategic and prioritise in terms of inputs.**

Some participants referred to a general lack of understanding and awareness of the UNCTs about the treaty body system, particularly in cases where there is no OHCHR presence or human rights adviser in the country. They noted that there was a need to awaken the interest of the UNCTs and alert them to the added value of contributing to the work of the treaty bodies, including by using the treaty body concluding observations in areas where the UNCTs might experience difficulties in getting the governments on board. The output of the treaty bodies could be seen as the normative and legal platform in this respect. The participants reiterated that it was a two-way process; the treaty bodies could rely on information from the UN agencies based in the country and the information provided would come back to the country in the form of recommendations that could really produce results on the ground.

Several participants recommended that OHCHR could prepare and send a letter on an annual or biannual basis to the Resident Coordinators that would include all dates for consideration of reports and deadlines for submissions, as well as guidelines for such submissions. The suggestion was also made that such calendar of engagement could be posted on the OHCHR website (by country) as it would be useful for all actors.

Participants also referred to the significant variations in the processes before the different treaty bodies and called for **an aligned model of interaction between UN entities and treaty bodies**. It was a question of both impact and efficiency. While noting that some committees already have guidelines for engagement with UN entities, the suggestion was made to **develop generic guidelines for country-specific written submissions, including templates for joint submissions, and oral briefings** etc. With regard to the content of such submissions, it was important to make these as concise as possible, to include the why behind an issue and to focus on highlighting information gaps which would facilitate a more interesting discussion as well as more targeted follow-up.

Quite a number of participants pointed to the difficulty in having rather small human rights teams dealing with increasing demands for inputs, including timely and relevant submissions. They expressed a clear interest in **cooperating and coordinating joint inputs, including in the context of the UNCTs**. Joint UNCT reports would be a way of raising awareness and creating ownership of the process and these could be submitted by the Resident Coordinator. Another suggestion was made for the contributions to be submitted through the UN Development Group (UNDG). One participant put forward a **proposal for unified reporting, i.e. the submission of one UN report to all committees**.

One participant suggested that there should be a division of labour and thus decided within the UNCT who would take the lead in facilitating the integration of inputs to the work of the treaty bodies. Another participant noted that it might be advisable to have a lead agency in a particular country rather than a joint UNCT engagement. Although this would risk leaving other agencies outside, the point was made that in case of a joint UNCT effort, with everyone in charge, follow-up would be difficult. Other participants noted that it might be difficult to cover the idea of lead agencies in a holistic way. The point was made, however that tapping into the potential of UNCTs should not weaken the interest of other UN entities and specialized agencies to engage. In this respect, some entities noted that they did not have country presences but rather worked at policy levels and that it would be problematic for them to engage with the treaty bodies through the UNCTs. They would rather like to be approached for specific issues.

Participants noted that in addition to treaty bodies, **other mechanisms** could also be looked at to strengthen formulation and interpretation of treaty body outputs, including **the universal periodic review mechanism (UPR)**. At the same time, the active engagement of all stakeholders, including national human rights institutions (NHRIs) and civil society organisations, was needed in order to be successful. Some agencies explained that they provided advice and technical assistance in addition to their participation in joint UNCT submissions. After all, the function of reporting was not limited to merely providing accurate information but also included capacity-building and awareness-raising activities etc. It was essential that the national level actors felt an **ownership of the process** and thus a **commitment to following-up on the implementation of the recommendations of the human rights mechanisms**.

Participants also referred to the **important role played by national parliaments** in respect of treaty body processes, as these are permanent structures at the national level with a more inclusive leadership than governments and with better links to civil society organisations. A particular reference was made to the existence of parliamentary human rights committees in many countries. The point was also made that if the reporting cycle is really a cycle, parliaments would have a pivotal role to play. The participants encouraged treaty bodies to look into ways of strengthening and systematising their engagement with national parliaments.

While noting that there had previously been a disconnect between the treaty body reporting processes and the issue of **human rights mainstreaming**, several participants pointed to the fact that the new human rights mainstreaming mechanism (**UNDG-HRM**) at the UN Development Operations Coordination Office (UNDOCO) in New York could play an important role in linking the two.

One participant expressed concern that the proposal for **lists of issues prior to reporting (LOIPRs)** would add another layer in the reporting process and thus increase the workload of the UN entities, while others explained that the purpose would be to focus the reporting process from the start, with the replies to the LOIPR constituting the report. The idea would be precisely to **lighten and focus the process and thus to make it more predictable**, and the UNCT field inputs would be essential at an early stage of this process. Some participants agreed that this proposal could be explored in connection with the submission of periodic reports. However, the timeframe and format for the submission of contributions to the LOIPR should be further clarified.

Reference was also made to the fact that 70 per cent of States parties do not report on time and some with significant delays and that the treaty body system is quite overwhelmed as it is. While noting by way of comparison that all national reports have been submitted to the UPR in a timely manner, one participant commented that political obligations are sometimes stronger than legal ones. The representative of UNEP explained that given the enormous proliferation of treaties concerning environmental issues and the subsequent reporting burden on States, they had initiated the possibility of combined reporting for various treaties which seemed to be progressing quite well. Environmental treaties are increasingly considering joint systems of information management, and joint thematic reporting has been identified as a way to implement harmonization of reporting. She mentioned the website <http://informea.org> where various environmental treaties developed harmonized and interoperable information systems for the benefit of Parties, which would make it also easier for national authorities to report, and where basic information would be compiled in clusters, possibly through an on-line system or database. Finally, reference was made to a possible pilot project with provision of systematic support by UNCTs for either smaller countries (with less than one million inhabitants) or the Least Developed Countries (LDCs) (with GDP as the relevant criteria). The meeting also encouraged the UNCTs to adopt human rights strategies.

II. Enhancing the constructive dialogue between treaty bodies and the State parties and cooperation with civil society

Participants discussed the interactions between UN entities and specialized agencies and treaty bodies during the sessions. The value of the **oral briefings in private** was highlighted as well as the opportunity to engage with committee members. Participants

regretted that the time allocated to these **interactions** was not the same in all committees and **need to be aligned**. Participants also flagged that interventions which were limited to five or seven minutes in some committees did not allow for a meaningful exchange with committee members. Participants also highlighted the fact that it is increasingly important in their view to allocate sufficient time for **thematic briefings**. To this effect, participation in Days of General Discussion and consultation at an early stage in the context of General Comments/Recommendations were very much valued. In the view of some participants, thematic briefings could be helpful in setting priorities for General Comments/Recommendations.

Regarding written submissions to treaty bodies, participants recommended that it would be helpful to develop guidelines indicating the type of information these reports should contain which would in turn assist the treaty bodies in drafting recommendations that are focused, targeted and implementable. Some participants highlighted the need for the treaty bodies to **prioritize** their recommendations, as the high number of recommendations currently adopted made it very difficult for the UN entities to ensure effective follow-up.

Some participants suggested that UN entities should focus their contributions on key areas which they considered priority concerns that could also guide treaty bodies both during the constructive dialogue with States parties and subsequently in drafting more focused recommendations.

Participants discussed the interactions between treaty bodies and States parties in the context of the constructive dialogue. Many participants suggested that it is crucial that **States be advised on the composition of the delegation** (an area where UN entities can play a role), that technical briefings continue to be held regularly and information tools such as the OHCHR DVD on the treaty body system continue to be disseminated with a view to having well prepared delegations and a meaningful exchange with the treaty bodies. Webcasting was also discussed as a key tool to assist in the preparation of delegations as well as a means of ensuring accountability of the members of the delegation, as well as transparency at the national levels. Webcasting could also be useful as a way of engaging UN offices in the field more directly in Geneva and New York meetings, rather than leaving the monitoring of such bodies only to headquarters staff.

With respect to the conduct of the dialogue, participants found that too many questions were asked by treaty body members and that the rapporteur should take a leading role in coordinating questions posed by experts. Participants also agreed that improved time management would be crucial to ensure a productive dialogue and allow for sufficient time for the delegation to reply to questions. Some participants considered **country task forces currently being used in respect of certain committees as a best practice which should be encouraged vis-à-vis other treaty bodies.**

Participants also called for **stronger linkages between treaty bodies and special procedures** and suggested that there be more references to the work of mandate holders in the treaty body outputs where relevant.

III. Follow-up and impact on the protection of rights holders

The meeting proceeded to consider the follow-up and impact of treaty body reviews. The participants identified the large number of recommendations from the UN human rights system (treaty bodies, special procedures and UPR), as a significant challenge to effective follow-up. OHCHR gave examples where UN Country Teams, with the support of Human Rights Advisors, have been able to support State parties in **clustering recommendations for human rights mechanisms into themes**. Such processes have been carried out in **Guatemala, Ecuador and Nicaragua, and by the Regional Office in Bangkok**. The thematic clustering has been helpful to **clearly set up strategies for follow-up and was used by the UN country teams in their UNDAF planning process**. In Ecuador, the UN has also assisted the Government with a guide to human rights based approach to development planning. The guide has been made obligatory for all ministries through a ministerial decree. This requires the ministers to consult the thematic recommendations in the planning processes in their specific area of work.

Participants agreed that recommendations from the UN human rights system can have a great impact if brought back to the practical level. A number of participants highlighted that as many UN agencies are field-based, the **recommendations provide a very good entry point on which the UN can build a work plan**. In their view, recommendations may need to be deconstructed to become **practical and operational**. It was agreed that while broad recommendations present a challenge when it came to planning concrete actions for implementation they give States the flexibility to decide on ways and means to implement these. It was noted that work plans are rarely built exclusively on such recommendations.

The meeting highlighted the importance of working with **national human rights institutions (NHRIs) and civil society**, as NHRI accredited in accordance with the Paris Principles have a mandate to follow-up on recommendations from the UN human rights mechanisms. Furthermore, many NHRIs translate and disseminate recommendations, and UN country teams can support them in this endeavour. Participants indicated that working through NHRIs creates a sense of national ownership, especially when it comes to legislative review. It was suggested that Inter-ministerial committees can also be helpful in holding discussions on recommendations to ensure that all ministries are involved.

Participants agreed that **harmonized procedures for civil society interaction** with treaty bodies would be helpful.

The procedures of UNEP's three conventions on chemicals and hazardous wastes were discussed as an example of a more coordinated approach, although it was noted that the context differed, particularly in the number of Member States. Some

participants recalled that in the treaty body system, State parties often engage differently in relation to different mandates and thematic issues and that treaty body members are also bound by the provisions of the treaties and tend to focus on the thematic mandate at hand. The work of harmonization is affected by these considerations and, despite the efforts of the annual meeting of chairpersons and other initiatives, progress takes time. However, it was also noted that treaty body members have the power to decide on their working methods, within the limits of the concerned treaty. Moreover, there are many similarities in the treaty body functions and substantive provisions. Hence, the procedural distinctions, developed largely outside the specific provisions of the treaty, should not be overemphasized.

Another challenge in operationalizing recommendations was found to be the timing of recommendations, as recent recommendations were significantly more useful.

The meeting discussed **positive aspects of the UPR** and how **best practices could be brought into the treaty body system**. It was noted that treaty bodies often have low visibility and UN agencies can play a role in heightening **visibility** and **awareness**. It was further noted that there is a potential for further complementarities amongst treaty bodies, which can reinforce each other. Treaty bodies can also reinforce UN agencies mandates, for example by inclusion of recommendations in the UNDAF.

It was noted that States are sometimes selective in choosing which recommendations to implement. States and UN agencies can work together to ensure that all recommendations get the attention they deserve. The **role of parliamentarians in implementation of recommendations** was also discussed. In situations where certain recommendations are not implemented due to lack of political will, parliamentarians can ensure that at least the issues are tabled for discussion and that implementation of recommendations is reviewed regularly. The meeting discussed the possibility of developing a **best practice model for parliamentarians' engagement**. OHCHR encouraged proposals on enhanced engagement of parliamentarians to be developed and submitted to the treaty body strengthening process.

It was agreed that while the UN country teams are essential partners in implementation of recommendations at the national level, the systematic **engagement of UN agencies based in headquarters or regional offices** is equally important, particularly at policy level input. The meeting agreed that UN engagement in the treaty body process can be enhanced, although many agencies also noted that their current resource and staffing constraints implies that more effective means of engagement need to be worked out across the treaty bodies as the distinct procedures between the treaty bodies impact on the capacity to engage.

The meeting discussed the possibilities of **using treaty body recommendations as a tool to engage in national political debates**. The visibility and awareness of recommendations was seen to be critical to such engagement in light of the change of planning processes within the UN, including the requirement to align with country priorities and increasing use of governments own assessments and analyses as a **basis for UNDAF planning**. In such a context, treaty body recommendations can be a valuable tool for UN as a basis for discussion with governments. It was noted that UN agencies understand the

concept of national ownership differently and that a participatory approach to planning may facilitate consideration of recommendations.

The distribution of concluding observations was discussed. The meeting explored the ideas of **sending recommendations systematically to UN country teams**. Some agencies noted that they routinely send concluding observations to the country offices, although there is limited follow-up on how they are considered or used. It was found valuable to link inputs and outputs, so that the offices which provide information also see the recommendations as a result. This was seen by some participants as a means to create a sense of accountability.

Regional and national follow-up meetings were seen as a useful tool to encourage implementation of recommendations. This could be linked to national viewings of the dialogues through **webcasting**. The meeting reflected on past programs in this regard, where agencies had brought together national actors to discuss concluding observations and had proved to be useful in building relationships between the UN agencies and the delegation, sometimes at a high level, and facilitate dialogue.

The meeting discussed available **information tools** and recommended that OHCHR as secretariat continue to develop and disseminate these.

Participants discussed UN engagement in respect of individual communications and possibilities for UN to submit information on this process. It was acknowledged that there has been limited engagement in this area due to a number of factors, and that opportunities for cooperation could be explored, as UN information is recognised as credible by most actors.

The meeting noted that the treaty body process is a cyclical engagement and not limited to the dialogue in Geneva. It is therefore **important that the UN partners engage throughout the cycle**.

The meeting found that the **UPR reviews and related documents could be used in treaty body consideration** as it is a regular, predictable cycle and it showcases all issues. Participants recommended that there should be a **mutual sharing of information and input between the UPR and treaty body processes**. Some participants were of the view that UN agencies input to the treaty body processes can build on their input to the UPR process. It was noted that the time-span in the second cycle of the UPR would be shorter than in the first (only the last four years to be considered), and that less treaty body input will feed into the process.

In closing, the Director of HRTD, Mr. Ibrahim Salama thanked the participants for their active participation and found that the objective of the meeting had been achieved as concrete recommendations on treaty body strengthening had been brought forward. He encouraged participants to submit additional ideas in writing.

Annex 1

UN entities and specialized agencies consultation on ways to strengthen the treaty body system

Office of the High Commissioner for Human Rights

Palais Wilson, Geneva

28 November 2011

All discussions will focus on 1) experiences 2) expectations 3) suggestions and will inter alia address the following points:

9:00 Opening and introduction to the consultation

9:15 **Strengthening the initial phase of the reporting procedure**

Introduction and facilitation by a participant (5')

Discussions will cover inter alia following points:

- How to better focus and streamline UN submissions?
- How to strengthen the coordination for the preparation of UN reports? What role can UN Country Teams (UNCTs) play?
- How to improve UN support to States parties in preparing their reports, including through a consultative process
- How to improve national consultations with civil society and others during the preparation of States parties reports (using also UPR experience)?
- How to ensure that UN and States parties' periodic reports provide systematic information on the implementation of previous recommendations?
- What are the alternatives to standard reporting procedures?

11:15 Coffee/tea break

11:30 **Enhancing the constructive dialogue between Treaty Bodies and States parties and the cooperation with civil society**

Introduction and facilitation by a participant (5')

- How to maximize the quality of the dialogue between treaty bodies and State parties?
- How to maximize the quality of the meetings/briefings between treaty bodies and other partners, including UN entities and civil society organizations?
- How to enhance the impact of UN cooperation with treaty bodies during their sessions?

12:30 Lunch

14:00 **Follow-up and impact on the protection of rights holders**

Introduction and facilitation by a participant (5')

Discussions will cover inter alia following points:

- How to improve dissemination of treaty bodies outputs, including to concluding observations and decisions/views on individual communications?
- How to bring treaty bodies closer to the implementation level?
- How to reinforce implementation of treaty bodies' jurisprudence and recommendations at domestic level? What role can the UN play?
- How to ensure a coordinated process for the implementation of recommendations and jurisprudence at country level by the various treaty bodies?
- How to ensure an integrated implementation of all recommendations emanating from the main international human rights mechanisms (treaty bodies, Special Procedures and UPR) ?
- How to reinforce existing follow-up procedures, including through enhanced cooperation with the UN?

17:30: Conclusions: highlights of the consultation and possible follow-up

18:00 Closure