



## International Covenant on Civil and Political Rights

Distr.: General  
30 December 2011  
English  
Original: French

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### Human Rights Committee

#### 103rd session

#### Summary record (partial)\* of the 2833rd meeting

Held at the Palais Wilson, Geneva, on Monday, 17 October 2011, at 10 a.m.

*Chairperson:* Ms. Majodina

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\* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 10.05 a.m.*

**Opening of the session**

1. **The Chairperson** declared the 103rd session of the Human Rights Committee open.

**Address by the Officer in Charge, Human Rights Treaties Division**

2. **Ms. Wan-Hea Lee** (Officer in Charge, Human Rights Treaties Division) said that at the eighteenth session, held on 12 to 30 September, the Human Rights Council had adopted a resolution on the promotion and protection of freedom of expression on the Internet. Pursuant to that resolution, a panel discussion focusing on ways of strengthening protection would be held during the nineteenth session of the Human Rights Council. The Committee's general comment on article 19 of the Covenant (Freedoms of opinion and expression) would be a valuable source for that discussion. The Council had also adopted a resolution in which it requested the Secretary-General to continue to submit to it a yearly supplement to his quinquennial report on capital punishment, paying special attention to the imposition of the death penalty on persons younger than 18 years of age at the time of the offence, pregnant women and persons with mental or intellectual disabilities.

3. The third regional workshop on prohibition of incitement to national, racial or religious hatred had been held in Bangkok on 6 and 7 July 2011, and many experts had referred to the fact that insufficient ratification of the international human rights instruments, especially the International Covenant on Civil and Political Rights, was one of the major challenges in the Asia-Pacific region. They had also emphasized that existing blasphemy laws in some countries of the region had negatively affected the fundamental human rights of religious minorities and their relationships within their own communities and with other religious communities. The last regional workshop in the series had taken place on 12 and 13 October in Santiago.

4. The treaty-body strengthening process was advancing. The consultation process, which had started in Dublin in November 2009, had continued in Marrakesh and Poznan in 2010 and in Seoul, Sion (Switzerland) and Pretoria in 2011. Specific consultations on the individual communications procedure would take place on 29 October in Geneva. A wrap-up session would be held in Dublin in November, and the High Commissioner would present her proposals early in 2012. The current session was therefore the last opportunity for the Committee to discuss any further contributions it might wish to make to the process.

5. The Committee had played a crucial role in that process. Its meeting with the Committee on the Elimination of Discrimination against Women scheduled for the current session was an excellent idea which could not but have a positive impact on both committees in respect of the substance of their work on gender issues and their working methods alike. It was interesting that the Committee would be continuing its discussion, begun at its previous session, on improving collaboration with national human rights institutions and NGOs and had adopted a similar approach to other treaty bodies by setting aside time during its formal session to hear from them.

6. The Committee was familiar with the budget limitations of the Office of the United Nations High Commissioner for Human Rights (OHCHR), which continued to have a negative impact on the organization of treaty body sessions. During the consultation with States parties in Sion in May 2011, OHCHR had learned for the first time the full resource requirements for preparation of the documentation needed by the treaty bodies; members would find copies on their desks. Those requirements had been prepared at the request of the States parties; more and more of the latter were beginning to see that, in the absence of a comprehensive solution, ad hoc requests from treaty bodies for additional resources and meeting time would become a permanent feature of the treaty body system. One possible

solution, proposed by the Secretary-General in his 2011 report to the General Assembly on measures to further improve the effectiveness, harmonization and reform of the treaty body system, would be to set up a mechanism for periodic review of treaty body resource needs.

7. Some Committee members had asked specific questions about budgetary issues, and Mr. Kyle Ward, Chief of the Programme Support and Management Services, would answer them in the course of the current meeting. The information he provided should be useful for the Committee's discussions at its sixth meeting with States parties.

8. The resignations of Ms. Keller and Mr. El Haiba, which had taken effect on 30 September 2011, had left two vacant seats on the Committee. On 3 October, the Secretary-General had invited States parties to submit nominations for the elections to be held in New York on 16 January 2012. Thus, the two seats should be filled before the Committee's next session.

9. The treaty bodies must be commended on their efforts to implement the UN Greening policy adopted by the Organization to reduce its carbon footprint. The extension of the extranet established prior to the previous session to include the Petitions Section was another welcome initiative. During the current session OHCHR would be making further suggestions for streamlining documents, which had already yielded positive results with other treaty bodies.

10. At the current session the Committee would be considering 4 State party reports and 1 situation in the absence of a report, 20 individual communications under the Optional Protocol, and follow-up reports to concluding observations and Views. It would also be adopting, for the first time, lists of issues for five States parties prior to reporting and five lists of issues under the regular reporting procedure. She wished the Committee every success in its deliberations and invited comments and questions from members.

11. **Mr. Salvioli** said that he was all too aware of the budget constraints under which OHCHR laboured. However, limiting the number of words of Committee decisions on communications could undermine the Committee's efficiency and prevent it from drafting duly reasoned decisions, which were what States parties and victims rightly expected of it. It was inconceivable for the Committee's work to be restricted by the imposition of a maximum number of words. It must therefore reject any new rule to that effect.

12. **Mr. Thelin** pointed out that responsibility for providing the Committee with the staff and facilities needed for performance of its functions, which, under article 36 of the Covenant, lay with the Secretary-General, was in reality devolved to OHCHR, which therefore decided internally on the distribution of the resources allocated to it. He cast no doubt on OHCHR's efforts to provide the Committee with a high quality of service; but, since the treaty body secretariat was not OHCHR's only activity, he would like reassurance that the Committee would not be unduly deprived of resources it needed because priority was accorded to other OHCHR activities, such as field missions.

13. **Ms. Wan-Hea Lee** (Officer in Charge, Human Rights Treaties Division) said that the budgetary constraints affected not only the treaty bodies, but all OHCHR's operations. Certain aspects of the treaty body secretariat were not administered by OHCHR and depended on other units which, burdened with their own constraints in terms of resources, had established new rules aimed at cutting down on the length of certain types of document. With those units, as with all those involved in the treaty body secretariat, OHCHR constantly sought to find solutions which would ensure that savings had the minimum effect on the treaty bodies' work; however, such efforts did not always produce a satisfactory compromise. OHCHR therefore needed the treaty bodies to express their views on the matter so that they could be relayed to the relevant units.

14. **The Chairperson** thanked Ms. Wan-Hea Lee for her remarks and suggested suspending the discussion until the arrival of Mr. Ward, who had been delayed.

15. *It was so decided.*

**Adoption of the agenda (CCPR/C/103/1)**

16. *The agenda was adopted.*

**Organizational and other matters, including the adoption of the report of the pre-sessional working group on individual communications**

17. **The Chairperson** invited Mr. Bouzid, Chairperson of the Working Group on Communications, to introduce his report.

18. **Mr. Bouzid** said that the Working Group on Communications had met from 10 to 14 October 2011. Comprising eight members, it had discussed 20 drafts, 6 of them resulting in a decision of admissibility and 13 in a hearing on the merits. Discussion of one draft had been deferred to the following session because the case was very complex, and the text had not been available in all the working languages. The Working Group had also considered the new rule stipulating that decisions on communications must not exceed 10,700 words and requiring it to announce in advance if any decision would exceed that limit. It had considered the rule unacceptable. It had also discussed other matters relating to working methods, which it would like to submit to the Committee for discussion in plenary.

*The meeting was suspended at 10.30 a.m. and resumed at 10.50 a.m.*

19. **The Chairperson** recalled that at the previous session the Committee had expressed the wish for a briefing meeting on budgetary matters to be held with a representative of OHCHR. She invited Mr. Ward, Chief of the Programme Support and Management Service, to take the floor.

20. **Mr. Ward** (Programme Support and Management Service, Office of the High Commissioner) said that it was no secret that the United Nations was currently going through a period of system-wide budgetary restrictions linked to the serious financial constraints suffered by most of the major contributing Member States. That meant that the Organization was under enormous pressure not only to refrain from increasing its spending, but in fact to cut it. And yet, human rights were an area apart; Committee members would recall, for instance, that in 2005 the General Assembly had doubled the budget for the functioning of the OHCHR, Member States having finally recognized the importance of human rights, the Organization's third field of activity. Nonetheless, at under 3 per cent of the total United Nations budget, the share allocated to human rights was still smaller than that of other fields of activity: peace and security for one, and development for another.

21. In any case, OHCHR's budget proposals were always based on actual needs, among them the funds allocated for reimbursement of experts' travel expenses, which were relatively easy to assess. If, in that regard, Committee members had encountered some difficulty, it was because those proposals were not automatically approved by the Controller's Office or by Member States sitting on the Fifth Committee of the General Assembly (Administrative and budgetary questions). Accordingly, for reasons that escaped him, the Controller's Office and the General Assembly had decided to reduce the funds allocated for reimbursement of travel expenses for 2010–2011, thus obliging the secretariat to request additional funds on two occasions so that it could make the reimbursements. He agreed that the situation was far from satisfactory, and the matter had been raised with the competent authorities.

22. Committee members were surely aware that a short time before the budget proposals for the biennium had been submitted, the Secretary-General had asked each Secretariat

department to reduce the amount requested by 3 per cent so that account could be taken of Member States' financial situation and show that the United Nations was sparing no effort to "do more with less". However, the budget that OHCHR had proposed for the 2012–2013 biennium was higher than its predecessor and was justified by the financial implications of the resolutions adopted by the Human Rights Council and the General Assembly and by the adoption of new instruments such as the International Convention on the Protection of All Persons from Enforced Disappearance. ACABQ had approved the proposal, except for one line concerning staff travel. However, it must be realized that the proposed budget for the Human Rights Committee alone was up by 23 per cent higher than that of the current biennium. To defend that proposal before the Fifth Committee would be no easy matter, all the more so since the United States of America had let it be known that it would be taking a very close and critical look at all budget lines; but one could reasonably expect it to go through because the case for it was strong and it had already been approved by ACABQ.

23. **Mr. Thelin** asked how the Committee's budget allocations were distributed between the staff of the OHCHR and the Committee members themselves. In order to have a better grasp of the current situation, it would also be useful to have figures showing how the Committee's budget allocations had changed since it had started its activities, in other words before the creation of OHCHR in 1994. It would doubtless show a constant decline, which would be an argument in favour of the recommended rise for the coming biennium. He would also like Mr. Ward to say which United Nations bodies were charged with defending the interests of the Human Rights Committee and other treaty bodies before the Fifth Committee. In that regard, it would be useful to know whether that role was performed by representatives on the Third Committee (Social, humanitarian and cultural issues), which dealt with human rights questions. Lastly, it was unrealistic for the Department for General Assembly and Conference Management (DGACM) to ask the Committee to keep within a certain number of words in its decisions on individual communications it received.

24. **Mr. Lallah**, thanking Mr. Ward for his explanations, said that he would, however, like to understand how certain decisions were taken, among them the decision to limit the length of the Committee's documents. Who had ever heard of an administration that would oblige judges to issue judgements that did not exceed a fixed number of words? That was one area in which the Committee's work differed from that of other treaty bodies in which it was highly specialized and which concerned a large audience. The Committee's decisions were intended both for States parties and for the victims of violations of Covenant rights or persons whose communications had been declared admissible. The international community, through the United Nations, had a duty to them. It was therefore only right to try and discover to whom the Committee must apply in order to ensure that it would have the resources needed in order to fulfil its fundamental obligations.

25. **Mr. Salvioli** pointed out that no one had mentioned the adverse effects that such budget cuts would have on the quality of the Committee's deliberations. No one disputed that the Committee needed to make an effort; but what was certain was without the necessary resources its work would suffer. For instance, it must be able to understand the replies to the lists of issues, without which the dialogue with the States parties would be meaningless and its concluding observations nebulous. Rather than discuss cheese-paring savings, one would do better to focus on the main point, which was ensuring that the Committee had the means to produce work of the high quality that States parties, victims of human rights violations, and the international community had every right to expect.

26. **Mr. Neumann** said that the Committee was not insisting on drafting longer documents, but that it should be free to do so when the need arose without having to seek authorization. Oddly enough, it was more expensive to produce concise documents, which would call for numerous revisions to stay within the limit.

27. **Mr. Flinterman** asked whether the proposed 23 per cent budget increase for the Committee for the 2012–2013 period was exceptional or whether a comparable increase had been requested by the other treaty bodies. He wondered what the chances were that, when the Fifth Committee came to approve the final budget, Member States would take an interest in any specific post. He hoped that Member States would continue to recognize the importance of the treaty bodies' work and allocate them an adequate budget. In that regard, NGOs should put pressure on governments to fulfil their human rights obligations in respect of both the treaty bodies and the budget organs alike.

28. **Mr. Rivas Posada** expressed concern that unreasonable demands were being made on the Committee, including with regard to the length of its documents such as those relating to communications it had to consider under the Optional Protocol, which was tantamount to asking it to default on its obligations. The issue had been discussed in the Working Group on Communications, which had been constrained to split a single decision into two documents, which was absurd. Such a situation risked creating conflicts of interest with other bodies such as the administrative and conference services. OHCHR must do everything in its power to remedy the situation, because it was not only the Human Rights Committee's work that was threatened, but that of the entire system.

29. **Mr. Ward** (Programme Support and Management Service) recalled that the United Nations was the Member States that comprised it. Most of the Organization's major committees, such as the Third Committee, were composed of representatives of Member States. OHCHR only helped them to implement their decisions. It submitted proposals to the Third Committee, which took the decisions; it then prepared the demand for the funds required and submitted it to the Fifth Committee, which decided on the allocation of resources. OHCHR did not set the priorities. It was required to fulfil all the mandates entrusted to it by the General Assembly without any discrimination whatsoever. Finding itself assuming a heavier and heavier workload with the resources at its disposal, it did what it could while continuing to draw attention to its difficulties.

30. OHCHR represented the treaty body system, but it was the Member States that took decisions, and it was therefore among them that the work of the Committee and other treaty bodies must be promoted. Unfortunately, there was a failure of communication among Member States' representatives who sat on the various bodies. While the members of the Third Committee were familiar on the whole with the treaty bodies' work and supported it, their counterparts on the Fifth Committee saw things differently, so it was to them that one should appeal.

31. The decision to limit the number of words of treaty body documents had been taken by the General Assembly Committee on Conferences because of the increasing workload faced by DGACM, itself linked to the increase in the number of treaty bodies, of countries signatory to the various international instruments, and of reports submitted by States parties – an increased workload that needed to be tackled without additional resources. Thus another attempt must be made to win the necessary support of the Member States. The informal technical consultations for States parties on the strengthening of the treaty body system, organized in Sion in May 2011 by OHCHR and the nine treaty bodies' chairpersons, revealed that States parties had two different views of what strengthening of the treaty body system entailed: there were those who saw it as the need to provide the treaty bodies with the resources they needed for performing their mandates, which were becoming increasingly broad, while others felt that they needed to streamline their work and reduce costs. Member States must be made to see how absurd it was to expect the treaty bodies to deal with an ever-growing workload, but to refuse to release the extra resources. One should also remember that increased resources would not permit the treaty bodies to undertake new activities, but merely to catch up on what they were already required to do.

32. He feared that the Fifth Committee might not support all the proposals submitted. In point of fact, the budget was generally examined under broad expenditure headings, and it was unlikely that the share allocated to the treaty bodies would be examined within the time frame; but OHCHR had made a strong case and had received ACABQ support.

33. **Ms. Wan-Hea Lee** (Officer in Charge, Human Rights Treaties Division), citing the document entitled “Resources in Support of the Human Rights Treaty Body System”, which set out the main lines of support for the treaty bodies, said that a second document, shortly to be distributed to Committee members, specifically concerned conference services and dealt, inter alia, with the word limits imposed for documents. For treaty body support, OHCHR currently had 62 Professional posts, most of them attached to the treaty body secretariat, which meant a ratio of less than one staff member to three experts. Most of the staff members were posted to a particular secretariat, but could be required to work for other treaty bodies during their session, as the need arose. About 25 per cent of the posts were financed from extrabudgetary resources, a fact that had alarmed some States parties represented at the Sion consultations, believing as they did that the entire cost should come out of the regular budget, a view shared by OHCHR.

34. It had been unequivocally stated during the Sion informal consultations that all streamlining and harmonization efforts must be expended in favour of strengthening, not weakening, the treaty body system. The States parties had said that the treaty bodies needed to be more efficient had been told that efficiency was an expensive commodity. The more reports the treaty bodies had to consider during a session, the more resources they needed, including for documentation and support staff. All proposals aimed at streamlining and harmonizing the treaty bodies’ work and improving its efficiency had to be used to maximize the benefits that their work must provide at national level for the victims and for all right-holders. OHCHR would like to continue the discussion with the treaty body experts so as to reach some degree of consensus on the matter by the end of the year.

35. **Mr. Thelin** reiterated that it would be very useful if OHCHR could prepare a document showing how resource allocations to the Human Rights Committee had changed since its creation, given that the number of experts and the number and duration of sessions had never altered. He would also like to know whether the share allocated to the treaty bodies had increased or decreased since 1994 in comparison with that assigned to other OHCHR activities.

36. **Mr. Fathalla** proposed submitting to the Fifth Committee of the General Assembly a one- or two-page document summarizing the observations of the members of the Human Rights Committee concerning the adverse effects that budget cuts or failure to increase the budget would have on the Committee’s work.

37. **Ms. Wan-Hea Lee** (Officer in Charge, Human Rights Treaties Division) said that OHCHR would do its utmost to secure the information requested, but might not obtain it all, since some went back many years. Moreover, it was always hard to collect data that bore comparison, since all treaty bodies did not have the same number of States parties, a fact that needed to be borne in mind when the information was being interpreted.

*The first part (public) of the meeting rose at 12 noon.*