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IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”

Report of the Secretary-General on the effective implementation of international instruments on human rights*

Summary

In its resolution 2004/78, on effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights, the Commission on Human Rights requested the Secretary-General to report to the Commission at its sixty-second session on measures taken to implement that resolution and on obstacles to its implementation, including the efforts of the treaty bodies to integrate a gender perspective throughout their work. In its decision 2/102 the Human Rights Council requested the Secretary-General of the United Nations and the High Commissioner for Human Rights to continue with the fulfilment of their activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update the relevant reports and studies. The present report is submitted pursuant to that request.

* This document is submitted late so as to include the most up-to-date information possible.

Introduction

1. In its resolution 2004/78, the Commission on Human Rights requested the Secretary-General to report to the Commission at its sixty-second session on measures taken to implement that resolution and on obstacles to its implementation, including efforts of the treaty bodies to integrate a gender perspective throughout their work. In its decision 2/102, the Human Rights Council requested the Secretary-General of the United Nations and the High Commissioner for Human Rights to continue with the fulfilment of their activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update the relevant reports and studies. The present report is submitted pursuant to that request.

Developments in the human rights treaty body system, including harmonization of working methods

2. The International Convention for the Protection of All Persons from Enforced Disappearance was adopted by the General Assembly on 20 December 2006 in resolution 61/177. The Convention will be open for signature in Paris as of 6 February 2007. The Convention on the Rights of Persons with Disabilities and its Optional Protocol were adopted by the General Assembly on 13 December 2006 in resolution 61/106 and both will be open for signature in New York as of 30 March 2007.

3. The current working methods of the human rights treaty bodies relating to the reporting process are compiled in an update of the comparative report on the working methods of all committees presented to the fifth Inter-Committee Meeting (ICM) and eighteenth meeting of human rights chairpersons (HRI/MC/2006/4). This report provides information on current reporting, the conduct of constructive dialogue with States parties, postponement of the consideration of reports and consideration of reports in the absence of a delegation. The report also includes information on the adoption of, and follow-up to, concluding observations, strategies to encourage reporting by States parties, including consideration of implementation in the absence of a report, the participation of United Nations agencies, funds and programmes, non-governmental organizations (NGOs), national human rights institutions (NHRIs) in the reporting process, interaction of treaty bodies with special procedures, as well as other treaty body activities.

4. Based on authorization provided by the General Assembly in resolution 60/230, the Committee on the Elimination of Discrimination against Women (CEDAW) held three annual sessions in 2006, and also met in parallel chambers during its thirty-sixth annual session in August 2006. As a result, the Committee nearly doubled the number of States parties' reports it considered during 2006 from that of previous years, from an average of 16 to 31. The Committee adopted working methods for its meetings in parallel chambers, which are contained in its report on its thirty-fifth session (A/61/38, part II, paras. 364 to 380).

5. CEDAW also adopted guidelines on the role and functions of country rapporteurs (see A/61/38, part II, paras. 388 to 399), clarifying their roles and functions in relation to three phases of the consideration of reports. The Committee also revised its guidelines for submission of reports by United Nations specialized agencies and other bodies (A/61/38, part I, annex II) and encouraged the Inter-Parliamentary Union to submit country-specific information pertaining to the implementation of the Convention in States parties.

6. Additional resources were provided to the Committee on the Rights of the Child (CRC), following the adoption by the General Assembly of its resolution 59/261 welcoming the proposal of the Committee to work in two chambers as an exceptional and temporary measure to eliminate the backlog of reports. The Committee considered States parties reports in two parallel chambers during its three sessions in 2006. In his oral report to the General Assembly in October 2006, the Chairperson of the Committee informed the Assembly that this new working method had been very effective in achieving its purpose, that the Committee is considering working in two chambers if a report-backlog develops, and that it may submit proposals to that effect to the sixty-second session of the Assembly in 2007.

7. At its thirty-fifth session held from 7 to 25 November 2005, the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) decided to substitute the pre-sessional working group with a meeting of the full Committee to enable the full Committee to meet in plenary for two sessions of three weeks in 2006, in order to allow the Committee to consider additional reports to address the growing backlog of State party reports for consideration (A/61/44, para. 10).

8. Committees have continued to develop their working relationships with NHRIs during the reporting period. In June 2006, the fifth ICM met with a representative of the International Coordinating Committee of National Human Rights Institutions (ICC). The participants of the fifth ICM reiterated the recommendation of the fourth ICM that engagement with NHRIs should continue in a manner that reflected their necessary independence from Governments. Representatives of NHRIs, treaty bodies and civil society participated in the International Roundtable on the Role of National Human Rights Institutions in the Treaty Body Process which was held in Berlin, Germany on 23 and 24 November 2006 and co-organized by the German Institute for Human Rights, the Danish Institute for Human Rights and OHCHR. Participants adopted a draft harmonized approach for treaty body engagement with NHRIs to be submitted for the consideration of the sixth ICM in June 2007.

9. The treaty bodies continued their practice of meeting informally with States parties to discuss working methods and other matters of mutual interest. A meeting with States parties is part of the agenda of the annual meeting of chairpersons of human rights treaty bodies and the Human Rights Committee (HRC) convened its fourth meeting with States parties on 27 October 2006 during its eighty-eighth session in October and November 2006. CRC met with States parties on 17 January 2006 during its forty-first session in January 2006.

Treaty body reform

10. Treaty bodies have discussed the High Commissioner's proposal for a unified standing treaty body in the Plan of Action and the concept paper on the proposal (HRI/MC/2006/2). OHCHR organized briefings for States parties, NGOs and others on the concept paper where emphasis was placed on the importance of continuing to streamline reporting guidelines and the harmonization of working methods. Treaty body members and others raised issues, including concerns that the establishment of a unified body could result in a loss of specificity, and noted that many legal issues would need to be discussed in further detail.

11. An informal brainstorming meeting on treaty body reform, organized jointly by OHCHR and the Government of Liechtenstein, was held in Liechtenstein from 14 to 16 July 2006. Representatives of regional groups, treaty bodies, institutions and bodies of the United Nations system, NGOs and NHRIs attended the meeting and discussed treaty body reform with the High Commissioner for Human Rights. A preliminary non-paper on legal options was finalized and made available to participants.

12. The working group on the harmonization of working methods of treaty bodies, consisting of a representative of each treaty body established by the fifth ICM, met from 27 to 28 November 2006 at OHCHR in Geneva (see HRI/MC/2007/2). The working group discussed the suggestions of the respective committees which included proposals from CEDAW to create a harmonized and integrated treaty bodies system; from the Committee on the Elimination of Racial Discrimination (CERD) to establish a single body to deal with individual complaints; and from CRC to establish a coordinating body or management bureau of treaty body representatives to focus on the harmonization of working methods and the streamlining of reporting guidelines. HRC suggested that the annual Inter-Committee Meeting and Meeting of Chairpersons (ICM/MC) be replaced by a single coordinating body composed of treaty body representatives with responsibility for the effective oversight of all questions relating to the harmonization of working methods. CAT suggested that treaty bodies with complaints competence nominate one of their members to participate in single or joint meetings that could take up hypothetical or real communications to determine essential congruence in the norms to which petitioners address themselves, and jurisprudential and institutional variations between the committees.

13. The working group will finalize its work in May 2007.

14. Pursuant to a recommendation of the fourth ICM and the seventeenth meeting of chairpersons, an inter-committee working group was established to examine the report on the practice of human rights treaty bodies with respect to reservations to international human rights treaties (HRI/MC/2005/5). The working group on reservations met for the first time on 8 and 9 June 2006 in Geneva where it examined the report on reservations and an update to the report (HRI/MC/2005/5 and Add.1) and adopted a number of recommendations which are contained in the report of the meeting (HRI/MC/2006/5/Rev.1). The report was presented to the fifth ICM and eighteenth meeting of chairpersons which extended the mandate of the working group. The working group reconvened in Geneva on 14 and 15 December 2006. The report of the second meeting will be presented to the sixth ICM in June 2007. The International Law Commission has also invited representatives of treaty bodies to participate in a meeting to discuss issues related to reservations to be held in Geneva on 15 and 16 May 2007.

General comments and general recommendations

15. General comments/recommendations adopted by the treaty bodies during the reporting period up to May 2006 are compiled in HRI/GEN/1/Rev.8. At its forty-second session in May 2006, CRC adopted general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/C/GC/8), and at its forty-third session in September 2006, the Committee adopted general comment No. 9 on the rights of children with disabilities (CRC/C/GC/9). At its forty-fourth session in January/February 2007, the Committee adopted general comment No. 10 on children's rights in juvenile justice (CRC/C/GC/10).

16. At its thirty-sixth and thirty-seventh sessions, held in May and November 2006, respectively, the Committee on Economic, Social and Cultural Rights (CESCR) began a first reading of two draft general comments on non-discrimination (art. 2.2) and on the right to social security (art. 9). As part of the preparation of the draft general comment on the right to social security, the Committee held, during its thirty-sixth session, a day of general discussion on the topic. At its thirty-seventh session, the Committee decided that it would address, at a future date, article 15 (1) (a) of the Covenant which addresses the right to take part in cultural life.

17. CEDAW continued its work on general recommendations on the rights of migrant women and the implementation of article 2 of the Convention. CAT held a preliminary discussion of its draft general comment on implementation of article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

18. HRC continued its work on a revised general comment on the right to equality before courts and tribunals and to fair trial (art. 14 of the Covenant). It decided that it would address, at a future date, the obligations of States parties under the Optional Protocol to the Covenant.

Streamlining reporting procedures

19. Pursuant to recommendations of the fourth ICM and the seventeenth meeting of chairpersons (A/60/278), an Inter-Committee Technical Working Group, consisting of representatives of each treaty body, met from 8 to 9 December 2005 and 15 to 17 February 2006. The working group finalized the draft harmonized guidelines on reporting under international human rights treaties, including guidelines on the common core document and treaty specific documents, which were subsequently accepted by the meeting of chairpersons in June 2006 (HRI/MC/2006/3 and Corr.1).

20. The meeting of chairpersons recommended that the committees immediately apply the draft harmonized guidelines in a flexible manner, review their existing reporting guidelines, and compile indications of any difficulties experienced. The meeting recommended that the experiences of each committee be reviewed at the seventh ICM in 2008 and that consideration be given to the establishment of an inter-committee mechanism to keep the guidelines under review. Several States parties had begun to report under the guidelines, including Afghanistan, Angola and Timor-Leste. It was agreed that various aspects of the harmonized guidelines required further consideration and revision in accordance with the specific requirements of each treaty body, and that refinement of the guidelines would result from their practical implementation.

21. At its sixty-ninth session, CERD requested the Secretariat to prepare draft revised reporting guidelines for consideration at its seventieth session, to be held from 19 February to 9 March 2007, so as to take into account the revised harmonized guidelines on reporting, as accepted by the eighteenth meeting of chairpersons. CEDAW established an intersessional working group composed of three members, to consider possible revisions to the Committee's reporting guidelines in light of the acceptance of the revised harmonized guidelines, for consideration at its thirty-seventh session in January 2007. In the light of the revised reporting guidelines, CESCR decided at its thirty-sixth session to review its reporting guidelines and

appoint one of its members as Rapporteur for this task. At the thirty-seventh session in November 2006, the Committee embarked on preliminary discussions about the nature and necessity of the revisions based on a review of its lists of issues and concluding observations. Review and revision of the treaty-specific guidelines will continue in 2007 for consideration and eventual adoption by the Committee.

Follow-up to concluding observations

22. The 2006 annual report to the General Assembly of CERD includes a table providing a comprehensive overview of follow-up replies received from States parties in relation to cases in which the Committee found a violation of the Convention or provided suggestions or recommendations in cases of non-violation (A/61/18, paras. 487-489). Wherever possible, the table indicates whether follow-up replies are, or have been considered, satisfactory or unsatisfactory, and indicates the status of dialogue between the State party and the Rapporteur for follow-up. The table will be updated annually by the Rapporteur on follow-up to opinions adopted by the Committee under article 14 of the Convention and included in the Committee's annual reports.

23. At its eighty-eighth session in October-November 2006, HRC has reviewed its follow-up activities to Views under the Optional Protocol (established in July 1990) and concluding observations (established in March 2001). Recommendations for the strengthening of these follow-up procedures will be considered at the Committee's eighty-ninth session in March 2007.

Individual complaints procedures

24. On 29 June 2006, at its first session, the Human Rights Council adopted by consensus resolution 1/3 on the "Open-ended Working Group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights", in which it extended the mandate of the Working Group for a period of two years to elaborate an optional protocol to the Covenant. The Chairperson of the Working Group initiated drafting in close consultation with CESCR and with a number of Governments, stakeholders and experts. The draft will be reviewed at the fourth session of the Working Group, to be held in July 2007.

Dissemination of the work of treaty bodies

25. A compilation of the concluding observations of CERD for States parties in Latin America and the Caribbean (1970-2006) was published in 2006 and the OHCHR regional office in Santiago, in cooperation with the United Nations Children's Fund (UNICEF), published a second edition of the compilation of concluding observations of CRC (1993-2006). A subregional workshop on the implementation of the concluding observations of CRC hosted by the Government of Costa Rica with the support of Plan International, UNICEF and the World Health Organization (WHO) was held in Costa Rica from 30 October to 1 November 2006.

26. The Division for the Advancement of Women (DAW), in cooperation with the Economic and Social Commission for Asia and the Pacific (ESCAP), organized a subregional workshop on implementation of, and follow-up to, concluding comments of CEDAW from 6 to 9 November 2006, in Bangkok. Government officials, members of

Parliament, and representatives of NGOs and of United Nations country teams from six countries participated in the event. DAW also supported a workshop organized by the Cambodian National Council of Women to build the capacity of Government officials and other stakeholders to implement the Committee's concluding comments on Cambodia.

27. Since September 2003, OHCHR has, within the framework of a project entitled "Strengthening the implementation of human rights treaty recommendations through the enhancement of national protection mechanisms", undertaken several training activities for representatives of governments, NHRIs, NGOs, and the media in 20 countries. The overall objectives of these activities are to increase the participation of civil society in the work of the treaty bodies and to enhance the follow-up and implementation of treaty body recommendations at the national level.

28. From 22 to 24 February 2006, OHCHR organized in Nairobi, Kenya, the first regional workshop for five African countries that have participated in the project, i.e. Kenya, Mauritius, Rwanda, Uganda and Zambia. The aim of the workshop was to discuss opportunities and challenges related to treaty reporting and implementation processes and to ultimately exchange practices and knowledge about activities that can enhance the implementation of the treaty body recommendations. The workshop was followed by a three-day judicial colloquium for judges and magistrates from the same five countries, in addition to South Africa and the United Republic of Tanzania. The aim of the judicial colloquium was to exchange practices on how international jurisprudence is or can be used by national courts. Three similar workshops together with judicial colloquia are being organized for other regions in 2007.

29. The fifth basic training workshop in the framework of this project took place in Geneva from 10 to 14 July 2006 with participants from Mexico, Morocco and Georgia. Four follow-up workshops were organized in Bosnia and Herzegovina, Uganda, Thailand and Zambia between August and November 2006 to take stock of and to analyse the level of implementation of all treaty body recommendations issued for these countries, and to develop specific plans of action to further enhance the implementation of the outstanding recommendations.

30. OHCHR finalized a DVD training tool on the work of the treaty bodies, "The Treaty Bodies - Bringing Human Rights Home". The DVD was launched by the High Commissioner in a public event attended by more than 200 persons on 10 July 2006 in Geneva.

31. Following a recommendation of the seventeenth meeting of chairpersons of human rights treaty bodies held in Geneva on 23 and 24 June 2005, the seminar on recommendations of the United Nations Expert Bodies was held on 9 and 10 November 2006, parallel to the meeting of the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation and co-organized by the Treaties and Council Branch and the Policy, Planning, Monitoring and Evaluation Section of OHCHR. Participants included representatives of human rights treaty bodies, specialized agencies, staff of OHCHR field presences and members of the Board of Trustees of the Voluntary Fund. The seminar focused on the format and substance of concluding observations and on ways in which specialized agencies and OHCHR field presences could assist in their implementation at the national level.

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

32. On 18 December 2002, the General Assembly adopted resolution 57/199, containing the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Following its twentieth ratification, OPCAT entered into force on 22 June 2006. The Optional Protocol creates a two-pillar system, directed at preventing torture and other forms of ill-treatment in all places of detention, as regular visits are undertaken by international and national bodies. It provides for an international Subcommittee for the Prevention of Torture which was established following the election of its first 10 members by the 29 States parties in Geneva on 18 December 2006.

Integration of a gender perspective in the work of the treaty bodies

33. The human rights treaty bodies have increasingly integrated a gender perspective into their concluding observations, general comments and general recommendations and days of general discussion. The committees have generally focused on the steps required to ensure that women and girls enjoy the rights enshrined in the treaties, and have highlighted the adverse impact that legislation, policies and programmes developed without a gender perspective may have on the enjoyment of their rights. Particular attention has been paid, *inter alia*, to the continued prevalence of violence against women, including domestic violence, rape by State agents and harmful traditional practices, and the need for preventive and responsive measures; trafficking in women and children for sexual or economic exploitation; limitations to women's political participation and to equality in nationality; issues relating to women in detention; sexual and reproductive health concerns such as access to adequate health-care services; and equal access to education and employment opportunities. Several of the committees have underscored the multiple forms of discrimination faced by women, especially women belonging to indigenous communities, ethnic minorities and/or migrant women. The committees have also commended the establishment of NHRIs that monitor the rights of women and have recognized and encouraged ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women as a positive measure to protect and promote women's rights at the national level.

34. Several committees provided input into the in-depth study of the Secretary-General on all forms of violence against women requested by the General Assembly in its resolution 58/185, which was completed by DAW in September 2006 and presented to the General Assembly at its sixty-first session in 2006 (A/61/122/Add.1 and Corr.1). At its thirty-seventh session (2006), CAT noted in its concluding observations that rape constituted torture and that in returning women to their country of origin where they had been raped by State agents, a State party would be in violation of article 3 of the Convention against Torture. In its contribution to the General Assembly's High-Level Dialogue on International Migration and Development (14-15 September 2006), the Committee on Migrant Workers (CMW) recommended that special attention be given to protect the rights of migrant women, in particular domestic workers. At its forty-third session (2006), CRC adopted general comment No. 9 on the rights of children with disabilities, stressing that girls with disabilities are more vulnerable to discrimination. During its day of general discussion in September 2006 on the right of the child to be heard, CRC urged States parties to pay special attention to the rights of the girl-child in order to combat sexist stereotypes and patriarchal values which undermine and place severe limitations on the

enjoyment of the rights set forth in article 12. A member of CRC attended an Expert Group Meeting on “The elimination of all forms of discrimination and violence against the girl-child” organized by the DAW and UNICEF, in Florence in 2006.

35. The Convention on the Rights of Persons with Disabilities recognizes that women can suffer multiple forms of discrimination and in article 6 obliges States parties to take all appropriate measures to ensure the full development, advancement and empowerment of women. It also encourages States parties to include a gender perspective in all efforts to promote the rights of persons with disabilities and specifically requires them to take appropriate measures to protect freedom from exploitation, violence and abuse, including their gender-based aspects and to provide gender-sensitive assistance, including in relation to health services.

Transfer of CEDAW

36. On the joint recommendation of the High Commissioner for Human Rights, the Under Secretary-General for Economic and Social Affairs, and the Secretary-General’s Special Adviser on Gender Issues and Advancement of Women, the Secretary-General agreed that the responsibility for supporting CEDAW should be transferred to OHCHR and communicated his decision to the Committee’s chairperson in a letter dated 11 October 2006. The practical implications of the decision, particularly with respect to timing and budgetary considerations are currently being finalized.
