

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, human rights treaty body members, OHCHR and academics, which took place in Geneva on 23-24 May 2017¹. The consultation focused on developing a political strategy for the Treaty Body strengthening process. A report will shortly be made public. The comments and recommendations below are structured around the substantive 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 TB 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 TB Chairs has been a long and cumbersome process, as exemplified by the TBs which have not yet adopted the San José Guidelines for instance (see agenda item 11 below). Some TB 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. Discuss and if necessary call for a revision of GA Res 49/178 with a view to updating the overall coordination among treaty bodies, including regarding the adoption of decisions readily applicable to all treaty bodies.

¹ See more at <https://goo.gl/m8UjZB>

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]

GA 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.”

Treaty body Chairs (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 substantial, and often far reaching proposals for reform presented as part of the Academic Platform on Treaty Body Review 2020. Some of 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 duplication.
3. Establish inter-Committee working groups, and as necessary within each treaty body, to discuss topics for harmonization as indicated in resolution 68/268, with a view to identify and replicate best practices amongst all treaty bodies.

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 divergence of individual treaty bodies on 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 absentia 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 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>

2. The Chairs should ask OHCHR to continue to 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 its recommendations. Currently, eight treaty bodies have established follow-up procedures.⁵ 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).

Important proposals have been put forward in previous years by NGOs for a joint-follow-up mechanism⁶. These deserve 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, based on existing best treaty body 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](#)⁷ for treaty body members is welcome. However, the implementation of the Guidelines is not systematic and even across all treaty bodies. On the larger issue of treaty body membership, persistent issues prevail such as 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.

Key recommendations:

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

1. Treaty bodies should openly call for States to nominate candidates for treaty body elections through open and transparent processes.
2. Treaty bodies should encourage member States to foster diversity and a balance of expertise, age and gender in treaty body membership.
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 in 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.

⁵ Pending the announced adoption of a procedure by CESCR. SPT not applicable. CRC is the only remaining treaty body without a follow-up procedure.

⁶ www2.ohchr.org/english/bodies/icm-mc/docs/CCPR_Centre.doc

⁷ http://www.ohchr.org/Documents/Publications/HR_PUB_15_2_TB%20Handbook_EN.pdf

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 without further delay.
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)."⁸ 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, engagement before the treaty bodies should be held separately to the NGO session when relevant (as is the practice of CAT).

Agenda Item 13: Treaty bodies and the Sustainable Development Goals

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

Key recommendations:

1. We encourage the treaty bodies to consider the Sustainable Development Goals (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. Treaty bodies should also consider including reference to the SDGs in the constructive dialogues and concluding observations as they relate to relevant treaty provisions.
3. Treaty bodies with a mandate closely related to the SDGs such as CESCR or CEDAW should explore broader ways in which their work can complement the formal structures created through the Sustainable Development framework, such as presenting their work at the UN High Level Political Forum.

⁸ <https://goo.gl/NgwqZT>

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 a recent two-day multi stakeholder consultation (see above footnote 1) was that the overall visibility of treaty bodies has considerably changed globally 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 on national, international, and social media.
2. 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.
3. 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 in November 2016 (CCPR/C/158). A harmonized approach across all treaty bodies 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. The confidentiality of inquiries has in many cases become a synonym for opacity.

Key recommendations:

1. Engagement of relevant external stakeholders, especially civil society, should be regarded as a crucial objective when discussing treaty body inquiries.
2. Treaty Body Chairs should publicly explain whether treaty bodies can take on more than one inquiry at a time, and the approximate amount of inquiries they can deal with.
3. Treaty bodies should develop a unified policy spelling out in detail, where, when and how inquiries are conducted, as well as information on whether and how external actors such as NGOs can contribute.

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.
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.