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THE COMMITTEE ON THE RIGHTS OF THE CHILD WHO PAYS?

Roger S. Clark and Felice D. Gaer***

I. INTRODUCTION AND SUMMARY

With the United Nations in financial crisis, the question "who pays?" is becoming crucial for the survival of oversight mechanisms for a whole range of United Nations human rights treaties. Who pays was the last item remaining to be decided as the Convention on the Rights of the Child was before the Third Committee of the General Assembly in 1989. During the drafting various funding models from other human rights treaties were hotly debated and the Assembly ultimately adopted a system under which all the costs of the Committee are to be met from the general United Nations budget.¹ We believe that this was the best possible outcome of the debate. While each of the possible systems has weaknesses, which we will discuss, funding from the regular budget is the best hope for survival of the treaty regime.

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1. This is the effect of The Convention on the Rights of the Child, U.N. Doc. A/44/736 art. 43, paras. 11 and 12 (1989):

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

On the role of the Committee, see Cynthia Price-Cohen's article *Juvenile Justice Provisions of the Draft Convention on the Rights of the Child*, *supra*, at 3.

II. WHAT CATEGORIES OF COSTS ARE INVOLVED

The costs of the supervisory mechanism in this and similar treaties include the expenses of the committee meetings, such as travel, per diem, and honorarium (if any) for the members. Additionally, there are also the substantial costs associated with paper flow, including reproduction and translation of reports and other documents. There are conference services meeting support costs including rooms, simultaneous translation, summary records or a rapporteur's precis. Finally, there is the preparation and reproduction of a Report of the Committee to the General Assembly. Such bureaucratic expenses far exceed those of simply assembling the members of the relevant treaty committees.

III. PAST UNITED NATIONS EXPERIENCE

A. *Three models of Treaty Committee Financing*

There are three main models in United Nations practice that deal with the practicalities of sharing human rights treaty supervisory costs, those of the Committee on the Elimination of all forms of Racial Discrimination (CERD), the Human Rights Committee (HRC), and the Committee Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (CAT).²

1. *The CERD Model*

The first operative United Nations supervisory committee was the Committee on the Elimination of Racial Discrimination (CERD) established under the International Convention on the Elimination of All forms of Racial

2. For further elaboration, see *Human Rights - Methods Applied Under Different Human Rights Instruments as Regards Their Financial Implications*, U.N. Doc. E/1988/85 (1988).

Discrimination.³ The Convention provides in Article 8, paragraph 6 that "States Parties shall be responsible for the expenses of members of the Committee while they are in performance of Committee duties."⁴ Article 10, paragraph 3 provides, however, that the Secretary-General of the United Nations shall provide the necessary staff and facilities of the committee.⁵ The CERD does not specify who pays for such things as secretarial services, but implies that such costs are to be included in the general budget of the Center for Human Rights and the Division of Conference Services. In fact, this is what occurs.

Thus under CERD there is some cost sharing. For example, the Committee members' expenses are to be paid by the States Parties while the paper flow and conference costs are to be paid by the United Nations. Although we have not fully analyzed all aspects of the United Nations budget, Iain Guest⁶ seems substantially accurate in asserting that: "[t]he CERD costs roughly \$1.6 million a year to service. Of this, 90% is financed from the United Nations regular budget, and the remaining 10% by its [128] members, whose annual contributions range from \$6,000 (West Germany) to \$346 (Burkina Faso)."⁷

2. *The HRC Model*

There is no cost sharing feature for the Human Rights Committee (HRC) which is the supervisory committee for the International Covenant on Civil and Political Rights.⁸ As with

3. G.A. Res. 2106 A (XX), 20 U.N. GAOR Supp. (No. 21) at 47, U.N. Doc. A/6014 (1965).

4. *Id.* at 49.

5. *Id.*

6. Guest, *Chaos Threatens UN Treaties*, 12 HUM. RTS. INTERNET REP. 106 (1988).

7. *Id.* at 106-07.

8. G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, 52, U.N. Doc. A/6316 (1966).

several other treaty committees,⁹ the entire cost of the HRC is borne by the United Nations. Article 35, of the International Covenant states that "[t]he Members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from the United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities."¹⁰ Moreover, Article 36, requires the Secretary-General to "provide the necessary staff and facilities for the effective performance of the functions of the Committee" ¹¹ None of these costs are charged back to the States Parties.

3. *The CAT Model*

The third model of human rights treaty financial provisions is found in the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹² Article 17, paragraph 7 of that convention provides that "[S]tates Parties shall be responsible for the expenses of members of the Committee while they are in performance of Committee duties."¹³ Article 18, paragraph 3 obligates the Secretary-General of the United Nations to provide "the necessary staff and facilities for the effective

9. The Committee (CESCR) set up by the ECOSOC under the International Covenant on Economic, Social and Cultural Rights (adopted by the same resolution) operates functionally the same way as the Human Rights Committee. *Id.* at 51-52. The Committee set up under the International Convention on the Suppression and Punishment of the Crime of Apartheid operates in a similar manner. G.A. Res. 3068 (XXVIII), 28 U.N. GAOR Supp. (No. 30) at 75-76, U.N. Doc. A/9030 (1973). The Convention on the Elimination of All Forms of Discrimination Against Women contains in Article 17, paras. 8 and 9, language concerning its committee (CEDAW) which is verbatim with that in the Covenant on Civil and Political Rights. G.A. Res. 34/180, 34 U.N. GAOR Supp. (No. 46) 193, 197, U.N. Doc. A/34/46 (1979).

10. G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (No. 16) at 56, U.N. Doc. A/6316 (1966).

11. *Id.* at 56.

12. G.A. Res. 39/46, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984).

13. *Id.* at 199.

functions of the Committee."¹⁴ However, Article 18, paragraph 5 shifts these costs as well to the States Parties.¹⁵ "The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3"¹⁶ Thus, in this model, unlike the other two, *all* expenses are borne by the States Parties.

B. *The Models in Practice*

1. *The CERD Model*

The CERD model's cost-sharing provisions, with States Parties paying for the Committee's travel and expenses, and the United Nations paying the rest, has run into serious problems. Since 1986, non-payment of assessments has led to cancellation and curtailment of CERD meetings, and some diversion of CERD sessions from a discussion of substantive matters to fiscal problems.¹⁷ Financial uncertainties have raised basic questions about CERD's ability to continue to meet and function effectively.

With 128 States Parties, CERD involves more of the world's nations than any other human rights treaty.¹⁸ CERD is scheduled to meet twice a year, for three weeks each, to review state reports and consider individual complaints under

14. *Id.*

15. *Id.*

16. *Id.*

17. *Report of the Committee on the Elimination of Racial Discrimination*, 42 U.N. GAOR Supp. (No. 18) at 5-7, U.N. Doc. A/42/18 (1987) [hereinafter *1987 CERD Report*]; *Report of the Committee on the Elimination of Racial Discrimination*, 43 U.N. GAOR Supp. (No. 18) at 6-7, U.N. Doc. A/43/18 (1988) [hereinafter *1988 CERD Report*]; and *Report of the Committee on the Elimination of Racial Discrimination*, 44 U.N. GAOR Supp. (No. 18) at 8-10, U.N. Doc. A/44/18 (1989) [hereinafter *1989 CERD Report*].

18. *1989 CERD Report*, *supra* note 17, at 8.

an optional procedure.¹⁹ However, over the years, many States Parties have not paid their assessed contributions. Until the end of 1985, the United Nations General Fund was able to fill the gap pending receipt of the arrears.²⁰

With the United Nations financial crisis in 1986, this practice came to an end. In January 1986, States Parties, at their 10th meeting, took measures to reduce travel expenses of Committee members, appealed for help from the Secretary-General and asked parties to pay what they owed.²¹

Some responses were forthcoming, but by mid-June, the shortfall of States obligations, considered together with the overall fiscal United Nations crisis, was sufficient to require "deferment" of CERD's August 1986 session.²² Various urgent appeals over the course of the next year reduced the arrears from \$262,611 (on June 16, 1986) to \$159,319 (as of July 31, 1987).²³ By September 30, 1987, the shortfall was reduced to \$151,623.²⁴ Even this was not enough to convene a Committee meeting. However, the Secretary-General again advanced funds from the United Nations General Fund for the March 1987 meeting and later enabled a one week session in August.²⁵ At the shortened session, Committee members questioned whether the outstanding financial requirement was the real source of the problems it faced in meeting. They noted that some of the countries were delinquent not only in paying, but also in reporting.²⁶ The problem continues.

A close examination of outstanding assessments and outstanding reports over the past three years reveals several

19. 1987 CERD Report, *supra* note 17, at 3.

20. *Id.* at 5-8.

21. *Id.* at 5.

22. *Id.*

23. *Id.* at 5-7.

24. See "Statement by Jan Martenson," Under-Secretary-General for Human Rights before the Third Committee of the General Assembly, October 5, 1987 (on file at the New York Law School Journal of Human Rights). By 1988, it was again up to \$172,560. 1988 CERD Report, *supra* note 17, at 105.

25. *Id.* at 7.

26. *Id.*

points that shape our evaluation of the self-financing mechanisms of the CERD:

1. Many countries are in arrears, with most from the third world and only a few from the Eastern bloc or Western countries.

All outstanding assessments, as of July 31, 1987, except one, came from third world countries.²⁷ Other than Romania, no "western" or "eastern" bloc states party owed money to CERD. In 1988, however, two Western states, Canada and Luxembourg, fell into arrears,²⁸ but then paid up. In 1989, Canada and the UK in the West were joined by Hungary and Czechoslovakia on the list of 73 delinquent countries.²⁹

2. The amounts involved are trivial sums individually but they add up.

In 1987 and 1988, no country owed more than Bolivia with a total due of \$9,823³⁰ and \$10,169.³¹ After Bolivia paid up, Mali topped the list in 1989 at \$8,502.³² Most countries owe dramatically less. In fact one-half of the 73 countries in arrears owe less than \$1,000.³³

3. One-third (or less) of the countries in arrears account for approximately three-fourths of the cash shortfall.³⁴

27. 1987 CERD Report, *supra* note 17, 178.

28. 1988 CERD Report, *supra* note 17 at 57-58.

29. 1989 CERD Report, *supra* note 17, at 104-05.

30. 1987 CERD Report, *supra* note 17, at 178.

31. 1988 CERD Report, *supra* note 17, at 57-58.

32. 1989 CERD Report, *supra* note 17, at 104-05.

33. *Id.*

34. Based on material in the 1987 CERD Report, *supra* note 17, at 178; 1988 CERD Report, *supra* note 17, at 57-58; 1989 CERD Report, *supra* note 17, at 104-05.

4. There is no clear-cut correlation between financial delinquency and reporting delinquency.

Of the countries with the most outstanding reports and which have received the most reminders, most (but not all) fall in the top twenty countries in financial arrears.

In 1987, of the nine countries with greatest financial arrears, three were up-to-date on their reporting, four owed only one report, and only two (Burundi and Sierra Leone) owed numerous reports (three and six, respectively). Of the next eleven countries, all owed a significant number of reports. However, some countries that were up-to-date on assessments were among the most delinquent in reporting (e.g. Guyana).³⁵

Of the nine in greatest arrears in 1988, Sierra Leone alone owed seven reports. Among the others, only Burkina Faso owed more than one. In 1988, three of the countries owing the most reports - Burundi, Libya, and Niger - submitted them. Of the three, only Niger paid any part of its arrears. Several of the countries that owe the most reports are up-to-date on their payments.³⁶

In 1989, the picture again lacked consistency. The same countries remained at the top of the delinquency list in 1989 as in 1988. For each that had a high arrearage *and* many outstanding overdue reports, there was another country with many reports due but no significant arrearage.³⁷

CERD's meeting schedule has been severely disrupted because of financial uncertainties and non-payment: its twice annual meetings of three weeks each have not taken place. In 1986, "owing to the non-payment of the assessed contributions by a number of States Parties . . . and the grave

35. The analysis in this paragraph is based on the tables in *1987 CERD Report, supra* note 17, at 17-21 and 178.

36. The analysis in this paragraph is based on the tables in *1988 CERD Report, supra* note 17, at 11-17 and 57-58.

37. The analysis in this paragraph is based on *1989 CERD Report, supra* note 17, at 15-21 and 104-05.

financial crisis facing the United Nations,³⁸ CERD's 34th meeting was cancelled. In 1987, CERD met only once, for one week;³⁹ in 1988, once for two weeks;⁴⁰ and in 1989, once for four weeks.⁴¹

Discussing finances, and the problems they present to the Committee's ability to conduct its work under the convention, the CERD Committee appealed to the 43rd General Assembly in 1988 to authorize the Secretary-General to temporarily ensure the financing of Committee expenses from the regular budget of the United Nations.⁴² A similar appeal was made in 1989.⁴³ The General Assembly was not very responsive in 1988; it noted the disruption of the CERD meeting schedule, called on states to pay arrearages and speed current assessments, but did not explicitly call for the regular United Nations budget to come to the rescue of the CERD.⁴⁴ In 1989, however, the Assembly took a strong step in the direction of restoring a more regular work program for CERD: it invited the Secretary-General "to do everything possible to ensure that funds are available to meet all the costs of the Committee's meetings in 1990" ⁴⁵ The financial crisis nonetheless continues unresolved for CERD.

The severity of this problem has been recognized by some U.N. bodies. For example, the "In-depth Evaluation of the human rights programme" conducted by the Committee for Program and Coordination ("CPC") reached the following conclusion and recommendation:

121. The experience of the Committee on the
Elimination of Racial Discrimination has shown

38. Note by the Secretary-General, U.N. Doc. A/41/561 at 3 (1986).

39. 1987 CERD Report, *supra* note 17, at viii.

40. 1988 CERD Report, *supra* note 17, at 1.

41. 1989 CERD Report, *supra* note 17, at 5.

42. 1988 CERD Report, *supra* note 17, at 50.

43. 1989 CERD Report, *supra* note 17, at 96-97.

44. G.A. Res. 43/96, 43 U.N. GAOR Supp. (No. 49) at 171, U.N. Doc. A/43/49 (1988).

45. G.A. Res. 44/68, 44 U.N. GAOR Supp. (No.--), U.N. Doc. A/44/68 (1989).

the negative consequences on the functioning of treaty bodies of financial mechanisms that have proven to be unreliable.

Recommendation 4.

122. For new instruments being developed, adequate attention should be given to ensuring that the supervisory systems will rest upon sound and viable financing procedures.⁴⁶

The Committee seeks to continue to meet until a permanent solution to its financial problems can be found.⁴⁷

Thus, even CERD's modest cost-sharing arrangements can dramatically affect a supervisory committee's ability to meet and maintain effective oversight of the treaty - whether in reviewing country performance or building its individual complaint procedures and related jurisprudence.

2. *The HRC Model*

Unlike CERD, the Human Rights Committee's full financial expense is supported by the general United Nations budget. This has the obvious advantage of assuring some measure of continuity in its meeting schedule and performance of its mandate. Under the HRC formula, a few States Parties cannot easily bring to a halt the entire supervisory Committee procedure by being in arrears in their assessments. However, the HRC model does make the Committee entirely dependent on the "good financial health" of the United Nations and the budget of its Human Rights Centre. Because decisions on United Nations Human Rights Centre budget and staffing matters are normally made by various persons external to the HRC, such a dependent arrangement can create problems for the independence of the HRC.

These kinds of problems were highlighted during the

46. U.N. Doc. E/AC.51/1989/2 at 52 (1989).

47. U.N. Press Releases RD/582 and RD/583, 12 August 1988.

1986 United Nations financial crisis. As the Secretary-General noted, the United Nations was "confronted by financial problems of such magnitude as to have profound implications for the viability of the Organization"48 Among the responses to this financial crisis, the Secretary-General recommended that one of the two remaining meetings of the HRC scheduled for 1986 should be deferred until 1987.⁴⁹ Moreover, referring to "[t]hree treaty bodies,⁵⁰ serviced by the United Nations under rules of procedure adopted by the bodies themselves, which provide for summary records," he suggested that because of financial considerations and/or strains "[t]he General Assembly may wish to request these bodies to dispense with summary records for all their meetings, including meetings of the States parties to each convention."⁵¹

The ensuing debate in the HRC found its members somewhat uncomfortable with their place in the scheme of things. Although the HRC was set up under a separate treaty and is anxious to maintain its own integrity, it nevertheless requires the support of the United Nations to function.⁵² Thus, when the United Nations suffers, the HRC suffers. But how is the suffering to be apportioned? Mrs. Higgins, the British member of the Committee who found the discussion quite depressing, noted that the United Nations was undergoing a financial crisis, but as a body that was supposed to have a special status, the Committee should be entitled to signal its own priorities. The costs should be presented in real terms and the Committee should be entitled to decide where its sacrifices should be made.⁵³

48. *Current Financial Crisis of the United Nations, Report of the Secretary-General*, U.N. Doc. A/40/1102 at 2 (1986).

49. *Id.* at 23.

50. The three treaty bodies are: CERD, CEDAW, and HRC. *Id.* at 24 and Corr. 2 at 2.

51. *Id.*

52. 28 U.N. CCPR (690th mtg.) at 1, U.N. Doc. CCPR/C/SR.690 (1986).

53. *Id.* at 4-9.

The HRC was reluctantly forced to come to terms. To cut costs a session would be cancelled and a meeting would be held in Geneva (which was purportedly cheaper) rather than in New York.⁵⁴ However, on the matter of summary records, which were viewed by many as the real substance of the supervision process, there was a problem. Committee members had never before been confronted with any budgetary question. Suddenly they had to agree to cost savings that affected many basic services, such as summary records, and yet they had no figures or options before them.⁵⁵ The Bureau of the Committee suggested a compromise by which the summary records would be dispensed with, except when States Parties reports were being considered and at other times on a case-by-case basis.⁵⁶ Mr. Errera, the Committee member from France, responded that:

[t]he summary records were of vital importance since they represented the memory of Committee members, the Committee as an institution, present and future States Parties, and all those for whom the Covenant has been elaborated. Mutilating that memory by cutting summary records from the HRC budget would weaken the Committee as rather like an individual who developed amnesia.⁵⁷

After a *fait accompli* by Conference Services, which pleaded lack of resources, summary records were dispensed with for the last two days of the session and it was agreed that in the future "summary record coverage should be reduced from three weeks to two per session."⁵⁸ Significantly,

54. *Id.* at 10.

55. *Id.* at 5.

56. *Id.* at para. 28.

57. 28 U.N. CCPR (696th mtg.) at 8, U.N. Doc. CCPR/C/696 (1986).

58. 28 U.N. CCPR (697th mtg.) at 3, U.N. Doc. CCPR/C/696 (1986).

HRC thereafter began to schedule its reviews of country reports during those two weeks.

The HRC summary records dilemma illustrates the Committee's financial dependence on the general United Nations budget. Most Committee members have long felt that summary records are essential as an indicator of the Committee's flexibility during its most critical activity. But the Secretariat has seen matters otherwise. According to the Controller, summary records are paid for from the conference services budget, not the human rights program budget.⁵⁹ They are, in short, not "substantive program outputs," in contrast to the Committee's annual report to the General Assembly.⁶⁰ Thus, the financial managers argue, summary records can be eliminated without reducing the Committee's "substantive" program.⁶¹

Because of their status as members of an independent body, however, HRC members have worked out a number of creative compromises, such as those on summary records, to ensure that the services most essential to their specialized treaty-supervisory work are maintained to some degree, even during a period of austerity.⁶²

59. Gaer, *Financial Crisis at the U.N.: Continued Blows to the Human Rights Programs*, 11 HUMAN RIGHTS INTERNET REPORT 58 (1987).

60. *Id.*

61. *Id.*

62. For examples of similar later problems with the HRC, see U.N. Doc. CCPR/C/SR.880 (1989), U.N. Doc. A/C.3/44/SR.38 at 9 (1989) (dispute about the need - and cost - of holding meetings in New York). Other treaty bodies based on the HRC model have also been confronted with the need for cutbacks in meetings and conference services because of the overall United Nations financial crisis, and have been directed to make certain adjustments. For example, CEDAW, at its 1987 meeting was informed by the secretariat that while "entitled" to summary records, these could be prepared in only 2 languages. *Report of the Committee on the Elimination of Discrimination Against Women*, 42 U.N. GAOR Supp. (No. 38) at 2-5, 94, U.N. Doc. A/42/38 (1987). When a member asked to see detailed information about past and present budgets so the Committee could, in turn, make its own views known, the Committee was told that this was not possible; that the 2 year draft budget had already been prepared, but some effort would be made to inform members about past practice. *Id.* Financial data was later made available concerning only the comparative cost; a New York meeting would actually cost less (by some \$900) than one in Vienna because of the much cheaper translation, interpretation, and summary records costs in New York. *Id.* On this latter point, CEDAW requested, and the General Assembly granted, additional meeting days

3. *The CAT Model*

The Torture Convention came into force only in June 1987, but the Committee was born in dire straits. Lack of funds initially meant that the new committee met only for five working days, instead of three weeks, in 1988. This was a result of a specific decision of the States Parties at their first meeting⁶³ that committee meetings would not convene until sufficient moneys had been received for that purpose from States Parties.⁶⁴ According to Iain Guest, "the financial burden could discourage precisely those governments who practice torture and so most need to join."⁶⁵

An important financial issue with serious implications for the matter of "who pays?" has been raised by the German Democratic Republic. A main function of the CAT is to examine reports from parties.⁶⁶ Article 20, of the Convention, however, permits certain action by the CAT when it "[r]eceives reliable information which appears to it to contain well-founded indications that torture is being systematically practiced in the territory of a State Party."⁶⁷ Under Article 28, a State Party may declare that it does not accept this jurisdiction of the Committee.⁶⁸ On the other hand, Article 21 permits a State Party to recognize the competence of the Committee to consider complaints by other States that the Party is not fulfilling its obligations.⁶⁹ Article 22 of the

in 1988, as an exceptional measure. *Id.* In view of the substantial backlog of reports to be reviewed, CEDAW asked the 43rd General Assembly to approve another extension for 1989. *Id.* This request was not met.

63. See CAT/SP/SR.1 at paras 54-55 (1987).

64. See also Byrnes, *The Committee Against Torture*, in *THE HUMAN RIGHTS ORGANS OF THE UNITED NATIONS* (P. ALSTON ed. 1990); J. BURGERS & H. DANIELIUS, *THE UNITED NATIONS CONVENTION AGAINST TORTURE* 112-13 (1989).

65. Guest, *Conventional Folly*, 12 *HUMAN RIGHTS INTERNET REP.* 92 (1988).

66. Convention Article 19, G.A. Res. 39/46, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984).

67. *Id.*

68. *Id.* at 200.

69. *Id.* at 199-200.

Convention permits a state to accept the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.⁷⁰

The German Democratic Republic, which has made the reservation under Article 28 and declined to accept the committee's competence under Articles 21 and 22, has taken further action that complicates the financial picture. In September 1987, the GDR made a "declaration" amounting to a reservation "[t]hat it will bear its share only of those expenses in accordance with Article 17, paragraph 7 and Article 18, paragraph 5 of the Convention arising from activities under the competence of the committee as recognized by the GDR."⁷¹ This would preclude payment of its share of expenses arising from individual or state complaints against other states. It would mean supporting only the reviews of country reports. It is very doubtful that it is lawful to pick and choose what is to be paid for in this way. In any case, such reservations would clearly have the effect of nullifying the Convention's and the CAT's functioning.

States Parties from the United Nation's "West European and Other Group" (WEOG) reportedly made an informal demarche on the GDR, opposing any such unilateral financial action.⁷² Additionally, according to a recent article by Manfred Nowak,⁷³ when some Western representatives voiced concerns about the GDR's reservation at the first meeting of States Parties, they were assured by the GDR delegate that the GDR would bear its financial share of all Committee activities.⁷⁴ Several States ultimately lodged

70. *Id.* at 200.

71. *United Nations, Multilateral Treaties deposited with the Secretary-General: Status as at 31 December 1988*, U.N. Doc. ST/LEG/SER.E/7 at 179-80 (1989).

72. Guest, *U.N. Program Jeopardized by East Europeans, Budgetary Pressure*, 12 HUM. RTS. INTERNET REP. 90 (1988).

73. Nowak, *Torture*, 12 HUM. RTS. INTERNET REP. 92 (1988).

74. *Id.*

objections to the reservation.⁷⁵ To date, however, the GDR declaration has not been withdrawn.

In response to the Secretary-General's decision to permit the CAT to meet only for a shortened five-day session in 1988 due to insufficient resources, the Committee formally asked the Secretary-General to review resource projections and consider possibilities of convening a second meeting in 1988.⁷⁶ However, this was neither endorsed nor approved at the 43rd General Assembly although the Assembly did make the important statement that it "recognizes the importance of appropriate administrative and financial arrangements to enable the Committee Against Torture to carry out in an effective and efficient manner the functions entrusted to it . . . and to ensure the long-term viability of the Committee"⁷⁷ In 1989, the CAT met twice, in April and November, to begin reviewing country reports.⁷⁸ The General Assembly, expressing its own recognition of the precarious financial arrangements for CAT and the East German threat, stressed the importance of "strict adherence" to financial obligations and appealed "to all States parties not to take any measures that might impair the financing of all the functions of the Committee under the Convention" It then asked the Secretary General to "ensure the provision of appropriate staff and facilities" for its effective functioning.⁷⁹

There has been a growing awareness that the financial arrangement under CAT is insufficient.

IV. CONCLUSION

75. See *Multilateral Treaties*, *supra* note 71, at 183-85.

76. *Report of the Committee Against Torture*, 43 U.N. GAOR Supp. (No. 46) at 5, U.N. Doc. A/43/46 (1988).

77. G.A. Res. 43/132, 43 U.N. GAOR Supp. (No.49), U.N. Doc. A/43/49 (1988).

78. See *Report of the Committee Against Torture*, 44 U.N. GAOR Supp. (No. 46) 1, 42, U.N. Doc. A/44/46 (1989).

79. G.A. Res. 44/144, 44 U.N. GAOR Supp. (No.--), U.N. Doc. A/44/144 (1989).

The issue was which of the three models would be most suitable for the proposed Committee on the Rights of the Child. To answer this question it was necessary to consider the goals of the supervisory committee and the treaty itself. The goals of the supervisory committee as we see it include: to provide the most sturdy base for strengthening the regime of the Convention; to maintain compliance with the Convention; to assure the independence of the treaty committee; and, to the extent possible, to avoid overburdening the United Nations general budget with unnecessary and redundant expenses. We believe that the best of the available options was in fact adopted.

None of the models found in past United Nations practice are perfect. If the States Parties have to pay special assessments, a number of countries from both the developing and undeveloped world may not become party to the Treaty. During the 1988 session of the Working Group on a draft Convention on the Rights of the Child, for example, "many participants" expressed concern that many countries would not ratify the Convention under these terms.⁸⁰ The third world's external debt burden was cited as a related factor. Colombia's delegate specifically discussed the impossibility of Colombia bearing such added costs.⁸¹

Additionally, as has occurred with CERD and to a lesser extent CAT, if States do become parties to a convention which requires additional contributions, they may not pay their assessments.⁸² On the other hand, if the costs are borne by the United Nations general budget, the Secretariat can, to a large extent, determine what services will be made available to the Committee. However, as HRC experience has shown, if not checked, such an arrangement can undermine the independence of the treaty body.

80. *Report of the Working Group on a Draft Convention on the Rights of the Child*, U.N. Doc. E/CN.4/1988/28 at 25 (1988).

81. *Id.*

82. *See supra* notes 17-47 (CERD) and notes 63-79 (CAT).

We do not find that overburdening the United Nations general budget with unnecessary expenses is a problem for human rights treaties. It is certainly not a persuasive reason for adopting a financial arrangement - support by the States Parties - that virtually assures that the Convention will stumble badly.

The promotion and protection of human rights is one of the four goals specifically mentioned in the United Nations Charter.⁸³ Its importance is paramount. Yet the resources devoted to achieving the organization's goals in human rights through various United Nations bodies are minuscule, (amounting to less than 1 percent of the organization's total budget).⁸⁴ Rather than burdening the United Nations budget with unnecessary or redundant costs, support for the human rights treaty bodies would help strengthen the achievement of one of the United Nations' fundamental goals. It would advance the institutionalization of human rights into the legal structures and practices of the world's nations and strengthen international supervision of this process. The United Nations should be pleased to contribute to this effort by assisting in managing the supervisory regimes for the treaties.

A growing sensitivity to the need for better financial arrangements for the treaty supervisory bodies has developed in the United Nations in recent years and the debates surrounding the Convention on the Rights of the Child played a significant role in this. At an October 1988 meeting of chairpersons of human rights treaty bodies, "there was considerable discussion of the difficulties" resulting from the financial crises of the UN, CERD, and CAT.⁸⁵ Participants noted that the UN had a responsibility to ensure the efficient functioning of the mechanisms established under the human

83. U.N. CHARTER art. 1, para. 3.

84. See *Report of the Committee Programme and Co-ordination*, 44 U.N. GAOR Supp. (No. 16) at 37, U.N. Doc. A/44/16 (1989).

85. See *Note by the Secretary-General, Reporting Obligations of States Parties to the United Nations Instruments on Human Rights*, U.N. Doc. A/44/98 at 20 (1989).

rights treaties. Further, they concluded that the experience with the CERD and CAT "suggested that the self-financing system did not contribute to the effective operation of those mechanisms or to promoting the acceptance of the obligations inherent in the instruments."⁸⁶

The significant financial implications of the creation of future committees (such as that on the rights of the child) were sufficient, they felt, to merit a study on long-term approaches to the supervision of existing and new instruments.⁸⁷

The Commission on Human Rights, in March 1989, authorized such a study, by Professor Philip Alston of the Australian National University who is also Rapporteur of the Committee on Economic, Social and Cultural Rights. Professor Alston's Report⁸⁸ - probably the most important study of the practical operation of the United Nations human rights treaty system ever undertaken - considers, *inter alia*, the array of financial matters facing the treaty committees and the arguments for each alternative funding approach. He reaches conclusions similar to our own about funding from the general United Nations budget being the best of a less-than-desirable set of alternatives, and makes a number of creative suggestions for improving the overall situation.⁸⁹ The immediate problem with the drafting of the Convention on the Rights of the Child has been solved but the problem of "who pays" remains to bedevil the whole human rights supervisory program.

86. *Id.* at 21.

87. *Id.* at 23.

88. Published as the Annex to *Note by the Secretary-General, Effective Implementation of International Instruments of Human Rights, Including Reporting Obligations Under International Instruments on Human Rights*, U.N. Doc. A/44/668 (1989).

89. *Id.* at 26-40.