Joint NGO submission to the co-facilitators of the General Assembly review of resolution 68/268 on the human rights treaty body system

7 July 2020

Introduction

This submission is prepared by civil society organizations (CSOs) that regularly engage with the UN human rights treaty body system. We greatly value the treaty body system and consider it essential that Member States adequately support this key component of the UN's human rights architecture. We welcome the call for written contributions extended to CSOs on 17 June 2020, in relation to the General Assembly's review of the treaty body system and the effectiveness of the measures taken to strengthen the system in Resolution 68/268 (2014).

We continue to support the Secretary-General's recommendation that the General Assembly review should be "open, transparent and inclusive" [UN Doc. A/73/309, para. 89] as well as the President of the General Assembly's guidance that discussions held as part of the review process be carried out in a "transparent and inclusive manner." We expect that all future consultations convened as part of this process will be webcast and that the co-facilitators will convene open and inclusive dialogues that include CSOs as well as other key stakeholders. We applaud the decision to webcast both the launch of the review and the technical briefing for experts on 2 and 4 June 2020, respectively.

We believe that the effectiveness of the treaty body system would be strengthened significantly if all stakeholders, including States parties to the treaties acting through the General Assembly, were to reaffirm their support for Resolution 68/268 and ensure that it is fully implemented in the years ahead. As such, we reiterate our call that the outcome of the General Assembly's review respect the following principles:

- *Protection of rights-holders*. The ultimate aim of strengthening the treaty body system is to improve the realization of human rights on the ground.
- *Independence*. The outcome of the review should preserve the independence of the UN treaty bodies, which is key to their continued credibility and effectiveness.
- *Specificity of treaties*. While the treaty bodies should be seen as one system, the specificity of each treaty must be respected.
- *Adequate resources*. It is critical that Member States allocate sufficient resources from the regular UN budget to allow the treaty bodies to carry out all of their mandated functions.

The sections below provide further information on each of the 18 themes set out in the co-facilitators' call for submissions in the order in which they were presented.

1. **The functioning of the treaty body system: its efficiency, effectiveness, strengths and weaknesses; suggestions for its further improvement**

The treaty bodies continue to perform the crucial function of monitoring the implementation by States parties of their human rights obligations. For example, the nine treaty bodies that consider periodic reports collectively reviewed an average of 136 reports in 2018 and 2019 [A/74/643 Annexes, p. 14]. During the same period, the eight treaty bodies that can receive individual communications collectively adopted an average of 250 final decisions on such communications per year [A/74/643 Annexes, p. 19]. The Subcommittee on the Prevention of Torture (SPT), which carries out visits to States parties, conducted a total of 13 visits during this two-year period. In each of these instances, States parties were encouraged by independent treaty body experts to reflect on and increase their compliance with their human rights obligations, with a direct positive effect on the enjoyment of human rights of individuals and societies in the countries they addressed.

Nevertheless, the treaty body system is not presently operating nearly as effectively as it could. Among the areas in which we believe the treaty bodies' effectiveness could be significantly improved are the following:

- **The treaty bodies have been unable to effectively monitor the compliance of some States parties with their human rights obligations because those States have failed to comply with their reporting obligations.** A number of States parties to the treaties have failed to submit even an initial report to the treaty bodies that monitor them; an even greater number of States' periodic reports to treaty bodies are substantially overdue. As of October 2019, more than 190 reports to the treaty bodies were overdue by more than 5 years [A/74/643 Annexes, pp. 9 and 10]. As described further below, **we have called on the treaty bodies to adopt working methods that will encourage all States parties to fully comply with their reporting obligations, and, consistent with resolution 68/268, "to work to increase coordination and predictability in the reporting process...with the aim of achieving a clear and regularized schedule for reporting by States parties," and we encourage the General Assembly to express its support for the June 2019 'Treaty Body Chairpersons Position Paper on the Treaty Body Strengthening Process' (referred to here as the "Chairpersons' Vision Statement") which sets out their plan for achieving this [Annex III of UN Doc. A/74/256].**

- **Some treaty bodies have amassed a significant backlog in individual communications.** As of October 2019, there were 1,587 communications awaiting review by the treaty bodies, reflecting an entirely unacceptable six-year backlog that does not serve the interests of petitioners or of States parties. This situation is a result of several factors, but it appears to have been significantly exacerbated by the General Assembly's refusal to approve additional OHCHR staff resources to support the treaty bodies in addressing communications in 2018 and 2019. As described in further detail below, since 2017, the Secretary-General's reports to the General Assembly have set out how the resourcing

formula agreed to in resolution 68/268 envisaged that the treaty bodies required additional staff resources to address an increasing number of individual communications, but the General Assembly has yet to provide the full amount of additional staff support required. As a result of this staffing shortage, and the lack of documentation and drafts for consideration that resulted from it, the treaty bodies were not able to utilise approximately one-third of the time allocated to them to consider individual communications in 2018-2019 (5.5 weeks of 16 weeks) [A/74/643 Annexes pp. 19-20]. **As set out below, we encourage the General Assembly to provide the full allocation of resources that the treaty bodies require to carry out their functions, as envisaged by the formula in resolution 68/268, including the necessary OHCHR staff support.**

- **The treaty bodies' effectiveness has been impeded in other important ways as a result of recent financial constraints.** Despite the fact that travel is an essential component of treaty bodies' work, the General Assembly in 2019 reduced the travel funds available for UN "representatives", including treaty body members, by 25%. The resulting deficit in funds and a concurrent liquidity crisis at the UN had a number of negative consequences, including compelling the SPT to undertake fewer visits to States parties in 2018 and 2019 than in previous years, and limiting OHCHR's ability to support the treaty bodies in carrying out certain mandated functions, such as inquiries. **We encourage the General Assembly to refrain from applying cost-saving measures that are inconsistent with the resourcing formula set out in resolution 68/268 to the treaty bodies in the future.**

- **States parties have repeatedly nominated and elected individuals lacking the requisite independence from governments and/or expertise to serve as treaty body experts. States also frequently disregard the criteria set out for a merit based independent membership and engage in vote trading. The General Assembly should encourage States parties to the treaties to adopt "national policies or processes with respect to the nomination of experts as candidates for human rights treaty bodies" as recommended in resolution 68/268, in line with the recommendations in our response to question 12. Furthermore, the General Assembly should encourage States parties to the treaties to vote only for those candidates who meet all the criteria set out for membership.**

- **Although they have made significant efforts to harmonize their working methods since 2014, the treaty bodies continue to maintain different working methods in some areas that are not necessitated by the specificity of the treaties, such as the format of the interactive dialogue or meetings with CSOs, that make it more difficult for rights-holders and other stakeholders to engage with them.** We have encouraged the treaty bodies to closely examine their working methods in areas including the structure of interactive dialogues, consultations with NGOs and NHRIs, follow-up procedures and consultation processes for general comments/recommendations, and to identify and adopt best practices. However, as stressed below, we reiterate that **the treaty bodies' legal**

prerogative to establish their own rules of procedure and working methods is essential to their effectiveness and their independence, and we strongly consider that the treaty bodies themselves are best placed to tackle these challenges.

Recommendation

States must commit to universal and regular reporting. We urge the General Assembly:

- **to encourage all Member States to comply fully with their reporting and substantive obligations set out in the human rights treaties to which they are parties;**
- **consider requesting the Secretary-General to provide more detailed information concerning overdue reports in his future biennial reports on the status of the treaty body system;**
- **to support the treaty bodies' ongoing efforts to assess and harmonize their own working methods with a view to enhancing their effectiveness and accessibility to rights-holders, as set out in the Chairpersons' vision statement.**

2. Implementation of UN General Assembly resolution 68/268 and views on biennial report of the UN Secretary-General on the status of the treaty body system

We have previously expressed the view that resolution 68/268 continues to provide an appropriate framework that would allow the treaty bodies to function effectively if all stakeholders fulfil their respective obligations as set out within it. Resolution 68/268 outlines several important responsibilities of Member States, including improving the expertise and competence of membership (OP10), and, critically, providing adequate and predictable funding for the treaty body system. States have made some progress towards these goals, including, significantly, by providing resources for webcasting, which enhances the accessibility and visibility of the treaty body system (OP22).

Resolution 68/268 also contains an innovative and objective basis on which Member States instructed the Secretary-General to calculate the anticipated future resource needs of the treaty bodies and present these needs to them in future regular UN budget requests. We agree with the Secretary-General that "the formula agreed to in General Assembly resolution 68/268 was a landmark achievement, which should be maintained" [A/74/643, para 65]. However, since 2017, Member States have failed to implement their commitment to provide resources for the treaty bodies in line with the formula agreed to in Resolution 68/268 (OPs 26-28). As discussed below, this failure has deprived the treaty bodies of adequate resources to carry out their mandated activities since 2018, hampering their ability to fulfil their mandates and undermining the effective functioning of the system.

Recommendation

The General Assembly should reaffirm its support for the framework for strengthening the treaty body system agreed by consensus in resolution 68/268, and Member States should recommit to implementing their obligations as set out therein.

3. Good practices and methodologies in relation to working methods and procedural matters, including harmonization and alignment of working methods

The harmonization of treaty body processes and practices has been the subject of much discussion since the treaty body strengthening process first began. During the previous intergovernmental review of the treaty body system, CSOs expressed the view that decisions relating to the treaty bodies' working methods clearly fall within the remit of treaty bodies and not States, and are outside the scope of the General Assembly's mandate. Recognizing that, nonetheless, States and civil society may make recommendations with respect to treaty bodies' working methods, CSOs offered suggestions to the treaty bodies for how they could harmonize their working methods.

On this point, CSOs have expressed the view that, subject to the specificity of the different treaties, greater efficiency and accessibility could be achieved if all of the treaty bodies had more similar processes and practices. We underline that the objective is to align with good practices rather than harmonizing down to the lowest common denominator.

In the six years since the adoption of Resolution 68/268 in April 2014, treaty body members have made some progress in implementing the working methods-related recommendations directed to them in Resolution 68/268. Among other measures, the treaty bodies have taken several steps to align their working methods and to develop an aligned methodology for concluding observations (OP6).

CSOs welcomed the Chairpersons' Vision Statement, which further commits the treaty bodies to implementing the recommendations in resolution 68/268: offering the simplified reporting procedure to all States parties for initial and periodic reports, setting limits on the numbers of questions (OP1), developing an aligned methodology for constructive dialogues (OP5), and increasing predictability and coordination in the reporting process (OP34).

We have also recommended that additional opportunities should be sought for the treaty bodies to coordinate their work and ensure procedural and jurisprudential coherence and mutual reinforcement. The Chairpersons meeting is an important forum, yet its full potential cannot be reached when the treaty bodies themselves rarely have time to discuss working methods and even less so with other treaty bodies.

We consider that the lack of cross committee coordination presents a challenge to the system's procedural and substantive coherence; we have also stressed that efforts to identify more effective ways of working should not be guided by a desire only to remove duplication, but also to discuss mutual reinforcement of States' human rights obligations, building on the interdependence and

indivisibility of rights. However, we have directed these suggestions to the treaty bodies themselves, recognizing that their legal competence to establish their working methods is essential to maintaining their independence and crucial to ensuring their effectiveness.

Recommendation

While there are several areas where the treaty body system can be made more effective, the committees themselves, not the General Assembly, have the legal competence to determine and implement them; and respecting this competence is essential in order to maintain their independence and effectiveness. The General Assembly must refrain from any interference in areas that are the sole competence of the treaty bodies.

4. Coordination and predictability in review cycles and reporting

We support efforts towards ensuring more predictability and coordination in the review cycles and reporting by the treaty bodies that lead to increased protection of the rights set out in the treaties and improved compliance by States parties with their reporting obligations.

We support the position set out in the Vision Statement of the Chairs (Annex III, A/74/256) and their efforts to increase predictability and coordination of reviews. Their agreement to coordinate in the preparation of lists of issues prior to reporting is an important step towards a more aligned system.

We also welcome the commitment in the Chairpersons' Vision Statement to develop predictable reporting calendars. We consider that such calendars will increase transparency, coordination and predictability and will promote fair treatment of all States parties by ensuring that all are reviewed regularly.

As in other areas, we respect the independence of the treaty bodies and their competence to establish their own rules of procedures and working methods in this area.

We have thus encouraged all treaty bodies to engage on a regular basis with all States parties and to ensure that their efforts to develop calendars do not result in long periods of inattention to States' implementation of their human rights obligations.

Recommendation

States should commit to timely, regular reporting and to implement the recommendations adopted by the treaty bodies at the domestic level to fulfil their treaty obligations. The General Assembly should reaffirm its invitation to the treaty bodies in resolution 68/268 "to continue to work to increase coordination and predictability in the reporting process...with the aim of achieving a clear and regularized schedule for reporting by States parties."

5. Current reporting system, including common core document, and ways to further improve and simplify reporting for States parties whilst ensuring the substantive quality of the national reports

We consider that the simplified reporting procedure is a positive innovation that has enabled the treaty bodies to encourage States to submit more focused periodic reports that have in turn enriched the subsequent dialogues and facilitated more targeted and context-relevant concluding observations. We welcome the commitment in the Chairpersons' Vision Statement that all treaty bodies will offer simplified reporting procedures to all States parties for periodic reports. We regret that some States parties have declined to make use of the simplified reporting procedure [A/74/643 Annexes, p. 31].

We stress that any proposals to further simplify reporting for States parties should not have a negative effect on the substantive quality of their national reports. We further note that the General Assembly has already established word and translation limits for all State party documentation submitted to the human rights treaty body system, as set out Resolution 68/268. Despite this, we note that the Chairpersons' Vision Statement indicates that the Covenant Committees may offer the option to States to submit a single consolidated report to them, but that the Convention Committees may wish to continue to receive separate reports in order not to dilute their Convention-specific focus. We reiterate our view that the General Assembly should respect the competence of the Committees with respect to their working methods in this and other areas.

Recommendation

The General Assembly should recommend that all States parties use the simplified reporting procedure, consistent with resolution 68/268.

6. Dialogue between States and treaty bodies both in preparation for and during States reviews as well as in follow-up to the review

Efforts have also been made by the treaty bodies to align the methodology for the constructive dialogue with States parties, in order to make it more effective and to encourage a more interactive exchange between the treaty bodies and the States parties. Good practice in this area already exists, in that the majority of the treaty bodies have established aligned time periods for interactive dialogues, specifying that they are to be conducted during two three-hour meetings, over two consecutive days. Conducting the review over two days allows the State party time to consult with relevant national state authorities and to give more comprehensive responses to the respective Committees. The majority of the treaty bodies also cluster and sequence the content of the constructive dialogue by themes among a taskforce or co-rapporteurs, indicating the corresponding articles in the treaty concerned and allowing the State representatives to give initial answers to a group of clustered questions. Such clustering is helpful and better enables interested stakeholders to follow the dialogue, including identifying when further information is needed.

Recommendation

The General Assembly should reiterate its encouragement to the treaty bodies to collaborate towards the elaboration of an aligned methodology for their constructive dialogue with the States parties, as appropriate for each mandate and building on existing good practice.

7. Assessment of the concluding observations and recommendations

We have welcomed recent efforts by the treaty bodies to make their concluding observations and recommendations more targeted and actionable. We have also encouraged the treaty bodies to increase their efforts to ensure greater cross-committee coordination and coherence, and to reduce unnecessary overlap. However, we encourage them to continue to bring their distinct perspectives to bear on situations that simultaneously affect different groups of rights-holders in different ways.

Recommendation

The General Assembly should encourage the treaty bodies to continue their efforts at greater coordination in ways that allow them to mutually reinforce States' human rights obligations, building on the interdependence and indivisibility of rights, and respect the competence of the treaty bodies to establish their working methods.

8. Strengthening the engagement with civil society and other relevant stakeholders

In addition to submitting written information, national CSOs have much to contribute to the work of the treaty bodies, for example, regarding States party reviews, consultations on draft general comments/recommendations, and as key stakeholders in advocacy around and monitoring of implementation at the national level. We have and will continue to encourage the treaty bodies to continue to consider ways in which CSO engagement can be facilitated and strengthened at all stages of the review process (list of issues prior to reporting, list of issues, review and follow-up), while taking into account the very real risks of intimidation and reprisals.

We welcome the decision of the General Assembly to provide resources from the regular budget to allow the public meetings of the treaty bodies to be webcast in all working languages as of 2020. We also encourage the General Assembly to provide support that would allow for the use of international sign language and, when a State party has made the necessary arrangements for interpretation, national languages. We consider webcasting to be a key tool for ensuring greater visibility, better outreach and improved accessibility of the treaty body system as a whole.

Recommendations

The General Assembly should reiterate its condemnation in Resolution 68/268 of "all acts of intimidation and reprisals against individuals and groups for their contribution to the work of the human rights treaty bodies" and take further action to prevent and eliminate instances of reprisals and intimidation by Member States.

The General Assembly should provide appropriate resources from the regular budget to ensure that the treaty body system is accessible to civil society and other relevant stakeholders, including through webcasting and virtual meetings, and for the development of necessary information management systems, including a user-friendly, searchable database to access concluding observations, views and decisions of the treaty bodies and, particularly urgently, a case management system for the petitions unit (see below).

9. The capacity-building programme, experiences and impact, in terms of reporting and in terms of national implementation of recommendations

We welcome the establishment of a programme aimed at enhancing the capacity of States to comply with their obligations under the treaties, especially the reporting obligation. In all world regions, the programme has helped some States to submit reports, many of which had been delayed for decades. The third report of the Secretary General on 68/268 states that,

> "as at 31 October 2019 – and since the previous reporting period ending in 2017 – the capacity-building programme team had provided training and support to State officials in 95 countries, organized more than 285 activities in which some 3,830 persons participated, helped to increase knowledge and skills on specific treaties and issues, and encouraged new ratifications and timely submission of outstanding reports. States have ratified or withdrawn reservations to 11 treaties and submitted 23 outstanding State party reports, including responses to requests for information by the Committees or common core documents. The outreach of the capacity-building team contributed to the direct or indirect participation of State officials in eight dialogues with Committees during the State party reviews. The team encouraged and assisted 24 States to establish new or strengthened national mechanisms for reporting and follow-up."

These are welcome achievements given the experiences of smaller and less–resourced States. Nevertheless, the programme does not seem to have had a significant impact in reducing overall overdue reports to treaty bodies. The most recent figures show that 81 per cent of reports are still not submitted on time. More worryingly, global reporting compliance has only increased from 11% in May 2014 to 19% in October 2019, after five years of major investment in the capacity-building programme. While an eight-point improvement is welcome, it falls short of expectations given that the primary objective of the capacity strengthening programme was to improve reporting compliance. The results are particularly poor when compared with figures from 2008-2010 when global reporting compliance was 33% of States parties, which was already considered a poor rate at the time. It should also be noted that the average number of State party reports received annually by the treaty bodies has decreased steadily in recent years, from 140 a year from 2008 to 2010 to 130.2 a year from 2016-2019. This at a time when conversely, the global number of ratifications has increased (+2.7% between late 2017- late 2019).

In addition to the very limited global improvements on States' reporting compliance, we are concerned that the capacity building programme has brought very limited to no benefit for civil society. The programme concept was designed by States for States, and thus civil society has not benefited meaningfully from the programme. At best, CSOs were invited to consultations related to the process of drafting government periodic reports. While those opportunities were welcome, the programme would have benefited from an integrated and dedicated component for civil society.

Recommendations

The General Assembly should encourage OHCHR to commission a thorough, inclusive, independent and publicly available evaluation of the capacity-building programme. Such an assessment should look into the relevance, effectiveness, efficiency, impact and sustainability of the programme, from the perspective of State and non-State users of the treaty bodies. The evaluation report should be made public.

Any continuation or renewal of the programme should fully integrate the participation of non-State actors, including civil society, and national human rights institutions.

10. Use of new information and communications technologies and its potential to further increase efficiency and accessibility

As stated previously, the decision by the General Assembly to regularly fund webcasting of treaty body meetings is most welcomed. We believe that it gives greater visibility to the work of treaty bodies, including by reaching audiences at national level.

We consider that the treaty bodies should endeavour to operate as one system of human rights monitoring bodies and have urged them to take a common and consistent approach regarding new information and communications technologies.

We are aware that some treaty bodies have held civil society consultations through remote participation and with many treaty body experts and delegations unable to travel to Geneva. However, these practises are still ad hoc, and we consider that the treaty bodies could and should make more frequent use of technologies to ensure remote participation for civil society representatives who may not be able to travel.

The COVID-19 pandemic has forced the treaty bodies to suspend all in-person sessions until the end of summer 2020. However, it has also shown that many mandated activities can be carried out remotely.

Recommendations

Treaty bodies should consider promising practices related to information and communication technologies, and where relevant, replicate them across the treaty body system. We also urge the treaty bodies to ensure safe and effective civil society involvement where this would have been a component of in-person sessions.

When using new information and communications technologies, the following requirements should be respected:

- **Where a meeting is normally public, all online meetings should be as well, including being open to observers and webcast. Information about public meetings must be duly disseminated.**
- **The confidential nature of private meetings should be guaranteed. Meetings should be held on safe technology platforms.**
- **All online meetings should guarantee equal access and provide interpretation in the working languages of the respective treaty bodies.**

11. Opportunity of reviews in countries or in regions

We support the treaty bodies' efforts to explore the possibility of holding sessions outside of Geneva. We believe that such efforts will bring the treaty bodies closer to the domestic stakeholders for whom implementation of human rights obligations is most relevant. The location should take into account the situation in the country under review, and the availability of logistical support and services from the UN, such as UN regional offices, field offices or UNDP presences. Locations of reviews should be selected with the aim of ensuring unhindered and safe access for civil society actors to attend the reviews and engage with the treaty bodies.

Recommendation

Member States should consider putting themselves forward for reviews in the regions. OHCHR and host States should make the necessary arrangements to facilitate access and to protect civil society representatives against intimidation and reprisals.

12. Preserve and strengthen the independence and impartiality of treaty body members and ensure diversity in terms of gender, geography, background, expertise, representation of different forms of civilization and principal legal systems, as well as the participation of persons with disabilities

Resolution 68/268 encouraged States to continue efforts to nominate, independent, diverse and expert candidates to the treaty bodies. The third biennial report reminded States that national competitive selection processes for the nomination of Committee experts, and/or other independent vetting processes, would be a major step towards ensuring that nominated candidates fulfil the highest standards of competence, expertise and independence that are necessary for the treaty bodies to best discharge their protection functions. The third biennial report also reminded States that the practice of presenting "clean slates" should be strongly discouraged in order to increase the likelihood of candidates being elected on their own merits. We remind States of their important role in promoting a treaty body membership based on expertise, independence and diversity, as per Resolution 68/268, by promoting open, transparent and merit-based nomination

processes at the national level and by voting only for candidates that fulfil the criteria set out in the respective treaties and resolution.

During the last intergovernmental review of the treaty body system, NGOs expressed alarm that some States proposed that the General Assembly should establish a code of conduct and "Ethics Council" for treaty body members. Several States and NGOs opposed the establishment of such a mechanism as inappropriate interference with the independence of treaty body members and outside the competence of the General Assembly, as well as unnecessary given that the treaty body chairpersons had adopted the Guidelines on independence and impartiality of members of the human rights treaty bodies. NGOs encouraged all treaty bodies to fully endorse the Guidelines on the independence and impartiality of members of the human rights treaty bodies ("the Addis Ababa Guidelines") and to ensure adherence to them by their members.

Recommendations

The General Assembly should not establish a code of conduct and/or "Ethics Council" for treaty members. Further, the Assembly should encourage States parties to do the following:

- **States parties that are planning to nominate a candidate for a treaty body should issue an open, transparent, competitive call for applications and ensure wide dissemination of the call.**
- **States parties should select candidates through an open, transparent and competitive merit-based process that complies with criteria for the respective treaty bodies, including in relation to competence, experience, independence and high moral standing.**
- **States parties should foster diversity in treaty body membership and take due consideration of balanced geographical distribution and gender representation as well as experts from diverse backgrounds, both at nomination and election stages.**

13. Enhancement of the coordinating role of treaty body Chairpersons

The treaty body Chairpersons can play a crucial role in promoting the strengths of the treaty body 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 the degree of implementation of each of the recommended actions has varied.

CSOs have on occasion expressed frustration that the implementation of decisions taken by the Chairs has been a long and cumbersome process. They recommended that the Chairpersons consider reviewing the mandate of their annual meeting with a view to improving overall coordination among treaty bodies, including regarding the adoption of decisions readily applicable to all treaty bodies.

We recognize that the treaty bodies themselves have made several efforts to align their working methods. We encourage them to continue to do so by discussing good practices and ways of further enhancing civil society participation, and by piloting streamlined procedures. The effectiveness of the Chairpersons meeting could be significantly enhanced if prior preparatory discussions were held in the respective Committees, with a view to giving the Chairs a clear decision-making mandate. All treaty bodies should appoint focal points on working methods and publicize the same among interested stakeholders. For the treaty bodies to further align working methods, and to be able to share good practices, adequate meeting time needs to be set aside.

Recommendation

We have encouraged the treaty bodies to better equip the chairpersons forum as a decision-making body, enhance its coordinating role, and improve implementation of decisions at the committee level.

The General Assembly should provide adequate resources for the treaty bodies to discuss good practices and methodologies at the Committee level, and across all treaty bodies.

14. Overall coherence of the treaty body system and the collaboration among treaty bodies as well as within the UN system and with regional monitoring bodies

States parties often present reports to different treaty bodies simultaneously. Additionally, States may simultaneously be reviewed under the UPR, and they may receive visits from Special Procedures.

Despite the complementarity of treaties and mechanisms on paper, and the discourse in favour of cross-referencing,[1] it occurs infrequently in practice.[2] Treaty bodies seldom make references to recommendations of fellow treaty bodies, including when they are recent and directly relevant or complementary. This is particularly problematic for States whose record is subsequently reviewed under treaties with related provisions. A lack of coordination persists, not only between the treaty bodies themselves, but also among treaty bodies, Special Procedures and the UPR. This not only sends a fragmented and diluted message to States under review about their international obligations but can also potentially lead to diverging and even contradictory recommendations, ultimately diluting the State's capacity or willingness to implement those recommendations.

[1] E.g. see report of the 2011 meeting of Chairs, A/66/175, para. 31 http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/429/18/PDF/N1142918.pdf?OpenElement

[2] One exception is the CRPD which has been regularly addressing COBs adopted by other treaty bodies in its list of issues, dialogues and in its own recommendations where issues intersect. For example, of the seven States parties reviewed at the CRPD Committee's latest session, five of the seven adopted COBs referring to recommendations made by other treaty bodies. See CRPD Committee's 13th session COBs a thttp://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=982&Lang=en

Recommendations

We have encouraged the treaty bodies to mutually reinforce each other through cross referencing,[3] especially in subsequent reviews of the same States.

We have encouraged the treaty bodies to design and agree on a common strategy of coordination with the UPR,[4] to ensure that UPR recommendations are informed by and reinforce treaty body recommendations.

15. Funding of the treaty body system and ensuring that treaty bodies have an adequate allocation of financial and human resources for all their mandated activities

Since 2017, Member States have failed to implement their commitment to provide resources for the treaty bodies in line with the formula agreed to in Resolution 68/268 (OPs 26-28). This failure has deprived the treaty bodies of adequate resources to carry out their mandated activities since 2018, and undermined the effective functioning of the system. We are particularly alarmed at the negative impact that the current resource shortfall has had on the treaty bodies' ability to receive and consider an increased volume of individual communications, which, in turn, has seriously undermined the utility of these procedures for victims. In 2019, CSOs expressed alarm that the present shortfall in resources was likely to continue, as the Secretary-General's proposed program budget for 2020 did not request Member States to revisit their 2017 decision and to increase the treaty bodies' resources in line with the 68/268 formula.[5] We regret that Member States did not endorse a proposal made during the 2020 budget negotiations in the General Assembly's Fifth Committee in December 2019 to provide additional staff resources to support the treaty bodies. We note further that the Secretary-General's proposed budget for 2021 requests the General Assembly to provide funding for temporary staffing assistance for the treaty bodies that amounts to only a fraction of what the 68/268 formula envisages the treaty bodies actually require [See https://undocs.org/en/A/75/6(Sect.%2024), p. 58, requesting nine new general temporary assistance positions (7 P-3, Human Rights Officer, and 2 GS (OL), Programme Management Assistant)].

As indicated in the Secretary-General's third biennial report, the 68/268 formula indicated that for 2020-2021, OHCHR required an additional 12 P-3 posts and two General Service (Other level) posts; in 2019, an OHCHR analysis suggested that 17 posts were actually required, given the increase in other mandated activities of the Committees [A/74/643 paras 49 and 56]. The General Assembly has not authorized any additional posts to meet this escalating need.

[3] The OHCHR's Universal Human Rights Index is extremely useful in that regard.
[4] This should be done notably in light of the Poznan statement that the UPR should take "fully into account recommendations by Treaty Bodies and ensures that its recommendations to Member States be followed-up and implemented in synergy with the recommendations adopted by other main international human rights mechanisms, namely Treaty Bodies and Special Procedures"; para. 31. The OHCHR UPR Unit should also be seeking means to strengthen mutual reinforcement with treaty bodies.
[5] UN Doc. A/74/6 (Sect. 24), p. 56

Recommendation

Consistent with the 68/268 formula, Member States should provide adequate resources for the treaty body system, including adequate staff to support all aspects of the treaty bodies' work.

16. Current system of processing individual communications, inter-State communications and urgent actions: its efficiency, effectiveness, strengths and weaknesses; suggestions for its further improvement

We have called on States to ensure that the communications procedures are sufficiently funded, both through meeting time and staffing, and that the funding also addresses any technological needs that will increase the efficiency of the treaty bodies with regard to the communications procedures.

We consider that the introduction of a case management system for the Petitions Unit, accompanied with an online submissions platform—where both States and petitioners can access information about the progress of the communications—would provide immediate improvements for the benefit of all parties involved in the litigation of individual cases before the treaty bodies. We further consider that the treaty bodies can learn from the experience of regional human rights systems in this regard, such as the Inter-American Commission on Human Rights. The UN treaty body system is one of few human rights mechanisms receiving individual complaints that still does not have a modern, digital case management system or an online submission platform.

While the procedural differences among treaty bodies are fewer in relation to individual communications, we continue to encourage the treaty bodies to review and streamline their procedures relating to individual communications as much as possible with a view to standardising them and doing away with differences unless they are explicitly warranted as a result of treaty provisions or where standardisation would be detrimental to the rights-holders. We have also encouraged those treaty bodies that are not doing so already to consider holding oral hearings, in private if so requested, in relation to precedent-setting individual communications. We have called on the treaty bodies to consider developing clear and transparent objective criteria for more efficient adjudication of individual communications, including whether they could be considered in chambers, taking into account established jurisprudence.

Here, as in other areas, we emphasize the importance of the independence and legal competence of the treaty bodies in the area of working methods. In particular, we stress that the General Assembly lacks the legal competence to make determinations concerning the treaty bodies' standards and procedures for assessing the admissibility or merits of individual communications.

Recommendation

Member States must at all times respect the independence of the treaty bodies and should refrain from any interference with their rules of procedures and working methods.

Member States should ensure that the treaty bodies receive adequate staff support to address their existing communications workload and support OHCHR's request to introduce a case management system for the Petitions Unit in order to increase the treaty bodies' efficiency in this area.

17. Accessibility for persons with disabilities and wider accessibility and visibility of the work of the treaty bodies

Accessibility for persons with disabilities continues to be limited to the Committee on the Rights of Persons with Disabilities. An accessibility audit should be carried out across the treaty bodies, including for their websites, civil society participation, dialogue with States parties, and physical premises with a view to proposing arrangements that would make possible and enhance the participation of persons with disabilities, including, for example, through the provision of international sign language interpretation, live captioning, Plain English, Easy-Read format, and braille.

Recommendation

Member States should provide funding for an accessibility audit across the treaty bodies, including for their websites, civil society participation, dialogue with States parties, and physical premises, with a view to proposing arrangements that would make possible and enhance the participation of persons with disabilities, including, for example, through the provision of international sign language interpretation, live captioning, Plain English, Easy-Read format, and braille. Such an audit must not be limited to the Committee on the Rights of Persons with Disabilities.

18. Efficient and effective use of the meetings of States parties

In general, the annual meetings of States parties to the treaty bodies do not give sufficient attention to implementation of treaty body observations/recommendations and views.

The meetings of States parties to the Committee on the Rights of Persons with Disabilities (CRPD) with their focus on implementation of the Convention offer interesting ideas for how other meetings of States parties could play a role in encouraging treaty implementation.

Recommendation

States parties to each treaty should review the format of the annual meeting of States Parties with a view to strengthening its potential to contribute to the implementation of treaty body observations/recommendations and views, including through sharing of best practices. The meetings of States parties to the CPRD could be considered as a model for others.

Signatories

A.C. Reforma Judicial
Advocates for Human Rights
American Civil Liberties Union (ACLU)
Amnesty International
Bahá´í International Community
Equality Now
Geneva for Human Rights - Global Training (GHR)
Global Detention Project
Human Rights in China
Human Rights Watch
International Commission of Jurists
International Dalit Solidarity Network
International Rehabilitation Council for Torture Victims (IRCT)
International Service for Human Rights (ISHR)
Jacob Blaustein Institute for the Advancement of Human Rights
MADRE
MENA Rights Group
Nederlands Juristen Comité voor de Mensenrechten (NJCM)
Open Society Justice Initiative
TB-Net (NGO Network on UN Treaty Bodies), comprising:
    Centre for Civil and Political Rights (CCPR Centre);
    Child Rights Connect; Global Initiative for Economic, Social and Cultural Rights (GI-ESCR);
    International Disability Alliance (IDA);
    International Movement Against All Forms of Discrimination and Racism (IMADR);
    International Women's Rights Watch Asia Pacific (IWRAW-AP); and
    World Organisation Against Torture (OMCT)
TRIAL International
Validity Foundation - Mental Disability Advocacy Centre
Women's Link Worldwide