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ADMINISTRATION OF JUSTICE, RULE OF LAW AND DEMOCRACY

The universal implementation of international human rights treaties

**Interim report prepared by the Special Rapporteur responsible
for conducting a detailed study of the universal implementation
of international human rights treaties, Emmanuel Decaux***

* The notes are reproduced in the original language.

Summary

In its decision 2004/123, adopted on 21 April 2004, the Commission on Human Rights, “taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/25 of 14 August 2003, decided, without a vote, to approve the decision of the Sub-Commission to appoint Mr. Emmanuel Decaux special rapporteur to conduct a detailed study of the universal implementation of international human rights treaties based on his working paper (E/CN.4/Sub.2/2003/37), the comments made and the discussions that took place at the fifty-fifth session of the Sub-Commission ... The Commission also endorses the request to the Secretary-General to provide the Special Rapporteur with all necessary assistance to enable him to carry out his mandate, inter alia in his contacts with States”.

The aim of the preliminary report submitted in 2004 (E/CN.4/Sub.2/2004/8) was to define the scope of the study, in theoretical and practical terms, and then to formulate working hypotheses in the two main subject areas, namely universal ratification and universal implementation. In its resolution 2004/26, adopted without a vote on 12 August 2004, the Sub-Commission thanked the Special Rapporteur, Mr. Emmanuel Decaux, for his preliminary report (para. 1) and requested the Secretary-General to continue to provide the Special Rapporteur with the necessary assistance to enable him to carry out his mandate, particularly in his contacts with States, national institutions for the promotion and protection of human rights and international governmental and non-governmental organizations, by enabling him to send them a questionnaire at the appropriate time to help in the preparation of his interim report (para. 2).

The interim report submitted this year gives a brief overview of the current situation and an information update supported by statistical annexes. Its main focus, however, is on the question of the universal ratification of the international human rights instruments and on developing the first set of working hypotheses proposed in the preliminary report. The report reviews the annual initiatives within the United Nations to encourage universal participation in the treaties, discusses good practice in this regard in other international organizations and makes suggestions to revive the movement towards universal ratification.

As the question of universal implementation is to be considered in the final report, only methodological aspects of this issue will be addressed at this stage, including the preparation of a questionnaire.

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Introduction

1. In its decision 2004/123, adopted on 21 April 2004, the Commission on Human Rights, “taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2003/25 of 14 August 2003, decided, without a vote, to approve the decision of the Sub-Commission to appoint Mr. Emmanuel Decaux special rapporteur to conduct a detailed study of the universal implementation of international human rights treaties based on his working paper (E/CN.4/Sub.2/2003/37), the comments made and the discussions that took place at the fifty-fifth session of the Sub-Commission ... The Commission also endorses the request to the Secretary-General to provide the Special Rapporteur with all necessary assistance to enable him to carry out his mandate, inter alia in his contacts with States”.
2. The initial aim of working paper E/CN.4/Sub.2/2003/37 was to identify “issues and modalities for the effective universality of international human rights treaties”. The debate that led to the unanimous adoption of Sub-Commission resolution 2003/25 made a useful contribution to broadening the scope of the study, as may be seen from the title of the resolution, which stresses not only “effective universality” but also “the universal implementation” of the relevant instruments. Accordingly, the study must address two indissociable concepts: the international obligations of States under international public law and the effective implementation of these commitments, in both legal and practical terms, at the domestic level. The aim of the mandate expressly given to the Special Rapporteur is therefore to transcend any legal duality in order to take account of the implementation of international commitments, beyond the formal aspects of treaty law, focusing on “universal respect for, and observance of, human rights and fundamental freedoms for all ...”, in accordance with Article 55 of the Charter of the United Nations.
3. The aim of the preliminary report submitted in 2004 (E/CN.4/Sub.2/2004/8) was to define the scope of the study, in theoretical and practical terms, and then to formulate working hypotheses in the two main subject areas, namely universal ratification and universal implementation. In its resolution 2004/26, adopted without a vote on 12 August 2004, the Sub-Commission thanked the Special Rapporteur, Mr. Emmanuel Decaux, for his preliminary report (para. 1) and requested the Secretary-General to continue to provide the Special Rapporteur with the necessary assistance to enable him to carry out his mandate, particularly in his contacts with States, national institutions for the promotion and protection of human rights and international governmental and non-governmental organizations, by enabling him to send them a questionnaire at the appropriate time to help in the preparation of his interim report (para. 2).
4. The interim report submitted this year gives a brief overview of the current situation and updates the information in the initial report. Its main focus, however, is on the question of the universal ratification of the international human rights instruments and on developing the first set of working hypotheses proposed in the preliminary report. As the question of universal implementation is to be considered in the final report, only methodological aspects of this issue will be addressed at this stage.

I. CURRENT SITUATION

5. The past year has seen no major changes in the overall figures presented in 2004.¹ Progress has been steady but slow: while there has been no regression - the Human Rights Committee, in its general comment No. 26, adopted in 1997, emphasized the continuity of obligations under the International Covenant on Civil and Political Rights - the pace of progress has not been significantly quicker, and the goals of the World Conference on Human Rights, like the Millennium Development Goals, remain unmet.

6. In qualitative terms, moreover, scant attention is paid to international law, and even less to international human rights law, in the ongoing debate on reform in the United Nations. The report of the High-level Panel on Threats, Challenges and Change considers human rights only from a functional standpoint, in the course of a critique of the Commission on Human Rights, and not from a legal perspective.² At most, it looks at selected instruments that reflect particular priorities. For example, “the most obscene form taken by organized crime is the traffic in human beings ... Member States should sign and ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and parties to the Protocol should take all necessary steps to effectively implement it” (para. 175). Similarly, “all Member States should sign, ratify and act on all treaties relating to the protection of civilians, such as the Genocide Convention, the Geneva Conventions, the Rome Statute of the International Criminal Court and all refugee conventions” (para. 233).

7. Yet the High-level Panel never defines the nature of these obligations or their place in the human rights system as a whole. Moreover, in his covering note, the Secretary-General is careful to point out that: “The Universal Declaration of Human Rights remains one of the Organization’s greatest achievements. We should be proud of the work of the United Nations in developing international human rights norms and standards.”³ Should one conclude from this that universal participation in the international instruments is seen as merely a matter of time?

A. Progress to date

8. Since the last report, Liberia, Mauritania and Swaziland have ratified three instruments simultaneously: the International Covenant on Civil and Political Rights (154 ratifications as of 1 June 2005), the International Covenant on Economic, Social and Cultural Rights (151 ratifications) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Maldives and the Syrian Arab Republic have also ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (139 ratifications). The Comoros has ratified the International Convention on the Elimination of All Forms of Racial Discrimination (170 ratifications). Kiribati, the Federated States of Micronesia, Swaziland and the United Arab Emirates have ratified the Convention on the Elimination of All Forms of Discrimination against Women (180 ratifications). The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has been ratified by the Libyan Arab Jamahiriya, Timor-Leste and, in 2005, by Algeria, Chile, the Syrian Arab Republic and Turkey (30 ratifications).

9. The Rome Statute of the International Criminal Court has been ratified by Burkina Faso, Burundi, the Congo, Guyana and Liberia and, in 2005, by the Dominican Republic and Kenya

(99 ratifications). The Convention on the Prevention and Punishment of the Crime of Genocide has been ratified by the Comoros (136 ratifications), and the Marshall Islands have ratified the four Geneva Conventions of 1949 (192 ratifications). Japan has ratified the two 1977 Additional Protocols to the Geneva Conventions (162 and 157 ratifications, respectively), and has made the declaration provided for under article 90 of Additional Protocol I, as have Burkina Faso and the Republic of Korea (68 declarations).

10. Particular attention should be paid to signatory States. In 2004, Pakistan signed the International Covenant on Economic, Social and Cultural Rights. The special case of long-standing signatory States to a human rights treaty should be considered in the light of the Vienna Convention on the Law of Treaties.

B. Outstanding problems

11. While there is every reason to welcome new signatures and ratifications, which reflect important developments in a number of States - and not always the smallest States - it has to be acknowledged that the momentum of the 1993 World Conference on Human Rights has been lost. In this regard, the trends in the numbers of States parties to the main human rights instruments are quite revealing (see tables in the addendum to this report, E/CN.4/Sub.2/2005/8/Add.1).

12. For the sake of convenience and readability, the developments described below will focus on those instruments that are endowed with monitoring bodies; these are sometimes referred to as “core” or “basic” instruments, although it must be emphasized that such terminology is rather simplistic, both at the theoretical level, since there is no hierarchy among human rights instruments, and at the practical level, since the treaties that lack any monitoring machinery - “orphan conventions” - are in fact those that most deserve the attention of the international community. This point emerges clearly from the work of the Working Group on Contemporary Forms of Slavery not only on older conventions of vital importance to the struggle against trafficking and slavery, but also on newer instruments such as the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol).

13. With regard to the core instruments, there are 28 States which have not signed or ratified either of the two Covenants that, together with the Universal Declaration of Human Rights, make up the International Bill of Human Rights. They vary greatly in geographical distribution and demographic significance:

(a) African group: Comoros;

(b) Asian group: Bahrain, Bhutan, Brunei Darussalam, Cook Islands, Federated States of Micronesia, Fiji, Indonesia, Kiribati, Malaysia, Maldives, Marshall Islands, Myanmar, Oman, Palau, Papua New Guinea, Qatar, Samoa, Saudi Arabia, Tonga, Tuvalu, United Arab Emirates, Vanuatu;

(c) Latin American group: Antigua and Barbuda, Bahamas, Cuba, Saint Kitts and Nevis, and Saint Lucia.

14. In the absence of any proper inventory compiled in a systematic manner and covering all Member States and all relevant instruments, two tables have been prepared on the basis of a selection comprising the 15 members of the Security Council in 2005, showing dates of ratification or accession (R) or of signature (S) in respect of the seven core instruments (table 1) and the 1949 Geneva Conventions and their two Additional Protocols of 1977, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and the 1998 Rome Statute of the International Criminal Court (ICC) (table 2).

Table 1

Principal human rights commitments: States Members of the Security Council, 2005

	ICCPR	ICESCR	ICERD	CEDAW	CAT	CRC	ICRMW
Algeria	R 1989	R 1989	R 1972	R 1996	R 1989	R 1993	R 2005
Argentina	R 1986	R 1986	R 1968	R 1985	R 1986	R 1990	S 2004
Benin	R 1992	R 1992	R 2001	R 1992	R 1992	R 1990	Non-party
Brazil	R 1992	R 1992	R 1968	R 1984	R 1989	R 1990	Non-party
China	S 1998	R 2001	R 1981	R 1980	R 1988	R 1992	Non-party
Denmark	R 1972	R 1972	R 1971	R 1983	R 1987	R 1991	Non-party
United States of America	R 1992	S 1977	R 1994	S 1980	R 1994	S 1995	Non-party
Russian Federation	R 1973	R 1973	R 1969	R 1981	R 1987	R 1990	Non-party
France	R 1980	R 1980	R 1971	R 1983	R 1986	R 1990	Non-party
Greece	R 1997	R 1985	R 1970	R 1983	R 1988	R 1993	Non-party
Japan	R 1979	R 1979	R 1995	R 1985	R 1999	R 1994	Non-party
Philippines	R 1986	R 1974	R 1967	R 1981	R 1986	R 1990	R 1995
United Republic of Tanzania	R 1976	R 1976	R 1972	R 1985	Non-party	R 1991	Non-party
Romania	R 1974	R 1974	R 1970	R 1982	R 1990	R 1990	Non-party
United Kingdom	R 1976	R 1976	R 1969	R 1986	R 1988	R 1991	Non-party

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economic, Social and Cultural Rights

ICERD: International Convention on the Elimination of All Forms of Racial Discrimination

CEDAW: Convention on the Elimination of All Forms of Discrimination against Women

CAT: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CRC: Convention on the Rights of the Child

ICRMW: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Table 2

**Principal commitments in the areas of humanitarian law and criminal law:
States Members of the Security Council, 2005**

	1949 Geneva Conventions	Protocol I	Protocol II	Genocide	ICC
Algeria	R 1960	R 1989	R 1989	R 1963	S 2000
Argentina	R 1956	R 1986	R 1986	R 1956	R 2001
Benin	R 1961	R 1986	R 1986	Non-party	R 2002
Brazil	R 1957	R 1992	R 1992	R 1952	R 2002
China	R 1956	R 1983	R 1983	R 1983	Non-party
Denmark	R 1951	R 1982	R 1982	R 1951	R 2001
United States of America	R 1955	Non-party	Non-party	R 1988	Non-party
Russian Federation	R 1954	R 1989	R 1989	R 1954	S 2000
France	R 1951	R 2001	R 1984	R 1950	R 2000
Greece	R 1956	R 1989	R 1993	R 1954	R 2002
Japan	R 1953	R 2004	R 2004	Non-party	Non-party
Philippines	R 1952	Non-party	R 1986	R 1950	S 2000
United Republic of Tanzania	R 1962	R 1983	R 1983	R 1984	R 2002
Romania	R 1954	R 1990	R 1990	R 1950	R 2002
United Kingdom	R 1957	R 1998	R 1998	R 1970	R 2001

15. Such objective data may be useful when considering the eligibility of States for membership of the Commission on Human Rights - or a "human rights council" - or indeed as criteria for selecting new permanent members of the Security Council. A broader analysis could be made by extending the selection and showing how the situation with regard to the seven core instruments varies among the 20 most populous States. Once again, the tables in the addendum to this report help to complete the picture:

(a) Egypt, Mexico, the Philippines and Turkey have ratified all seven core instruments;

(b) Bangladesh has ratified six of the instruments and signed the seventh (the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families); Brazil, Ethiopia, France, Germany, Japan, Nigeria and the Russian Federation, have ratified six instruments;

(c) China has ratified five instruments and signed the International Covenant on Civil and Political Rights; India has ratified five and signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Thailand and Viet Nam have ratified five;

(d) Indonesia and the Islamic Republic of Iran have ratified four instruments;

(e) The United States has ratified three instruments and signed three (the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child); Pakistan has ratified three instruments and signed one (the International Covenant on Economic, Social and Cultural Rights).

16. This overview would not be complete without some mention of reservations and interpretative declarations, which have already been the subject of debate in the Sub-Commission on the basis of studies carried out by Ms. Françoise Hampson. This is a complex issue and one which this study will leave aside for the moment, but which it will be necessary to revisit in due course in the light of the latest report of the Special Rapporteur of the International Law Commission on reservations to treaties, who in 2005 addressed the substantive issues surrounding the validity of reservations that are incompatible with the object and purpose of treaties.⁴ At the procedural level, Mr. Alain Pellet, the Special Rapporteur in question, has previously introduced the interesting idea of a “reservations dialogue”, the aim of which is to go beyond the status quo and prompt States to review the appropriateness of their reservations.⁵ The debate moves on to an entirely different level, however, if the question becomes the permissibility of a given reservation under the treaty itself or under international law in general. These recent developments should be taken into account by the Commission on Human Rights in its standard-setting work, notably by the automatic insertion in treaties, at the preparatory stage, of a clause on reservations laying down strict criteria for validity and empowering the monitoring body to enter into a “reservations dialogue” and rule on the validity of States parties’ reservations.

II. MOVEMENT TOWARDS UNIVERSAL RATIFICATION

A. Review of United Nations initiatives

1. The Secretary-General’s annual appeal

17. Since the World Conference on Human Rights and the Millennium Summit, the Secretary-General has pursued a proactive policy towards ratification. The 60th anniversary of the United Nations provides a fresh opportunity for renewed efforts to raise the international community’s awareness of this issue of principle. The annual call for ratification, published under the title *Multilateral Treaty Framework: An Invitation to Universal Participation* takes as its focus in 2005 “Responding to Global Challenges”. In his covering letter of 14 March 2005, the Secretary-General refers to the high-level plenary meeting to be held on 14 September 2005, which “will provide a distinct opportunity for States to demonstrate their continuing commitment to the central role of the rule of law in international relations by participating in the annual treaty event of the United Nations”. He goes on: “This year, consistent with the focus of the report of the High-level Panel on Threats, Challenges and Change, the treaty event will highlight treaties reflecting a broad range of interconnected concerns: ranging from terrorism to organized crime and corruption, from human rights to those addressing environmental and disarmament issues.” He also recalls that these “treaties also reflect the international

community's efforts over 60 years to build a multilateral framework of agreed rules not only to govern inter-State relations but also to strengthen the legal environment in which individuals live and businesses operate".⁶

18. While one can only welcome the inclusion of human rights in this global approach, there is no escaping the fact that they are somewhat marginalized; they are merely one concern among many others of equal importance to the United Nations. The focus on catch-all topics, year after year, lends the exercise an air of routine - one has only to look at the themes of recent years: "Rights of women and children" (2001), "Sustainable development" (2002), "Treaties against transnational organized crime and terrorism" (2003) and "Treaties on the protection of civilians" (2004). Naturally, some reference is made to human rights each year, but always by a different name and in a different light. What is more, the human rights instruments never appear as a bloc or a coherent whole, but rather as random items on a "shopping list".

19. The 2005 edition refers to the "core group of multilateral treaties" corresponding to the theme for the year, and gives the status of 32 instruments. The list starts with nine treaties, under the heading "Human rights", and then lists separately the two treaties on the status of refugees; this is followed by "Penal matters", which are, curiously, treated as distinct from "Organized crime and corruption". Moreover, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide is listed under "Human rights", while the Rome Statute of the International Criminal Court comes under "Penal matters". Yet it is the choices made under "Human rights" that some may find surprising: the list starts with the two Covenants and the 1966 Optional Protocol to the International Covenant on Civil and Political Rights, but omits the Second Optional Protocol, on the death penalty. It also leaves out some of the more successful treaties, such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women, concentrating instead on the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its 2002 protocol, the two protocols to the Convention on the Rights of the Child - although no reference is made to the 1989 Convention itself, as if it was a lost cause - and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁷

20. It is also worth looking at the way in which the status of the selected treaties is presented, using a mix of factual information from the Office of Legal Affairs and value judgements. For example, we read that the International Covenant on Economic, Social and Cultural Rights "provides the most important international legal framework for protecting basic human rights", and that the International Covenant on Civil and Political Rights "is a landmark in the efforts of the international community to promote human rights". This modest claim, which refers only to promotion, is more than made up for by the description of the work of the Human Rights Committee: "The Committee's final decisions on the merits are akin to judgements, but are called 'Views'".⁸

21. The foreword by the Secretary-General provides a timely reminder that "wider participation in these treaties would help advance development, security and human rights" and draws particular attention to "all treaties relating to the protection of civilians, who are the prime

casualties when the global standards incorporated in these treaties are ignored". He places particular emphasis on the fact that "States, individuals, organizations and business entities undertake untold numbers of day-to-day activities on the basis of these norms. However, in crucial areas, we suffer from selective or incomplete implementation - and sometimes, no implementation at all".⁹

22. In the absence of any detailed, publicly-available progress report,¹⁰ it is necessary to consult the Secretary-General's annual report on the work of the Organization, which has for several years included a chapter entitled "International legal order and human rights". In his 2004 report, the Secretary-General strikes an optimistic note: "It is heartening to note that the number of ratifications of international human rights treaties has continued to increase, moving us closer to achieving one of the goals of the United Nations Millennium Declaration. I would like to make a special reference to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ... and hope that States Members of the United Nations will make every possible effort to accede to or ratify this important instrument, as well as all other fundamental international human rights treaties."¹¹ This report, unlike the previous year's, gives no figures.¹²

2. The role of the Commission on Human Rights

23. Whereas the Secretary-General's mandate as depositary is by definition a very broad one, the Commission on Human Rights might be expected to take a more focused approach. Yet it adopts identical resolutions year after year, with no overarching vision or clear objective. The same lack of clarity as to the means mobilized and the same lack of any specific evaluation of the results obtained beyond the statistical data can be seen in the various technical documents submitted to the Commission.

24. To be sure, the Commission's agenda traditionally includes item 17 (a), on the status of the international covenants on human rights, but the report requested each year from the Secretary-General boils down to a purely technical note by the Secretariat (E/CN.4/2005/95), while the annotated provisional agenda merely directs the reader to the web sites of the Treaty Section and the Office of the United Nations High Commissioner for Human Rights (E/CN.4/2005/1/Add.1, para. 244). Under agenda item 11, on civil and political rights, sub-item (a) deals with torture; once again an annual report is requested from the Secretary-General and this, too, takes the form of a brief note (E/CN.4/2005/53). Item 6, on racism, makes no specific reference to the International Convention on the Elimination of All Forms of Racial Discrimination, even though the Convention is mentioned in the general resolution on follow-up to the Durban Declaration; on the other hand, item 13, on the rights of the child, refers to "a report on the rights of the child, with information on the status of the Convention on the Rights of the Child", submitted by the Secretary-General (E/CN.4/2005/73). Similarly, item 14 (a), on migrant workers, refers to a report "on the status of the Convention and on the efforts made by the Secretariat to promote the Convention and the protection of the rights of migrant workers". Lastly, every year, under agenda item 18 (a), an invitation is extended to the chairpersons of the seven treaty bodies (decision 2005/101) but, session after session,

Commission resolutions merely make a ritual request for reports on the status of the various instruments, without raising a single point for discussion or developing any kind of overall vision.

(a) Resolutions of the Commission on Human Rights

25. The language of Commission resolutions can at times be rather vague, as illustrated by resolution 2004/69, entitled “Status of the International Covenants on Human Rights”, which was adopted without a vote after various amendments had weakened its effect (see E/CN.4/Sub.2/2004/8, para. 21). While the resolution on the status of the Covenants is adopted every two years, the one on the question of the realization in all countries of economic, social and cultural rights arises annually. Resolution 2005/22 “recalls the entry into force of the Optional Protocols to the Convention on the Rights of the Child ..., of the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) and of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and calls upon all States to consider signing and ratifying these instruments and upon the States parties to implement them fully” (para. 2); “calls upon all States ... to consider signing and ratifying, and the States parties to implement, the International Covenant on Economic, Social and Cultural Rights” (para. 10); and “calls upon the States parties to the International Covenant on Economic, Social and Cultural Rights ... to withdraw reservations incompatible with the object and purpose of the Covenant and to consider reviewing other reservations with a view to withdrawing them” (para. 11).

26. The tone is firmer in resolution 2005/39, which “urges all States to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment *as a matter of priority*” (emphasis added, here and below) and “invites all States ratifying or acceding to the Convention and those States parties that have not yet done so to make the declarations provided for in articles 21 and 22 of the Convention ...”. The resolution also “calls upon all States to ensure that no reservation is incompatible with the object and purpose of the Convention and encourages States parties to consider limiting the extent of any reservations they lodge to the Convention, to formulate any reservations as precisely and narrowly as possible and to review regularly any reservations made in respect of the provisions of the Convention, with a view to withdrawing them”. Resolution 2005/64 adopts a tone of even greater urgency, reiterating, rather ineffectually, the call made by the Durban Conference “to achieve universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination by 2005 and for all States to consider making the declaration envisaged under article 14 of the Convention, and expresses grave concern that with 170 ratifications and only 45 declarations, the deadline for universal ratification decided by the Conference has regrettably not been realized”. The same aim is expressed in resolution 2005/41, which “reaffirms [States’] commitment to accelerate the achievement of universal ratification of the Convention [on the Elimination of All Forms of Discrimination against Women], and urges all States that have not yet ratified or acceded to the Convention, to consider doing so, *as a matter of priority*”.

27. The Commission on Human Rights also manages to convey a sense of urgency when dealing with individual States. Resolution 2005/10, for example, calls upon Myanmar “to consider *as a matter of high priority* becoming party to all relevant instruments of international human rights law and international humanitarian law”. Similarly, in respect of the Democratic People’s Republic of Korea, the Government is expected to take action “by ratifying human rights instruments to which the Democratic People’s Republic of Korea is not yet a party, in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination ...” and “considering *as a matter of priority* joining the International Labour Organization and becoming a party to the International Labour Organization Convention concerning Forced or Compulsory Labour, 1930 (No. 29) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182)” (resolution 2005/11). In the case of Somalia, a specific request is made for ratification of the Convention on the Rights of the Child (resolution 2005/83). In other cases the Commission prefers to adopt a positive approach, taking note of recent ratifications (Burundi, in resolution 2005/75) or insisting on the effective fulfilment of obligations (Democratic Republic of the Congo, in resolution 2005/85).

28. A count should be made of the number of direct references by the Commission either to international treaties or, more rarely, to regional instruments such as the African Charter on the Rights and Welfare of the Child (resolution 2005/43).¹³ The resolutions adopted at the Commission’s sixty-first session referred to the following instruments, ratification of which is recommended more or less insistently:

The Hague Convention IV of 1907: resolution 2005/46;

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide: resolution 2005/62;

The 1951 Convention relating to the Status of Refugees and its 1967 Protocol: resolutions 2005/38, 44, 46 and 48;

The 1963 Vienna Convention on Consular Relations: resolution 2005/47;

The International Convention on the Elimination of All Forms of Racial Discrimination: resolution 2005/25;

The International Covenant on Civil and Political Rights: resolution 2005/34;

The Second Optional Protocol to the International Covenant on Civil and Political Rights: resolution 2005/59;

The Convention on the Elimination of All Forms of Discrimination against Women: resolutions 2005/25 and 41;

The 1973 International Labour Organization (ILO) Convention (No. 138) concerning Minimum Age for Admission to Employment: resolution 2005/44;

The 1989 ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries: resolution 2005/51;

The 1999 ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour: resolutions 2005/22 and 44;

The Convention on the Rights of the Child and its two Optional Protocols: resolutions 2005/22, 43 and 44;

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: resolutions 2005/47 and 64;

The 1998 Rome Statute of the International Criminal Court: resolutions 2005/34, 41 and 81;

The United Nations Convention against Transnational Organized Crime: resolutions 2005/47 and 68;

The two protocols supplementing the United Nations Convention against Transnational Organized Crime - the Protocol against the Smuggling of Migrants by Land, Air and Sea (resolution 2005/47) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (resolutions 2005/44 and 47);

The United Nations Convention against Corruption: resolution 2005/68.

(b) Recommendations by subsidiary bodies

29. Action by the Commission on Human Rights would be more consistent if it took full account of the recommendations of special rapporteurs in respect of ratification. Many special rapporteurs make specific recommendations to countries in the matter of ratification, particularly after field missions. It is therefore unfortunate that the document containing the compilation of the conclusions and recommendations of special procedures (E/CN.4/2005/108) submitted by the Secretary-General under agenda item 18, entitled "Effective functioning of human rights mechanisms", and pursuant to resolution 2004/76, is not more widely known and used. Yet even with such a tool, technical constraints still make it difficult to obtain an overall view, for "in view of United Nations rules prohibiting the republication of material that has already been issued for general distribution, it has been decided to compile in the annex to this report the references to the pertinent chapters containing the conclusions and recommendations of the annual reports submitted to the Commission on Human Rights at its sixty-first session by special procedures" (para. 4). At the same time, the analytical framework applied to all States itself entails a good deal of repetition, which runs counter to the very principle of economy just invoked. Despite this lack of consistency and readability, this document of more than 200 pages continues to prove particularly useful.

30. In some cases, where the States concerned have little to do with the human rights treaty system, there are many recommendations. For example, the Special Representative of the Secretary-General on the situation of human rights defenders recommends that Angola should

ratify the International Convention on the Elimination of All Forms of Racial Discrimination, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the ILO Worst Forms of Child Labour Convention (No. 182) and the Rome Statute, and also submit its reports under the two Covenants.¹⁴ In her report on the situation of human rights in Cuba, the Personal Representative of the High Commissioner for Human Rights recommends that Cuba should accede “to the International Covenant on Civil and Political Rights and its Optional Protocols and the International Covenant on Economic, Social and Cultural Rights”.¹⁵ The Special Rapporteur on the situation of human rights in Myanmar considers that “priority should ... be given to the ratification of the core human rights instruments, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocols, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Optional Protocols to the Convention on the Rights of the Child”.¹⁶ The same list, *mutatis mutandis*, is presented by the independent expert on the situation of human rights in the Sudan, with the addition of the Convention on the Elimination of All Forms of Discrimination against Women and the Rome Statute of the International Criminal Court.¹⁷

31. In other cases, the experts stress the need to fulfil existing obligations. According to the Special Representative of the Secretary-General for human rights in Cambodia, “the Government should ensure that Cambodia meets its obligations under the international human rights treaties to which it is a party and implement the recommendations made by the international treaty bodies”. He goes on to say that Cambodia should ratify the Optional Protocol to the International Covenant on Civil and Political Rights, which it signed on 27 September 2004, and become a party to the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the United Nations Convention against Corruption.¹⁸ The Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea states that the country should “abide by international human rights standards, including the four human rights treaties to which it is a party, follow up the recommendations of the monitoring committees set up by these treaties, and accede to and implement other relevant treaties”.¹⁹

32. In some cases the focus is on a single instrument. Following her country visits, the Special Rapporteur on the human rights of migrants requests the Islamic Republic of Iran and Italy alike to ratify the relevant Convention.²⁰ The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, writing on Côte d’Ivoire, “endorses the recommendation made, *inter alia*, in the High Commissioner’s report to the Security Council (S/2003/90), that the Government give urgent consideration to the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families”,²¹ while the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance requests Côte d’Ivoire to give a “high priority” to ratification of that Convention.²² The Special Rapporteur on the situation of human rights in Belarus recommends ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights.²³

33. More rarely, the recommendation is couched in positive terms. Thus the Working Group on Arbitrary Detention, following a visit to China, “expresses its deep satisfaction that China has signed the International Covenant on Civil and Political Rights and that preparations are being made for the ratification of the Covenant. The Working Group is confident that as a result, the requirements of international law pertaining to deprivation of liberty will be better reflected in the Chinese legal system”.²⁴ The Special Rapporteur on the right to health notes that Mozambique, while it has assumed many international obligations in the area of health, has not ratified the International Covenant on Economic, Social and Cultural Rights, and urges it to do so as soon as possible.²⁵ The Special Rapporteur on the independence of judges and lawyers, following his visit to Kazakhstan, “welcomes steps taken by Kazakhstan since 1991 to accede to a number of international human rights instruments, especially the signature of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and urges the authorities to ensure their prompt ratification, without reservations, including accession to the Optional Protocol [to] the International Covenant on Civil and Political Rights ... he urges the authorities to consider similar steps with regard to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. He further urges them to consider similar steps with regard to the Optional Protocol to the Convention against Torture”.²⁶

B. Good practice in respect of universal participation

34. It is regrettable to see the fragmentation and loss of impetus that has beset the movement towards universal participation that was launched in 1993, and the collective lack of will on the part of the States concerned, despite the many efforts described above to revive the vision of the Vienna Programme of Action. In the context of the debate on the reform of the United Nations - and particularly on human rights, the creation of a human rights council and the strengthening of the role of the Office of the United Nations High Commissioner for Human Rights - it is worth recalling that: “The World Conference on Human Rights strongly recommends that a concerted effort be made to encourage and facilitate the ratification of and accession or succession to international human rights treaties and protocols adopted within the framework of the United Nations system with the aim of universal acceptance. The Secretary-General, in consultation with treaty bodies, should consider opening a dialogue with States not having acceded to these human rights treaties, in order to identify obstacles and to seek ways of overcoming them.”²⁷ It is essential to identify good practice if international momentum in this regard is to be regained.

1. The International Labour Organization model

35. The most persuasive model is that of the ILO, which publishes a “List of ratifications by Convention and Protocol” in an annual report to the International Labour Conference.²⁸ A systematic approach is taken; all 7,087 ratifications are reported regardless of the relative importance of the 185 conventions listed. However, the figures given in the country profiles have the virtue of simplicity and show at a glance the degree of commitment of each State. The country situations show a marked diversity: 97 conventions are in force in France, 92 in Italy, 68 in Germany, 66 in the United Kingdom, 51 in the Russian Federation, 39 in Japan, 28 in Canada, 20 in China and 12 in the United States.

36. The country profiles give three other sets of useful information: the reports requested on the application of the conventions, the comments made by the Committee of Experts during 2003 and compliance with the obligation to submit instruments adopted by the Conference to the competent authorities. Thus it can be seen that, for the past six years - with the exception of 1999, when the Worst Forms of Child Labour Convention (No. 182) was adopted - France has failed to comply with its procedural obligation under article 19 of the ILO Constitution to submit new international treaties to parliament, whereas Italy, the United States and the United Kingdom are scrupulous in their compliance with this requirement.

37. The report of the Committee of Experts on the application of conventions and recommendations highlights the very real value of this procedure: "The discussions in the Conference Committee have shown that the obligation of submission reinforces the relations between the Organization and the competent authorities and stimulates the ratification of Conventions and tripartite dialogue at the national level. The Worker members and the Employer members of the Conference Committee have emphasized that the submission to national parliaments, as required by article 19 of the Constitution of the ILO, should be a matter of course in a democratic State." It explains that the process "ensures that the instruments are widely disseminated among the public, which is one of the purposes of the obligation of submission".²⁹ In addition, also under article 19, member States have an "obligation to report at intervals on measures taken to give effect to the provisions of non-ratified Conventions and Recommendations". Their reports concerning a specific instrument, determined by the Governing Body, serve as a basis for the "General Survey, in which the Committee of Experts examines the application of ILO standards, ratified or not ratified, in a particular subject area."

38. On matters relating to human rights in particular, the 2004 report recalls that: "The Governing Body decided, at its March-April 1995 session, to collect information on the ratification situation of the ILO Conventions dealing with fundamental human rights (Conventions Nos. 29 and 105, 87 and 98, 100 and 111, and 138 and 182, the last having been added after its adoption in 1999) and, at its subsequent sessions, examined reports collating the replies of member States to the Director-General's letter calling for their universal ratification. The Governing Body has also examined reports of the Office's assistance to the member States for the ratification and application of these instruments."³⁰ The figures provided testify to the success of this initiative to promote these eight "fundamental conventions".

39. Many other examples could be provided from the various international and regional organizations, as well as from the work of NGOs and other international bodies. Mention could be made of the work of the Organization for Security and Cooperation in Europe (OSCE), which publishes an annual survey of the death penalty drawing attention to those States that have not ratified the treaties abolishing capital punishment and, more recently, providing a comprehensive table of States parties and non-parties to conventions on terrorism. The Council of Europe also maintains such lists, which include telling details on States' acceptance or non-acceptance of optional provisions such as the European Social Charter. The Council also asks members in turn to specify their States' plans for signature and ratification within a set time frame, and the Directorate General of Legal Affairs holds regular seminars in the capitals to familiarize

ministers with the main European instruments. The International Organization of La Francophonie has set up a human rights and democracy watchdog with a web site that monitors French-speaking countries' obligations under international human rights instruments by reviewing reports, communications and conclusions.

2. The need for a new spirit of determination

40. The absence of any proper review of the situation, such as might have been provided by a "Vienna + 10" conference, which never materialized, calls for a new spirit of determination. The drive for transparency must become a drive for consistency. This will require not only a concentration of hitherto disparate efforts and initiatives, in a spirit of cooperation on the part of all concerned, but also constant follow-up and evaluation. All too often, the lack of real insight into situations, resulting partly from the compartmentalization of information and partly from over-specialization within the relevant bodies, facilitates misrepresentation. An overall view is a *sine qua non* for genuine accountability in respect of States' international human rights commitments.

41. Even in the absence of a statutory framework such as that provided by article 19 of the ILO Constitution, the Office of the United Nations High Commissioner for Human Rights has a major part to play in this regard. Already, according to the formula reiterated in resolution 2004/69, the Commission on Human Rights "invites the United Nations High Commissioner for Human Rights to intensify systematic efforts to encourage States to become parties to the International Covenants on Human Rights and, through the programme of technical cooperation and advisory services in the field of human rights, to assist such States, at their request, in ratifying or acceding to the Covenants and to the Optional Protocols to the International Covenant on Civil and Political Rights with a view to achieving universal adherence".

42. In the same vein, Philip Alston also advocated four measures aimed at universal ratification: "(a) consultations with the leading international agencies to explore their potential involvement in a ratification campaign ... (b) the appointment of special advisers on ratification and reporting and the earmarking of funds for those purposes ... (c) special measures should be explored to streamline the reporting process for States with small populations ... and (d) particular attention should be paid to other substantial categories of non-parties."³¹

43. The debates on reform in the United Nations now make it necessary to further develop the thinking on universal acceptance of the international human rights instruments. In the first place, the question of rationalizing the reporting system has highlighted the excessive burden placed on States parties, and there is a danger that States with limited resources might be put off ratifying more instruments. This would affect not just the treaties endowed with a monitoring body but the entire collection of human rights instruments, and it is precisely the overall level of commitment that must be considered in any new "peer review" system. In this sense, while it may appear arbitrary to set quantitative ratification requirements for election to closed bodies, it is nonetheless true that a State should demonstrate its unequivocal

adherence to human rights principles and standards if it wishes to join a body that is charged with enforcing them. This is why, with a period of uncertainty looming, priority must be given to the reinforcement of the mainstay of the system, namely, international obligations, which should form the basis of the annual report the High Commissioner would be expected to produce.

44. In the absence of any radical reforms, which would require amendments to the Charter of the United Nations, certain concrete measures can be taken immediately. The treaty bodies have by definition few direct channels to States non-parties, but they can play an important role in informing and raising awareness among States parties, particularly with regard to acceptance of optional procedures, reviews of reservations and ratification of new protocols. The way this dialogue has gradually developed beyond the sphere of the “contract” entered into by the State party should also offer some useful lessons in good practice. Even so, the treaty bodies, where such exist, have a doubly restricted view. In the first place, despite recent attempts to coordinate and technical progress in information-gathering, they operate in a compartmentalized fashion. A State that has ratified all the instruments may consistently default on every one of its reports, yet this global lack of compliance may fail to attract sufficient attention to sound the alarm. Secondly, the committees’ documentation, like that of the Secretariat, as mentioned above, gives a purely “positive” picture of treaty ratification status, which makes the overall situation difficult to decipher; a “negative” image that shows the hidden reality would be far more telling as it would highlight the necessary political priorities.

45. While the treaty bodies may not be best placed to work with States non-parties, the Sub-Commission, as a subsidiary body of the Commission on Human Rights, could play a useful role in sensitizing such States, by studying the legal, political, economic and cultural obstacles hindering universal ratification. The immediate need for systematic follow-up could be met by reviving the Sub-Commission’s working group, which functioned from 1979 to 1984, and giving it not only a role as an intermediary between the treaty bodies and States non-parties, but also a more structured mission in respect of the “orphan conventions”, that is, those conventions that have been abandoned despite their importance. In the medium term it would also be necessary to look at the consequences of universal ratification, not only at the theoretical level, by clarifying the hierarchy of the source texts, as was done for the dual nature of humanitarian law, but also in practical terms, in the sense of a rationalization of the entire treaty system.

46. Any such initiative would depend from the outset on a policy of transparency among Member States. The objective listings could be accompanied by information campaigns in the countries concerned and exchanges with the national human rights institutions and NGOs. At the same time, ratification of the instruments in question could be encouraged through regional or thematic round tables attended by independent experts from the various treaty bodies. It would also be necessary to make technical assistance available to facilitate compliance with the obligations undertaken. This proactive approach would need to be supported by intensified monitoring, however. The Commission on Human Rights special rapporteurs, for example, could seek ways of systematically identifying practical difficulties and technical obstacles, either as part of their individual mandates or in a cross-cutting fashion through a Sub-Commission working group, regardless of States’ status in respect of the instruments in question.

III. THE QUESTION OF UNIVERSAL IMPLEMENTATION

47. And so we come to the fundamental question: positive action to promote universal and total ratification will be meaningless if it does not result in the effective implementation of the obligations undertaken by States. At this stage of the study, discussion will be confined to the presentation of a number of working hypotheses. At the domestic level, States will need to consider means of implementing instruments by incorporating them into domestic law and ensuring their opposability and justiciability. In addition to the effective application of international conventions by the domestic courts, it will also be necessary to envisage a role for non-litigious mechanisms, particularly national human rights institutions, which can play an intermediate role in facilitating implementation at the international level, through their work on compliance, report preparation and follow-up and international cooperation. NGOs, too, have an indispensable part to play in monitoring and lobbying.

48. Once the legal transposition of instruments has become a reality, their effective implementation involves considerable work in the area of information and training. The publication of universal treaties - and their translation into national languages - must take place concurrently with campaigns to raise public awareness. If not transmitted by these means to all levels of society, the instruments are liable to remain theoretical and remote, having no bearing on people's daily life. It is not only on the legal playing field that the universal implementation of international human rights instruments has its place. An investigation of the historical, cultural, sociological, economic and other obstacles to the full implementation of universal treaties would be outside the limits of this study, but the extralegal dimension should nevertheless not be neglected.

49. The Special Rapporteur welcomes Commission decision 2004/123, which "endorses the request to the Secretary-General to provide the Special Rapporteur with all necessary assistance to enable him to carry out his mandate, inter alia in his contacts with States". He did not employ the questionnaire technique for his first two reports, considering it more important to establish the scope and approach of the study, but it would now be a useful means of establishing contact with States as such, either directly through government channels, or indirectly through the network of human rights institutions. In view of the time frame required by such a procedure, the Special Rapporteur would like, with the active support of the Secretariat, to embark upon this next stage by the end of the year, to enable the information received in timely fashion to be used in drafting his final report.

50. This study should take into account the parallel efforts being undertaken to improve the human rights treaty system, including within the International Law Commission, and more broadly speaking the debate on reform of the United Nations system. It should also be carried out in close cooperation with all the interested parties. In this regard, it might be useful to convene a seminar with support from interested States and NGOs along with the national institutions directly concerned, with a view to creating a "grid" for use in organizing dialogue with the States concerning the ratification of universal treaties. Another useful aspect would be to take account of the specific contribution of regional organizations to the ratification and effective implementation of universal treaties through consultation and cooperation between Member States, by undertaking a more systematic review of good practice.

Notes

- ¹ Voir les tableaux établis pour l'additif (E/CN.4/Sub.2/2005/8/Add.1) au présent rapport. À compléter, pour une vue d'ensemble, par «Instruments internationaux relatifs aux droits de l'homme, classification et état des ratifications au 1^{er} janvier 2005», par Jean-Bernard Marie, Centre national de la recherche scientifique (CNRS), à paraître dans la *Revue universelle des droits de l'homme*.
- ² «Un monde plus sûr: notre affaire à tous», A/59/565, 2 décembre 2004.
- ³ Ibid., par. 15. Voir aussi le rapport du Secrétaire général, «Dans une liberté plus grande», A/59/2005, 24 mars 2005, notamment par. 140 et suiv.
- ⁴ A/CN.4/558/Add.1.
- ⁵ Voir A/CN.4/535/Add.1.
- ⁶ *Traités multilatéraux: pour une participation universelle – Thème 2005: Faire face aux défis mondiaux*, Nations Unies, p. vii et suiv. (voir aussi <http://untreaty.un.org>).
- ⁷ Il est bien sûr précisé que les États peuvent signer ou ratifier à cette occasion tout autre instrument parmi les 500 traités multilatéraux dont le Secrétaire général est dépositaire (voir *Traités multilatéraux déposés auprès du Secrétaire général: état au 31 décembre 2004*, ST/LEG/SER.E/23). La liste des traités figurant sous la rubrique «Droits de l'homme» comporte 14 entrées, mais les protocoles à certaines conventions figurent sous la rubrique principale, ce qui fait 18 instruments. Il faudrait y ajouter certains instruments relatifs à la traite des êtres humains et aux questions pénales.
- ⁸ *Traités multilatéraux: pour une participation universelle* (voir supra note 6), p. 3, 7 et 11.
- ⁹ Ibid., p. xiii.
- ¹⁰ Il faut déplorer l'accès restreint à la banque de données de la Section des traités, à l'encontre de l'esprit et de la lettre de l'Article 102 de la Charte des Nations Unies, comme l'avait fait avec vigueur la Sous-Commission dans sa résolution 2003/31, sect. B.
- ¹¹ A/59/1, par. 199.
- ¹² A/58/1, par. 169. Voir rapport préliminaire E/CN.4/Sub.2/2004/8, par. 17.
- ¹³ Même en laissant de côté les nombreuses mentions figurant dans le préambule d'une résolution, il est parfois difficile de distinguer ce qui concerne l'interprétation ou l'application d'une convention de ce qui vise la ratification universelle proprement dite.
- ¹⁴ E/CN.4/2005/101/Add.2, par. 104.
- ¹⁵ E/CN.4/2005/33, par. 36.

¹⁶ E/CN.4/2005/36, par. 63.

¹⁷ E/CN.4/2005/11, par. 72.

¹⁸ E/CN.4/2005/116, par. 103 et suiv.

¹⁹ E/CN.4/2005/34, par. 68.

²⁰ E/CN.4/2005/85/Add.2, par. 68 et Add.3, par. 95.

²¹ E/CN.4/2005/64/Add.2, par. 72.

²² E/CN.4/2005/18/Add.3, par. 66.

²³ E/CN.4/2005/35, par. 84.

²⁴ E/CN.4/2005/6/Add.4, par. 67.

²⁵ E/CN.4/2005/51/Add.2, par. 9.

²⁶ E/CN.4/2005/60/Add.2, par. 73.

²⁷ Déclaration et Programme d'action de Vienne, A/CONF.157/23, chap. II, par. 4.

²⁸ *Application des normes internationales du travail, 2004 (II), Document d'information sur les ratifications et les activités normatives, au 31 décembre 2003*, 92^e Conférence internationale du travail, 2004.

²⁹ *Application des normes internationales du travail, 2004 (I), Rapport de la Commission d'experts pour l'application des conventions et recommandations*, 92^e Conférence internationale du travail, 2004, p. 23.

³⁰ Ibid., p. 27.

³¹ E/CN.4/1997/74, par. 111.
