

Joint NGO statement on the draft resolution of the UN General Assembly on “Strengthening and enhancing the effective functioning of the human rights treaty body system”

February 20, 2014

The undersigned NGOs welcome the draft resolution of the United Nations General Assembly that aims to strengthen the treaty body system.

The draft resolution ([A.68.L.37](#)), to be adopted once the budgetary implications have been clarified by the General Assembly’s Fifth Committee, contains a number of elements that should both enable States to better fulfil their obligations under the treaties to which they are a party, and equip the treaty bodies to carry out their functions expeditiously. The impact of the resolution will be reviewed in six years’ time.

Although the gains made in this process are modest, they nevertheless provide a platform on which improvements to the treaty body system can be made. Much work will be required by all stakeholders in the coming years to implement these gains, as well as other initiatives, to ensure that the system is enhanced for the benefit of rights holders. This is particularly important in relation to interventions aimed at national implementation of treaty body Concluding Observations and Views, which are scarcely addressed in the resolution.

We welcome the additional resources provided in the resolution for capacity building, which will enable the significant number of States that fail to report in a timely fashion to comply with their treaty obligations to do so. This will be particularly important for those States that have never come under scrutiny by the treaty bodies, despite having ratified the international human rights treaties several years ago. We are further encouraged by the fact that the capacity building program envisioned in the resolution includes the development of programmatic responses to support States to implement their treaty obligations.

We welcome also the sustainable basis provided for in the resolution for additional meeting time, to be calculated on the basis of the reports and communications received. This should prevent the accumulation of a backlog of reports and communications to be reviewed by the treaty bodies. We note the granting of additional resources to the Subcommittee on Prevention of Torture (SPT) - the only treaty body to mainly carry out its mandate through field visits – which will receive resources necessary for undertaking a greater number of these visits. These resources should be sufficient so as to enable the SPT to fulfil its mandate as established in the Optional Protocol to the Convention Against Torture through a programme of regular visits to all States Parties.

The draft resolution encourages States to put in place open processes at the national level for the nomination of experts to the treaty bodies who are of high moral standing and recognized competence in the field covered by the treaty. This is an important acknowledgement that a key aspect of strengthening the treaty body system is ensuring that all committee members meet the highest standards of expertise and independence.

Importantly, the resolution avoided attempts by some groups of States to infringe on the independence of the treaty bodies by imposing a code of conduct and so-called accountability mechanism. Rather, the resolution reaffirms the independence and

impartiality of the treaty bodies and invites the treaty bodies to update States on the implementation of their self-drafted guidelines on the matter.¹

In response to strong concern throughout this process that the General Assembly has no mandate to interfere with the working methods of the treaty bodies, the resolution “encourages” the committees to review, develop common guidelines around, or align, their working practices. However, in some operative paragraphs, the General Assembly “decides” specific action – for example, imposing word limitations on documentation produced by the treaty bodies. It is our understanding that this language has been used only because it is necessary to stimulate budgetary action. In that regard, it is inappropriate that the resolution recommends that word limits be applied on stakeholders’ contributions (which would include those from NGOs and NHRIs) as these carry no financial implications for the UN and are beyond the scope of the GA’s remit to control. It is also inappropriate for the General Assembly to have called upon treaty bodies to set a limit to the number of questions posed, presumably in their Lists of Issues. This falls clearly within the treaty bodies’ working methods and therefore outside the General Assembly’s competence.

We note that the resolution encourages the treaty bodies to develop an aligned consultation process with stakeholders, in particular States, for the elaboration of general comments. We emphasise in this regard that consultations should be carried out with the purpose of providing a better understanding of the challenges faced in implementing the relevant treaty provisions, and not with the purpose of negotiating the content of the general comments.

We welcome the call for progressive implementation of accessibility standards and the provision of reasonable accommodation for treaty body experts. We highlight the need to ensure that the Committee on the Rights of Persons with Disabilities receives the resources required to ensure that it can benefit from additional meeting time and carry out its mandate on an equal basis with other treaty bodies. Additional meeting time should be accompanied by the adequate allocation of resources to render the Committee’s public and private meetings accessible.

It is disappointing that States could not agree to fund webcasting of the public sessions of the treaty bodies with immediate effect.

It is also regrettable that the resolution does not address the need for renewed efforts towards universal ratification of the core international human rights treaties. More than 10 percent of States have yet to ratify either the International Covenant on Civil and Political Rights, or the International Covenant on Economic, Social and Cultural Rights, including States who were very vocal in the intergovernmental negotiations.

NGOs had pressed throughout the 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

¹ “Guidelines on the independence and impartiality of members of the human rights treaty bodies”,

of the treaty bodies. In this regard, the General Assembly failed to meet the standard set previously by it and the Human Rights Council (HRC). The General Assembly and HRC have previously called for action to prevent, refrain and ensure adequate protection from all acts of intimidation or reprisals carried against those who 'seek to cooperate or have cooperated with the United Nations'.² We note that the treaty bodies are already taking initiatives to deal with reprisals and intimidation and encourage them to continue to develop these.

Moving forward it will be important for all States to ensure that budgetary impacts of the resolution are agreed in the Fifth Committee so that the measures envisaged in the draft resolution can be given full effect without delay.

Background

The treaty bodies are the ten committees of independent experts charged with monitoring the compliance of States with their obligations under the core international human rights treaties. The Russian Federation initiated the intergovernmental process on treaty body strengthening in early 2012³ following a multi-stakeholder consultation process that began in November 2009 known as the "Dublin Process". On the basis of recommendations made by States, NGOs, national human rights institutions and others throughout the Dublin Process, the High Commissioner for Human Rights presented a report to the General Assembly in June 2012.⁴

NGO signatories:

Alkarama

Amnesty International

Association for the Prevention of Torture (APT)

Cairo Institute for Human Rights Studies (CIHRS)

Center for Reproductive Rights (CRR)

Centre for Civil and Political Rights (CCPR-Centre)

Centro de Estudios Legales y Sociales (CELS)

Child Rights Connect (formerly the NGO Group for the CRC)

Defence for Children International (DCI)

² 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

³ The intergovernmental process was established through resolution 66/254 and subsequently extended by resolutions 66/295 and 68/2.

⁴ A/66/860

Egyptian Initiative for Personal Rights (EIPR)

Global Action to Prevent War (GAPW)

Human Rights Foundation of Aotearoa New Zealand

Human Rights Law Centre (HRLC)

Human Rights Watch (HRW)

International Disability Alliance (IDA)

International Federation for Human Rights (FIDH)

International Federation of Action by Christians for the Abolition of Torture (FIACAT)

International Rehabilitation Council for Torture Victims (IRCT)

International Service for Human Rights (ISHR)

International Women's Rights Action Watch (IWRAW)

Mental Disability Advocacy Center (MDAC)

Open Society Justice Initiative (OSJI)

The Advocates for Human Rights