

Thematic Forum

**INTERACTION OF STATE WITH THE UN HUMAN RIGHTS
PROTECTION AND PROMOTION MECHANISMS**

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Summary of proceedings¹

Mdme Navi Pillay (Ex-High UN High Commissioner for Human Rights) pointed out that the interaction of states with the three mechanisms of the UN human rights system (the UPR, Treaty Bodies and Special Rapporteurs) was intended to advance human rights and assist states through cooperation and by fostering dialogue with National Human Rights Institutions (NHRIs), parliaments and civil society. In the past the Office of the High Commissioner for Human Rights (OHCHR) had received complaints from NHRIs and civil society groups that governments were not taking their reporting commitments seriously and were not responding to complaints. Governments had tended to see reporting as a burden and bureaucratic exercise and therefore it was important to encourage a new approach to strengthening the Treaty Body system where Treaty Bodies were seen as mechanism for assisting states to deliver their own undertakings to meet human rights. Part of this new approach proposed the establishment of Standing National Reporting and Coordination Mechanisms (SNRCMs), which would include ministers, the judiciary and parliamentarians. OHCHR would also assist states to implement Treaty body recommendations through the provision of training and via assistance from Special Procedures. It was recommended that all states issue standing invitations to Special Procedures experts and issue visas to facilitate their travel.

Mdme Pillay commended the increased engagement of states with the UN human rights system (particularly the UPR, which had been a significant success) but expressed concern regarding reprisals by governments against civil society groups for their participation in the. It was recommended that governments adopt a spirit of greater protection of human rights and refrained from taking reprisals against civil society for their cooperation with UN human rights bodies (such reprisals were deemed unacceptable in terms of UN General Assembly resolutions).

Mr. Mahjoub El-Haiba, Inter-ministerial Delegate for Human Rights (DIDH, Morocco) encouraged participation by civil society and universities within the national reporting process in compliance with UN human rights obligations. He drew attention to the competence required to comply with reporting obligations and recommended the establishment of SNRCMs for purposes of ensuring the institutional memory required for effective reporting. He also urged greater participation of parliaments in the reporting process and called for countries to play a greater role in ensuring the implementation of UN human rights recommendations. He also recommended that Treaty Bodies use additional languages as a medium for conducting their work (such as Arabic) in addition to current reliance on English and French.

¹ There was a one hour delay in the start of the thematic forum, due to the lack of availability of translation systems. The session was marked lively and dynamic discussion with multiple unscheduled interventions from the floor as well as the inclusion of unscheduled speakers. It was marred by ineffective translation (for instance, the translators, after starting their work an hour late, left at 1pm which meant that the final hour of the session was not translated), which had a significant impact on the rigour of the rapporteur's note taking for the session.

Mr. Ibrahim Salama, Director of the Human Rights Treaties Division, OHCHR, Geneva emphasised the crucial role of national civil society groups and governments in strengthening the UN Treaty Body system. They should take ownership of Treaty Body recommendations and view these as reflecting their expectations rather than those of the UN in Geneva or New York. He pointed out that UN Resolution 268 on the reform of Treaty Bodies had made provision for capacity building to assist governments with the follow-up of Treaty Body recommendations and for the training of civil society trainers. He emphasised the role of independent experts (Special Procedures) in assisting governments and civil society to implement human rights. He also cautioned against Ministries of Foreign Affairs acting as a 'filter' for human rights reporting, which had the effect of insufficiently representing the voices of other actors involved in the protection of human rights. He recommended that governments and civil society groups seize the opportunity to propose a lasting solution to Treaty Body reporting issues – including the overlapping of Treaty Body mandates and long delays of up to 5 years for reports to be reviewed and recommendations issued.

Mr. Fabian Salvioli, Expert member, UN Human Rights Committee pointed to the negative consequences of states not engaging effectively with the UN human rights system. If states did not submit reports they could not benefit from Treaty Body recommendations (in this regard he recommended that Morocco submit its outstanding report on the implementation of the ICCPR to the Human Rights Committee, which was over 6 years overdue). If states did not include civil society participation in their self-assessment and reporting process their reports would not be credible. If they did not answer the lists of issues provided by Treaty Bodies, or answered inadequately they missed an opportunity to obtain expert recommendations. If they were unprepared for public hearings, or if they did not ensure the participation of the legislature and judiciary in addition to the executive in public hearings, they missed another opportunity. If states did not fulfil all recommendations made by Treaty Bodies within the follow-up process they missed yet another opportunity.

All states parties were encouraged to implement the following good practices in respect of fulfilling and implementing Treaty Body recommendations: present their reports; enable civil society to be part of the reporting process; respond punctually to the list of issues from Treaty Bodies, in writing; attend public hearings on periodic reports well prepared, and; implement Treaty Body recommendations during the follow-up process.

Mr. Subhas Gujadhur, Director, Universal Rights Group drew attention to the increased number of recommendations issued by the UPR Working Group during the second cycle of the UPR; states had received on average over 100 recommendations. When taken together with the recommendations issued by Treaty Bodies and Special Procedures he emphasised the need for the establishment of an inter-ministerial committee charged with the implementation of these recommendations. Yet, in research conducted by the Universal Rights Group out of 60 countries reviewed, on a third had adopted SNRCMs and had developed national action plans for the implementation of UPR and Treaty Body recommendations.

Ms. Agnès Callamard, Director, Global Freedom of Expression Information Project, Columbia University, New York, pointed out that currently only 3% of UN resources were allocated for human rights. She highlighted the need adequate resources within the UN system in order to protect and advance the realisation of human rights.

Omar Hilal, Moroccan Ambassador to UN, questioned the perception that SNRCMs served to criticise states. He noted that the UPR had brought about a democratization of human rights surveillance across states from the north and the south. All states were equal in their fear of being criticised for not implementing human rights. He recommended that Special Procedures be seen as a partnership with UN agencies and be interpreted as an opportunity to improve national performance in realising human rights rather than as 'something scary'. He said that whilst it was easy to ask countries to follow UN recommendations it was important to recognise that countries needed resources to implement these recommendations. He called for

cooperation between countries in sharing knowledge and experiences for purposes of improving the implementation of UN recommendations.

Mr Abderrazak Rouwane, Secretary General, DIDH, Morocco pointed out that Morocco's SNRCM, the DIDH, was established in 2011, prior to the publication of the UN High Commissioner's report on Treaty Body Strengthening, and anticipated the High Commissioner's recommendation to establish a SNRCM. DIDH was created in recognition of the need for a permanent structure required to manage human rights reporting and follow-up and was a response to requests from government ministries as well as civil society. One of the indicators of the success of the DIDH was its coordination with stakeholders; it had systematically included civil society within a consultative and participatory reporting process – draft reports were first submitted to civil society and to research groups prior to being submitted to the UN.

Discussion

1. A member of Moroccan civil society recommended that effective pressure be exerted on states to ensure civic engagement around reporting to UN human rights bodies and the follow-up of their recommendations. Without this human rights would not be achieved.
2. A member of Moroccan civil society called for all UN human rights body (UPR, Treaty Body and Special Procedures) recommendations to be translated into Arabic. It was recommended that members of civil society should also be included in public hearings before UN bodies and that not only government officials should speak on behalf of human rights in Morocco.
3. A member of the Green March Federation (of Morocco) maintained that the commitment to implement human rights within Morocco, as well as Libya and Syria were lacking. The complaint was registered that criminal acts had been committed against indigenous Amazigh (Berber) people within the Kingdom of Morocco and whilst letters of complaint had been sent to UN Mechanisms, no response had been received. Polisario front and kidnapping.
4. A member of civil society from Tunisia asked what guarantees were in place to force countries to actually implement international human rights conventions. She recommended that all signatories to human rights conventions be obliged to include their provisions within their national constitutions.
5. A member of civil society from (Morocco or Algeria) maintained that one of the key functions of NHRIs such as the Moroccan CNDH was to try and control civil society organisations. This was why many civil society organisations had opted not to participate in the World Human Rights Forum in Marrakech, which was co-hosted by the CNDH.
6. A member of civil society drew attention to violations of human rights (in Western Sahara?) and called for recommendations issued by the Human Rights Committee and the Committee on Migrant Workers to be implemented by Morocco.
7. Chantalle Gallo from the Belgium Department for Human Rights made a number of recommendations: the follow-up of recommendations should be ensured in a more dynamic manner – states should not wait until their next periodic report is due before reporting on these; civil society should be provided with training for purposes of submitting alternative reports to Treaty Bodies; civil society should be provided with training on how to follow-up recommendations; an awareness raising campaign should be initiated for purposes of encouraging parliamentarians to participate more effectively in UN human rights reporting and follow-up processes; more inclusive participation in country delegations to defend Treaty Body reports could be secured via the use of ICTs.

Recommendations

The following recommendations – grouped by issue - were made during the course of the thematic forum:

Cooperation with UN bodies

- All states should issue standing invitations to Special Procedures experts and issue visas to facilitate their travel.

Civil society

- Governments should adopt a spirit of greater protection of human rights and should refrain from taking reprisals against civil society for their cooperation with UN human rights bodies (which are contrary to UN General Assembly resolutions).
- States should ensure effective participation by civil society and universities within the national reporting process to UN human rights bodies.
- Draft reports should first be submitted to civil society and to research groups prior to being submitted to the UN
- Effective pressure should be exerted by the UN on states to ensure civic engagement around reporting to UN human rights bodies and the follow-up of their recommendations
- It was recommended that members of civil society should also be included in public hearings before UN bodies and that not only government officials should speak on behalf of human rights in Morocco
- Civil society should be provided with training for purposes of submitting alternative reports to Treaty Bodies and on how to follow-up recommendations

SNRCMs

- SNRCMs should be established for purposes of ensuring the institutional memory required for effective reporting to UN human rights bodies.
- Inter-ministerial committees should be charged with the implementation of the multiple recommendations emanating from the UN human rights system (Treaty Bodies, UPR, Special Procedures)

Parliaments

- An awareness raising campaign should be initiated for purposes of encouraging parliamentarians to participate more effectively in UN human rights reporting and follow-up processes

Reporting and Follow-up recommendations

- All states parties were encouraged to implement the following good practices in respect of fulfilling and implementing Treaty Body recommendations:
 - present their reports;
 - enable civil society to be part of the reporting process;
 - respond punctually to the list of issues from Treaty Bodies, in writing;
 - attend public hearings on periodic reports well prepared, and;
 - implement Treaty Body recommendations during the follow-up process
- Morocco should submit its outstanding report on the implementation of the ICCPR to the Human Rights Committee, which was over 6 years overdue
- Morocco should implement recommendations issued by the Human Rights Committee and the Committee on Migrant Workers regarding Western Sahara
- Countries should cooperate in sharing knowledge and experiences for purposes of improving the implementation of UN recommendations
- The follow-up of recommendations should be ensured in a more dynamic manner – states should not wait until their next periodic report is due before reporting on these

Strengthening of Treaty Bodies

- Governments and civil society groups should seize the opportunity to propose a lasting solution to Treaty Body reporting issues – such as the overlapping of Treaty Body mandates and long delays in the reviewing of reports and receipt of recommendations – during the review of the Treaty Body system in 2016.

- Adequate resources within the UN system in order to protect and advance the realisation of human rights
- All UN human rights body (UPR, Treaty Body and Special Procedures) recommendations to be translated into local languages (such as Arabic in Morocco)
- Measures should be adopted to strengthen the ability of Treaty Bodies to ensure the implementation of human rights recommendations. For instance, all signatories to human rights conventions should be obliged to include their provisions within their national constitutions within a set period of time
- There should be more inclusive participation in country delegations to defend Treaty Body reports – this could be secured via the use of ICTs

