



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

*Forum for Civil Society held by the Co-facilitators of the Intergovernmental Process on Strengthening and Enhancing the Effective Functioning of Treaty Bodies. UN Headquarters, February 26, 2013*

We thank the distinguished co-facilitators for organizing this forum for civil society, and we wish them much success in steering the intergovernmental process towards a healthy strengthening of the treaty bodies.

C-FAM has followed the work of UN treaty bodies and publicized their views and recommendations to state parties since 1997. Our chief institutional objective is promoting and defending human life and dignity in international institutions.

We welcome the intergovernmental process and feel privileged to be able to share our insight into the workings of the treaty body system, especially since no treaty mentions civil society participation in the work of treaty bodies.

We recognize the authority of the General Assembly under the UN Charter to strengthen the treaty bodies, whether it be through recommendations to the conferences of state parties, directions to the secretariat, or formal requests to the treaty bodies themselves.

UN treaties are an essential component of the UN human rights project, which relies on the binding nature of treaty obligations to give teeth to the high aspirations of the Universal Declaration of Human Rights.

State parties are the chief stakeholders in the treaty body system, and should be afforded ample opportunity to analyze the working methods and output of the treaty bodies in light of their mandate, in the text and purpose of the treaties they monitor, before any reforms are implemented. Reforms that are implemented unilaterally by the Office of the High Commissioner for Human Rights may actually increase the workload of the treaty bodies, further burden state parties, and ultimately defeat the purpose of the intergovernmental process.

It would be irresponsible to simply increase the resources available to treaty bodies, in a time of austerity, without first ensuring that their working methods conform to their mandate in the respective treaties that establish them.



The expanding backlog of reports and communications is not only a result of a higher volume of reporting due to more parties acceding to the treaties, it is also a direct result of the working methods of choice of each treaty body, and the way in which the secretariat services them.

For example, state parties fulfill their reporting obligation once their reports have been presented to the treaty bodies. Further requests or guidelines from the treaty bodies that enhance the reporting process are not required by the treaties.

In addition, treaty bodies are not required to emit purportedly authoritative exhaustive interpretations of the treaties they monitor through general comments, which take years to formulate and agree on. In fact, the treaties reserve the right to resolve disputes on the interpretation of treaties to state parties.

Similarly, treaty bodies are not required to meticulously evaluate laws, and even bills, emanating from the democratically formed legislative institutions of sovereign state parties, through lengthy concluding observations. In fact, this last practice runs counter to the spirit and letter of the treaties that establish treaty bodies.

Prior to the mid 1990s the views and recommendations of treaty bodies were economic in both length and scope. The treaty bodies published collective comments, without dwelling on any specific state parties. The pervading perception was that experts should avoid being intrusive by commenting on specific national laws or practices in order to promote dialogue and avoid acrimony.

This kind of restraint by treaty bodies in interpreting their mandate would not only promote dialogue, it would also allow treaty bodies to concentrate resources on essential tasks and significantly reduce backlog.

A second question that the inter-governmental process is addressing the lack of credibility and visibility of treaty bodies. Perhaps the substantive output of treaty bodies is part responsible for this deficiency.

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



C-FAM has repeatedly denounced the attempts by groups external to the treaty bodies, to influence the interpretation of treaties in favor of a purported universal right to safe and legal abortion. No such right exists in the text and purpose of any binding UN instruments. In fact, several treaties contain pro-natalist provisions that recognize the dignity of every human being at all stages of human life.

Some treaty bodies have sought to impose an obligation on states to recognize same-sex unions, and afford special protections, above and beyond those to which all persons are equally entitled, to individual based solely on their sexual preferences and choices. There have been instances where experts have instructed state parties to legalize prostitution.

State parties, the academy, civil society, and the media rightly ignore these outlandish interpretations. Clearly, as some experts have begun to realize, when treaty bodies act in this manner they compromise their own institutional integrity and undermine the human rights project more broadly.

We are heartened at seeing so many states ready to commit to an open ended process that will seek meaningful and effective measures to strengthen the treaty bodies.

There is no silver bullet that will make the systemic problems faced by the treaty bodies go away. A quick fix at the end of the present General Assembly session, that simply rubberstamps some of the proposals of the secretariat, is more likely to increase the backlog and inefficiencies that currently burden treaty bodies than to find an effective solution.

We look forward to continued collaboration with UN member states and the intergovernmental process of treaty body strengthening.

We are confident that a solution that will strengthen and enhance 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 mandates.