

Joint Statement

Informal Hearing for Civil Society – February 26, 2013 Intergovernmental Process on Treaty Body Strengthening

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This joint statement is made by a group of twenty-three NGOs who have engaged actively with the treaty bodies and in discussions on the strengthening of the treaty bodies. We welcome the opportunity to continue to do so today.

This intervention focuses on **the treaty body reporting process and follow-up**.

Centrality of treaty body reporting process and follow-up

The periodic reporting process is central to the fulfilment of States parties' obligations to give effect to international human rights standards on the ground. It is the means by which the treaty bodies gain the information they need to develop a sound assessment of the situation in a country, and to develop relevant and targeted concluding observations, which have the potential of improving enjoyment of human rights by rights-holders. The process must enable treaty bodies to get the information they need as efficiently as possible and in a reader-friendly format.

Follow-up to the concluding observations of the treaty bodies and to views issued on individual communications is also central to the effective fulfilment of the treaty bodies' mandate. As a real-time assessment of progress achieved and challenges remaining, it provides a strengthened basis for treaty bodies' guidance to States parties on proposed policies, laws, and programmes. It is also indispensable to implementation of concluding observations and views.

Treaty body competence with respect to working methods

Treaty bodies have sole competence to deal with issues related to their working methods and rules of procedure, including the reporting process and follow-up. The independence of the treaty bodies in this respect is enshrined in the international instruments that created them.

If they are to fulfil their mandates effectively, treaty bodies must engage in an ongoing process of evaluating their working methods, to ensure that they enhance and do not undermine or impede their work.

It is our position that the treaty bodies' so-called 'unmandated activities', including page limits, new reporting procedures, and follow-up activities, are fully within the treaty

bodies' mandates to promote and support the implementation States' implementation of treaty obligations.

1. Page limits

Lengthy State reports to treaty bodies encourage unfocused reporting including long descriptions of policies. The imposition of page limits would compel States to include only the most relevant information. This should make it easier for treaty bodies to form an accurate picture of the status of implementation of a treaty.

Four treaty bodies have already set page limits for State reports. The Inter-Committee Meeting and the Meeting of Chairpersons have numerous times reiterated their recommendation that States adhere to these limits. 5,000,000 USD would reportedly have been saved in 2011 if page limits had been respected. Timely translation of documents would also be facilitated if pages were limited.

2. Common Core documents and regular updates

The Common Core document provides States with the opportunity to offer considerable detail about their fundamental human rights infrastructure and policies. If this document is regularly updated, States can avoid duplication of material in their periodic reports, and thereby make them shorter and more focused. This process is intended to lessen the reporting burden on States.

3. Simplified reporting procedure

A simplified reporting procedure, the optional List of Issues Prior to Reporting (LOIPR), is currently in use by the Human Rights Committee and the Committee against Torture. The Committee on Migrant Workers has also recently adopted the procedure.

Both treaty bodies are evaluating the procedure to ensure that it does indeed contribute towards the more effective fulfilment of their mandate.¹ The indications are that it is doing so.

Reports based on a list of issues drawn up by the treaty body are more targeted to the Committee's priority concerns. The reporting process is also adapted to address the specific conditions and difficulties in each State. This is key to ultimately providing relevant concluding observations and improving the situation of rights holders.

More targeted reports will also improve the dialogue between the treaty bodies and the State. Detailed information on certain key issues enables the State to select a delegation

¹ The Human Rights Committee is piloting the procedure until 2015 when it plans to evaluate it, while the Committee Against Torture has begun to evaluate the procedure's effectiveness (see CAT/C/47/2).

that can comprehensively address the areas of specific concern. It also provides for a more focused dialogue. The more precise, detailed and relevant concluding observations will be more implementable as a result, thereby ultimately improving the situation of rights holders.

The LOIPR procedure reduces the burden on States, by eliminating the need for a separate response to a list of issues and by providing clear expectations as to the structure and content of the report. This process should reduce costs in general and should be of particular assistance to States with limited financial and human resources. It should also result in more timely reports and thus reduce the delays in reporting that undermine the implementation of treaty obligations.

The reduction in documentation that follows from this optional procedure will also reduce costs for the treaty bodies.

As the procedure is optional, it does not contradict the provisions in the treaties or rules of procedure regarding the standard reporting procedure. Any State may decide not to avail itself of the new procedure. However the advantages of the new procedure are evident in that 55 out of 75 States parties to the Convention against Torture with reports due to the Committee between 2009 and 2012 have chosen to use it. Finally, in accordance with the independence of the treaty bodies, each individual treaty body must retain the freedom to decide its own rules of procedure and working methods.

4. Follow-up

The obligation of a State to provide an effective remedy for a violation of human rights² and to ensure non-recurrence is ongoing,³ as is the obligation of States to cooperate fully and in good faith with the treaty bodies.⁴ Follow-up is also central to implementation of treaty body recommendations and views as it creates an ongoing dialogue with States, through which continuing advice can be offered. Para. 16 of the Human Rights Committee's General Comment No. 33 sets out that 'in a number of cases this [follow-up] procedure has led to acceptance and implementation of the Committee's views where previously the transmission of those views had met with no response'.

Clearly a procedure that promotes implementation of views falls within the mandate of the treaty bodies to promote and support States parties' implementation of treaty obligations.

Finally, follow-up is crucial to measuring the realisation of the mechanism's ultimate objective, namely, the improvement of the human rights situation on the ground. Follow up provides a measure of the effectiveness of the treaty bodies' work and whether States parties are fulfilling their obligations under the treaties.

² See e.g. ICCPR art 2 (3)

³ See e.g. Human Rights Committee, General Comment no. 33: The Obligations of States Parties under the Optional Protocol to the ICCPR UN Doc CCPR/C/GC/33 (2008) [18]

⁴ See e.g. Vienna Convention on the Law of Treaties, art. 26

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In closing, we thank the co-facilitators for this opportunity to contribute, and look forward to continuing to do so in the future.

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Signatory organisations

1. Alkarama Foundation
2. Amnesty International
3. ARC International
4. Asian Forum for Human Rights and Development (FORUM-ASIA)
5. Association for the Prevention of Torture (APT)
6. Cairo Institute For Human Rights Studies (CIHRS)
7. Center for the Human Rights of Users and Survivors of Psychiatry (CHRUSP)
8. Centre for Civil and Political Rights (CCPR)
9. East and Horn of Africa Human Rights Defenders Project (EHAHRDP)
10. Fédération Internationale de l'Action des Chrétiens pour l'Abolition de la Torture (FIACAT)
11. Human Rights House Foundation (HRRF)
12. Human Rights Law Centre (HRLC)
13. Human Rights Watch
14. International Disability Alliance (IDA)
15. International Movement Against All Forms of Discrimination and Racism (IMADR)
16. International Rehabilitation Council for Torture Victims (IRCT)
17. International Service for Human Rights (ISHR)
18. International Women's Rights Action Watch (IWRAW)
19. International Women's Rights Action Watch Asia Pacific (IWRAW- AP)
20. NGO Group for the Convention on the Rights of the Child
21. Open Society Justice Initiative (OSJI)
22. Organisation Mondiale Contre La Torture (OMCT)
23. The Advocates for Human Rights