

UN General Assembly must act to strengthen treaty body system

As the current General Assembly session draws to a close, the outcome of an inter-governmental process to “strengthen” the treaty bodies remains unclear as negotiations enter a third reading. This is despite the grave challenges facing the treaty body system, which in the words of the High Commissioner for Human Rights has reached its limits both in terms of coherence and sustainable functioning within currently available resources.

At best, the General Assembly process to enhance the treaty bodies looks poised to adopt a resolution that contains few helpful changes for the system. At worst it could seriously undermine the effective functioning of the treaty bodies by attacking experts’ independence and calling for measures that would only serve to decrease efficiency, all the while ignoring important proposals that have emerged from the last four years of consultations.

In April 2012, NGOs identified seven issues to be addressed by States through the inter-governmental process:¹ (1) **universal ratification** of the core international human rights treaties and their optional protocols; (2) **compliance** with reporting obligations; (3) **implementation** of recommendations and views; (4) strengthening the **annual meetings of States Parties**; (5) enhancing the **membership** of the treaty bodies; (6) **providing adequate resources** to the treaty body system; and (7) preventing and addressing **reprisals**. Most of these issues are at the core of what needs to be improved if the treaty body system is to function well in the years ahead, especially as more States become parties to the treaties and their optional protocols and more rights-holders engage with these expert bodies.

As the General Assembly’s discussions enter a determining phase, we offer the following assessment of and recommendations on the key issues that must be addressed to ensure a successful outcome.

- It is highly disappointing that States have failed to devote any attention to developing strategies to achieve **universal ratification of, and removal of limiting reservations to, the core human rights treaties and their optional protocols**—commitments made exactly 20 years ago at the World Conference on Human Rights that many States have yet to fulfil. **States should commit to ratifying all core human rights treaties without delay.**
- While many States have emphasised the need for technical assistance, too little focus has been placed on the lack of political will of some States to implement their substantive treaty obligations and the recommendations and views of the treaty bodies. **States should commit to do more domestically to improve implementation, for example, conducting open consultations with civil society to build strong constituencies and establishing high level focal points or other mechanisms within government tasked with coordinating implementation.**
- We regret that some States have sought through the process to reinterpret their obligation to comply with reporting requirements under the treaties by promoting longer reporting cycles. **The General Assembly should not change the periodicity of reporting as these are legal provisions contained in the treaties and are outside of the General Assembly’s competence to change**
- Rather than seize the opportunity to **strengthen the meetings of States parties** to enhance and support implementation, including through sharing best practices, there is little indication that States will seek to add value to these meetings, and some indication that certain States are attempting to use them as a forum in which to attack the independence of treaty body members. **States should use these meetings to develop specific ideas and practices for improving implementation.**

¹ <http://bit.ly/1cbECAM>

- The quality of treaty body **membership** is key to their effectiveness, yet States have not been ambitious in supporting the High Commissioner's proposal for an open and public space through which candidates could be assessed. Rather it appears States will be left to merely consider adopting national policies or processes for the nomination of experts as candidates. **States should support the High Commissioner's proposal for an open and public space as a minimal step towards bringing greater rigour to the process of electing candidates who are both independent and expert in the respective treaty areas.**
- Despite the widespread acknowledgement of the chronic under-resourcing of the treaty system it is unclear at this stage whether States will approve increases required for the treaty body system to function effectively. Regrettably many States are blocking initiatives to save resources which in turn could go towards bolstering the treaty bodies, such as page limits, limits on translation and interpretation, and the replacement of summary records with webcasts. The proposal for most of the committees to meet in dual chambers is also an essential component of the overall package. This is a cost-effective means for the treaty bodies to increase the number of reports they can review without compromising the time devoted to each and ensuring that unpaid treaty body experts can maintain their professional lives.
- Much has been made in this process of the need for accurate costing of potential savings and new expenditures. However, this should not be used as a delay tactic. While we understand the role of accurate budgetary figures in decision making, it would appear that States have sufficient information to proceed with the policy making aspect of their work at this stage and demonstrate the political commitment necessary to infuse the treaty body system with the resources needed for its effective and sustainable functioning. **States should take decisions to ensure adequate resources for the treaty bodies.**
- Finally, the expected result on **reprisals** falls far short of what States might have committed to in order to adequately address this crucial issue. **States should go beyond abstract condemnation and should take concrete steps themselves, and support the treaty bodies in developing effective strategies to prevent and improve the response to intimidation and reprisals.**

We also regret the intentions of some States, made clear from the start of the Intergovernmental process, to attack the independence of the treaty body members through initiatives such as the Code of Conduct and accountability mechanism. We strongly reject such initiatives not only on their face but also on the polarizing effect they continue to have on the discussions. From the start these attacks have been a distraction from the real problems at hand and the search for real solutions.

Finally, we wish to note our disappointment that the process has not turned out to be open, inclusive and transparent, as promised in the resolution creating it. Far from being meaningful and effective, opportunities for NGO participation have been characterized throughout this process by unpredictability, poor planning, lack of communication, disregard for our expertise, views and potential contributions, and above all a fundamental lack of commitment and initiative to include NGO stakeholders outside of New York and Geneva. It is also a discredit to this process that it has not involved sustained, regular participation of expert members of the treaty bodies. We fear this could have negative repercussions on the ownership of the outcome of this process going forward.

As the discussions in the General Assembly are reaching a critical juncture, we urge States to refocus their attention and efforts on the core goals of this process. We urge all States to revisit and consider how the proposed outcome might better strengthen and enhance the treaty body system and increase the capacity of rights holders to enjoy their human rights.

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Signatory organisations

- African Centre for Democracy and Human Rights Studies (ACDHRS)
- African Democracy Forum (ADF)
- Alkarama Foundation
- Amnesty International
- Asian Forum for Human Rights and Development (FORUM-ASIA)
- Association for the Prevention of Torture (APT)
- Cairo Institute of Human Rights Studies (CIHRS)
- Center for Legal and Social Studies (CELS)
- Centre for Civil and Political Rights (CCPR Centre)
- Child Rights Connect (formerly the NGO Group for the CRC)
- Commonwealth Human Rights Initiative (CHRI)
- Corporación Humanas - Centro Regional de Derechos Humanos y Justicia de Género
- Egyptian Initiative for Personal Rights (EIPR)
- Equality Now
- Fédération Internationale de l'Action des Chrétiens pour l'Abolition de la Torture (FIACAT)
- Global Action to Prevent War and Armed Conflict
- Human Rights Foundation of Aotearoa New Zealand
- Human Rights House Foundation (HRHF)
- Human Rights Watch (HRW)
- International Disability Alliance (IDA)
- International Movement Against All Forms of Discrimination and Racism (IMADR)
- International Rehabilitation Council for Torture Victims (IRCT)
- International Service for Human Rights (ISHR)
- International Women's Rights Action Watch (IWRAW)
- International Women's Rights Action Watch Asia Pacific (IWRAW AP)
- Jacob Blaustein Institute for the Advancement of Human Rights (JBI)
- Mental Disability Advocacy Center (MDAC)
- Open Society Justice Initiative (OSJI)
- The Advocates for Human Rights
- West African Human Rights Defenders Network (WAHRDN)
- World Organisation Against Torture (OMCT)