

Joint NGO statement on strengthening the human rights treaty bodies

2014 Annual Treaty Body Chairpersons Meeting, 24-27 June, 2014, Geneva

This statement has been prepared by NGOs that regularly contribute to the work of the treaty bodies, many of whom also followed and contributed to discussions around the reform and strengthening of the treaty body system.

We broadly welcome the outcome of the General Assembly process to strengthen the treaty bodies and acknowledge the important role played by treaty body members in the process. While the General Assembly process has concluded, we firmly believe that the treaty body system requires ongoing strengthening to continuously improve its effectiveness and to meet the challenges of an ever-expanding system. In that regard, the Chairpersons' meeting is a key venue for bringing together the critical experience and perspectives of the entire treaty body system.

We take this opportunity of the Chairpersons' Meeting to highlight the following priority areas that the Chairpersons should consider as critical to the implementation of the General Assembly resolution and the ongoing process of strengthening the treaty bodies.

State compliance with reporting obligations

It is expected that the substantial increase in capacity building envisioned by the General Assembly resolution will result in additional reporting from those States for whom a lack of capacity has presented the main obstacle to reporting in the past. However, it should be recognized that political will, and not only capacity, is a significant factor missing in many cases. As the UPR has shown, States can submit reports on time if the political will exists to do so. We encourage the treaty bodies to **monitor those reports that are submitted as a result of increased capacity building and to inform the General Assembly and meetings of States parties of this accordingly.**

Furthermore, **until such time as non-reporting states start to comply, treaty bodies should continue to consider States parties in the absence of a report.** We believe that this practice is important to uphold the principle that all States parties must be reviewed; furthermore, it has had the practical effect of encouraging non-reporting States to engage with the treaty bodies. **We also encourage the use of such other measures as designating a committee to meet with a non-compliant State's permanent representative to identify any specific problems in preparing its report(s), and drawing the attention of the General Assembly, meetings of States parties and the High Commissioner for Human Rights to those states that chronically fail to meet their reporting obligations.**

Simplified reporting procedure

The development of the "list of issues" and "list of issues prior to reporting" have been important initiatives emanating from the treaty bodies themselves. It is encouraging that the majority of States parties have opted to use the procedure. Although relatively new developments, **we encourage the treaty bodies that offer the simplified reporting procedure to continue to monitor these innovations with a view to drawing up lessons learned and sharing them more widely across the treaty body system.** In this way, we hope that more treaty bodies will be inclined to offer the simplified reporting procedure.

Alignment of working methods

We support the longstanding efforts by treaty bodies to align their working methods, while replicating good practices. The outcome of the intergovernmental process encouraged treaty bodies to further align their

working methods in a number of areas including: further elaboration of existing guidelines on the common core document; elaboration of an aligned methodology for dialogue with States parties; development of an aligned consultation process for the elaboration of general comments; and development of common guidelines for the elaboration of concluding observations.

In that regard, we note that the continued use of different procedures relating to periodic reporting, individual communications and follow-up also creates challenges for States and other stakeholders, including NGOs. **We would thus welcome a commitment from the treaty bodies to continue to work towards aligning their working methods in those areas.**

One area in particular that could benefit from increased alignment is meetings with NGOs. The majority but not all treaty bodies now follow the model of private formal meetings with NGOs, which we consider best practice. In addition, we encourage those treaty bodies that hold NGO briefings concurrent with State party reviews, to ensure that NGO briefing sessions are held no more than a few days before the State party review (ideally the day before) to limit the time NGOs must spend in Geneva and to reinforce the role of NGOs as important stakeholders. However, if a treaty body has determined that holding briefing sessions with non-governmental stakeholders during pre-sessions is beneficial to the review of States parties under that particular convention, this practice should be upheld.

Preventing and addressing reprisals

NGOs had pressed throughout the strengthening process for the resolution to effectively address the issue of reprisals and intimidation against those engaging with the treaty bodies. While it is positive that the text touches on this important issue—strongly condemning, and urging States to take appropriate action to prevent and eliminate such acts—we are disappointed in the lack of political will to do more. It is regrettable that in the late stages of negotiation, the text was changed to include a causal element limiting the acts to be condemned, prevented and eliminated to those carried out ‘*for*’ individuals’ and groups’ contributions to the work of the treaty bodies. In this regard, the General Assembly failed to meet the standard set previously by it and the Human Rights Council, in which they called for action to prevent, refrain and ensure adequate protection from *all* acts of intimidation or reprisals against those who ‘seek to cooperate or have cooperated with the United Nations’.¹

We note that the treaty bodies are already taking initiatives to deal with reprisals and intimidation, including the appointment of focal points and creating webpages, and we encourage the Chairpersons to continue to develop these efforts. In light of increased reports of reprisals against NGOs and human rights defenders, we also believe that **treaty bodies should: 1) develop common guidelines on preventing reprisals and intimidation; 2) address allegations of reprisals; and 3) appoint focal points as quickly as possible, with a broad and clear mandate to take all possible steps to prevent and address reprisals. An inter-committee mechanism could also be an effective way of addressing this issue and increasing coordination.**

NGO reports

We are disappointed that a recommendation to apply word limits to NGO reports was included in the resolution in the late stages of negotiations. While we appreciate the benefit of concise NGO documents, limits should not be placed on documentation that has no production or translation cost implications. However, **it would be helpful to have feedback from the treaty bodies on NGO reports and briefings, including suggestions for structure, format, language(s) and length. It would also be very useful for**

¹ A/RES/68/181 OP17, A/HRC/RES/24/24 OP3, A/HRC/DEC/18/118 PP3, A/HRC/RES/16/21 OP30 (adopted by the General Assembly in A/RES/65/281 OP10), A/HRC/RES/12/2 OP1

the treaty bodies to consider how public NGO documents might be catalogued or otherwise archived within the system for use by other committees, as relevant.

Independence and impartiality of treaty body members

We welcome the step taken by the Chairpersons at their twenty-fourth meeting in 2012 to develop and adopt the Guidelines on the independence and impartiality of members of the human rights treaty bodies (“the Addis Ababa Guidelines”). The decision to adopt these Guidelines reinforces the independence and impartiality of the treaty bodies. We continue to **encourage all of the treaty bodies to endorse the Guidelines and to ensure that all members adhere to them.**

Sustainability of meeting time

During the intergovernmental negotiations, consideration was given to the amount of time per year that individual members (who are unpaid for their commitments) are able to devote to their committee work. In our view, this limit is approximately 12 weeks.

The resolution adopted by the General Assembly resulted, in the short term, in an additional 20.6 weeks of meeting for the system as a whole. We note with some concern that in three cases these additional weeks exceed the 12 week limit.² Further ratifications and increased reporting, as well as an increased volume of individual complaints, will likely result in additional committees facing this challenge as well. The use of dual chambers as a means to mitigate this challenge was discussed but not resolved consensually by States during the inter-governmental process, leaving the resolution silent on this important issue.

We urge the Chairpersons to consider whether it may be beneficial going forward for committees to decide to meet in dual chambers, if and when not doing so would result in total annual meeting time exceeding 12 weeks. Alternatively we urge Chairpersons to consider developing other working methods that will reduce the amount of time that individual members are required to be in session.

Implementation of Concluding Observations and Views

Although the General Assembly resolution scarcely addressed national implementation, treaty bodies have a key role to play in monitoring and following up on States parties’ implementation of Concluding Observations and Views. **We encourage the treaty bodies to continue to develop good practice with respect to follow-up, including the establishment of multiple follow-up rapporteurs, the adoption of a common classification system for assessing the implementation of Concluding Observations and Views, and effective sharing of information with other UN entities, including Special Procedure mandate holders, and UN country offices.**

Accessibility and visibility of the treaty bodies

While it is disappointing that States could not agree to fund webcasting of the public sessions of the treaty bodies with immediate effect, we welcome the ‘in principle’ commitment to webcast public meetings as soon as possible. We note the request to OHCHR to provide videoconferencing facilities through UN country offices to members of State delegations not present at meetings in Geneva, in order to facilitate

² The Human Rights Committee would meet for 14.7 weeks; the Committee on the Elimination of Discrimination Against Women would meet for 13.3 weeks; and the Committee on the Rights of the Child would meet for 15 weeks.

wider participation in the dialogue. However, the provision of such facilities should not be used to replace the physical presence of a State delegation at the review, but rather facilitate the input of national experts who cannot travel to Geneva.

In addition, **we look to the treaty bodies to also support the use of remote participation by civil society organizations.** Due to resource constraints, it can be very difficult for national or local NGOs from outside Geneva or New York to participate in the sessions. Beyond submitting written information, these organizations have much to contribute to formal and informal treaty body meetings regarding both States parties' evaluations and discussions on human rights standards. Strengthening the means for remote participation would enhance the accessibility and visibility of the treaty bodies, allowing for broader and more diverse civil society engagement.

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Advocates for Human Rights

Alkarama

Amnesty International

Bahá'í International Community United Nations Office

Cairo Institute for Human Rights Studies

Centre for Civil and Political Rights

Centre for Reproductive Rights

Centro de Estudios Legales y Sociales (CELS)

Child Rights Connect

FIACAT

Human Rights Law Centre

Human Rights Watch

International Commission of Jurists

International Disability Alliance

International Service for Human Rights

IWRAW Asia-Pacific

Mental Disability Advocacy Center

Open Society Justice Initiative