

Joint NGO Statement on the occasion of the 28TH meeting of Treaty Body Chairpersons
30 May-3 June 2016, New York

This statement has been prepared by the following NGOs that regularly contribute to the work of the Treaty Bodies, many of whom also followed and contributed to discussions around the reform and strengthening of the Treaty Body system: Amnesty International, The Centre for Civil and Political Rights, The Centre for Reproductive Rights, CIVICUS: World Alliance for Citizen Participation; The International Disability Alliance, The International Rehabilitation Council for Torture Victims and The International Service for Human Rights.

We take this opportunity of the 28th Chairpersons' Meeting to highlight the following priority areas for the consideration of the Treaty Body Chairpersons (the Chairs) as critical elements of the implementation of General Assembly resolution 68/268 and the continuing process of strengthening the Treaty Body system.

[Agenda item 4: Reporting compliance by States parties to the Treaty Bodies.](#)

Positive developments

The yearly comprehensive note by the Secretariat on the status of reporting by States parties (HRI/MC/2016/2) provides very valuable information and statistics on late and non-reporting states, as well as states with good track records in reporting to the Treaty Bodies.

Key recommendations:

In order to break the status quo where Treaty Body reviews are hindered by State Parties' failure to report, or report in a timely fashion:

1. The Chairs should ask those Treaty Bodies who do not have dedicated procedures to deal with late and non-reporting States to adopt one, in line with existing good practices by other Treaty Bodies;
2. The Chairs should encourage those Treaty Bodies who do not review States in the absence of a report to do so, including long overdue initial reports;
3. The Chairs should encourage Treaty Bodies to systematically request meetings with representatives of late and non-reporting States to convey their concerns;
4. The Chairs and OHCHR should seek wide dissemination of the comprehensive and consolidated information available in the note, for instance to the UN General Assembly or through regular OHCHR mailings;
5. The Chairs should call for information on reporting compliance of States candidates for Human Rights Council membership to be made publicly available and considered at the time of the elections.

[Agenda Item 6: adoption and implementation by Treaty Bodies of the Guidelines against Intimidation or Reprisals \("San José Guidelines"\)](#)

Positive developments

Addressing reprisals against persons engaging with the Treaty Body system continues to be one of the highlights and key achievements of the strengthening process. Developments in the processes of individual Treaty Bodies over the last year have once again been encouraging.

Seven Treaty Bodies out of ten have either adopted the San José Guidelines or have a policy on reprisals. The Committee on Economic Social and Cultural Rights, the Committee on the

Elimination of Discrimination against Women, and the Human Rights Committee have neither adopted the San Jose Guidelines nor a dedicated policy on reprisals.

Each of the Treaty Bodies have now adopted a focal point or a rapporteur on reprisals. The Committee Against Torture's two co-rapporteurs on reprisals have reported in press statements that they resolved cases of reprisals and arbitrary arrests of human rights defenders engaging with the Committee.

The engagement of non-independent NGOs, or so-called GONGOs (Government Organised NGOs) in the work of the Treaty Bodies continues. In some instances efforts have been made by Treaty Bodies to avoid or mitigate the potential threats posed by the presence and participation of GONGOs, however in other instances no preventative or precautionary measures have been taken. When Treaty Bodies fail to differentiate between GONGOs (in some cases de facto government agents) and independent NGOs, their well-meaning efforts to engage in informal dialogue with civil society run the risk of exposing and endangering legitimate defenders who may suffer government retaliation for their engagement with the Treaty Bodies.

Key recommendations:

1. The Committee on Economic Social and Cultural Rights, the Human Rights Committee and Committee on the Elimination of Discrimination against Women should adopt the San José Guidelines without further delay.
2. Those Treaty Bodies that have adopted the San José Guidelines should work to ensure they are implemented.
3. Treaty Bodies should each create a public webpage on reprisals that includes the contact details of the rapporteur or focal point on reprisals, as well as information regarding cases received, communications sent to States concerned, responses received, and any follow-up communications, while seeking to protect the confidentiality of victims when they so require;
4. The Meeting of Chairpersons should decide to create a common database of cases of reprisals that would enable better coordination across Treaty Bodies and between Treaty Bodies and the wider UN human rights system.
5. Treaty Bodies should share the information they receive on reprisals with the Secretary General to feed into his reports on reprisals
6. Treaty Bodies should take steps to avoid or mitigate the potential threats posed by the presence and participation of GONGOs in the work of the Treaty Bodies.

[Agenda Item 7: Implementation of General Assembly resolution 68/268](#)

- *Development of an aligned consultation process for the elaboration of general comments (para. 14)*

Positive developments

At the 27th meeting of Chairpersons, a common methodology for consultation regarding draft general comments was endorsed by the Chairs, who acknowledged that "consultation was indispensable for the transparency, legitimacy and publicity of general comments".

Key recommendations,

We believe that this is a valuable step toward making the work of treaty bodies more accessible to all stakeholders and would therefore encourage the Chairs to hold discussions in that regard with their respective Treaty Bodies, bearing in mind the endorsed methodology, to ensure the following:

1. All Treaty Bodies should post and regularly update information about draft general comments on the OHCHR website;

2. All Treaty Bodies should create and update a separate page for previously adopted general comments where information and contributions to the concluded consultation processes are available, as per the good practices of a number of Treaty Bodies;
 3. All Treaty Bodies should clearly set out the consultation process the specific Treaty Body will follow for a specific draft general comment in order to ensure an open and transparent consultation process, i.e. by publishing a note on the OHCHR website as per the good practices of a number of Treaty Bodies.
 4. All Treaty Bodies should consider holding a half-day of discussion early on in the process and post draft versions on the OHCHR website inviting input, comments or feedback from independent experts and other interested stakeholders, as per the good practices of a number of Treaty Bodies.
 5. The Treaty Bodies should consider adopting joint General Comments on issues of cross cutting relevance, such as the CRC-CEDAW joint comment of 2014 (CRC/C/GC/18)
- *Improved implementation and coordination at the national level (para. 19 & 20)*

Positive developments

The initiation of the OHCHR's capacity building programme for States on reporting to Treaty Bodies and following up on recommendations constitutes a welcome development. The programme directly contributes to fulfilling §19 of the resolution, especially 19.a and b.

Likewise, the upcoming publication of an OHCHR manual for States on National Mechanisms for Reporting and Follow-up (NMRF) is expected to boost the establishment and functioning of these important bodies, in compliance with § 19 & 20 of the resolution.

Key recommendations,

Treaty Bodies should consider and/or expand some of the recommendations which have been made in recent years¹ "to support" State "compliance with treaty obligations" (para. 19.b), notably the implementation of concluding observations. These include inter alia:

1. The Chairs should integrate the issue of implementation as a standing agenda item at the Chairpersons meetings and encourage all Treaty Bodies to do so as well during their sessions;
2. The Chairs should adopt a coordinated strategy on the establishment of NMRFs, and they should encourage the Treaty Bodies to recommend the establishment of such bodies in places where they are not established yet;
3. The Chairs should encourage Treaty Bodies to take steps to increase their visibility towards rights holders and victims at the national level, including through social media;
4. The Chairs should call on the UN system to integrate Treaty Body recommendations more systematically in their national work plans;
5. The Chairs should reiterate the need for Treaty Bodies to increase and improve cross referencing between each other, as well as references to other international and regional human rights bodies, such as recommendations by the Special Procedures, the Universal Periodic Review or regional monitoring mechanisms.

27 May 2016

¹ Including the January 2015 Wilton Park report "Strengthening the UN human rights treaty monitoring system. What are the next steps?" <https://goo.gl/Xcfa9z> and the joint NGO statement to the 2015 meeting of Chairs <https://goo.gl/XrHRtc>