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Summary record of the 3643rd meeting*

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Chair: Mr. Fathalla

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* No summary records were issued for the 3641st and 3642nd meetings.

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The meeting was called to order at 3 p.m.

Informal meeting with States parties to the Covenant and its Optional Protocols

Update on the work of the Human Rights Committee since its 10th informal meeting with States parties at its 124th session, in October 2018

1. **The Chair** said that the Committee was continuously striving to improve its working methods in line with General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system, in order to help States parties fulfil their obligations under the Covenant. In that connection, the Chairs of the human rights treaty bodies, at their thirty-first meeting, held in New York in June 2019, had produced a position paper outlining a number of proposals aimed at harmonizing the treaty bodies' procedures and working methods. The proposals included ensuring that, in their lists of issues prior to reporting, different treaty bodies did not raise the same questions in the same time frame, and limiting the total number of questions to 30. Another proposal was that the Human Rights Committee and the Committee on Economic, Social and Cultural Rights should review State party reports in an eight-year reporting cycle and synchronize the timing of their reviews.
2. In addition to meeting with States Members of the United Nations, non-governmental organizations and other United Nations entities, the Chairs had met with the Secretary-General to discuss how the treaty bodies could best pursue their work in the context of the financial crisis facing the United Nations.
3. **Mr. Shany**, speaking as the Committee's focal point for the 2020 review of the human rights treaty body system, said that the Committee had itself adopted a position paper outlining its hopes for the 2020 review process. The proposals contained in that paper mainly coincided with those in the Chairs' joint position paper and had much in common with the non-paper on the 2020 review submitted by the Permanent Mission of Costa Rica in June 2019 on behalf of some 44 States. The Committee had already begun implementing a number of the proposals in its own position paper with a view to increasing efficiency, enhancing the sustainability of the treaty body system and improving coordination.
4. Owing to a significant shortfall in the staffing of the secretariat, the backlog in individual communications continued to grow despite the best efforts of the Committee. It was important to remember that the funding allocated to the treaty bodies to review individual communications should not only cover the meeting time required to get through the backlog, but also provide for a realistic number of secretariat staff to prepare for those meetings.
5. The simplified reporting procedure had been a success, both for the Committee and for States parties and other stakeholders. The Committee had therefore decided to adopt it permanently, extending it to initial reports, while also introducing an opt-out system. To accommodate those changes, the Committee recommended making small adjustments to the funding formula to cover the additional research time required for the secretariat to prepare draft lists of issues. That expenditure would be offset by the significant savings made by reducing the number of documents produced, so that the proposal would be budget-neutral.
6. To improve coordination with other treaty bodies, the Committee had begun taking steps to reduce unnecessary overlaps, for example, by piloting an initiative to jointly draft lists of issues and concluding observations with the Committee on Economic, Social and Cultural Rights for States parties reviewed in the same year. The Committee also took other treaty bodies' recommendations into consideration when drafting its own concluding observations and general comments.
7. The Committee would move to a predictable review cycle in 2020; it would continue to review all States parties, including non-reporting and late-reporting States parties. The new review cycle might require the recruitment of additional staff in the short term to assist with the transition and to prepare lists of issues.

8. For the 2020–2027 predictable review cycle, the 173 States parties would be divided into eight groups and each State party would be reviewed on the basis of its current reporting schedule, or, in the case of late- or non-reporting States parties, the length of delay in reporting. Two years before being reviewed, the State party would receive a list of issues prior to reporting, or would be expected to submit its report. A year before the review, the State party would reply to the list of issues and, two years after the review, would provide follow-up information on the implementation of three priority recommendations from the concluding observations. The follow-up reports would make it possible to space out the reviews every eight years, thus reducing the reporting burden. The Committee would recommend that those reports should be budgeted for in the post-2020 funding formula.

9. The Committee welcomed proposals to further enhance the implementation of the Covenant, including the proposal to conduct constructive dialogues at the regional level, provided that the implementation of those proposals did not interfere with the funding of the treaty bodies' core activities. He wished to stress that the Committee relied on States parties to support its efforts to strengthen and simplify the treaty body system, including by providing modest resources.

10. **Ms. Pazartzis** said that the Committee had taken a number of steps to improve its working methods. It had, for instance, chosen to make the simplified reporting procedure its standard method of reporting. The procedure, which aimed to lessen the reporting burden by having shorter, more focused lists of issues, had been praised by the States parties that had piloted it. However, States parties would still have the option of opting out of that procedure if they wished to continue following the previous reporting procedure. The Committee had also been considering how it could avoid asking States parties the same questions as other treaty bodies, and was moving towards implementing the proposals outlined in the Chairs' position paper.

11. On the matter of examining individual communications, the Committee had revised and updated its rules of procedure in order to streamline its practices, including by examining individual communications in dual chambers and expediting the processing of communications that were factually or legally similar in nature. The Committee had done its utmost to tackle the backlog of individual communications, but if it was to make more progress, it would need more financial assistance.

12. **Ms. Abdo Rocholl** said that, at the end of 2018, the Committee had decided to prepare a general comment on the right of peaceful assembly, with a view to giving States parties and other stakeholders an exhaustive and coherent reaffirmation of the Committee's jurisprudence on that right. Peaceful assembly played an increasingly important role around the world, often leaving States and other stakeholders unsure about how to deal with it from a human rights perspective. States might wonder, for example, what their obligations were and what limits there were to that right. Moreover, technology was having an increasingly important influence on the exercise of the right of peaceful assembly. The general comment would aim to offer guidance on how such complicated issues could be addressed. The Committee would warmly encourage States parties and other stakeholders to provide input on the first draft of the general comment, which should be ready by the end of 2019. That input would, as far as possible, be incorporated into the draft general comment, which should be finalized by the end of 2020.

13. **Mr. Peralta Rodas** (Paraguay) said that his country fully supported the work of the treaty bodies and their role within the human rights protection system. That role needed to be strengthened continually, by improving, in the short and medium term, the treaty bodies' working methods and by optimizing resources without detriment to the international instruments themselves. States parties, the secretariat and the treaty bodies, therefore, needed to work together, within the framework of the Covenants and treaties. Unfortunately, the different working methods of the various treaty bodies made it hard for States parties and victims of human rights violations to understand how the treaty body system worked. The treaty bodies needed to address that problem. He wondered if the Committee had any more proposals for treaty body reform that had not been provided for in General Assembly resolution 68/268.

14. **Mr. Nuño García** (Spain) said that he wished to reaffirm his country's full support for the work of all the treaty bodies and for the Committee's efforts to further improve the effectiveness and efficiency of the human rights protection system.

15. It would seem that there was some divergence in the Committee's and his Government's understanding of article 5 (2) (a) of the Optional Protocol to the International Covenant on Civil and Political Rights. His Government understood that subparagraph to mean that the Committee should declare itself incompetent to consider any individual communication that had already been submitted to another international body.

16. With respect to draft general comment No. 37 on article 21 (Right of peaceful assembly) (CCPR/C/GC/R.37), he would like to receive clarification as to the meaning, in paragraph 22, of the statement that "the carrying by participants of objects that could be viewed as weapons [was] not sufficient in and of itself to render the assembly violent". He would also appreciate clarification of the statement in paragraph 36 that "assemblies with a political message should likewise enjoy a heightened level of accommodation and thus enhanced protection". In addition, noting that paragraph 92 stated that an assembly could be dispersed only if there was "an imminent threat of serious violence", he wished to know what precisely was meant by "serious violence".

17. **Mr. Rivet** (France) said that the Covenant was a major pillar of the human rights protection system and the manner in which the Committee dealt with emerging issues through its general comments and Views on individual communications was admirable. Those comments and Views contributed to the interpretation of the rights protected under the Covenant in an ever-changing global context. However, he wondered whether there was scope for the Committee to find convergence and compatibility with the legal interpretations and jurisprudence of the International Court of Justice and regional courts competent in the area of human rights. The diverging interpretations of the Committee and those courts detracted from legal certainty and hindered States parties in their efforts to ensure the observance of human rights. A shared and coherent understanding of the content of civil and political rights and more dialogue between judges and the Committee were essential to the effective protection of human rights.

18. The 2020 review of the treaty body system would be key to strengthening the treaty bodies. It was important to continue harmonizing their working methods and improving the predictability of the reporting calendar. He commended the work of the treaty body Chairs in that regard and reiterated his Government's full confidence in the Committee.

19. **Mr. Ghanei** (Islamic Republic of Iran) said that his country recognized the importance of the work of the Committee in the promotion and protection of human rights, and the need for States parties to implement their obligations fully and effectively. However, when the Committee was making recommendations to States parties, and when Committee members were being elected, a balance needed to be struck, not only in gender and geographical representation but also in respect of different cultures, civilizations and national particularities of States parties. There was no international consensus on some of the recommendations received by his Government, while others ran contrary to the country's regulations and culture and its people's religious beliefs. In addition, some States parties were subject to unilateral coercive measures and economic terrorism. He wondered whether the Committee, through a general comment, could address the obstacles and challenges faced by States parties subject to such measures, including their negative impact on States parties' ability to fulfil their treaty obligations.

20. **The Chair** said that, in answer to the comments of the representative of Paraguay, one of the main purposes of the Chairs' meeting was to harmonize the treaty bodies' working methods. The Committee had already begun taking steps in that direction, including by collaborating more closely with the Committee on Economic, Social and Cultural Rights, and had designated focal points to improve its coordination with other treaty bodies. At the 2020 review, the onus would be on States parties to evaluate the implementation of General Assembly resolution 68/268 and to adopt a new resolution to further strengthen the treaty body system.

21. **Mr. Shany** said that both the Chairs' position paper and the non-paper submitted by Costa Rica endorsed the simplified reporting procedure, the closer alignment of the treaty

bodies' working practices and greater predictability in the reporting process. If Member States were to endorse those three proposals in a new General Assembly resolution, the funding formula should accurately reflect the work needed to implement them.

22. **The Chair** said that the non-paper on the 2020 review had a great deal in common with the vision outlined in the Chairs' position paper. In that connection, he very much looked forward to finding common ground with the representatives of Costa Rica, whom he had had the opportunity to meet in New York.

23. **Mr. Ben Achour**, in response to the comments of the representative of the Islamic Republic of Iran, said that the Committee always did its utmost to strike a balance between ensuring respect for each State party's culture and respect for the universality of human rights.

24. **The Chair**, also responding to comments by the representative of the Islamic Republic of Iran, said that the Committee was not in a position to issue a general comment on the challenges faced by States subject to unilateral coercive measures, since the aim of general comments was to update the Committee's interpretation of articles of the Covenant. General comments nevertheless incorporated, as far as possible, States parties' contributions to them; States parties would have an opportunity to comment on the draft general comment on the right of peaceful assembly once the first draft was issued at the end of 2019.

25. As for the election of new Committee members, as it was States parties that put forward and voted for candidates, it was their responsibility to ensure the independence and equal geographical distribution of members.

26. **Mr. Shany**, in response to the comments by the representative of Spain, said that the Committee had met with representatives of the European Court of Human Rights, which had now changed the wording of the letters it sent to claimants in order to clarify whether the Court had actually reviewed their case. That change would facilitate a consistent interpretation of article 5 (2) (a).

27. **Ms. Pazartzis**, responding to the comments by the representative of France, said that the United Nations treaty bodies and various human rights courts were aware that their respective interpretations of human rights sometimes diverged. Those diverging interpretations mainly stemmed from the fact that some mechanisms interpreted the instruments that were their point of reference in a very specific manner. For example, the European Court of Human Rights applied a margin of appreciation that differed from the standard applied by the Committee.

28. **Ms. Attitallah** (Tunisia), reaffirming her Government's commitment to cooperating with the treaty bodies and improving the efficiency and transparency of the human rights system, said that States parties' treaty obligations did not start and end with the submission of periodic reports and the issuance of the Committee's recommendations. It was critical that States took ownership of those recommendations and ensured appropriate implementation and follow-up. With that in mind, she wondered whether the treaty bodies had given consideration to how, together, they might support national reporting mechanisms in implementing their recommendations, since those mechanisms had an important role to play in follow-up.

29. **Mr. Salama** (Office of the United Nations High Commissioner for Human Rights (OHCHR)) said that the treaty body capacity-building programme was a central element of General Assembly resolution 68/268. Its aim was to support the development of national expertise and empower local actors in order to enable States to take ownership of their human rights recommendations. For that purpose, OHCHR had created a number of useful tools, such as the guidelines on establishing effective national mechanisms for reporting and follow-up, and could provide ad hoc assistance to States on request. While more could be done to provide further assistance, any measures were dependent on the outcome of the forthcoming 2020 review. In that regard, he hoped that States parties would support an adjustment of the formula contained in General Assembly resolution 68/268, which had been devised primarily as a means of making cost savings. It was now time to assess the

progress made and adapt the formula to the needs of the current system to ensure that it had the resources it needed to fulfil its purpose.

30. Much progress had undeniably been made since the adoption of General Assembly resolution 68/268. The human rights treaty bodies and their members had worked tirelessly to implement innovative measures and had assigned focal points for the 2020 review, who, in turn, had committed to additional meeting time, but without the benefit of additional resources. The outcome of their efforts had been a common vision, agreed on by the treaty body Chairs, for the future of the treaty body system, which aimed to build on the achievements of General Assembly resolution 68/268 and further strengthen the treaty bodies. In his view, the different perspectives of the treaty bodies, OHCHR and States parties seemed to be aligning in the pursuit of that shared goal. The 2020 review represented an opportunity to take stock of the lessons learned from the implementation of General Assembly resolution 68/268 and shift the focus towards a more sustainable solution.

31. **Mr. Schröder** (Germany), welcoming the positive developments being made in terms of treaty body strengthening and the active role being taken by the Committee and by the Chairs of the treaty bodies ahead of the 2020 review, said that he would welcome further information on the meeting between the Secretary-General and the treaty body Chairs. In particular, he wished to know what the Secretary-General had said about the budget constraints that were affecting the United Nations system. He would also like to hear more about the Committee's use of dual chambers to consider individual communications, and especially how it ensured that decisions were taken unanimously.

32. **The Chair** said that the Secretary-General had informed the Chairs that, although he had been able to resolve the issues that had put in doubt the autumn 2019 sessions of the treaty bodies, the financial crisis was such that 2020 could prove even more challenging. He had also underscored the fact that responsibility for budget contributions lay with Member States and that priority would be given to replenishing the reserve fund, which, for the first time in history, had been completely exhausted, and to financing peacekeeping operations.

33. **Ms. Pazartzis** said that the Committee would be meeting in dual chambers to consider individual communications; however, all decisions would be adopted in plenary, where any Committee member could raise issues for discussion. Moreover, steps had been taken to ensure an equitable geographic representation in each of the chambers.

34. **Mr. Nakagome** (Japan) said that his Government appreciated the Committee's efforts to reduce unnecessary overlap and encouraged further harmonization of its working methods with those of other treaty bodies. Delegations in Geneva had a more in-depth understanding of the human rights system and should therefore engage with their New York counterparts in order to underscore the importance of the 2020 treaty body review.

35. **Mr. Chablais** (Switzerland), commending the various measures that had been taken by the Committee to improve its efficiency, avoid duplication of effort and align its working methods with those of other treaty bodies, said that he would be interested to know whether the eight-year reporting cycle for the Human Rights Committee and the Committee on Economic, Social and Cultural Rights would allow States parties to opt for back-to-back reviews, if they so wished. He welcomed the idea of submitting a single consolidated report to those two Committees and wondered if that option was already available. Were there also plans to develop combined lists of issues prior to reporting to facilitate the process?

36. **Mr. Shany** said that, since the coordinated eight-year reporting cycle was only just being implemented, the possibility of back-to-back reviews had yet to be explored. It would be useful to know whether States parties were in favour of that option or preferred reviews that were more evenly spaced. In the first instance, however, it was important to find out whether the new reporting calendar worked and whether it alleviated some of the reporting burden on States parties. At the current time, the proposal for the submission by States parties of a single consolidated report on the implementation of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights was part of the treaty body Chairs' common vision for the future of the

treaty bodies and had yet to be implemented. Once again, it would be interesting to know whether States parties were interested in pursuing that option.

37. **The Chair** added that certain measures in the Chairs' position paper were for immediate implementation; others were future or longer-term goals. The submission of single consolidated reports on the implementation of the two Covenants would be subject to a pilot phase. He welcomed the idea of preparing consolidated lists of issues prior to reporting but expressed concern that they might result in limited or repetitive dialogues with States parties.

38. **Mr. Andrabi** (Pakistan), emphasizing his Government's high regard for the work of the Committee, said that continued reform of the treaty body system was to be encouraged, in particular to avoid unnecessary duplication and ensure that the submission dates for States parties' reports were evenly spaced out. Pakistan had recently had to submit four different reports in the space of a year, which had been a challenging task. He urged the Committee to take further steps to institutionalize the guidelines on the independence and impartiality of members of the human rights treaty bodies, also known as the Addis Ababa guidelines, in order to enhance the Committee's objectivity, transparency and even-handedness. In that connection, he would be interested to hear about the Committee's alternative sources of information and, in particular, how it corroborated the information provided and took the views of the States parties concerned into account. Lastly, he wondered whether it would be possible for a State party to opt out of the simplified reporting procedure, if it so desired, and whether the Human Rights Committee intended to join the Committee against Torture in offering the option of videoconferencing for some State party reviews. The use of such technology was not only useful for facilitating dialogue with small island developing States but also for enabling larger States to assemble bigger delegations and ensure broader participation.

39. **Ms. Castro Hernández** (Costa Rica), welcoming the information provided by Committee members on the status of its draft general comment No. 37 and on the measures taken to streamline the Committee's working methods, said that the informal meeting was an important opportunity for States parties to find out about the decisions taken at the annual meeting of the Chairs of the treaty bodies in June 2019. It was very encouraging to hear that the Chairs had agreed upon a series of measures for further strengthening of the treaty bodies, many of which corresponded to those contained in the non-paper submitted by Costa Rica on the 2020 review of the treaty body system, which was now supported by 46 Member States. Many of those measures were ripe for immediate implementation and could deliver results in the short and medium term. Indeed, there was no shortage of innovative ideas for improving the working methods of the treaty bodies while respecting the independence and specificities of each Committee. The simplified reporting procedure, the coordinated reporting calendar and coordinated lists of issues were just three such examples. While she recognized that many other ideas required the provision of additional funding and resources, she nevertheless encouraged the Committee to continue trying out new methods and ideas in a spirit of openness and transparency.

40. **Ms. Mohamed** (Egypt) said that she had been interested to hear about the Committee's draft general comment No. 37 and wondered when her Government would receive the first draft for its input. Egypt attached great importance to cooperating with the human rights treaty bodies and upholding civil and political rights. For that purpose, it had established a permanent national mechanism to prepare and follow up on its reports to the treaty bodies and had benefited from assistance under the treaty body capacity-building programme. Her Government would be interested in participating in consultations on ways to harmonize the working methods of the treaty bodies. She wished to stress the importance of alleviating the reporting burden on States, reducing the reporting backlog and managing the resources of the treaty bodies more efficiently.

41. **Mr. Salama** (Office of the United Nations High Commissioner for Human Rights) said that General Assembly resolution 68/268 had brought about a paradigm shift in the functioning of the treaty body system. It had also contained provision for the Addis Ababa guidelines to be further strengthened over time.

42. It was true that technology had yet to be fully optimized by the treaty bodies, although videoconferencing had been used to good effect on a number of occasions, barring a few glitches. Moreover, videoconferencing offered certain advantages, such as enabling broader participation of representatives of the relevant line ministries, which, in turn, could stimulate changes in approaches and mindsets. He welcomed the idea raised by the representative of Switzerland for the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to trial consolidated lists of issues prior to reporting, which, given the broad scope of the Covenants and the interdependence and indivisibility of human rights, might provide a means of not only reducing repetitive questions and the burden on States parties but also strengthening the review process and fostering a more overarching approach to human rights in general. Such measures would require pilot testing in order to establish their efficiency and cost-effectiveness.

43. **The Chair** said that the use of videoconferencing had been discussed by the Chairs of the human rights treaty bodies, who had agreed that it could be offered on an exceptional basis. The Committee was therefore open to requests for videoconferencing but remained of the view that in-person interactions were a preferable and, indeed, more beneficial way of exchanging views.

44. **Mr. Shany** added that the reliability of videoconferencing technology still left much to be desired. In reply to the question raised by the representative of Pakistan, he said that he saw no reason why it would not theoretically be possible for a State party to opt out of the simplified reporting procedure. On the implementation of the Addis Ababa guidelines, the Committee strove to meet those high standards and was committed to ensuring the objectivity, transparency and even-handedness of its members.

45. **The Chair** said that all States parties to the Covenant would automatically be moved onto the simplified reporting procedure, but could choose to opt out. The Committee received information from a variety of sources, including from non-governmental organizations, the press and other United Nations agencies. Committee members evaluated that information and decided whether to bring it to the attention of the State party concerned. It should be emphasized that, in so doing, Committee members made no assumptions as to the veracity of said information. It simply sought to give the State party the opportunity to provide its version of events and supporting information.

46. **Mr. Ben Achour** added that all information received by the Committee from non-governmental organizations was published on the OHCHR website and was publicly accessible to States and other interested parties.

47. **The Chair** said, regarding draft general comment No. 37, that the Committee was in the process of reviewing the draft prepared by the rapporteur, a copy of which was available on the OHCHR website. Once that review process had been completed, an updated draft would be circulated to States parties for their comments, which the Committee would take into consideration in the final version.

48. **Mr. Bischoff** (United States of America) said that it was encouraging to hear about the efforts being made to reform and strengthen the treaty body system. His country had added its name to the non-paper on the 2020 review of the treaty body system and it was pleasing that the Committee agreed with many of the elements it contained.

49. He would be interested to know how the new eight-year reporting calendar would affect those States parties that were already part way through a reporting cycle. Should they anticipate any changes to their reporting deadlines or reviews scheduled with the Committee?

50. **Mr. Shany** said that the reporting calendar would be based on the existing schedule. Those States parties that were already part way through a reporting cycle would continue with the reporting deadlines that had already been set.

51. **The Chair** said that the Chairs of the treaty bodies had decided to request that the reports of the human rights treaty bodies to the General Assembly should be considered under a single agenda item. The current approach was more fragmented, with different treaty bodies presenting their reports under different substantive items. He hoped that States

parties would support the proposal, which would enable the Chairs to speak with one voice and present a united front.

The meeting rose at 5 p.m.