Complaints Procedures – Possible Reform?

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The 1503 procedure

1. The procedure governed by ECOSOC resolution 1503 (XLVIII) has been in operation for 20 years, i.e. since 1972. It is the first procedure within the UN human rights programme for the handling of complaints about alleged violations of human rights.

2. 1503 material was for the first time placed before the Commission on Human Rights in 1974, but substantive debate on 1503 dossiers only started a year later, in 1975. Since then, the Commission has been called on to examine 1503 dossiers relating to 46 countries, that is situations which appeared to reveal consistent patterns of gross and reliably attested violations of human rights.

3. In the early days, the 1503 procedure played a unique role, in as much as it was the only procedure within the human rights programme where complaints could potentially be examined with any degree of seriousness. (The so-called 728 F procedure of 1959, which had its origin in a Council resolution of 1947, was an obvious non-starter, which basically confirmed that the Commission on Human Rights had "no power" to take any action with regard to any complaint. The parallel procedure for the Commission on the Status of Women, also from 1947, contained the same "no power" clause and has not developed into a serious machinery in spite of later amendments).

4. Through the years, quite a number of well meant ideas have surfaced for the strengthening of the 1503 procedure. These ideas have emanated mainly from NGOs and human rights activists, but also from Sub-Commission members and members of the Commission on Human Rights, the main implementing bodies. The ideas have included the following:

   (a) that once a situation has been referred to the Commission for consideration, all subsequent communications on the same subject should automatically be placed before the Commission, without going through the screening process of the Sub-Commission and its Working Group on Communications;
(b) that the Secretariat should be given a role in deciding which communications are admissible;
(c) that the Secretariat should be authorised to solicit supporting evidence or up-to-date information from authors of complaints;
(d) that authors of complaints should be furnished with copies of Government replies and afforded an opportunity to comment thereon;
(e) that the Sub-Commission’s Working Group on Communications should meet more than once a year to screen communications;
(f) that the existing screening process by the Sub-Commission and its Working Group on Communications should be discontinued and that, instead, a joint meeting of the bureaus of the Commission and the Sub-Commission, following each session of the latter, would decide which material should be examined by the Commission;
(g) that no particular situation should be kept under the confidential 1503 procedure for more than 2 to 3 years, following which the Commission would be obliged to determine whether to move the matter to public procedures.

Suffice it to say, that the above ideas have never been pursued. Some of them may seem somewhat impractical, while others would be clearly destined for a political defeat, if they were to be pursued.

5. The fact that the 1503 procedure is confidential (all discussion at all levels takes place behind closed doors and the summary records and working documents are confidential) has been seen as one of its weaknesses, an impediment to its effectiveness and, even a shield behind which the countries being examined can hide. To remedy this state of affairs, two further ideas have emerged, that is:

(a) that the confidential summary records should be declassified after a certain number of years (5, 10, 15 years?), or
(b) that the entire procedure should be made public.

While the former idea, which might be of interest to scholars and researchers, but hardly for the general public, might possibly have the support of the policy making bodies concerned, the latter idea might be more difficult to sell and might, at some stages in the procedure, be totally impractical. There are four bodies involved in the implementation of the procedure:

(i) The Sub-Commission’s Working Group on Communications, which determines which communications should be drawn to the attention of the Sub-Commission;
(ii) the Sub-Commission itself, which determines whether the communications selected by the Working Group appear to reveal situations of