



Joint Civil Society Submission

Co-facilitation process on the 2020 review of the UN human rights treaty body system

6 July 2020

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1. Introduction

We express our appreciation to the co-facilitators, Morocco and Switzerland, for inviting all stakeholders to submit written contributions as part of the process for the consideration of the state of the UN human rights treaty body system.

The submission is made jointly by the civil society organisations listed on the final page.

This joint submission responds to the questions 5, 6, 8, 10, 11, 12, 13, 14, 15 and 16.

2. The importance of the UNTB system

As the independent, expert mechanisms mandated with monitoring implementation of the 10 international human rights treaties, the UN treaty bodies (UNTBs) are a fundamental part of an effective human rights system. Unlike other human rights bodies with a monitoring role, such as the Human Rights Council and its UPR mechanism, the UNTBs are independent from States and are composed of human rights experts. The mandate and independence of the UNTBs together make them a vital element of human rights monitoring and accountability at the international and national levels.

All stakeholders have a role to play in ensuring a strong and effective UNTB system. The key role of States is to comply with their treaty obligations and report periodically to the relevant UNTBs and to provide the necessary funding for the effective functioning of the UNTB system. The role of the treaty bodies themselves is to monitor States compliance with the treaty and to establish their working methods that will enable them to effectively discharge their mandates. To this end, the UNTBs have made good progress in implementing UNGA resolution 68/268, including through the publication of the proposals of the UNTB Chairs¹. The UNTBs should be encouraged to continue to move forward with the implementation of their proposals and States should provide them with the space, support and requisite funding to enable them to do so.

3. Civil society proposal (questions #4, #5, #8, #14, #15)

In the context of this review process, a number of Civil Society Organisations (CSOs) that engage with the UNTBs discussed over a number of months how to strengthen the UNTB system, focusing in particular on how to best ensure that the system is **accessible to rights holders, responsive to victims of human rights violations, and encourages all States parties to uphold their human rights obligations**. CSO consultations were organised to hear the views of a range of organisations from the national, regional and international levels and from different parts of the world, who have engaged with the UNTB system, and to develop a joint proposal to strengthen the UNTB system.

The process culminated in a joint civil society document entitled “Towards a strengthened UN treaty body system - Civil Society Proposals”² which was endorsed by 86 NGOs. The Civil Society Proposals identifies five overarching principles which should underpin any reforms to the UNTB system and five objectives for the strengthening of the State reporting procedure in

¹ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CHAIRPERSONS/MCO/31/31309&Lang=en

² http://ccprcentre.org/files/media/joint_ngo_proposal_on_untb_reviews.pdf

particular. The Civil Society Proposals also builds on the Chairs' proposal and recommends to the UNTBs specific ideas for reforms to the State reporting procedure.

The Civil Society Proposals are summarised below and available in full [HERE](#).

Overarching Principles

1. **Human rights protection.** The ultimate aim of any reforms to the UNTB system must be to improve the realization of human rights on the ground. The promotion and protection of human rights must be at the center of the 2020 review.
2. **Specificity within one System.** The UNTB system should be seen as one system, in which the specificity of each Treaty and Committee is retained.
3. **Adequate Funding.** It is essential for the system's effective functioning that it receives sufficient funding to be able to carry out its mandate. The GA Resolution 68/268 continues to provide an appropriate framework concerning funding and States must respect the formula it established. States must also ensure adequate funding for the work of the UNTBs under the individual communications, urgent actions, inter-State communications and inquiries procedures, which are currently insufficiently supported.
4. **Civil society participation.** A vital part of the UNTB system is the contribution of civil society. This should be reflected in the review and any reforms to the UNTB system, including by strengthening the accessibility and effectiveness of the mechanisms to civil society.
5. **Independence.** The independence of the UNTBs and of committee experts should be preserved, since independence is key to the credibility and effectiveness of the system.

Key Objectives of a Strengthened UNTB System

- **Regular, predictable and universal State reporting.** The current system relies on the willingness of States parties to report on time. Only 19% report fully on time, and some do not report at all.³ Further, States may also be reporting regularly to one UNTB whilst not reporting at all to others. Any reform should therefore ensure that all States parties are reviewed within a regular and predictable timeframe.
- **Coordination.** The UNTBs should be supported to strengthen the coordination of their substantive work, in particular in relation to General Comments, Concluding Observations/Recommendations and individual communications, in order to ensure complementarity in protection standards and mutual reinforcement, while avoiding inconsistencies
- **Alignment.** The UNTBs have taken important steps towards alignment of their working methods and procedures and should be supported to continue in this direction. This would improve the accessibility of the system for civil society, rights holders as well as States, and remove 'unnecessary' procedural differences.
- **Constructive dialogue.** The public dialogue with States parties is a valuable and unique element of the State reporting procedure and would benefit from alignment based on good practices.

³ A/74/643, paragraph 11

- **Visibility and accessibility.** Online live streaming of the UNTB reviews, in English and a language spoken in the concerned State, when available, increases the accessibility and visibility of the system for right holders, and should be continued for all State reviews. Furthermore, accessibility for different groups, such as persons with disabilities and children and other marginalized groups who may face barriers in accessing the UNTB reviews, must be ensured for all TBs, including through the provision of sign language interpretation and live captioning.

Reforms to the State reporting procedure

We reiterate that the UNTBs are legally competent and best placed to establish their own rules of procedure and working methods. States should support the UNTBs, including financially, to test different working methods and procedures with the objective of enhancing their effectiveness.

With the objective of proposing a model that reconciles regular State reviews and universal State reporting, with logistical and resource constraints, the Joint Civil Society Proposals recommends:

- **A fixed and co-ordinated calendar** of State reviews according to which:
 - each State is reviewed every 4 years;
 - The UNTBs coordinate reviews to try to avoid a situation in which a State has to go through multiple reviews in the same year and, to the extent possible, coordinate with the UPR cycles.
- A 4 year review cycle, alternating between two levels of review: ‘Comprehensive’ and ‘Focused’.
 - **Comprehensive review (Year 1)**, addressing all the articles of the Treaty in a 6 hour Dialogue in Geneva (as per the current Dialogue);
 - **Focused review (Year 4/5)**, staggered with the Comprehensive review, a review of a limited number of COBs/ urgent issues, with an emphasis on implementation, during a shorter Dialogue (2 - 3 hours). This review could entail in-country reviews conducted by a working group of the Committee or in a UN regional hub. The ‘Focused review’ would enable the UNTBs to ensure regular monitoring for all States, focused on the most pressing issues and would ease the reporting and resources burdens. If the Focus review was to happen in-regions, this would allow the TBs to engage with more stakeholders, both from the State and civil society - as was experienced by the CRC Committee during its extraordinary session in Samoa - which would allow members to gain an in-depth understanding of the situation on the ground. The UNTBs would retain the flexibility to consider holding a full Comprehensive review, in place of a Focused review, where there has been a serious deterioration in the human rights situation of a country.
 - **Role of civil society.** The role of civil society in the UNTBs is a cornerstone of the whole system, and its participation should be further strengthened.

In this regard, it is vital to align the procedures for engagement across all UNTBs to increase the accessibility of the system. Current practices for CSO engagement related to the submission of written and oral inputs and the direct interactions through (formal or informal) private meetings, whether in-person or remotely, should be maintained, together with all the necessary safeguards to grant a safe space for civil society.

4. Quality, Independent and Diverse Treaty Body Membership (question #12)

Since 2017, various discussions on promoting quality, independent and diverse UNTB membership through open and participatory nominations and elections processes have been held in Geneva⁴ and New York⁵. In 2018, TB-Net organised a roundtable discussion with States on Treaty Body Elections, together with Amnesty International, the Permanent Mission of Switzerland and the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland.⁶ The event found a general agreement among State representatives from all regions that a more formalised and transparent process for nomination of treaty body members is desirable, and would lead to strong pools of quality, independent and diverse candidates. The third biennial report by the UN Secretary General also recommended national competitive selection processes for the nomination of Committee experts, and/or other independent vetting processes,⁷ which was reiterated by the UN High Commissioner for Human Rights in her statement to the opening of the 2020 review process⁸. Multi-stakeholder cooperation among States, civil society, the OHCHR and the UNTBs is key in such processes. Based on the outcome of the event and our previous statement⁹ in 2018, we recommend States to:

- Organise open, participatory, transparent and structured national nomination processes to ensure public scrutiny of the candidates prior to their nomination;
- Ensure in both nominations and elections that the candidates are persons of high moral standing, have recognised competence and experience in the human rights field covered by the relevant treaty, and are independent;
- Give consideration to equitable geographic distribution, balanced gender representation, and a diversity of backgrounds and experiences; and

⁴ EVENT REPORT: “Promoting Quality, Independence and Diversity in Treaty Body Membership”, 2 November 2017, https://www.facebook.com/notes/tb-net/event-report-promoting-quality-independence-and-diversity-in-treaty-body-members/2017859365128158/?_tn=HH-R

⁵ Promoting quality, independence and diversity in Treaty Body membership: Introducing the civil society questionnaire to candidates, 1 June 2018, <http://webtv.un.org/search/promoting-quality-independence-and-diversity-in-treaty-body-membership-introducing-the-civil-society-questionnaire-to-candidates/5792569288001/?term=membership%20treaty&sort=date>

⁶ Summary Report – “TB-NET Event on Treaty Body Elections”, <https://www.facebook.com/notes/tb-net/summary-report-tb-net-event-on-treaty-body-elections/2267479453499480/>

⁷ A/74/643, paragraph 71

⁸ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25917&LangID=E>

⁹ TB-Net Statement on the 30th meeting of Chairpersons of the Human Rights Treaty Bodies, https://tbinternet.ohchr.org/Treaties/CHAIRPERSONS/Shared%20Documents/1_Global/INT_CHAIRPERSONS_NGO_30_273_03_E.pdf

- Seek assistance from the UNTBs in identifying the most appropriate candidate by asking the key requirements for treaty body membership before every election i.e. availability to dedicate time, sensitivity to cultural differences, etc., and by taking into account the current composition of the concerned treaty body and its outgoing members as well as the current and potential gaps in expertise, geographical representation and gender balance.

5. Petitions (question #16)

The serious under-resourcing of the individual communications and petitions unit remains of great concern to civil society. In November 2018, 40 organisations called on the High Commissioner to urgently address the massive backlog and delays in processing individual complaints to the UNTBs¹⁰. We repeat our calls to States to adequately fund and support this crucial function of the UNTBs, to reduce the backlog and avoid the human rights protection gap. The system for managing individual communications would also benefit from modernising its processes and employing technological solutions to case management.

6. Covid-19 pandemic and the work of the UNTBs (question #10)

The pandemic has drawn everyone's attention to the need to strengthen the capacity of the UNTBs to engage and interact online. If there is a positive outcome of this situation, it could be that the UNTB members will benefit from a better digital environment in which they can interact among themselves as well as with stakeholders they would not otherwise reach, in a safe and effective manner.

It is important to adopt a pragmatic approach, pilot experiences and draw lessons with the ultimate goal of maintaining the quality of the UNTBs' work, and even improving it in the long-term. The impact on the engagement of civil society should also be one of the primary considerations for decisions relating to online working methods, including safe accessibility requirements. We could support the UNTBs to assess these decisions by collecting feedback from the CSOs who will experience the new online working methods.

As mentioned in the beginning, our objective is the promotion, protection and realisation of human rights on the ground and therefore the effective functioning of the UNTBs. We urge caution in embracing online activities for the UNTBs where it comes at the expense of the quality of the meetings or the work and at the expense of full, meaningful and safe civil society participation and engagement with the UNTBs. Nevertheless, we recognise that in the short term, solutions must be found to continue the work of the UNTBs and that necessarily, this might mean some meetings proceed in a manner that is not ideal. We consider that the temporary solutions should be carefully assessed and the experiences should inform any consideration of longer term changes in working methods. We recommend:

¹⁰ https://www.ishr.ch/sites/default/files/documents/letter_to_hc_on_indiv_complaints_to_tbs_final.pdf

- Engagement with civil society is enhanced and not reduced through on-line working methods and the UNTBs ensure flexibility and inclusivity. Online engagement should complement, and not replace face-to-face meetings with civil society;
 - Current public meetings remain public and accessible if held online, with related programs of work and agendas made available and public in a timely manner;
 - Inter-sessional online work is used for private meetings of Committee members only;
 - Dialogues with States parties should be held online only in exceptional circumstances, and wherever possible in “mixed mode”, i.e. with on-site participation of UNTB members, State delegations and NGOs who are able to be present physically; and
 - Days of Discussion are kept as in-person meetings with online participation available to enhance engagement.
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Endorsing civil society organisations: