The U.N. Human Rights Committee

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I. Introduction

The United Nations Human Rights Committee is not the oldest UN human rights treaty body. That distinction belongs to the Committee on the Elimination of Racial Discrimination (CERD). Over time, though, the Human Rights Committee has emerged as the most active

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1 See generally R. Wolfrum, "The Committee on the Elimination of Racial Discrimination," *Max Planck UNYB* 3 (1999), 489 et seq.

and innovative of these institutions. Although it is difficult to fully explain why the Committee acquired this special status, a number of factors may have contributed to it. One has to do with the fact that the Committee has the broadest subject-matter jurisdiction or competence of any of these treaty bodies. Another factor may be attributed to the Cold War and the perception then current that CERD, with its jurisdiction over racial discrimination, offered the Soviet Union and its allies as well as many non-aligned third world nations a propaganda tool to be used against the West. The Human Rights Committee, by contrast, provided these groupings of states with no comparable propaganda advantage. The East must consequently have decided that it had an interest in ensuring that the Committee not become an East-West battle ground, whereas the West no doubt concluded that its interests in promoting civil and political rights were best served by not politicizing the Committee. Thus, despite the fact that the West and nations aligned with it at different times tended to have a majority in the Committee, the members from these countries appeared to have decided early on that little would be gained in the long run by attempting to impose their will on the Committee as a whole.

The unstated compromise not to politicize the Committee produced a body that manoeuvred around the shoals of the East-West conflict without making too many waves: it did not threaten the East while advancing the interests of the West, albeit only minimally, in promoting

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2 The International Covenant on Civil and Political Rights, whose entry into force gave birth to the Committee, guarantees a comprehensive catalogue of civil and political rights. The other United Nations treaty bodies have a more limited jurisdiction, dealing as they do with racial discrimination, rights of children or women, and torture. The Committee on Economic and Social Rights, which administers the implementation of the International Covenant on Economic, Social and Cultural Rights and whose jurisdiction within its sphere of competence matches that of the Human Rights Committee, is not a treaty body. It was established by a resolution of the ECOSOC.

3 Symptomatic of Cold War paranoia is the fact that the same states (the Soviet bloc and many so-called non-aligned nations), which supported a mandatory inter-State complaint mechanism and a reference of disputes to the ICJ as well as an optional individual petition system for the International Convention on the Elimination of All Forms of Racial Discrimination, strongly opposed the inclusion in the Covenant of the very same mechanisms. See A.H. Robertson, “The Implementation System: International Measures,” in: L. Henkin (ed.), The International Bill of Rights: The Covenant on Civil and Political Rights, 1981, 332 et seq., (336).