

# **Strengthening the United Nations Human Rights Treaty Body System**

## **Opening of the technical consultation for State Parties**

**Sion, 12-13 May 2011**

Opening Speech by Ambassador Jürg Lindenmann

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*Check against delivery*

High Commissioner for Human Rights

Chairpersons and members of the treaty bodies

Excellencies, Ladies and Gentlemen

It is an honour and a pleasure for me to extend a warm welcome to you here in Sion on behalf of Federal Councillor Calmy-Rey, President of the Swiss Confederation. She is unfortunately taken by other obligations and sends her best wishes to all present.

I would first like to thank the UN High Commissioner for Human Rights, Mrs. Navanethem Pillay, for inviting us, together with Mrs. Yanghee Lee, Chair of the *Meeting of Chairpersons of Human Rights treaty bodies*, to this important meeting. A warm thank you also goes to our host, the *International Institute for Rights of the Child/University Kurt Bösch (IIRC/IUKB)*.

This meeting is an important step in the on-going process of strengthening the system of the UN treaty bodies in the 21<sup>st</sup> century. In 2009, the High Commissioner called upon the States

Parties, the treaty body members and other actors *“to reflect on proposals which could enable the treaty body system to be more coherent, coordinated and effective”*. In doing this, she initiated a process of reflection which led to intensive consultations among treaty body members in Dublin (2009) and Poznan (2010) as well as with representatives of the national human rights institutions in Marrakesh (2010). In advance of today’s meeting, a side-event on the strengthening of the human rights Treaty Body system was also held on 7 March of this year in the framework of the 16<sup>th</sup> Session of the Human Rights Council at the invitation of the Permanent Missions of Ireland, Morocco, Poland and Switzerland. Further consultations will surely follow – such as those of the United Nations entities and regional mechanisms as well as civil society.

The consultation of the States Parties, which begins today, is thus part of an on-going process, but one that has a special quality: for the first time this meeting allows for an exchange between the representatives and experts of the States Parties – the “owners of the treaties” – on the one hand, and treaty body members and other actors on the other.

Ladies and Gentlemen,

We all share the vision of a world in which human rights not only have universal validity on paper but are also universally applied in daily life. Credible and effective monitoring tools are indispensable to

this effect: monitoring is a key element in any policy for the improvement of human rights.

Since its inception some 40 years ago, the treaty body system has become the bedrock of the international system for the promotion and protection of human rights. Its development is far from over – I think for example of the current drafting of an Optional Protocol to the Convention of the Rights of the Child. Each UN member state is today a party to at least one of the nine core human rights conventions, some are party to all. The treaty bodies perform valuable work in the UN human rights system and have proven themselves over the years. We are dealing here with a major success story!

At the same time, it is a matter of concern to note that, for several years now, the treaty body system has been confronted with a number of challenges that risk undermining its present and future capacities and its efficiency.

These problems vary in nature, and they are perceived differently by the treaty bodies, the States Parties and the other actors, notably the non-governmental organisations.

First, the trend to universal ratification – welcome as it is – inevitably results in additional workload for the treaty bodies. The multiplicity of treaty bodies and the mechanisms developed over time is another particularity of the system. The first human rights conventions provided for a “classic” monitoring by means of State

reports and sporadic quasi-judicial controls in the framework of individual communications. Subsequently, however, the functions of treaty bodies expanded in different ways, for instance through the introduction of *provisional measures*. Moreover, some treaty bodies were assigned new tasks. New instruments, such as the *Optional Protocol to the Convention on the Elimination of Discrimination against Women* (OP CEDAW), assigned their respective treaty bodies with investigative functions with respect to serious or systematic human rights violations, with procedures for *in situ* visits or with emergency procedures of a humanitarian nature.

These unequal developments may lead to an increasing lack of coherence and clarity, overlaps in some areas of responsibility, and duplications. This is natural. The current situation is, after all, the result of an empirical development that has taken place without the oversight of a master architect.

In the framework of the debates on reform, two different but not necessarily incompatible approaches have emerged through the years. The first assumes that reform should focus on making the present system more efficient while adapting existing mechanisms to enable them to carry out their mandate more effectively. This seems to be the position adopted in the report “In Larger Freedom“ by the former UN Secretary-General Kofi Annan. He stated therein that the “*treaty bodies [...] need to be much more effective and more responsive to violations of the rights they are mandated to*

*uphold*<sup>1</sup>". The report proposed that "[h]armonized guidelines on reporting to all treaty bodies should be finalized and implemented so that these bodies can function as a unified system". This approach would then help to consolidate the existing system, making it more coherent and efficient.

The second, more ambitious approach aims at a more sweeping reform of the treaty body system. I refer namely to the proposal of the former High Commissioner for Human Rights, Louise Arbour, for the establishment of a unified standing treaty body, and thus for institutional rather than merely functional change. In her "concept paper" of 2006, she asserted that the argument for a unified standing treaty body is based on the conviction that the lack of visibility, authority and accessibility from which the system is suffering will only be resolved when the system of human rights conventions functions as a single and unified body to monitor the implementation of all international human rights obligations and to offer rights-holders a single point of reference. She was convinced that the system "*is approaching the limits of its performance, and that, while steps can be taken to improve its functioning in the short and medium-term, more fundamental, structural change will be required in order to guarantee its effectiveness in the long term.*"

Ladies and Gentlemen,

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<sup>1</sup> Report of the Secretary-General, In Larger Freedom: Towards Security, Development and Human Rights for All, UN Doc. A/59/2005 of 21 March 2005, par. 147.

The reform process so far and particularly the conferences since 2009 have focused on the improvements that can be made in the short and medium term. This does not exclude that more ambitious goals such as the unified standing treaty body, or even a universal court of human rights, need to be kept in mind, though, in the longer perspective. The goal of all efforts is to achieve greater coherence in monitoring, prevention, protection and support.

Now: Are short and medium-term improvements to the system even possible? Undoubtedly!

Given the varied nature of the causes of overloading of the treaty bodies and the variety of challenges to the system, the proposed remedies need to be equally diverse. Many of the measures proposed at the level of the working methods of the treaty bodies can bring about real improvements and thus optimise the existing system. One measure already introduced is the regular exchange between chairpersons during the inter-sessional period, thus facilitating coordination of common activities and representation, such as consideration and adoption of joint statements. Improvements like these – at the side of the treaty bodies – are indeed possible, important and necessary. However, until the problems of the States Parties in implementing their obligations are effectively addressed, our efforts will merely scratch the surface.

Today's conference must therefore give a particular focus on the main pillar of the system, the State reporting procedures. In our

view, the central question is the following: *How can the State reporting procedure be adapted to ensure that it satisfies the needs of both the treaty bodies and States Parties and that it strengthens the protection of human rights at the same time?*

In all proposals for adapting State reporting procedures, it is always the entire system that must be looked at. Rather than just increasing the system capacities in one area, the approach must be holistic and geared at enhancing the system's functionality. The Poznan Statement contains valuable recommendations in this regard, namely:

- *Streamlined and focused approach to reporting procedures* (pars. 6-15)
- *Advanced coordination, harmonisation and common measures* (pars. 16-18)
- *Expertise and independence of treaty bodies' members* (pars. 19-21)
- *Bringing Treaty Body proceedings closer to the implementation level* (pars. 22-24)
- *Follow up to treaty bodies' outputs* (pars. 25-31)

With respect to the first cluster of these recommendations – “Streamlined and focused approach to reporting procedures” – , the so-called “lists of issues prior to reporting” (LOIPR) are most promising in my view. This procedure has already been operated

with success by individual treaty bodies on a voluntary basis, such as the Committee against Torture and the Human Rights Committee.

We support the assessment of the Poznan Statement that such lists of issues *“could provide an opportunity to significantly streamline and enhance the reporting procedure with the strategic aim of making it more focused and effective”*. This measure will result in more focused reports dealing with the truly important questions. It would also facilitate the preparation of the State Reports, for example through the use of technical solutions. My colleague will have the opportunity to present to you later in the day a technical tool we use in Switzerland for preparing reports.

In any event, the State reporting procedure has to be thought through thoroughly. States Parties must be convinced that the reports they establish are beneficial for the States themselves, and that they are prepared in their own interest. If so, they will be motivated to submit substantive reports, and to do so in time. On the other side, when the treaty bodies are able to operate more efficiently and effectively and to better synchronize their activities with other organs such as the Human Rights Council and the Universal Periodic Review process, then it will be possible for them to better monitor compliance of States with their legal obligations under the human rights instruments.

Ladies and Gentlemen,



Sion is neither the beginning nor the end of this discussion on reform. It may, however, become an important milestone on the way to a lasting and sustainable strengthening of the system. This consultation round takes place outside Geneva and thus enables us – in this informal and friendly setting – to take a step back and look at the issues from just a slight distance. Still, we are in the vicinity of Geneva, seat of the treaty bodies and major hub of international human rights protection. “*La Genève internationale*” has always promoted a free exchange of thoughts and ideas. And it claims that compromise and the search for constructive solutions and consensus are part of its virtues.

With that in mind, I wish all present a successful conference. Thank you for your kind attention.