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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Report of the Secretary-General on measures taken to implement resolution 9/8 and obstacles to its implementation, including recommendations for further improving the effectiveness of, harmonizing and reforming the treaty body system

Summary

In its resolution 9/8 entitled “Effective implementation of international human rights instruments,” the Human Rights Council requested the Secretary-General to report annually on measures taken to implement the resolution and on obstacles to its implementation, including recommendations for further improving the effectiveness of, harmonizing, and reforming the treaty body system. The present report briefly highlights the most recent developments in this regard. Chapter I of the report provides information on the activities that the treaty bodies have undertaken in 2011, including the number of State party reports considered, individual communications examined, general comments/recommendations adopted, as well as the latest developments in their working methods. Additional activities undertaken are also described. Chapter II provides an update on the treaty body strengthening process, following the appeal launched by the United Nations High Commissioner for Human Rights in 2009, as well as information on the steps envisaged in 2012.

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I. Introduction

1. In its resolution 9/8 entitled “Effective implementation of international human rights instruments,” the Human Rights Council requested the Secretary-General to report annually on measures taken to implement the resolution and on obstacles to its implementation, including recommendations for further improving the effectiveness of, harmonizing and reforming the treaty body system. This report briefly highlights the most recent developments in this regard.

II. Activities of the treaty bodies in 2011

2. Information regarding the twenty-third meeting of the chairpersons of the human rights treaty bodies, held in Geneva on 30 June and 1 July 2011, has been submitted to the sixty-sixth session of the General Assembly pursuant to its resolution 57/202. That report (A/66/175) also includes information on the outcome of the twelfth Inter-Committee Meeting which was held in Geneva from 27 to 29 June 2011. Two representatives of each treaty body were invited. With a view to enhancing the effectiveness of the treaty bodies, the item, “The structure of the dialogue between treaty bodies and States parties, the structure and length of concluding observations and the mode of interaction of treaty bodies with stakeholders, in particular national human rights institutions and civil society actors,” was included on the agenda of the Inter-Committee Meeting.

3. During 2011, human rights treaty bodies held 23 sessions amounting to 71 weeks of meetings in Geneva and New York (each session lasting between one and four weeks), during which 115 State party reports were reviewed in plenary sessions, and an equivalent number in working groups, where such groups exist. In 2011, the sessions of the Committee on the Elimination of Racial Discrimination and the Committee against Torture were extended by one week to address the backlog of reports awaiting review. As at 1 December 2011, treaty bodies had received a total of 117 State party reports, including 12 common core documents. The Committee on Enforced Disappearance held its first session in 2011, and adopted its provisional rules of procedure. The Human Rights Committee amended articles 68 to 70 of its rules of procedure to enable the examination, in public, of States parties in the absence of a report.

4. Treaty bodies continued to develop, improve and implement new working methods, such as establishing the list of issues prior to reporting (LOIPR). The Committee on Migrant Workers adopted this new working method in 2011, and the Human Rights Committee adopted its first LOIPR at its 103rd session, in October 2011.

5. The Committee on Migrant Workers adopted a procedure for examining States party reports according to a fixed schedule, based on the new LOIPR procedure for periodic reports, the regular reporting procedure for initial reports, as well as with regard to States parties which have not accepted the LOIPR procedure. Treaty bodies continued refining the follow-up procedures to concluding observations, decisions on individual communications and visits. The Human Rights Committee adopted a new format for its follow-up report. The Subcommittee on Prevention of Torture adopted a follow-up procedure for reports on visits and established working groups to follow up on visits.

6. In order to assist in the prioritization of issues for the constructive dialogue and to keep replies as concise as possible, the Committee on the Elimination of Discrimination against Women decided that the list of issues should contain no more than 20 questions, and each question should contain no more than three issues. Based on previous practice, the Committee decided to establish a pilot project, during the 51st and 52nd sessions, in the

form of task forces for the constructive dialogue with States parties, composed of a maximum of 14 members,. The Committee will conduct an evaluation of the impact of this task-force approach during its 52nd session. Country rapporteurs will assume the lead role in coordinating the work of the task forces. The Committee decided to strengthen country rapporteurs' role of providing guidance to experts in the preparation for and during the constructive dialogues, the drafting and adoption of concluding observations, as well as the handling of comments from States parties in response to the latter. The Committee also established a working group on working methods, while the Subcommittee on Prevention of Torture adopted the guidelines for national preventive mechanisms. The Subcommittee established regional task forces on national preventive mechanisms, as well as working groups on medical and security issues, respectively. In 2011, the Subcommittee conducted visits to Ukraine, Brazil and Mali.

7. In 2011, the Committee on the Rights of the Child adopted, at its 56th session in February 2011, general comment No. 13 on the Right of the child to freedom from all forms of violence; the Human Rights Committee adopted, at its 102nd session in July 2011, general comment No. 34 on Article 19: Freedoms of opinion and expression; and the Committee on the Elimination of Racial Discrimination adopted, at its 79th session in August 2011, general recommendation No. 34 on Racial discrimination against people of African descent.

8. Treaty bodies and the Secretariat continued efforts to harmonize and standardize their work, including through the three-day twelfth Inter-Committee Meeting of the human rights treaty bodies and the two-day twenty-third meeting of chairpersons.

9. Treaty bodies and the Secretariat examined some 11,119 items of correspondence and some 110 new individual complaints received by the treaty bodies were registered. The Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women adopted 129 final decisions concerning some 223 cases. They issued some 45 requests for interim measures of protection in cases where lack of such protection might lead to irreparable harm for the petitioners. They also followed up on over 155 decisions relating to violations of the International Covenant on Civil and Political Rights, the Convention against Torture and the Convention on the Elimination of All Forms of Discrimination against Women.

10. Six treaty bodies (Committee against Torture, Committee on Migrant Workers, Committee on the Rights of Persons with Disabilities, Committee on Enforced Disappearance, Committee on the Elimination of Racial Discrimination and Human Rights Committee) held meetings of States parties in Geneva and New York during 2011, essentially to hold elections to fill seats for which mandates had terminated. During 2011, four treaty bodies (Committee on the Rights of the Child, Committee on Enforced Disappearance, Committee on the Elimination of Racial Discrimination and Human Rights Committee) held informal meetings with States parties; the meetings were widely attended and provided an opportunity for States parties and treaty bodies to discuss the most recent developments in the work of treaty bodies, as well as other matters of common interest, in particular the efforts of treaty bodies to improve their working methods. The Committee against Torture held a meeting with States parties, non-governmental organizations (NGOs) and other stakeholders, in November 2011, to discuss a draft general comment on article 14 of the Convention. In addition, in July 2011, the chairpersons of the treaty bodies met with States parties in the context of their annual meeting to discuss efforts underway to harmonize the working methods of the treaty bodies and strengthen the efficiency of the system.

11. The open-ended working group of the Human Rights Council on a draft optional protocol to the Convention on the Rights of the Child on a communications procedure met

from 10 to 16 February 2011. At the end of the meeting, the working group adopted a report and referendum and agreed to transmit the draft optional protocol (annexed thereto) to the Human Rights Council for consideration at its 17th session.

12. The Committee on the Rights of the Child held a Day of general discussion on the theme, “Children with incarcerated parents,” at Palais des Nations on 30 September 2011. The key partners were the NGO Group for the Committee on the Rights of the Child and the Quaker United Nations Office. The event was preceded by an exhibition, entitled “Collateral Convicts: If my parents go to prison, what happens to me?” depicting thematically-relevant pictures of and messages from affected children, as well as positive examples of supportive programmes. The exhibition was sponsored by the Government of Austria; the Chairman of the Committee participated in the official launch of the exhibition. The Day of general discussion was attended by over 250 participants, including Committee members, representatives of States parties, children, national, regional and international NGOs as well as prison service professionals. After plenary presentations by experts from South Africa, Brazil, Pakistan and two children from the United Kingdom of Great Britain and Northern Ireland, whose parents were incarcerated, two working groups (for which Committee members served as Chairs and Rapporteurs) deliberated the issues, “Babies and children living with or visiting a parent in prison” and “Children left ‘outside’ when their parent is incarcerated,” and presented recommendations at the plenary session of the Day of general discussion. The Committee will adopt a report of the event during its 59th session in January 2012.

13. During the Global Forum on Migration and Development, held in November 2011, the Chairperson of the Committee on Migrant Workers and the Special Rapporteur on the human rights of migrants led two side events aimed at promoting awareness of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and cooperation with stakeholders. The Committee held a Day of general discussion on the theme, “The rights of migrant workers in an irregular situation,” and decided to draft a general comment on the topic. The Committee on the Elimination of Racial Discrimination organized at its 78th session a thematic discussion on racial discrimination against people of African descent; the Subcommittee on Prevention of Torture held thematic discussions, in a closed meeting, on the role of human rights education – including training – in torture prevention, the role of judicial control and due process of law in torture prevention in prisons, free legal aid and the public defence system, mental health and detention, corruption and torture prevention and detention of migrants, respectively. The Committee on the Elimination of Discrimination against Women and the Human Rights Committee held a joint meeting in October 2011 to discuss possible joint areas of work.

14. The Office of the United Nations High Commissioner for Human Rights (OHCHR) updated the fact sheet on the United Nations Human Rights Treaty System, which will be available in all the official languages of the United Nations in 2012. OHCHR Headquarters also conducted and participated in training workshops on treaty-body reporting and follow-up, in cooperation with country and regional offices in Belgium, Belize, Croatia, the Gambia, Mexico, the Occupied Palestinian Territory, the Republic of Moldova, South Africa and Turkmenistan.

III. Update on the treaty body strengthening process

15. On 14 September 2009, the High Commissioner for Human Rights, in her statement to the Human Rights Council, *inter alia*, underscored the importance of the treaty bodies, through both their reporting and individual complaints mechanisms as well as the universal periodic review process. She highlighted that the overall success of the human rights

protection system, marked by the increase in the number of human rights instruments and corresponding monitoring bodies, together with greater compliance by States parties with reporting obligations, posed greater demands on the treaty bodies and her Office. Noting that this success was most welcome and encouraging, the High Commissioner called on States parties to human rights treaties and other stakeholders to initiate a process of reflection on how to streamline and strengthen the treaty body system to achieve better coordination among these mechanisms and their interaction with special procedures and the universal periodic review. The High Commissioner made a similar appeal before the General Assembly on 21 October 2009.

16. A number of consultations organized by stakeholders in direct response to the High Commissioner's call have taken place and resulted in the adoption of statements which include various proposals to strengthen and streamline the treaty body system. Meetings were organized for treaty body members in Dublin in November 2009, at the initiative of the University of Nottingham, United Kingdom of Great Britain and Northern Ireland; for National Human Rights Institutions in Marrakesh, Morocco, in June 2010, at the initiative of the Advisory Council on Human Rights of Morocco; and for the Chairpersons of treaty bodies in Poznan, Poland, in September 2010, hosted by the University of Poznan and attended by five Chairs. Furthermore, 21 NGOs made a written submission to the High Commissioner in November 2010, which included several proposals to strengthen the treaty body system.

17. In May 2011, the Chairpersons of the treaty bodies and the High Commissioner for Human Rights co-organized an informal technical consultation for States parties. The consultation was aimed at gathering suggestions on ways and means to strengthen the preparation of States party reports, enhance the dialogue between States parties and treaty bodies and reinforce the implementation of treaty body recommendations at the national level. In April and June 2011, NGOs put forward proposals in the Seoul and Pretoria Statements, respectively. In October 2011, a consultation gathering academics was organized in Luzern, Switzerland, and an expert meeting on individual communications was held in Geneva. Furthermore, a meeting, organized by the University of Nottingham and held in Dublin at the beginning of November 2011, adopted the Dublin Outcome Document, which contains the most significant proposals stemming from the process so far. The meeting brought together the conveners of the seven consultations held so far, namely Dublin I, Marrakesh, Poznan, Seoul, Sion, Pretoria and Luzern, as well as representatives of the NGO Coalition. The Chairpersons of seven treaty bodies participated in the meeting, representing the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee against Torture, the Committee on Migrant Workers, the Committee on the Rights of Persons with Disabilities and the Subcommittee on Prevention of Torture, respectively. Other participants included treaty body members, representatives of the Ministry of Foreign Affairs of Ireland, a representative of a national human rights institution, two academics and three NGOs. In November 2011, OHCHR organized a consultation with United Nations entities and specialized agencies in the context of the treaty body strengthening process.

18. The purpose of all these consultations, most of which were organized by external partners and facilitated by OHCHR, was to gather suggestions from different groups of stakeholders on how to strengthen the treaty body system and make it more efficient and effective at the country level, in order to increase the protection of rights holders worldwide. Two additional consultations with States parties will be organized during the first months of 2012 in Geneva and New York, respectively. The treaty body strengthening process will culminate in a compilation of proposals stemming from this exercise, which the High Commissioner will present in a coherent framework in 2012.

19. In addition, during 2011, OHCHR organized a series of one-day consultations for treaty body members, near Geneva, on a Saturday during their respective sessions. These consultations were aimed at providing committee experts a space for creative thinking on how to strengthen and streamline their methods of work and to reflect on the future of the treaty body system. They also allowed committee members to discuss, in advance, the agenda items of the twelfth Inter-Committee Meeting. When possible the consultations brought together two committees whose sessions overlapped.

IV. Conclusion

20. **No matter what suggestions for enhanced efficiency will derive from the treaty body strengthening process, they will not detract from the treaty bodies' critical need for enhanced resources. At present, only one third of States parties comply in a timely manner with their reporting obligations, and even at this low level of compliance, treaty bodies are faced with serious structural difficulties to address the current workload. In 2011, an average of 250 reports were pending consideration by the treaty bodies.**

21. **To provide the treaty bodies with sufficient meeting time to undertake the work of considering State party reports efficiently and effectively, I put forward two proposals in my report to the General Assembly (A/66/344) as follows: (a) an interim biennial calendar reflecting temporary increases in meeting time, sufficient to enable the treaty bodies to eliminate the backlog of reports actually pending examination; and (b) a permanent biennial fixed calendar, which allocates meeting time according to the number of States parties and the number of reports due. The two options are mutually compatible.**

22. **The growth of the treaty body system has never been reflected through commensurate resources for each treaty body. Reviews of staffing and financial needs only take place in an ad hoc manner, usually on the adoption of a decision to request additional meeting time or when a treaty passes a milestone for expansion. Apart from these triggering events (for which the estimated requirements are rarely fully approved), no comprehensive review of the workload and resourcing of the treaty bodies has been conducted. This has led me to call on the General Assembly to undertake a comprehensive review of the resources of the treaty body system as a whole, taking into account both its current needs (based on the level of actual compliance of States parties with their reporting obligations) and its projected needs (based on strict compliance of States parties with the reporting obligations under each treaty).**
