



Statement of the Catholic Family and Human Rights Institute (C-FAM)

Forum for Civil Society of the Intergovernmental Process on Strengthening and Enhancing the Effective Functioning of Treaty Bodies. UN Headquarters, May 22, 2013

We thank the distinguished co-facilitators for organizing this forum for civil society, and the General Assembly for allowing us to participate in this process.

C-FAM has followed the work of UN treaty bodies and publicized their views and recommendations to state parties since 1997. We feel privileged to be able to share our insight, especially since no treaty mentions civil society participation in the work of treaty bodies.

The OHCHR and the treaty bodies have had almost twenty years to make the treaty monitoring system work. After over ten years of attempted reforms the system is plagued by backlog and inefficiencies and costs nearly 60 million USD each year. The fact is, even if all states reported on time the system would not be able to process all the reports. Reforms that are implemented unilaterally by the Office of the High Commissioner for Human Rights and the treaty bodies could simply continue this trend.

A comprehensive set of recommendations that addresses the full range of challenges faced by the treaty bodies is in order following the General Assembly resolution setting up this process, to ensure the effective functioning of the treaty bodies in the future.

We recognize the authority of the General Assembly to discuss and adopt measures to strengthen the treaty bodies under the UN Charter.

The General Assembly is the highest human rights body in the world – the only one with universal membership. It may not have the authority to require treaty bodies to adopt specific working methods, but it certainly has the authority under the UN Charter to recommend any practice it believes would result in a more effective functioning of the human rights monitoring system. It may also give instructions to the secretariat as to how the treaty bodies should be serviced.

With regards to specific proposals discussed in the most recent rounds of informals, we should like to limit our comments to the following observations.

The independence of treaty bodies is at the service of an authentic and rigorous interpretation of the treaties they monitor, as for example laid out in the interpretative



canons laid out in the Vienna Convention on the Law of Treaties. It is not a license to re-write treaties that have taken years to negotiate through interpretations that impose never agreed or negotiated obligations on state parties. Typical examples of this are the frequent mentions by treaty bodies of a supposed duty of states to permit abortion, as well as special rights for persons based on their sexual preference. The fact that a small number of national courts consider treaty body views and recommendations as authoritative interpretations of the treaties is alarming.

As an organization concerned for family and life, we have documented how some of these outlandish interpretations of treaties are the result of deliberate plans to manipulate international law to serve the political and social agenda of special interest groups. The influence that the OHCHR and certain factions of civil society exert on the monitoring system, undermines the institutional integrity of the bodies and is thereby an obstacle to the actual implementation of human rights in the lives of individuals in countries.

An ethics procedure would help ensure that treaty body members individually, and treaty bodies as a whole, conform their work to the highest standards of legal interpretation with independence and impartiality.

The ethics procedure recently proposed by the Cross-Regional Group would ensure that the independence and impartiality of members of the treaty bodies is preserved throughout the duration of their tenure, and not just prior to their election. We live in the age of accountability; the recommendation of an ethics procedure should not be controversial.

In our view, there is no inherent conflict between independence and accountability. In fact, independence without accountability may be detrimental to the effective functioning of the treaty monitoring system.

Certainly, State parties should ensure the independence and impartiality of experts through a comprehensive vetting process during their selection. This is the exclusive prerogative of state parties under the treaties. But the election process alone is not enough to ensure the independence and impartiality of experts throughout their entire tenure, or to ensure their independence from the influence of the secretariat or certain factions of civil society that employ the UN system to advance particular political and social agenda's.

An Ethics Council would ensure that the independence of the treaty bodies is complete. Special interest groups or governments would find it hard to manipulate the monitoring



system to promote their own political and social agenda. This closes a significant gap in the Addis Ababa Guidelines.

Ultimately, a comprehensive calendar for reporting and streamlined reporting requirements, or institutionalizing the meeting of treaty body chairs and other similar measures *may* help reduce backlog and inefficiencies in the treaty monitoring system. But they are not enough to tackle the monumental challenge faced by treaty bodies. In fact, some of these proposals may even hinder the independence of treaty bodies by increasing their dependence on the secretariat because of increased workloads.

An outcome of the inter-governmental process that strengthens and enhances the effective functioning of treaty bodies *will inevitably follow* from a review of the working methods and output of treaty bodies in light of their specific and limited mandates. As a matter of law, state parties fulfill their reporting obligations by submitting their reports. Any discussion of the state party's report thereafter is voluntary and merely supplements the requirement of the treaty.

We feel obliged to repeat that the expanding backlog of reports and communications that plagues the monitoring system is not only a result of a higher volume of reporting due to more parties acceding to the treaties. It is a direct result of the working methods of choice of each treaty body, and the way in which the secretariat services them.

Prior to the mid 1990s the views and recommendations of treaty bodies were economic in both length and scope. This kind of restraint would also allow treaty bodies to concentrate resources on essential tasks and significantly reduce backlog.

In conclusion, we think an open-ended inter-governmental process can ensure the complete integrity of treaty bodies, and a sustainable treaty monitoring system for the future. There is no silver bullet that will make the systemic problems faced by the treaty bodies go away, and comprehensive action is necessary.

The treaty bodies are too important a piece of the human rights project to implement comprehensive reforms without full and informed participation from the principal stakeholders in the human rights monitoring system. An open ended-process seems appropriate in light of the complexity of the challenges at hand. State parties, especially smaller countries or countries with less resources have had little over a year to engage this process actively.



Ensuring that the treaty monitoring system works in the future is absolutely essential to the success of the human rights project. Only an open-ended process will ensure that *all nations* that have a stake in the treaty monitoring system are able to dedicate time and resources to the process.

The following organizations join C-FAM's statement:

Fundación Ciudad de la Alegría, A.C., Mexico
Abrazamos la Vida, Mexico
Voz Publica, Mexico
Observatorio Regional para La Mujer de América Latina y el Caribe AC., Mexico
CIVILITAS, Argentina
Elegimos la VIDA!, Argentina
Fundacion Contemporanea, Argentina
Centro de Estudios Políticos y Estratégicos Americanos (CEPEA), Argentina
Unidos por la Vida, Colombia (30 organizations)
CEDIES - Centro de Investigaciones en Ecología Social, Argentina
Red por la Vida y la Familia, Chile
ISFEM, Chile
ACONOR, Chile
Accion Familia, Chile
Proyecto Esperanza, Chile
Si a la Vida, Guatemala
AMEDEH (Asociación de Médicos por los Derechos Humanos)
Fundacion si a la Vida, El Salvador
TETOKA VOLUNTADES QUE TRASCIENDEN, Mexico
VERITAS MEDIOS GLOBAL, A.C., Mexico
United Families international, USA
Profesionales por la Etica, Spain
Amando la Vida, Colombia
ASOCIACION NICARAGUENSE DE LA MUJER (ANIMU), Nicaragua
CENTRO DE ASISTENCIA A LA MUJER (CAM), Nicaragua
ASOCIACION NICARAGUENSE DE BIOETICA, Nicaragua
Accion Universitaria, Peru