The Permanent Mission of Israel to the United Nations and other International Organizations in Geneva presents its compliments to the Human Rights Treaties Branch- Office of the High Commissioner for Human Rights, Secretariat of the United Nations (UN), and has the honor to present its comments on the state of the human rights treaty body system, in particular on the implementation of General Assembly resolution 68/268.

As the UN is aware, on Saturday October 7, thousands of Hamas terrorists invaded Israel by land, sea, and air. While indiscriminately firing thousands of rockets on Israeli cities, Hamas systematically massacred, mutilated, raped and abducted scores of men, women and children. Openly displaying elation, they tortured and slaughtered parents in front of children, children in front of their parents, burned entire families, including young children, alive.

Over 1,200 people were butchered that day, more than 5,500 maimed, and over 250 hostages abducted, including women, small children, older persons, persons with disabilities and Holocaust survivors. Some of the hostages have since been executed; many have been tortured, sexually abused and starved. 134 people, among them 19 women and 2 children, whose whereabouts continue to be unknown, remain in captivity in unimaginable conditions.

The State of Israel had expected that the treaty bodies would unequivocally condemn these acts of terror, and uphold the mandate given to them by the very instruments that established them. The Permanent Mission is deeply disappointed on the fact that none of the treaty bodies has met these expectations. Since October 7, the Permanent Mission has found either deafening silence or one-sided interventions, even outside the scope of the treaty bodies’ mandate.

It is in this context that the Permanent Mission will present its comments on the state of the human rights treaty body system, specifically the failure of the treaty bodies to uphold the principles enshrined in UNGA Resolution 68/268 and the Addis Ababa guidelines.

UNGA Resolution 68/268 includes elements that should require attention by the members of treaty bodies and the State parties.

1. Independence and impartiality

The UNGA Resolution, in line with the treaties that establish them, highlights the principles of independence and impartiality of members of the human rights treaty bodies as “essential for the performance of their duties and responsibilities”. This was reaffirmed by the same treaty bodies in the Addis Ababa guidelines, to which the resolution refers, and encourages the treaty bodies to implement them.

Independence and impartiality are not empty concepts, but substantive principles that require active attention. It should not only refer to real, but also perceived conflicts of interest, lack of impartiality or independence, since the opposite can negatively affect the credibility of the treaty body system. As the Addis Ababa guidelines recognizes “(r)eal or perceived conflicts of interest and challenges to the requirements of independence and impartiality may be generated by many factors”, including nationality, place of residence, current and past employment, membership of or affiliation with an organization, or family and social relations, among others.

Independence implies not receiving instructions or being subjected to pressure of any kind, either from the State of their nationality or any other State or its agencies, nor seek nor accept instructions from anyone concerning the performance of their duties; while impartiality includes not taking sides and conducting business in a non-biased manner.

In this regard, it is important to highlight paragraph 7 of the Addis Ababa guidelines, according to which:

“All members shall avoid any action in relation to the work of their treaty body which might lead to or might be seen by a reasonable observer to lead to bias against States. In particular, members shall avoid any action which might give the impression that their own or any given State was receiving treatment which was more favourable or less favourable than that accorded to other States.”

Regrettably, some of the committees have failed to uphold these principles, focusing their attention in a biased, one-sided manner. In its interaction with treaty bodies, Israel has been faced with many examples of these inadequate behaviours. Just to name a few, we can highlight the case when a Committee was offered with opportunities to receive additional information, to enlighten their consideration and decision-making, they rejected it under bureaucratic pretexts. In addition, some members have agreed to hold bilateral meetings with stakeholders that did not follow proper procedures neither. Moreover, it is clear that at an individual level, some committee members have pre-decided how to act, have expressed themselves on social media without the caution that impartiality would require, and some have even promoted an arbitrary application of rules of procedure to exert additional pressure on Israel; while in similar situations of conflicts around the world, they have acted differently.

Paragraph 10 of the UNGA Resolution encourages State parties to “nominate experts of high moral standing and recognized competence and experience in the field of human rights”. As a State party to many human rights treaties, Israel has always been committed to nominating respected and independent experts for these roles. It is time to take further measures to ensure that those who are elected comply with the requirements of high moral standing, competence, experience, and adherence to the principles of independence and impartiality.

1. Combatting disinformation

Paragraph 9 of UNGA Resolution 68/268 encourages “the human rights treaty bodies to continue to enhance their efforts towards achieving greater efficiency, transparency, (…) and (…) to continue to review good practices regarding the application of rules of procedure and working methods in their ongoing efforts towards strengthening and enhancing their effective functioning, bearing in mind that these activities should fall under the provisions of the respective treaties, thus not creating new obligations for States parties”.

Furthermore, in another resolution, the General Assembly invites “treaty bodies and all other human rights mechanisms and entities of the United Nations, within their respective mandates, to consider, as appropriate, addressing the impact of disinformation on human rights” (paragraph 15, A/RES/76/227). Israel would like to highlight that the role treaty bodies have to play on combatting disinformation should not be limited to a monitoring, but also as components of the international system. Thus, they should avoid turning themselves into instruments to spread the same misinformation that the UN seeks to combat.

Unfortunately, in the last several months, treaty bodies have openly restated unfounded allegations, without conducting proper fact-checking. Some committees went as far as to blatantly misrepresent the decision of the International Court of Justice from 26 January 2024. These tactics pay a terrible disservice to the integrity of the human rights treaty body system.

1. Coherence in the application of jurisprudence, including in their interpretative function

The jurisprudence of the treaty bodies, including General Comments/Recommendations and individual cases, represents an important tool for State parties when working on the implementation of its obligations under the Conventions. It is therefore of key importance that they hold coherence in its application, both internally (within each committee) and externally (among them and in line with the international *corpus juris*).

While Israel has consistently supported the interpretative function of the treaty bodies, including by submitting inputs, participating in discussions and supporting references in different negotiations, it is important to clarify some issues. First, while the decisions of the treaty bodies when dealing with individual communications remains extremely relevant, it is even more important that treaty bodies remain mindful that applicability will depend on whether or not the State party has accepted the competence of the said committee to receive them. Any attempt to expand this without the express consent of the relevant States will only undermine the integrity of the system.

Second, State parties and other relevant stakeholders would expect that once a Committee expresses in a General Comment/Recommendation how it interprets the scope of obligations under the relevant Convention, the authoring organ should follow it when referring to a situation covered by that doctrine. Unfortunately, latest developments and statements by certain committees can only be understood either as lack of knowledge of their own jurisprudence; or a voluntary denial of it, promoting an agenda that goes beyond their role as a human rights body, such it seems to be the example of the CEDAW Committee’s shameful statement from 16 February 2024, where it blatantly ignored its own General Recommendation 30 on “women in conflict prevention, conflict and post-conflict situations”.

Third, it is important that members of the committees recommit to focusing on the application of the Convention that established them, and limit their analysis to the legal obligations contained therein, avoiding promoting a political agenda, or being guided by motivations that go beyond what was entrusted to them.

1. Fulfillment of the mandate and avoiding exclusion of individuals under their protection

Recent events have shown a discretionary self-trimming process by certain committees, where they simply ignored the population that they are mandated to protect.

The UDHR and all the human rights treaties contain a non-discrimination clause. Yet, the organs entrusted with monitoring its respect are in fact discriminatory - focusing only on a certain population and choosing to remain silent with regards to violations committed against others. It is shameful to report that the latest statements by Committees, such as the ones monitoring the CRC, CEDAW and CERD, have basically ignored Israeli victims, whether they be children, women or Jews, and chose to focus only on the Palestinian people.

While every war brings terrible suffering, the actions by a terrorist group with a genocidal intent should not be so easily ignored. The opposite can only send the message to the Israeli victims that they do not matter to them, that they are not entitled to the human rights recognized in the instruments that create them, or that they are only briefly mentioned, as an afterthought or a box to check.

1. Ensuring proper interactive dialogue during periodic reviews

Resolution 68/268 recognizes in its preambular paragraphs that “the promotion and protection of human rights should be based on the principle of cooperation and genuine dialogue and be aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings”.

Moreover, in operative paragraph 6, it encourages “human rights treaty bodies to adopt short, focused and concrete concluding observations, including the recommendations therein, **that reflect the dialogue with the relevant State party**”.

While Israel has had different experiences in its latest periodic reviews, those that are conducted in a professional manner, asking questions, listening to the replies and reflecting them in the concluding observations, have sadly become the exception rather than the norm.

Israel always prepares seriously for each review. The submission of the reports demands inter-ministerial work, open consultations with civil society and requests for additional information that can provide answers to the questions received. Moreover, it carefully selects its delegations, including senior officials who are able to provide substantive responses.

Unfortunately, some of the latest experiences during dialogues with treaty bodies have not reflected the expected preparation and professionalism by those who are supposed to be “independent experts”. When presenting reports, Israel as the State under review has presented observations, replies and information to the Committees. However, Israel’s inputs were mostly ignored by the treaty bodies, presenting what are seemingly pre-written conclusions, undermining the objective of an interactive dialogue and the aim of reviewing actions taken by State parties to uphold obligations under the respective Conventions.

While UNGA Resolution 68/268 has mostly focused on issues of a procedural and logistical nature, it is undeniable that its goal is protecting the stability and transparency of the human rights treaty body system.

While small steps have been taken in terms of modalities and work methods, other factors endanger the system, even more greatly.

The way of achieving the goal set up by the UNGA is not limited to the provision of additional resources or harmonizing methods of work. Every member of the committees should comply with the principles that guide their work, as set up in the convention.

Quite the opposite is happening. By conducting themselves disregarding the principles, setting a biased agenda and misusing the working tools put at their disposal by the State Parties, they are doing a disservice to the system they are called to integrate. Staying in this unfaithful path of action will clearly compromise the integrity of the treaty body system, leading to a lose of confidence in it, to reducing their importance to a mere bureaucratic obligation and leaving the individuals they are called to protect without the international layer of protection.

Sadly, considering the most recent actions by a large number of Committees and most of its members, the Permanent Mission of Israel does not expect that this submission will lead to any change in their conduct of business. Yet, reaffirming the commitment of the State of Israel to the promotion and protection of human rights worldwide, it will still keep the hope that the system can heal and focus on the protection of individuals, as the community of States has intended when developing the human rights instruments.

Israel has been a proud member of that system, and has defended it before, complying with its obligations and engaging in an open and transparent dialogue with the Committees. However, the current way of operating, where international law is overcome by personal considerations, does not stand as a light of hope or a useful tool to turn to when aiming at ensuring the promotion, protection and respect of human rights. On the contrary, it seems to be turning in another instrument to spreading misinformation and instrumentalizing human rights in the benefit of a specific agenda.

The Permanent Mission of Israel to the United Nations and other International Organizations in Geneva avails itself of this opportunity to renew to the Human Rights Treaties Branch- Office of the High Commissioner for Human Rights, Secretariat of the United Nations, the assurances of its highest consideration.

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