

Joint NGO Statement on the occasion of the Twenty-ninth meeting of UN treaty body chairs

27-30 June 2017, New York

This statement includes some reflections and recommendations, by the undersigned organisations (see list on p.6-7), in relation to the programme of work for the 2017 annual meeting. Some of the comments and recommendations stem from a two-day consultation involving representatives of NGOs, States, treaty body members, OHCHR and academics, which took place in Geneva on 23-24 May 2017¹. The consultation focused on developing a strategy for the Treaty Body strengthening process. A report will shortly be made public. The comments and recommendations below are structured around the substantive treaty body chairs meeting agenda items.

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Agenda item 6: Organizational matters and adoption of the programme of work

The annotated agenda recalls that annual meetings of treaty body Chairs (Chairs) are still organized pursuant to General Assembly resolution 49/178 of 1994. The current framework of the annual meeting of chairs makes it a primarily consultative body, rather than a decision making body. The implementation of decisions taken by the Chairs has been a long and cumbersome process, as exemplified by the treaty bodies that have not yet adopted the San José Guidelines (see agenda item 11 below). Some treaty body members also argue that the current meeting of Chairs arrangement leaves little room for contributions by individual members.

Key recommendations:

The Chairs should seek to:

¹ See more at <https://goo.gl/m8UjZB>

1. Consider reviewing the annual meeting of chairs' mandate with a view to improve the overall coordination among treaty bodies, including regarding the adoption of decisions readily applicable to all treaty bodies.

Agenda item 7: Follow-up to General Assembly resolution 68/268

General Assembly resolution 68/268 requires a review, no later than 2020, of “the effectiveness of the measures taken in order to ensure their sustainability, *and, if appropriate, to decide on further action* to strengthen and enhance the effective functioning of the human rights treaty body system.” [Emphasis added]

Resolution 68/268 and previous strengthening exercises have highlighted the need for increased harmonization of working methods. In the past, inter-committee meetings have been very useful to advance on such topics as a common approach to reservations and indicators. The Secretary-General's first progress report to the GA (A/71/118) indicated that, “harmonization of working methods is progressing with varying results.”

The harmonization of treaty body processes and practices has been the subject of much discussion throughout the Treaty Body Strengthening process. We are of the view that, subject to the specificity of the different treaties, greater efficiency and usability could be achieved if all of the treaty bodies had more similar processes and practices. We underline that the objective is to align with best practices rather than harmonizing down to the lowest common denominator.

The Chairs can play a crucial role in promoting the strengths of the system with States and in safeguarding the system from regressive proposals and political attacks. Resolution 68/268 further encouraged the “[c]hairs to formulate conclusions to accelerate the harmonization of working methods in the treaty body system”. They have done so in a number of areas, yet implementation at the committee level varies and there is a lack of clarity about the role of the Chairs.

Furthermore, the Chairs have so far not discussed as a group nor publicly commented on the substantive, and often far-reaching proposals for reform presented as part of the Academic Platform on Treaty Body Review 2020. These proposals include the “establishment of a single, permanent treaty body”². There have also been suggestions to establish a single body to handle individual complaints, both as part of the Academic Platform³ and during a recent Wilton Park conference.⁴

Key recommendations:

The Chairs should seek to:

1. Play a proactive and visible role in proposing ambitious reforms as part of the strengthening process, and engage their respective treaty bodies in discussions on non-structural and structural improvements to the system.
2. Recommend the OHCHR to undertake a mapping of working methods where increased harmonization would contribute to a more effective functioning of the system as a whole and avoid inconsistencies.
3. Establish inter-Committee working groups, as necessary within each treaty body, to discuss topics for harmonization as indicated in resolution 68/268, with a view to identifying and replicating best practices amongst all treaty bodies.

² Report of the regional consultation held in San José, Costa Rica, 19-20 November 2016. <https://goo.gl/KUimxf>

³ Report of the regional consultation held in Dublin, Ireland, 7-8 July 2016. <https://goo.gl/6DsUKQ>

⁴ Report the future of human rights in a multi-polar world: exploring opportunities for further engagement, 11-13 January 2017. <https://goo.gl/vqpKJi>

Agenda Item 8: Reporting compliance by States parties

We welcome the very comprehensive and useful note on reporting compliance (HRI/MC/2017/2). The note spells out the difference across treaties in the reporting periodicity, as well as the continued issue of States reporting either late or not at all. The addition of information on which treaty bodies currently review States in absence of a report and statistics on those reviews would make the note more comprehensive.

Key recommendations:

In line with earlier recommendations, we recommend that:

1. The treaty bodies work towards a unified approach to States parties that report after a long delay or not at all, including by conducting reviews in the absence of a State's report.
2. The Chairs should ask OHCHR to further disseminate information on reporting compliance, in particular within the Human Rights Council and UN General Assembly.

Agenda Item 9: Follow-up to concluding observations, decisions and Views

We welcome the discussion on such a crucial area of treaty body work as the follow-up to their recommendations. Currently, nine treaty bodies have established follow-up procedures. All apply different working methods to assess and grade the implementation of their recommendations and views. Some treaty bodies use a system of grades ranging from A to E (e.g. CCPR), others use several grading scales with three main categories (e.g. CAT), and others use four categories to assess the implementation (e.g. CEDAW).

A constructive proposal has been put forward in previous years by NGOs for a joint-follow-up mechanism⁵. This proposal deserves re-consideration in the context of demands for greater harmonization and/or structural reform leading up to the 2020 review.

Key recommendations:

In line with earlier recommendations, we recommend that:

1. Treaty bodies that have not adopted follow up procedures (i.e. CRC) should do so without delay.
2. Treaty bodies should work towards a harmonized follow-up and assessment procedure, aimed at increased implementation and based on existing best practices.
3. Treaty bodies should urge States to establish National Mechanisms for Reporting and Follow up (NMRFs) where these do not already exist.

Agenda Item 10: Implementation by the treaty bodies of the Addis Ababa Guidelines

2017 marks the fifth anniversary of the adoption of the Addis Ababa Guidelines, which continue to provide a useful framework for ensuring the independence of treaty body members. The publication by the OHCHR of [a handbook](#)⁶ for treaty body members is welcome. However, the implementation of the Guidelines is not systematic and even across all treaty bodies. For instance, treaty bodies adopt different attitudes to dealing with members with perceived or actual conflicts of interest. On the larger issue of treaty body membership, the lack of gender balance in some treaty bodies (e.g. CRPD and CEDAW) or the prevailing opacity of candidate nominations and selections at the national level continue to be highly problematic.

Key recommendations:

In line with similar recommendations made in previous years, we recommend that:

⁵ www2.ohchr.org/english/bodies/icm-mc/docs/CCPR_Centre.doc

⁶ http://www.ohchr.org/Documents/Publications/HR_PUB_15_2_TB%20Handbook_EN.pdf

1. Treaty bodies should openly call for States to nominate candidates for treaty body elections through open and transparent processes, and based on detailed membership criteria.
2. Treaty bodies should encourage States parties to foster diversity and a balance of expertise, age and gender in treaty body membership, both at nomination and election stages.
3. Chairs should consider ways to facilitate and/or expand the interpretation of the Addis Ababa Guidelines, possibly through a joint treaty body commentary, to spell out the obligations of States when appointing treaty body members.

Agenda Item 11: Implementation by the treaty bodies of the San José Guidelines

Significant progress has been made by individual treaty bodies since the adoption of the San José Guidelines in 2015, notably with all treaty bodies designating a focal point or rapporteur on reprisals. Two treaty bodies have still to adopt them formally: CESCR and CEDAW.

Key recommendations:

We recommend that the Chairs:

1. Encourage the two treaty bodies that have not formally and fully adopted the San José Guidelines to do so.
2. Ensure the necessary coordination between Rapporteurs on reprisals with other functions, such as the Rapporteur on communications, in order to react swiftly and promptly to allegations of violations and/or reprisals against those who engage with the treaty bodies, be that through individual communications, reviews or inquiries, in compliance with the San José guidelines, notably para. 19.
3. Ensure that all cases of alleged intimidation and reprisals associated with cooperation or attempted cooperation with treaty bodies also be transmitted to the Secretary-General for possible inclusion in the annual report on cooperation prepared for the Human Rights Council.

Agenda Item 12: Development of a common treaty body approach to engaging national human rights institutions

We welcome the report on the workshop held on the theme “Towards a common treaty body approach to engaging national human rights institutions (NHRIs).”⁷ The workshop recognized that NHRIs can play an important role in awareness raising and capacity-building efforts regarding the treaty body system at the national level. In addition to their direct engagement with treaty bodies during the review of periodic reports, during confidential inquiry visits or discussions on general comments, they can also play an important role in the development and implementation of action plans for follow-up on treaty body recommendations with stakeholders at the national level, such as parliament, civil society organizations, and academic institutions.

Key recommendations:

We encourage treaty bodies to:

1. Call on NHRIs to engage with the NMRFs where these exist (agenda item 8(b)), and be part of national discussions around the establishment of NMRFs at the national level.
2. Due to the varying degree of independence of NHRIs, NHRI interaction with the treaty bodies should be held separately to the NGO session when lack of NHRI independence is problematic, although in other instances NGO coordination with NHRIs can be beneficial.

⁷ <https://goo.gl/NgwqZT>

Agenda Item 13: Treaty bodies and the Sustainable Development Goals (SDGs)

We welcome the discussion on the SDGs, which constitute the main international framework for international aid and sustainable development nationally.

Key recommendations:

1. We encourage all treaty bodies to consider the SDGs, the targets and the indicators in their list of issues and list of issues prior to reporting insofar as they relate to relevant treaty provisions.
2. All treaty bodies should also consider including reference to the SDGs in the constructive dialogues and concluding observations as they relate to relevant treaty provisions.

Agenda Item 14: Strategies for increasing the visibility of the treaty body system

We welcome the discussion on a topic of crucial importance for treaty bodies. One of the important findings of the recent two-day multi stakeholder consultation (see above footnote 1) was that the overall visibility of treaty bodies has decreased in recent years, notably with the emergence of new mechanisms such as the UPR. Increasing the overall visibility of treaty bodies is crucial to their continued relevance. In the absence of a background note on the content of this agenda item, the following are general recommendations on treaty body visibility.

Key recommendations:

1. The Chairs should design and adopt a comprehensive and ambitious communication and outreach strategy with a clearly articulated aim to improve their visibility and presence in national, international, and social media.
2. Communication means and channels should be tailored to the needs of target audiences (e.g. persons with disabilities)
3. The Chairs should work with the relevant OHCHR media unit and staff to proactively disseminate their statements, concluding observations, views and other outputs. This is particularly needed on the adoption of views, which often go unnoticed.
4. The individual websites of treaty bodies should be updated as often as possible, and made available in other languages than English.
5. Treaty bodies should work closely with OHCHR field presences, for instance on the occasion of the annual meeting of OHCHR field presences, to improve their overall engagement in the national dissemination of treaty body outputs. The field presences could for instance host public webcasting of treaty body sessions and improve outreach in the national media.

Agenda Item 15: remedies

We welcome the adoption by the Human Rights Committee of a set of Guidelines on measures of reparation (or remedies) in November 2016 (CCPR/C/158). Subject to the specificities inherent to the different treaties, a harmonized approach across all treaty bodies to complaints procedures based on the existing best practices would be welcome.

Key recommendations:

1. The Chairs should implement harmonized procedures based on good practices on the issue of remedies.

Agenda Item 16: inquiries

Inquiries hold enormous potential for the treaty bodies with such a mandate. Six treaty bodies are mandated to conduct confidential inquiries. Yet few of those have been undertaken, and more importantly, their visibility outside of the directly concerned circles is generally low. Good practices in engagement with third parties can be found in recent CEDAW inquiries. Yet the overall confidentiality of inquiries has in many cases become a synonym for opacity.

Key recommendations:

1. Engagement of relevant external stakeholders at all stages of inquiries, especially civil society, should be regarded as a crucial objective when discussing treaty body inquiries.
2. Clarification from the Chairs as to whether treaty bodies would be able take on more than one inquiry, including those without a visit and the approximate number of inquiries they can deal with at any one time would be welcomed.
3. All treaty bodies should have clear and publicly accessible working methods for inquiries
4. Treaty bodies should develop a unified policy spelling out in detail how external actors such as NGOs can contribute to inquiries.

Agenda Item 18: other matters*Common methodology for general comments*

At the twenty-seventh meeting of chairpersons, a common methodology (A/70/302; para. 21-25) for consultation regarding draft general comments and recommendations was endorsed by the Chairs. However, consultation processes continue to vary from treaty body to treaty body. Since the 27th meeting, a number of new draft general comments consultations were initiated, all following different methodologies and with varying degrees of openness and transparency. Some processes have been modified continually.

Key recommendations:

It is in the interest of all stakeholders that all treaty bodies agree to set up processes for the drafting of general comments/recommendations that, at a minimum include:

1. Setting out the process agreed within the respective treaty body, including the timeline for the drafting process and consultations with all interested stakeholders, as well as allowing inputs from relevant stakeholders in an appropriate way (e.g. children, persons with disabilities, etc)
2. The publication of a concept note or similar document setting out the intended scope of the general comment/recommendation on the dedicated website. Comments should be invited at this stage.
3. The treaty bodies should make available draft general comments/recommendations on their website and call for comments on the text itself from all interested stakeholders.
4. Treaty bodies should hold discussions on the draft text in public session, at least for the first reading and at the adoption stage.
5. Treaty bodies should make the draft under discussion available as it develops so that interested stakeholders can follow the discussions as they progress.

List of signatories

Advocates for Human Rights

Amnesty International

Centre for Civil and Political Rights

Centre for Reproductive Rights

Child Rights Connect

CIVICUS

European Roma Rights Centre

Global Initiative for Economic, Social and Cultural Rights

Human Rights in China

Human Rights Law Centre

International Commission of Jurists
International Disability Alliance
International Movement Against All Forms of Discrimination and Racism (IMADR)
International Rehabilitation Council for Torture Victims (IRCT)
International Service for Human Rights
Jacob Blaustein Institute for the Advancement of Human Rights
Mental Disability Advocacy Centre
Open Society Justice Initiative
TRIAL International
Women's Link Worldwide
World Organisation against Torture