The International Human Rights Treaty System: Impact at the Domestic and International Levels

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INTERVIEW WITH CLAUDIO GROSSMAN, DEAN OF AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW AND CHAIR OF THE UN COMMITTEE AGAINST TORTURE

HRB: What do you see as the most important characteristics of the UN human rights treaty body system?

Treaty bodies hold states accountable for the legal obligations and commitments that they have voluntarily contracted by ratifying one or more human rights treaties. The treaty bodies monitor states’ implementation of human rights through several procedures, including the review of initial and periodic reports submitted by States Parties. The ten treaty bodies also provide recommendations to States Parties on how to fulfill their human rights obligations. A key element of the State Party review is the interactive dialogue during which treaty body members ask questions to the state.

One of the most important features of the treaty bodies is that they are independent. Each treaty body consists of independent experts who serve in their individual capacity in order to guarantee the protection and promotion of human rights. This type of independent scrutiny contrasts with the Universal Periodic Review by the Human Rights Council, which is a peer-review process in which states are reviewed by other states. In this type of political review, states have the opportunity to voluntarily accept or reject recommendations by other states, which is not the case when a treaty body reviews a State Party.

Another unique feature of treaty bodies is that they contribute to the progressive development of international human rights law through authoritative interpretations of treaty provisions or advice to all stakeholders on thematic matters. The Committee against Torture recently adopted General Comment No. 3, for example, on Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, interpreting the obligation of states to provide redress and rehabilitation to victims of torture and ill-treatment.

Moreover, treaty bodies examine complaints from individuals who allege that their human rights have been violated. Such complaints are called communications or petitions. When expressing its views and recommendations on a case, the treaty body acts in a manner considered by some as quasi-judicial, and for others it goes even further as this concerns determinations about obligations assumed by states.

HRB: What do you see as the greatest challenges to the UN human rights treaty body system?

The treaty body system faces the triple challenge of chronic under-resourcing, an increasing backlog of reports to be reviewed, and a lack of timely reporting by States Parties. To start with the first challenge, it would be enough to say that due to the lack of resources and the number of states that have ratified human rights treaties, the treaty body system would break down if every state would report on time. There is also a backlog in processing periodic reports from those states that fulfill their reporting obligations as well as a backlog of individual communications. At present, there is a danger that when a state presents a report, that state may not be examined until its next reporting procedure years later, rendering the earlier report obsolete.

With the increase in the number of treaty bodies, and in the interest of efficiency and legitimacy, it has been very important to avoid overlapping of functions. It is crucial that the treaty bodies pursue harmonization. Coordination will also help promote the treaty bodies’ legitimacy, coherence, and consistency. This is a matter of tremendous importance as our functions really do overlap in some cases. For example, the Committee against Torture supervises compliance with the Convention against Torture, and the Committee on the Rights of Persons with Disabilities will look at whether there is inhuman treatment involving persons with disabilities. The Committee on the Elimination of Discrimination against Women looks at women’s issues in the same situation. In fact, inhuman treatment could be supervised by all treaty bodies; accordingly, it is essential to ensure homogenous interpretation of treaty obligations. Limited resources have resulted in a need to consider resource rationalization including possible limits on meeting time, translation, document length, etc., while also calling for enhanced coordination.

HRB: How do you plan on using your year as Chairperson of the UN Human Rights Treaty Bodies to improve this mechanism for promoting and protecting human rights?

I am focusing on the issue of coordination and communication between the Chairpersons of the treaty bodies. For example, I am working with the Office of the High Commissioner on
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