



General Assembly

Distr.: General
14 March 2025

Original: English

Human Rights Council
Advisory Committee
Thirty-third session

Report of the Advisory Committee on its thirty-third session (Geneva, 17–21 February 2025)

Rapporteur: Catherine Van de Heyning



Contents

| | <i>Page</i> |
|--|-------------|
| I. Action taken by the Advisory Committee at its thirty-third session..... | 3 |
| II. Adoption of the agenda and organization of work | 6 |
| A. Opening and duration of the session | 6 |
| B. Composition of the Advisory Committee | 7 |
| C. Attendance | 7 |
| D. Meetings | 7 |
| E. Election of officers | 7 |
| F. Adoption of the agenda..... | 7 |
| G. Organization of work | 7 |
| III. Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions and currently under consideration by the Committee | 8 |
| A. Impact of disinformation on the enjoyment and realization of human rights..... | 8 |
| B. Impact of artificial intelligence systems on good governance..... | 8 |
| C. Human rights implications of new and emerging technologies in the military domain | 8 |
| D. Implications of plastic pollution for the full enjoyment of human rights | 9 |
| E. Technology-facilitated gender-based violence and its impact on women and girls..... | 9 |
| IV. Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 and of section III of the annex to Council resolution 16/21 | 10 |
| A. Review of methods of work..... | 10 |
| B. Agenda and annual programme of work, including new priorities | 10 |
| V. Report of the Advisory Committee on its thirty-third session..... | 10 |
| Annexes | |
| I. Documents issued for the thirty-third session of the Advisory Committee..... | 11 |
| II. List of speakers | 12 |
| III. Research proposal..... | 15 |

I. Action taken by the Advisory Committee at its thirty-third session

33/1. Human rights implications of new and emerging technologies in the military domain

The Human Rights Council Advisory Committee,

Recalling Human Rights Council resolution 51/22 of 7 October 2022, in which the Council requested the Advisory Committee to prepare a study examining the human rights implications of new and emerging technologies in the military domain, while taking into account ongoing discussions within the United Nations system, and to present the study to the Council at its sixtieth session,

Recalling also that, at its twenty-ninth session, the Advisory Committee established a drafting group, currently composed of Buhm-Suk Baek (Chair), Nadia Bernoussi, Rabah Boudache, Milena Costas Trascasas, Riva Ganguly Das, Alessandra Devulsky, Jewel Major, Javier Palummo (Rapporteur), Vasilka Sancin, Patrycja Sasnal, Vassilis Tzevelekos, Catherine Van de Heyning, Frans Viljoen and Yue Zhang,

1. *Takes note* of the draft report on the human rights implications of new and emerging technologies in the military domain, submitted by the drafting group to the Advisory Committee at its present session;¹

2. *Notes* that the drafting group and the full Advisory Committee held meetings to discuss the topic at the present session, and takes note of the views expressed thereon by States;

3. *Requests* the drafting group to finalize the report in the light of the discussion held by the Advisory Committee at its present session;

4. *Decides* to submit the report to the Human Rights Council at its sixtieth session after having circulated it electronically to all members of the Advisory Committee for approval.

*7th meeting
21 February 2025*

[Adopted without a vote.]

33/2. Impact of disinformation on the enjoyment and realization of human rights

The Human Rights Council Advisory Committee,

Recalling Human Rights Council resolution 55/10 of 3 April 2024, in which the Council requested the Advisory Committee to conduct a study and prepare a report on the impact of disinformation on the enjoyment and realization of human rights and to present the report to the Council at its sixty-first session,

Recalling also that, at its thirty-second session, the Advisory Committee established a drafting group, currently composed of Noor Al-Jehani, Miznah Omair Alomair, Joseph Gérard Angoh, Buhm-Suk Baek, Nadia Bernoussi, Milena Costas Trascasas, Riva Ganguly Das, Alessandra Devulsky, Jewel Major, Patrycja Sasnal (Co-Rapporteur), Vassilis Tzevelekos, Catherine Van de Heyning (Co-Rapporteur) and Frans Viljoen (Chair),

1. *Takes note* of the outline of the study submitted by the drafting group to the Advisory Committee at its present session;

¹ See the draft report on the human rights implications of new and emerging technologies in the military domain, submitted by the drafting group, available at <https://www.ohchr.org/en/hr-bodies/hrc/advisory-committee/session33/index>.

2. *Notes* that the drafting group and the full Advisory Committee held meetings to discuss the topic at the present session, and takes note of the views expressed thereon by States and non-governmental organizations;

3. *Requests* the drafting group to submit a preliminary draft of the study to the Advisory Committee at its thirty-fourth session, taking into account the inputs received from States and other stakeholders and rights holders in response to the questionnaire circulated after the thirty-second session of the Advisory Committee and the discussions held at the present session;

4. *Encourages* stakeholders to continue to contribute to the work already under way.

*7th meeting
21 February 2025*

[Adopted without a vote.]

33/3. Technology-facilitated gender-based violence and its impact on women and girls

The Human Rights Council Advisory Committee,

Recalling Human Rights Council resolution 56/19 of 11 July 2024, in which the Council requested the Advisory Committee to prepare a study on technology-facilitated gender-based violence and its impact on women and girls, including by developing a better understanding of the issue, highlighting good practices around the globe in tackling gender-based violence that occurred through or was amplified by the use of technology and making recommendations on how to address the issue, and to present the study to the Council at its sixty-third session,

Recalling also that, at its thirty-second session, the Advisory Committee established a drafting group, currently composed of Noor Al-Jehani, Miznah Omair Alomair, Buhm-Suk Baek, Nadia Bernoussi (Chair), Alessandra Devulsky, Jewel Major, Vasilka Sancin, Patrycja Sasnal, Vassilis Tzevelekos and Catherine Van de Heyning (Rapporteur),

1. *Takes note* of the outline of the study submitted by the drafting group to the Advisory Committee at its present session;

2. *Notes* that the drafting group and the full Advisory Committee held meetings to discuss the topic at the present session, and takes note of the views expressed thereon by States;

3. *Welcomes* the active participation of panellists and States in the discussion and the very rich exchange of views, and notes that the discussion provided valuable input that will assist the drafting group in its work;

4. *Requests* the drafting group to submit a preliminary draft of the study to the Advisory Committee at its thirty-fourth session, taking into account the inputs received from States and other stakeholders and rights holders in response to the questionnaire circulated after the thirty-second session of the Advisory Committee and the discussions held at the present session;

5. *Encourages* stakeholders to continue to contribute to the work already under way.

*7th meeting
21 February 2025*

[Adopted without a vote.]

33/4. Impact of artificial intelligence systems on good governance

The Human Rights Council Advisory Committee,

Recalling Human Rights Council resolution 57/5 of 9 October 2024, in which the Council requested the Advisory Committee to prepare a study on the impact of artificial intelligence systems on good governance, indicating, in particular, the areas in which artificial intelligence systems could contribute to promoting and protecting human rights through good governance and those in which such systems posed a challenge to good governance and human rights, highlighting good practices around the globe on the ways to develop, deploy, use and govern artificial intelligence systems, following a risk-based approach, to promote and protect human rights through good governance and identifying necessary safeguards and to present the study to the Council at its sixty-second session,

Recalling also that, at its thirty-second session, the Advisory Committee established a drafting group, currently composed of Noor Al-Jehani, Miznah Omair Alomair, Joseph Gérard Angoh, Buhm-Suk Baek (Rapporteur), Rabah Boudache, Milena Costas Trascasas, Riva Ganguly Das, Alessandra Devulsky, Jewel Major, Vasilka Sancin (Chair), Patrycja Sasnal, Vassilis Tzevelekos, Frans Viljoen and Yue Zhang,

1. *Notes* that the drafting group and the full Advisory Committee held meetings to discuss the topic at the present session;
2. *Welcomes* the active participation of panellists and States in the discussion and the very rich exchange of views, and notes that the discussion provided valuable input that will assist the drafting group in its work;
3. *Decides* to finalize and disseminate a questionnaire, after the current session, to seek the views of and inputs from stakeholders, including States, United Nations agencies, entities, funds and programmes within their respective mandates, international and regional organizations, the Office of the United Nations High Commissioner for Human Rights, the special procedures of the Human Rights Council, relevant treaty bodies, national human rights institutions, civil society, the private sector, academic institutions, multi-stakeholder initiatives and other relevant stakeholders;
4. *Requests* the drafting group to submit a preliminary draft of the study to the Advisory Committee at its thirty-fourth session, taking into account the discussions held at the current session and the replies to be received to the above-mentioned questionnaire;
5. *Encourages* stakeholders to continue to contribute to the work already under way.

*7th meeting
21 February 2025*

[Adopted as orally revised without a vote.]

33/5. Implications of plastic pollution for the full enjoyment of human rights

The Human Rights Council Advisory Committee,

Recalling Human Rights Council decision 56/117 of 11 July 2024, in which the Council requested the Advisory Committee to prepare a comprehensive study on the implications of plastic pollution for the full enjoyment of human rights, based on a comprehensive approach that addressed the full life cycle of plastic, and to present the study to the Council at its sixty-sixth session,

Recalling also that, at its thirty-second session, the Advisory Committee established a drafting group, currently composed of Joseph Gérard Angoh, Buhm-Suk Baek, Milena Costas Trascasas, Riva Ganguly Das, Alessandra Devulsky, Jewel Major, Javier Palummo (Chair), Vasilka Sancin (Rapporteur), Patrycja Sasnal, Vassilis Tzevelekos, Catherine Van de Heyning, Frans Viljoen and Yue Zhang,

1. *Notes* that the drafting group and the full Advisory Committee held meetings to discuss the topic at the present session, and takes note of the views expressed thereon by States and non-governmental organizations;

2. *Welcomes* the active participation of panellists, States and civil society organizations in the discussion and the very rich exchange of views, and notes that the discussion provided valuable input that will assist the drafting group in its work;

3. *Decides* to take stock of the views and contributions of stakeholders at the present session and to continue its discussions on this mandate;

4. *Encourages* stakeholders to continue to contribute to the work already under way.

*7th meeting
21 February 2025*

[Adopted without a vote.]

33/6. Research proposals and reflection papers

The Human Rights Council Advisory Committee,

Recalling paragraph 77 of the annex to Human Rights Council resolution 5/1 of 18 June 2007 and Council resolution 16/21 of 25 March 2011,

Having considered the research proposal and reflection paper presented by two members of the Advisory Committee at its current session in the context of its discussions on new priorities and potential research proposals to be submitted to the Human Rights Council for its consideration,

1. *Decides* to submit for the consideration of and approval by the Human Rights Council the research proposal entitled “Achieving social justice by enhancing the justiciability of economic, social and cultural rights”;

2. *Also decides* to include, pursuant to rule 17 of the Advisory Committee’s rules of procedure, the concept note for the aforementioned research proposal in an annex to its report on its thirty-third session.

*7th meeting
21 February 2025*

[Adopted without a vote.]

II. Adoption of the agenda and organization of work

A. Opening and duration of the session

1. The Human Rights Council Advisory Committee, established pursuant to Human Rights Council resolution 5/1 of 18 June 2007, held its thirty-third session from 17 to 21 February 2025 at the United Nations Office at Geneva. The Chair of the thirty-second session, Javier Palummo, opened the session.

2. At the 1st meeting, on 17 February 2025, participants observed a minute of silence in memory of victims of human rights violations around the world.

3. At the same meeting, the President of the Human Rights Council, Jürg Lauber, made an opening statement.

4. Also at the same meeting, the Chief of the Human Rights Council Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR) made a statement on behalf of the Secretary-General.

5. At the same meeting, statements were made by representatives of States Members of the United Nations and an observer for an intergovernmental organization (see annex II).

B. Composition of the Advisory Committee

6. The current composition of the Advisory Committee and the term of membership of each expert are as follows:² Noor Al-Jehani (Qatar, 2025); Miznah Omair Alomair (Saudi Arabia, 2027); Joseph Gérard Angoh (Mauritius, 2026); Buhm-Suk Baek (Republic of Korea, 2026); Nadia Amal Bernoussi (Morocco, 2026); Rabah Boudache (Algeria, 2025); Milena Costas Trascasas (Spain, 2025); Riva Ganguly Das (India, 2026); Alessandra Devulsky (Brazil, 2027); Sebastião da Silva Isata (Angola, 2025); Jewel Major (Bahamas, 2026); Javier Palummo (Uruguay, 2025); Vasilka Sancin (Slovenia, 2025); Patrycja Sasnal (Poland, 2026); Vassilis Tzevelekos (Greece, 2027); Catherine Van de Heyning (Belgium, 2026); Frans Viljoen (South Africa, 2027); and Yue Zhang (China, 2025).

C. Attendance

7. The session was attended by all members of the Advisory Committee, with the exception of Sebastião da Silva Isata, who was excused. Representatives of States Members and observer States of the United Nations, observers for intergovernmental organizations, panellists and representatives of non-governmental organizations were also in attendance.

D. Meetings

8. At its thirty-third session, the Advisory Committee held seven plenary meetings and 18 closed meetings. The Committee also exchanged views with members of the Human Rights Council Bureau and regional coordinators.

E. Election of officers

9. In accordance with rule 103 of the rules of procedure of the General Assembly and rule 5 of the rules of procedure of the Advisory Committee, the following officers were elected by acclamation at the 1st meeting of the thirty-third session, held on 17 February 2025:

Chair: Nadia Amal Bernoussi

Vice-Chairs: Patrycja Sasnal

Alessandra Devulsky

Noor Al-Jehani

Rapporteur: Catherine Van de Heyning

F. Adoption of the agenda

10. At its 1st meeting, on 17 February 2025, the Advisory Committee adopted its agenda ([A/HRC/AC/33/1](#)).³

G. Organization of work

11. At its 1st meeting, the Advisory Committee adopted the draft programme of work prepared by the secretariat.

² The year in which the term of membership expires is shown in parentheses.

³ For the list of documents issued for the thirty-third session, see annex I.

III. Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions and currently under consideration by the Committee

A. Impact of disinformation on the enjoyment and realization of human rights

12. At its 2nd meeting, on 17 February 2025, the Advisory Committee held, pursuant to Human Rights Council resolution 55/10, a discussion on the impact of disinformation on the enjoyment and realization of human rights. At the same meeting, Patrycja Sasnal, in her capacity as Co-Rapporteur of the drafting group, presented the outline of a report on the impact of disinformation on the enjoyment and realization of human rights. During the ensuing discussion, statements were made by representatives of States Members of the United Nations and representatives of non-governmental organizations (see annex II).

13. At its 7th meeting, on 21 February 2025, the Chair of the drafting group, Frans Viljoen, introduced a draft text (A/HRC/AC/33/L.2). The draft text was adopted without a vote (for the text as adopted, see sect. I, action 33/2, above).

B. Impact of artificial intelligence systems on good governance

14. At its 3rd meeting, on 18 February 2025, the Advisory Committee held a discussion, pursuant to Human Rights Council resolution 57/5, in which the Council requested the Committee to prepare a study on the impact of artificial intelligence systems on good governance, indicating in particular the areas in which artificial intelligence systems can contribute to promoting and protecting human rights through good governance and those in which such systems pose a challenge to good governance and human rights, highlighting good practices around the globe on the ways to develop, deploy, use and govern artificial intelligence systems, following a risk-based approach, to promote and protect human rights through good governance and identifying necessary safeguards. In that context, a number of panellists made presentations to the Committee: Lihui Xu, Programme Specialist at the Section for Bioethics and the Ethics of Science and Technology, United Nations Educational, Scientific and Cultural Organization (UNESCO); Marko Grobelnik, co-lead at the Artificial Intelligence Lab at Jozef Stefan Institute of Slovenia; and Carly Kind, Privacy Commissioner at the Office of the Australian Information Commissioner. Representatives of the Development and Economic and Social Issues Branch and of the Digital Technologies and Human Rights Section (Thematic Engagement, Special Procedures and Right to Development Division) at OHCHR also gave presentations on the work of the Office on this topic. During the ensuing discussion, statements were made by members of the Committee and representatives of States Members of the United Nations (see annex II). Marko Grobelnik, Lihui Xu and the representatives of OHCHR made concluding remarks.

15. At its 7th meeting, on 21 February 2025, the Chair of the drafting group, Vasilka Sancin, introduced a draft text (A/HRC/AC/33/L.4), with oral revisions to paragraph 2. The draft text was adopted as orally revised without a vote (for the text as adopted, see sect. I, action 33/5, above).

C. Human rights implications of new and emerging technologies in the military domain

16. At its 4th meeting, on 18 February 2025, the Advisory Committee held, pursuant to Human Rights Council resolution 51/22, a discussion on the human rights implications of new and emerging technologies in the military domain, while taking into account ongoing discussions within the United Nations system. At the same meeting, Javier Palummo, in his capacity as Rapporteur of the drafting group, presented the draft report on human rights

implications of new and emerging technologies in the military domain.⁴ During the ensuing discussion, statements were made by members of the Committee and representatives of States Members of the United Nations (see annex II).

17. At its 7th meeting, on 21 February 2025, the Chair of the drafting group, Buhm-Suk Baek, introduced a draft text (A/HRC/AC/33/L.1). The draft text was adopted without a vote (for the text as adopted, see sect. I, action 33/1, above).

D. Implications of plastic pollution for the full enjoyment of human rights

18. At its 5th meeting, on 19 February 2025, the Advisory Committee held, pursuant to Human Rights Council decision 56/117, a discussion on the implications of plastic pollution for the full enjoyment of human rights, based on a comprehensive approach that addresses the full life cycle of plastic. In that context, a number of panellists made presentations to the Committee: the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos A. Orellana (via video statement); Dr. Maria Neira, Director of the Department of Environment, Climate Change and Health at the World Health Organization; Fabienne McLellan, the Managing Director of OceanCare; Daria Cibrario, Senior Policy Officer in charge of the Local and Regional Government sector, Occupational Safety and Health and global research coordination at Public Services International; Charlene Collison, Collaborations Director at BSR and representative of the secretariat of the Fair Circularity Initiative; and Ronald Steenblik, Senior Technical Advisor to the Quaker United Nations Office. The Advisory Committee also heard from affected communities via pre-recorded video prepared by the Break Free From Plastic movement. During the ensuing discussion, statements were made by members of the Committee, representatives of States Members of the United Nations and non-governmental organizations (see annex II). Dr. Maria Neira, Daria Cibrario, Ronald Steenblik, Charlene Collison and Fabienne McLellan made concluding remarks.

19. At its 7th meeting, on 21 February 2025, the Chair of the drafting group, Javier Palummo, introduced a draft text (document not issued in the limited series). The draft text was adopted without a vote (for the text as adopted, see sect. I, action 33/5, above).

E. Technology-facilitated gender-based violence and its impact on women and girls

20. At its 6th meeting, on 19 February 2025, the Advisory Committee held a discussion, pursuant to Human Rights Council resolution 56/19, in which the Council requested the Committee to prepare a study on technology-facilitated gender-based violence and its impact on women and girls, including by developing a better understanding of the issue, highlighting good practices around the globe in tackling gender-based violence that occurs through or is amplified by the use of technology and making recommendations on how to address the issue. In that context, a number of panellists made presentations to the Committee: Asia Eaton, Professor of Psychology at Florida International University and Head of Research at Cyber Civil Rights Initiative; Breeze Liu, survivor of child sexual abuse material and deepfake abuse, and founder and Chief Executive Officer of Alecto AI; Andrea Powell, Director of advocacy at Survivors + Tech solving Image-based Sexual Abuse (STISA); Megan O'Brien, Senior Information Management Specialist at the Violence Prevention and Response Unit, International Rescue Committee (video statement); Emilie Page, Head of the Gender-Based Violence Unit at the Office of the United Nations High Commissioner for Refugees (UNHCR); and Isabella Wilkinson, Research Fellow at Chatham House (via video statement). A representative of the B-Tech Project at OHCHR also gave a presentation on the its work related to the subject. During the ensuing discussion, statements were made by members of the Advisory Committee and representatives of States Members of the United

⁴ Available at <https://www.ohchr.org/en/hr-bodies/hrc/advisory-committee/session33/index>.

Nations (see annex II). Asia Eaton, Breeze Liu, Andrea Powell, Emilie Page and the representative of OHCHR made concluding remarks.

21. At its 7th meeting, on 21 February 2025, the Chair of the drafting group, Nadia Amal Bernoussi, introduced a draft text (A/HRC/AC/33/L.3). The draft text was adopted without a vote (for the text as adopted, see sect. I, action 33/3, above).

IV. Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 and of section III of the annex to Council resolution 16/21

A. Review of methods of work

22. On 21 February 2025, in a closed meeting, the Advisory Committee held discussions on its methods of work.

B. Agenda and annual programme of work, including new priorities

23. On 18, 20 and 21 February 2025, the Advisory Committee, in closed meetings, held discussions on new priorities, reflection papers and potential research proposals for the Human Rights Council. In that context, the Committee discussed on 18 and 20 February 2025 a research proposal presented by Frans Viljoen, entitled “Justiciability of economic, social and cultural rights”.

24. On 21 February 2025, in a closed meeting, the Advisory Committee further discussed a revised research proposal, entitled “Achieving social justice by enhancing the justiciability of economic, social and cultural rights”. At the same meeting, the Committee also considered a reflection paper, presented by Vasilka Sancin, entitled “Freedom to live without physical or psychological threat from above”.

25. At the 7th meeting, on 21 February 2025, Frans Viljoen introduced the research proposal entitled “Achieving social justice by enhancing the justiciability of economic, social and cultural rights”. The Advisory Committee decided to submit that research proposal to the Human Rights Council for its consideration and approval (see annex III). At the same meeting, the Chair introduced a draft text (document not issued in the limited series). The draft text was adopted without a vote (for the text as adopted, see sect. I, action 33/6, above).

26. At the same meeting, Vasilka Sancin presented a reflection paper entitled “Freedom to live without physical or psychological threat from above”.

V. Report of the Advisory Committee on its thirty-third session

27. At its 7th meeting, on 21 February 2025, the Rapporteur of the Advisory Committee presented the draft report on the thirty-third session. The Committee adopted the draft report ad referendum and entrusted the Rapporteur with its finalization.

28. Statements were also made by members of the Advisory Committee (see annex II).

29. Also at the same meeting, the Chair made final remarks and declared the thirty-third session of the Advisory Committee closed.

Annex I

Documents issued for the thirty-third session of the Advisory Committee

Documents issued in the general series

| <i>Symbol</i> | <i>Agenda item</i> | |
|-------------------------------|--------------------|--|
| A/HRC/AC/33/1 | 1 | Provisional agenda and annotations |
| A/HRC/AC/33/2 | 5 | Report of the Advisory Committee on its thirty-third session |

Documents issued in the limited series (actions)

| <i>Symbol</i> | <i>Agenda item</i> | |
|-----------------|--------------------|---|
| A/HRC/AC/33/L.1 | 3 (d) | Human rights implications of new and emerging technologies in the military domain |
| A/HRC/AC/33/L.2 | 3 (e) | Impact of disinformation on the enjoyment and realization of human rights |
| A/HRC/AC/33/L.3 | 3 (f) | Technology-facilitated gender-based violence and its impact on women and girls |
| A/HRC/AC/33/L.4 | 3 (h) | Impact of artificial intelligence systems on good governance |

Annex II

List of speakers

| <i>Agenda item</i> | <i>Meeting and date</i> | <i>Speakers</i> |
|---|---------------------------------|--|
| 1. Election of officers | 1st meeting 17 February 2025 | Members: Frans Viljoen, Vasilka Sancin, Javier Palummo, Buhm-Suk Baek and Vassilis Tzevelekos |
| 2. Adoption of the agenda and organization of work | 1st meeting 17 February 2025 | States Members and observer States of the United Nations: Malawi, India and China Observer for an intergovernmental organization: European Union |
| 3. Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions and currently under consideration by the Committee | | |
| (e) Impact of disinformation on the enjoyment and realization of human rights | 2nd meeting 17 February 2025 | Members: Patrycja Sasnal (Co-Rapporteur) States Members and observer States of the United Nations: Ukraine, Poland Non-governmental organizations: Centre for International Environmental Law and Maloca Internationale |
| (h) Impact of artificial intelligence systems on good governance | 3rd meeting 18 February 2025 | Panellists: Lihui Xu, Programme Specialist at the Section for Bioethics and the Ethics of Science and Technology, UNESCO; Marko Grobelnik, Co-lead at the Artificial Intelligence Lab at Jozef Stefan Institute of Slovenia; Carly Kind, Privacy Commissioner at the Office of the Australian Information Commissioner (video statement) Members: Buhm-Suk Baek (Rapporteur), Vasilka Sancin, Joseph Gérard Angoh, Frans Viljoen, Alessandra Devulsky, Vassilis Tzevelekos States Members and observer States of the United Nations: Poland and Malawi |

| <i>Agenda item</i> | <i>Meeting and date</i> | <i>Speakers</i> |
|---|---------------------------------|--|
| (d) Human rights implications of new and emerging technologies in the military domain | 4th meeting 18 February 2025 | Members: Javier Palummo (Rapporteur), Buhm-Suk Baek and Yue Zhang States Members and observer States of the United Nations: Panama and Austria |
| (g) Implications of plastic pollution for the full enjoyment of human rights | 5th meeting 19 February 2025 | Panellists: Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos A. Orellana (via video statement); Dr. Maria Neira, Director of the Department of Environment, Climate Change and Health at WHO; Fabienne McLellan, Managing Director of OceanCare; Daria Cibrario, Senior Policy Officer in charge of the Local and Regional Government sector, Occupational Safety and Health and global research coordination at Public Services International; Charlene Collison, Collaborations Director at BSR and representative of the secretariat of the Fair Circularity Initiative; Ronald Steenblik, Senior Technical Advisor to the Quaker United Nations Office Members: Vasilka Sancin (Rapporteur), Javier Palummo, Patrycja Sasnal, Alessandra Devulsky, Joseph Gérard Angoh, Catherine Van de Heyning States Members and observer States of the United Nations: Panama (also on behalf of Costa Rica, Ecuador and Peru) Non-governmental organizations: Center for International Environmental Law and EarthJustice |
| (f) Technology-facilitated gender-based violence and its impact on women and girls | 6th meeting 19 February 2025 | Panellists: Asia Eaton, Professor of Psychology at Florida International University and Head of Research at Cyber Civil Rights Initiative; Breeze Liu, survivor of child sexual abuse material and deepfake abuse; Andrea Powell, Director of advocacy at Survivors + Tech solving Image-based Sexual Abuse (STISA); Megan O'Brien, Senior Information Management Specialist at the International Rescue Committee (via video statement); Emilie Page, Head of the Gender-Based Violence Unit at UNHCR; Isabella Wilkinson, Research Fellow at Chatham House (video statement) Members: Catherine Van de Heyning (Rapporteur), Alessandra Devulsky, Vasilka Sancin, Riva Ganguly Das, Patrycja Sasnal and Frans Viljoen States Members and observer States of the United Nations: the Plurinational State of Bolivia and Belgium |

| <i>Agenda item</i> | <i>Meeting and date</i> | <i>Speakers</i> |
|---|---------------------------------|---|
| 4. Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 and section III of the annex to Council resolution 16/21 | | |
| (b) Agenda and annual programme of work, including new priorities | 7th meeting 21 February 2025 | Members: Frans Viljoen and Vasilka Sancin |
| 5. Report of the Advisory Committee on its thirty-third session | 7th meeting 21 February 2025 | Members: Buhm-Suk Baek, Frans Viljoen, Vasilka Sancin, Javier Palummo, Catherine Van de Heyning, Patrycja Sasnal, Jewel Major |

Annex III

Research proposal

Achieving social justice by enhancing the justiciability of economic, social and cultural rights

A. Proposal

1. The present paper proposes that the Advisory Committee be requested to prepare a report on the achievement of social justice by enhancing the justiciability of economic, social and cultural rights as a means of assessing the compliance of State parties with the International Covenant on Economic, Social and Cultural Rights. If the present proposal is taken up by the penholder government, and the resolution is tabled and accepted by the Human Rights Council at its fifty-eighth session, the study could be presented to the Council at its sixty-third session.

B. Background

2. While the extent of constitutional recognition of many economic, social and cultural rights, and the capacity of courts in many countries to enforce them, have increased quite markedly, these rights remain largely invisible in the law and institutions of the great majority of States.¹ As much as it is accepted that, in principle, the justiciability of economic, social and cultural rights contributes to identifying gaps in legislation with regard to the realization of these rights and the promotion of social justice, in practice the visibility and enforcement of these rights have remained very limited. Justiciability of these rights would allow government policies to be reviewed for consistency with constitutional principles and obligations under international human rights law, in particular under the International Covenant on Economic, Social and Cultural Rights. Recognizing the full enforceability of all “categories” of rights also reinforces the interdependence, indivisibility and interrelatedness of all human rights.

C. Terminology

3. The term “justiciable” refers to a matter that can be decided upon by judicial means; that a case is suitable for courts to hear and decide on its merits, and provide a remedy. A matter is justiciable within an accountability triangle, comprising a rights holder, a duty bearer and a substantive legal entitlement and reciprocal obligation. Non-compliance by the duty bearer (usually the State) with this obligation generates the possibility of accountability and remedial redress for the rights holder. The justiciability of economic, social and cultural rights aims to achieve and promote social justice through judicial means, as a complement to other means of achieving social justice.² Although justiciability is not a panacea, it can contribute to social justice by placing emphasis on the duty of States, accessible and workable remedies, and accountability.³

4. A distinction can be drawn between direct and indirect justiciability. Direct justiciability takes place when an economic, social or cultural right, such as the right to housing, is explicitly and unequivocally provided for in a legal document (in particular, a treaty or Constitution) as legally enforceable, as in the formulation “everyone has the right

¹ See A/HRC/32/31.

² Roberto Gargarella, Pilar Domingo and Theunis Roux (eds.), *Courts and Social Transformation in New Democracies: An Institutional Voice for the Poor?* (Aldershot/Burlington, Ashgate, 2006).

³ Mila Versteeg, “Can rights combat economic inequality?”, *Harvard Law Review*, vol. 133, No. 6 (April 2017).

to housing”. When the State does not live up to its legally binding commitment, these rights are “applied” (made “enforceable”) through judicial means, leading to a finding of violation of the economic, social or cultural right as such (such as the right to housing). Indirect justiciability is when violations of economic, social and cultural rights (or “economic, social and cultural elements”) are adjudicated on the basis of (or “derived from”) a broad interpretation of the existing canon of civil and political rights, on the understanding that the rights in this canon are “permeated with significant economic and social elements”.⁴ In these instances, the finding of violation is still based on the civil and political right (as broadly interpreted to include, for example, housing). The research will keep this distinction in mind, as well as the inevitable blurring of dividing lines. As part of the study and report, the importance, and relative advantages and disadvantages of these two approaches (direct and indirect justiciability), will also be considered.

5. Although the term “economic, social and cultural rights” is used, there may in some respects be a distinction drawn between “social and economic” (socioeconomic) rights on the one hand, and cultural rights on the other. The narrowing to “socioeconomic” rights is suggested owing to their closer link to the concerns raised around justiciability.⁵ “Cultural” rights, as such, do not as frequently bring into relief the issues raised by justiciability, because they are not inherently associated with resources (and more often, the duty to fulfil). Challenges to justiciability are likely to be more pronounced in respect of the “basic necessities of life” that make material survival possible (in line with the notion of an “adequate standard of living” under article 25 of the Universal Declaration of Human Rights).

D. Developments at the United Nations, regional and domestic levels

6. Disagreements about the justiciability of economic, social and cultural rights have been instrumental in the “division” of the Universal Declaration of Human Rights into two separate treaties: the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of 1966. The consensus at the time was that the rights under the latter Covenant were justiciable, with the Human Rights Committee having the (optional) competence to consider complaints, while rights under the former were considered not justiciable, with only State reporting allowed as the means of monitoring.⁶ It took many years for a sufficient consensus to emerge that made the adoption of a complaint mechanism under the International Covenant on Economic, Social and Cultural Rights possible, in the form of an optional protocol to the Covenant, which was adopted in 2008 and came into force in 2013, when 10 States had become a party to it.⁷

7. Since 2013, however, only 20 additional States have become States Parties, leaving the overwhelming majority of States Parties to the Covenant outside the fold. Over the past five years, only six states have become party to the Optional Protocol.⁸ In short, only 30 of 173 (or 17 per cent) of the States Parties to the Covenant have become a party to the Optional Protocol. Also, a relatively small number of communications (by the end of 2023, a total of 339) have been submitted to the Committee on Economic, Social and Cultural Rights;⁹ of these, only 16 have been finalized, culminating in 13 findings of violations. The communications involve a limited number of countries, and are mostly from Spain, Ecuador, Luxemburg and Italy. Twenty-seven communications were declared inadmissible, 75 were discontinued, and 221 were pending. There thus seems to be a need for renewed attention to

⁴ Aristi Volou, “The Protection of Socio-Economic Rights through the Canon of Civil and Political Rights: A Comparative Perspective”, *Groningen Journal of International Law*, vol. 5, No. 2 (2017).

⁵ Marius Pieterse, “Coming to terms with judicial enforcement of social and economic rights”, *South African Journal on Human Rights*, vol. 20, No. 3 (2004).

⁶ See A/2929, para. 28.

⁷ Arne Vandenberg and Wouter Vandenhoe, “The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: An Ex Ante Assessment of its Effectiveness in Light of the Drafting Process”, *Human Rights Law Review*, vol. 10, No. 2 (2010).

⁸ Armenia, Côte d’Ivoire, Germany, Maldives, Serbia and South Sudan.

⁹ See E/2024/22 E/C.12/2023/3, para. 106.

and impetus towards the justiciability of economic, social and cultural rights under the Covenant.

8. Other treaty bodies provide further examples of justiciable economic, social and cultural rights. In most cases, they are instances of indirect justiciability, as exemplified by the jurisprudence of the Human Rights Committee.¹⁰ However, as some of these treaties also link the right to non-discrimination to economic, social and cultural rights, there are also examples more akin to direct justiciability in the jurisprudence of some treaty bodies: for example, under article 5 (e) (iii) the International Convention on the Elimination of All Forms of Racial Discrimination, States parties undertake to prohibit and eliminate racial discrimination in the enjoyment of “the right to housing”. The Committee on the Elimination of Racial Discrimination held that the cancellation of an approved plan to construct low-cost social housing for Roma inhabitants living in very poor conditions violated their right to equality before the law in the enjoyment of the right to housing.¹¹ Article 12 (2) of the Convention on the Elimination of All Forms of Discrimination against Women provides that State parties must “ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period”. The Committee on the Elimination of Discrimination against Women found a violation of this right due to the State’s failure to take appropriate measures to regulate and monitor private health-care institutions.¹² Articles 24, 26, 27 and 29 of the Convention on the Rights of the Child go further by providing for detailed State obligations in respect of the right to the “highest attainable standard of health”, social security, “standard of living” and education. The Committee on the Rights of the Child has emphasized that economic, social and cultural rights, as well as civil and political rights, must be regarded as justiciable.¹³

9. Generally speaking, economic, social and cultural rights continue to be neglected within the United Nations human rights ecosystem. The universal periodic review mechanism has to date been dominated by concerns for civil and political rights. Attempts within the Office of the United Nations High Commissioner for Human Rights to devote more attention to economic, social and cultural rights are in a nascent stage.

10. At the regional level, uneven advances have been made towards greater justiciability of socioeconomic rights. As the first regional treaty to contain explicitly justiciable economic, social and cultural rights alongside civil and political rights in one legally binding treaty, the African Charter on Human and Peoples’ Rights has contributed to the indivisibility of human rights.¹⁴ At the same time, only a small number of cases filtered through to the African Commission on Human and Peoples’ Rights, and even fewer to the African Court on Human and Peoples’ Rights. Under the European human rights system, a duality exists: socioeconomic rights are justiciable not under the European Convention of Human Rights, but under the European Social Charter, albeit only by way of quasi-judicial adjudication by the European Committee of Social Rights.¹⁵ By the start of 2024, the Committee had “processed” 212 complaints.¹⁶ Despite not being explicitly justiciable under the European Convention, the European Court of Human Rights has indirectly vindicated economic, social and cultural rights through a broad and purposive interpretation of Convention rights, such as the right to

¹⁰ See CCPR/C/29/D/182/1984 and CCPR/C/89/D/1361/2005.

¹¹ CERD/C/66/D/31/2003 and Corr.1.

¹² CEDAW/C/49/D/17/2008.

¹³ General comment No. 5 (2003) on the general measures of implementation of the Convention, para. 24.

¹⁴ See Danwood Chirwa, “African Human Rights System: The Promise of Recent Jurisprudence on Social Rights”, in Malcolm Langford (ed.), *Social and Economic Rights Jurisprudence: Emerging Trends in International and Comparative Law* (Cambridge University Press, 2008).

¹⁵ Initially, State reporting was the only monitoring mechanism under the European Social Charter. The Additional Protocol to the Social Charter that entered into force in 1998 establishing an optional collective complaints procedure, has been ratified by only 16 States (Belgium, Bulgaria, Croatia, Cyprus, Czechia, Finland, France, Greece, Ireland, Italy, Netherlands (Kingdom of the), Norway, Portugal, Slovenia, Spain and Sweden).

¹⁶ See <https://www.coe.int/en/web/european-social-charter/processed-complaints>. The complaints were most frequently submitted against France (52), Italy (34), Greece (21), Portugal (15), Belgium (13) and Finland (13).

life¹⁷ and the guarantee against inhuman treatment.¹⁸ Under the inter-American human rights system, the Inter-American Court of Human Rights for many years negated the justiciability potential of socioeconomic rights in article 26 of the American Convention of Human Rights, opting for an “indirect” approach to justiciability;¹⁹ in more recent years, however, it has found socioeconomic rights to be justiciable on the basis of article 26. Beforehand, the Organization of American States adopted a separate treaty (the Protocol of San Salvador of 1988) containing a wide array of socioeconomic rights, of which however only two are justiciable.²⁰ There is also a lack of scholarly engagement on the justiciability of these rights.²¹

11. At the domestic level, justiciability has gained prominence across the globe; a reliable and comprehensive overview of consolidated information is, however, still not available.²² The general impression is that justiciability is sporadic, inconsistent and ad hoc. There is therefore a need to collate, systematize, analyse and draw lessons from increasingly widespread domestic judicial practices.

E. Challenges to the justiciability of economic, social and cultural rights

12. The justiciability of economic, social and cultural rights, and of “socioeconomic” rights in particular, has been challenged on a number of grounds, including (a) it is not necessary (for example, in social welfare states); (b) decisions on public policy are given to unelected judges, who may meddle in public policy and resource allocation, matters in which they lack expertise; (c) it judicializes public policy, giving the judiciary inordinate power over the executive and legislature, thereby compromising the legitimacy of democratic governance and undermining the principle of the separation of powers; (d) realizing socioeconomic rights is resource dependent: since resources are finite, justiciability is likely to lead to ineffective outcomes; (e) it is conceptually vague, because the content of socioeconomic rights is often indeterminate; and (f) judicialization tends to individualize issues through adjudication; therefore, it is bound to neglect the structural nature of socioeconomic policy and the polycentric effect of single cases.²³

13. Many of the above concerns may be assuaged by focusing on the nature of the obligation (duty) that economic, social and cultural rights – like all other rights – impose on States, namely, the duty to respect, protect and fulfil. Justiciability manifests differently for each of these State duties. In the context of an economic, social and cultural right, such as the right to education, the duty to respect would, for example, require the State not to deprive categories of people of public education based on discriminatory grounds; the duty to protect

¹⁷ *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania*, application No. 47848/08, European Court of Human Rights, 17 July 2014. The Court found a violation of article 2 of the European Convention (right to life) owing to a lack of heating, appropriate food, medical staff and medical resources, including medication, provided for a mentally and physically ill young person in a psychiatric hospital.

¹⁸ See for example *Kalashnikov v Russia* (2003), application No. 47095/99 and *Poltoratskiy v Ukraine* (2004), application No. 38812/97, in which the European Court of Human Rights found that prison conditions – including overcrowding and lack of water – violated article 3 of the European Convention (inhuman treatment or punishment).

¹⁹ Tara J. Melish, “The Inter-American Court of Human Rights: Beyond Progressivity” in M. Langford, ed., *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law* (Cambridge University Press, 2008).

²⁰ Articles 8 (1) (a) (right to form trade unions) and 13 (right to education). See also *Case of Gonzales Lluy et al. v Ecuador*, Preliminary objections merits, reparations and costs, judgment of 1 September 2015, Series C, No. 298.

²¹ See for example Martin Scheinin, “The proposed optional protocol to the Covenant on Economic, Social and Cultural Rights: A Blueprint for UN Human Rights Treaty Body Reform – Without Amending the Existing Treaties”, *Human Rights Law Review*, vol. 6, No. 1.

²² See for example Frans Viljoen, “The justiciability of socio-economic and cultural rights: experience and problems”, in *Human Rights in Education, Science and Culture: Legal Developments and Challenges*, 2007; and Nihal Jayawickrama, *The Judicial Application of Human Rights Law: National, Regional and International Jurisprudence* (Cambridge University Press, 2002)..

²³ Lon Fuller, “The Forms and Limits of Adjudication”, *Harvard Law Review*, vol. 92, No. 2.

would require it to regulate the provision of educational services by non-State actors (such as private schools or universities); and the duty to fulfil would require the State to make basic public education a reality, including by allocating adequate resources for this purpose. While controversies surrounding the justiciability of economic, social and cultural rights often concentrate on the “fulfilment” obligation (also referred to as “positive obligations”), justiciability equally comes into play in respect of the obligations to “respect” and “protect”.

14. Concern for judicial overreach into social and economic policymaking varies according to which State obligation is at stake. The obligations to “respect” and “to protect” give rise to lesser concerns than “fulfilment” obligations. The jurisprudence of the Committee on Economic, Social and Cultural Rights shows that the obligation to “fulfil” is relatively seldom invoked. Such concerns are also allayed by the approach, prescribed by article 8 (4) of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, that the Committee on Economic, Social and Cultural Rights must, when examining communications, “consider the reasonableness of the steps taken by the State party”, bearing in mind that the State party “may adopt a range of possible policy measures for the implementation of the rights set forth in the Covenant”. Judicial and quasi-judicial bodies interpreting economic, social and cultural rights have shown an awareness of the separation of powers, emphasizing their role of assessing the reasonableness of government policies rather than prescribing specific policies.²⁴ In its analysis of the issues, the study will also take into account the potential difference between “immediate” obligations related to the minimum core of economic, social and cultural rights, and “resource-dependent State obligations”.²⁵

F. Aims and outcomes of proposed study

15. Against the background of an emergent but incomplete trend towards the justiciability of economic, social and cultural rights, as exemplified by the entry into force of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights in 2013 and the increase in the number of complaints submitted to and decided by the Committee on Economic, Social and Cultural Rights, the study will comprise:

(a) A global survey of the most salient, illustrative cases, mostly from the highest courts, spanning all United Nations regions, in which courts – and quasi-judicial bodies such as national human rights institutions with an adjudicatory mandate – have been confronted and dealt with claims of justiciable economic, social and cultural rights, encompassing both successful and unsuccessful claims;

(b) The aim, based on the overview of concrete examples, of achieving a better understanding of the challenges experienced by domestic courts and national human rights institutions, examining best practices so as to provide a more complete current picture of the potential of the justiciability of economic, social and cultural rights to serve as a tool to achieve social justice. The study will also investigate the factors that enable the submission of cases claiming violations of justiciable economic, social and cultural rights, and the predictive factors of outcomes in such litigation. The relationship and impact of a State being party to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol thereto on the extent of justiciability of economic, social and cultural rights at the domestic level will also be considered.

²⁴ See for example *Mazibuko v City of Johannesburg*, Constitutional Court of South Africa, paras. 160 – 161.

²⁵ Pierre Thielbörger, “The ‘essence’ of international human rights”, *German Law Journal*, vol. 20, No. 6.

G. Proposed methodology

16. The study proposed will be the first of the Advisory Committee on the justiciability of economic, social and cultural rights.²⁶ In its preparation of the study, the Advisory Committee will draw on and be guided by existing studies within the United Nations ecosystem, for example the general comments of the Committee on Economic, Social and Cultural Rights and the thematic reports of special procedures; relevant scholarly literature; an analysis of case law of national courts (and national human rights institutions) from across the globe; and responses given by States and other interested parties to a questionnaire, which would also specifically target the apex courts of all States Members of the United Nations.

H. Advisory Committee added value

17. With representation from across the five United Nations regions, the Advisory Committee is well placed to undertake such a study, which aims to provide a global picture of the issues involved. As a body of independent global experts, the Committee is also well placed to engage in a survey and assessment of the communications mandate of the Committee on Economic, Social and Cultural Rights, which is a related objective of the study.

²⁶ A proposal entitled “Economic, social and cultural rights on the agenda of international jurisdiction” was prepared by the Advisory Committee in 2017; see A/HRC/AC/21/2, annex III.