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COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK

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Report

Regional Consultation for Latin America and the Spanish-Speaking Caribbean

San José (Costa Rica), 19- 20 November 2016

I. CONVENING GOALS AND BACKGROUND

This regional consultation, which took place in San José, Costa Rica on November 19th and 20th, was convened by the Inter-American Institute for Human Rights, the Inter-American Institute for Social Responsibility and Human Rights, the Faculty of Law of the University of Costa Rica, and the Human Rights Institute of the National University of La Plata, in partnership with Columbia University and the Geneva Academy of International Humanitarian Law and Human Rights, for the purpose of engaging human rights experts with a focus on Latin America to identify opportunities and generate innovative ideas to improve the functioning and deepen the impact of the UN human rights treaty bodies, and to promote synergies with the Inter-American Human Rights System.

The meeting was convened in the context of the United Nations General Assembly's 2014 [Resolution 68/268](#) on UN Treaty Body Strengthening, with the aim of developing further recommendations for improvement and informing the 2018 report of the Secretary General to the General Assembly through the Geneva Academy's global academic process, in order to ultimately contribute to the General Assembly's 2020 review of the treaty body system.

The consultation provided an opportunity to address the challenges of coordination and capacity that have resulted from significant expansion of the treaty body system, and to develop proposals to both ensure that the treaty body system is sustainable, and to enhance the effectiveness of treaty bodies in addressing human rights abuses and strengthening compliance with human rights norms. To this end, this regional meeting focused upon (a) elaborating long and short term proposals to strengthen relationships, communication, and coordination among the treaty bodies, and (b) identifying opportunities to enhance global human rights protection through more institutionalized and effective relationships and coordination among the treaty bodies and other UN human rights mechanisms, as well as regional human rights systems, particularly the Inter-American Human Rights System.

Participants included experts from academia, government, the UN and Inter-American human rights systems, national level human rights protection mechanisms, and civil society, with the significant majority of participants from the Americas. Many of the academic participants also had experience engaging with the UN treaty body system as independent experts, staff, or victims' representatives, among other roles, which informed their contributions. Twelve papers on various aspects of enhancing the work of the treaty bodies and their relationship with other human rights mechanisms were presented by participants.

This document offers a summary of the topics and proposals raised at the regional consultation. The issues raised here reflect points of general convergence, though there were a multiplicity of views on almost every issue discussed during the consultation. Several consultation participants offered to conduct further research on particular proposals raised during the consultation, so this document is meant only to highlight overarching themes that were raised.

II. KEY STRENGTHS AND LIMITATIONS OF THE TREATY BODY SYSTEM

The UN treaty body system is a cornerstone of the UN human rights monitoring and protection system. The power and promise of this system lies in the multiple functions that treaty bodies play: norm development and diffusion; direct engagement with States to assess and monitor human rights compliance; resolution of individual cases to redress human rights violations; direct engagement with victims and civil society; and development of authoritative general comments, among others.

Each of the current ten treaty bodies has an independent mandate and its own procedures to carry out these functions. This can be viewed as a strength of the current system – each treaty body has some level of autonomy to develop effective practices, and leverage the expertise and experience of its members. Where treaty bodies are comprised of independent, impartial experts, and are adequately resourced, they play a key role in strengthening human rights norms, and ensuring human rights accountability through individual communications, reviews of States Parties, and ongoing monitoring of human rights compliance.

However, there are also myriad challenges within the current system. Among the treaty bodies, there is currently some substantial redundancy and unnecessary duplication of effort, particularly with respect to country examinations, due in part to substantive overlap, to coordination by a single Secretariat, and to the ad hoc way the system has grown. When one looks globally, the risks of duplication among the treaty body system and other human rights mechanisms at the UN and regional levels is also a concern. These risks and challenges must be addressed in the **context of ongoing threats to the universal application of human rights law**, illustrated at the regional level by the uptick in withdrawal and threats of withdrawal by States from regional human rights systems, as well as a global trend of governments invoking domestic law as a shield against compliance with international human rights obligations (particularly acute in dualist systems).

Participants repeatedly emphasized the value of greater **coherence and coordination** among the treaty bodies, with other UN mechanisms, and with regional human rights systems, including the Inter-American System, in order to maximize the strengths, contributions, and resources of each system. The need for coherence is particularly acute in light of existing resource and capacity challenges that face the UN and the Inter-American System in particular – human and financial resources simply have not kept pace with the demands being placed on these systems and the extent of their responsibilities. Lack of **adequate resources** appropriately dedicated to the specific treaty bodies was raised in every session of the consultation along with the importance of more robust and strategic allocation of resources (human and financial) to support the human rights treaty body system, and enhance the visibility, accessibility, and ultimate impact of the treaty bodies.

Throughout the regional meeting participants discussed the potential of the current UN Strengthening Process to effect positive change, but emphasized that measures proposed through Resolution 68/268 are likely to be incremental, and that **substantially more fundamental structural changes** than those currently contemplated by the Resolution are essential in order to ensure the survival of the treaty body system in the long term, and to

effectively fulfill the treaty bodies' mandates.¹ This echoes the alarm sounded in the 2012 report by UN High Commissioner Navi Pillay: "When a treaty mechanism can only function by tolerating an 84% rate of non-compliance in reporting, serious measures are in order."² Despite efforts to increase support to States to improve reporting, there are currently over 600 overdue reports, 167 of which have been overdue for more than 10 years.³ Further, while ratifications have increased since 2013, the number of States meeting their reporting obligations has actually fallen to 13%. At the same time, the number of individual communications has grown exponentially (by 80%), and thus according to the recent report of the High Commissioner for Human Rights, despite a 27% increase in treaty body meeting time, the overall backlog has increased.⁴

The majority of convening participants agreed that the evolution of the treaty body system has lacked coherence and the trajectory of unchecked ongoing linear growth is not sustainable or desirable. In light of the need for long-term and fundamental structural reforms, participants emphasized that any near-term changes must be approached strategically, accounting for long term costs and benefits, and moving the system in the direction of more fundamental reform. In addition, the merit and success of any proposals to strengthen or reform treaty bodies should be measured by their potential to make the system more efficient and effective in enhancing human rights compliance.

Throughout the convening, particularly in discussions related to individual communications, participants stressed the importance of putting the **victim** at the center of the approach of treaty bodies, and making the system more accessible to **civil society**. Building on this theme, several participants mentioned the need to create spaces for civil society organizations and victims to participate in the current and future reviews of the system.

With these considerations in mind, participants identified a range of proposals to enhance the visibility, accessibility, effectiveness, and impact of the UN treaty body system.

The remainder of this document presents proposals that received general support at the meeting, and notes as well the areas identified for further research by participants.

Consultation proposals fell into three main thematic areas, described below: (a) **improving the coordination and effectiveness of the treaty bodies themselves**; (b) **increasing coordination and coherence between the treaty bodies and other UN mechanisms**; and (c) **strengthening engagement with regional and national human rights systems**. These proposals range from structural changes to near-term recommendations that relate to current practices. In presenting these proposals, participants expressed concern that any reforms and proposals that might require changes to the treaties themselves should be approached with caution so as to avoid weakening the treaty body system.

¹ See Yuval Shany, Submission to the Costa Rica Regional Consultation, *Treaty Body Reforms – Incrementalism v Big Bang* (2016).

² UN Doc. A/66/860 (2012), p. 28.

³ OHCHR, *Human Rights Bodies: Overdue, Late & Non-Reporting States*, at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/LateReporting.aspx.

⁴ UN Doc. A/71/118 (2016), at 3; 8.

III. ENHANCING COORDINATION AND EFFECTIVENESS WITHIN THE TREATY BODY SYSTEM

A. Strengthening Country Examinations

Given the broad-based consensus regarding the need for fundamental structural redesign of the treaty body system, discussed above, and the prevailing view that current reporting requirements place unnecessary burdens on civil society and States, which must navigate a patchwork of procedures and deadlines and expend significant resources to participate in repeated country examinations before multiple treaty bodies, participants saw merit in the evolution toward a more **coordinated and unified mechanism to conduct country reviews** of human rights compliance. Greater coordination would alleviate unnecessary duplication, facilitate greater participation by stakeholders seeking to engage the system, enhance predictability and streamline resources, as well as have a positive impact on the ability of treaty bodies and other human rights mechanisms to conduct follow-up on recommendations, while easing the burden on the treaty bodies and the Secretariat in the long term.

1. *Coordinating Country Examinations*

There was general acknowledgment that **the establishment a single, permanent treaty body** is ultimately needed in order to reduce the incoherence of reporting obligations and to have a treaty body system that is adequately resourced to ensure its capacity to review reports from all States Parties.⁵ Accordingly, a number of proposals were offered to move the work of the various treaty bodies in the direction of a **more coherent, integrated system**, including more predictable and coordinated reporting schedules.

Major proposals to strengthen integration of the treaty body review processes included:

- **Coordinated reviews of States by all relevant treaty bodies.** Country examinations could be organized so that all relevant treaty bodies can sit consecutively to examine a particular country, and therefore a country can appear before all treaty bodies to which it is a party during a single session, with predictable periodicity between reviews.
- **Combined CCPR/ESCR treaty body.** The Human Rights Committee and the Committee on Economic, Social and Cultural Rights oversee the largest numbers of States Parties and together address a comprehensive panoply of human rights. Because the ESCR Committee is not established by treaty, these two bodies could sit together as single comprehensive human rights treaty body that could conduct a comprehensive review of a State's human rights record for the substantial majority of States that are parties to both treaties. Other treaty bodies could organize their reviews as follow-up reviews, building upon the combined review.

⁵ The idea of a unified standing treaty body was put forth by the High Commissioner initially in 2006. UN Doc. HRI/MC/2006/2 (2006).

Significant integration of the treaty body country examinations under either of the above approaches would allow for **(a) single State reports**, which address all of a State Party's treaty commitments, and **(b) coordinated treaty body review**, to reduce redundancy and overlap of effort with respect to reporting, examination questions, concluding recommendations, and follow-up for States, civil society, and the treaty bodies. It also potentially would allow for **(c) coordination of the treaty body review calendar with the UPR calendar**, which would allow the UPR to serve as a formal means for promoting follow-up of treaty body reviews (see discussion below). Finally, it would **(d) enhance the visibility and accessibility of the treaty body reviews** and potentially encourage greater State and civil society participation and compliance than the current reviews, with their disparate working methods and calendars.

There was no consensus on what the most appropriate design for this approach would be and how to address potential legal reforms, including with respect to treaty-based periodicity requirements. One proposal was the establishment of a protocol to address periodicity requirements that are set forth in treaties, although concern was expressed regarding legal reform of the treaties. Concern was also expressed regarding whether it is optimal from a human rights perspective to eliminate multiple reviews of States that are distributed over time. Several participants committed to undertake research to refine the potential options.

While proposals for greater integration and coordination of country reviews are being considered, participants agreed that two **more modest, near-term proposals** could facilitate integration:

- **Establish a master reporting calendar.** As a minimum essential step toward the consolidation of the country reporting and examination process, a fixed calendar could be established that rationally distributes each country's reporting and reviews over a fixed period. The High Commissioner previously proposed the establishment of a master reporting calendar to bring greater predictability and coordination to the reviews.⁶ The specific mechanics of this proposal were not discussed in detail.
- **Tailored periodicity requirements.** In light of the system's limited resources and the importance of addressing the most severe human rights abuses, participants noted the challenge that fixed periodicity requirements pose for current treaties. Rather than having a fixed periodicity, it was proposed that certain treaty bodies might consider scheduling country reviews in light of an array of factors, such as the State Party's record of timely reporting, responsiveness to recommendations, the timeline for reviews by other bodies, and pending human rights concerns, as well as consideration of interim paper review procedures. The Human Rights Committee has already established a practice of tailoring the periodicity of country examinations. This proposal was also informed by the approach under the International Convention for the Protection of All Persons from Enforced Disappearance, where States submit an initial report two years after the entry into force, and the Committee can request further information and conduct further reviews. There was not unanimous support for this

⁶ See the prior proposal put forth in 2012 by then UN High Commissioner Pillay, see <http://www2.ohchr.org/english/bodies/HRTD/docs/HCReportTBstrengthening.pdf>.

approach, as some participants noted, inter alia, that certain treaty bodies have such extensive mandates that extensive delays in country examinations, or paper examinations, would not be appropriate. Participants overall did not recommend revisiting treaty texts to facilitate this change.

2. Review of Non-Reporting States

There was widespread agreement regarding the importance of ensuring the treaty body review process should include all States Parties, including non-reporting States. There accordingly was general consensus that **treaty bodies should schedule periodic reviews of States that fail to meet their reporting deadlines**. In the experience of the Human Rights Committee, scheduling reviews of non-reporting States has prompted some States to submit periodic reports.⁷ Moreover, the Inter-American Commission holds hearings in the absence of State participation. Increasing reviews of non-reporting States would allow the treaty bodies to more effectively fulfill their mandates. It would also increase the demands on the system, requiring greater time allocations and human and financial resources.

B. Strengthening Follow-up Procedures

In light of the important role that treaty bodies play in monitoring human rights compliance over time, and the value of a human rights system where treaty bodies and other UN and regional mechanisms can, as appropriate, reinforce and build upon each others' recommendations, participants converged around the need for **greater consistency** in follow-up procedures and mechanisms employed by treaty bodies, with respect to implementation of both concluding recommendations from country examinations and views in individual communications. The following specific proposals emerged:

- **Coordinate follow-up procedures, timing, and grading systems.** At present, each committee has its own follow-up procedures, methods of analysis, grading systems, and report styles with respect to follow-up for both country examinations and individual communications. Greater uniformity in procedures, grading systems, and timeframes for follow-up would make it easier for States to comply, for civil society to engage in the follow-up process, and for treaty bodies to share and understand each others' work. It would also yield data that could be more easily compiled and reviewed through other processes, such as the UPR. Consistent timelines would further facilitate the ability of treaty bodies and other actors to track compliance with recommendations, and improve predictability.
- **In-country follow-up visits.** Participants repeatedly raised the importance of face-to-face engagement with State representatives and civil society outside of the formal reviews in Geneva in order to enhance the visibility and the impact of the work of the treaty bodies. Currently, unofficial follow-up visits are conducted to some States by treaty body members on an ad hoc basis. The Geneva-based NGO CCPR Centre facilitates such visits for some treaty bodies. Some participants expressed the view that this function should be made an official function supported by the Office of

⁷ Yuval Shany, Follow-Up Submission to the Costa Rica Regional Consultation (2017), pgs. 1-2.

the High Commissions. Moreover, if follow-up procedures and timing were coordinated, as described above, a single in-country visit could address follow-up for multiple treaty bodies and maximize the issues addressed. In-country visits have played a central role in the monitoring work of UN Special Procedures, as well as in the Inter-American Human Rights System. There was general agreement that there should be a more coordinated use of in-country visits, whether conducted by treaty body members, Special Procedures, or others, to follow-up on treaty body recommendations.

- **Engage UN, regional, and national human rights mechanisms for follow-up.** Participants discussed the value of using additional mechanisms and fora to encourage State compliance with treaty body recommendations. The **UPR** and the **Assembly of State Parties** were mentioned as potential arenas to encourage compliance with human rights obligations and commitments.⁸ Engagement with **national and regional human rights mechanisms** was also identified as a useful avenue to pursue. Participants noted that there should be safeguards in place to ensure that such mechanisms enhance the implementation of substantive obligations, and do not replicate or undercut human rights protections. Within the Inter-American System, the Inter-American Court has used the forum of the OAS General Assembly, the political body of the OAS, to address non-compliance with judgments, as one example from regional systems.

Several of the recommendations discussed below, particularly related to national level protection mechanisms, also relate to follow-up.

C. Treaty Body Member Independence, Impartiality & Expertise

There was unanimity around the importance of ensuring that treaty body members are human rights experts who are independent and impartial, and are perceived to be so. Since these qualifications are outlined in an array of existing UN documents, including the *Addis Ababa Guidelines*,⁹ the conversation focused on ways to improve nominations and elections of qualified individuals. Proposals related specifically to establishing a neutral, external assessment of nominee qualifications, addressing the location and timing of elections, and engaging civil society and other stakeholders in member selection.

- **Independent assessment of candidate qualifications.** A number of participants supported the establishment of an independent body responsible for publicly assessing the qualifications of treaty body candidates. Such a body would review nominees' records and publicize an independent assessment of whether candidates are qualified, based on their experience, independence, impartiality, and various diversity criteria. This assessment in turn could inform the nomination and voting behavior of States Parties. The Coalition for the ICC¹⁰ serves such a function, and that example, as well as the UN process for selecting Special Rapporteurs, were offered as possible models for ensuring that States

⁸ Yuval Shany, Follow-Up Submission to the Costa Rica Regional Consultation (2017), pgs. 4-7.

⁹ UN Doc. A/67/222 (2012).

¹⁰ Coalition for the International Criminal Court, <http://cicc.haasontwerp.web-001.webtrack.prvw.eu/node/997>.

Parties and civil society are fully informed regarding the suitability of individual candidates to serve on a particular treaty body. Participants agreed to conduct further research on the mechanics of this proposal.

- **Greater publicity for candidates.** OHCHR and States Parties should, at a minimum, make greater effort to publicize the nominations in any given election cycle. Ideally, civil society inputs on candidates would also be collected centrally and could inform the process to ensure greater objectivity and transparency in the process. The Inter-American Commission has developed a practice of publicizing the short list of candidates for Executive Secretary that could serve as a model.
- **Hold treaty body elections in Geneva.** There was significant concern that conducting elections in New York, while the treaty bodies currently sit exclusively in Geneva, creates a sub-optimal election process that does not give a primary role to the Missions of States Parties in Geneva, which have the greatest familiarity with the treaty body functions and membership, as well as with the overall UN human rights mechanisms, most of which are centered in Geneva. Participants agreed that holding all treaty body elections in Geneva – where elections for the CAT Committee are currently held – would be a positive step in fostering elections of the most qualified candidates.
- **Stagger elections for treaty bodies.** Some participants discussed that holding elections for different treaty bodies sequentially, distributed over the course of the year, rather than holding them all simultaneously in June, could reduce pressure for vote trading and enhance attention to candidate qualifications. It could also increase opportunities for stakeholder engagement with respect to particular treaty bodies. Others, however, expressed skepticism whether staggering elections would affect vote trading, given the large number of elections across the UN system at any given moment and the practice of trading present as well as future votes. Participants noted that additional steps would also be needed to fully address the challenge of trading votes, and that the potential benefits, and any downsides, of staggering elections should be further explored.¹¹

D. Increasing Accessibility and Visibility

Significant concerns were expressed regarding the lack of ready accessibility to the work of the treaty bodies, and the cumbersome and incomplete nature of the information currently available online. Participants repeatedly emphasized that to improve human rights compliance on the ground, treaty body outputs (including concluding observations, views in individual communications, and general comments) should be significantly more visible and accessible to States, civil society, regional and national human rights mechanisms, victims, and other stakeholders. The following concrete proposals emerged:

- **Create a readily accessible jurisprudence database.** Participants expressed widespread frustration

¹¹ Santiago Corcuera Cabezut, Submission to the Costa Rica Regional Consultation, *Reflections and Recommendations Regarding the UN Treaty Body System* (2016), p. 4.

with the inaccessibility, cumbersome interface, and lack of comprehensiveness of the current OHCHR jurisprudential databases of treaty body work. Recent decisions of the treaty bodies in individual communications are not readily accessible; decisions are difficult to find, databases are partial; information is not readily searchable; and documents sometimes only appear in one or two official languages. Participants accordingly supported development of an easily searchable database in all treaty body working languages. The UPR Info Database of Recommendations¹² was discussed as a positive example and model of a user-friendly interface that could be replicated for the treaty bodies. The treaty body pages should link directly to such a database, and it should be easy to locate and to navigate for users unfamiliar with the UN treaty bodies and OHCHR.

- **Improve use and accessibility of webcasts.** The availability of webcasts of country examinations and public sessions was discussed as a positive development, but participants agreed there is significant need for improvement. Resources for webcasting should be guaranteed; webcasts should be broadcast and archived in all treaty body working languages, as well as the language in which the review is held; and links to the webcasts should be easy to locate via links on each treaty body session webpage, as well as the OHCHR home page for each country.
- **Jurisprudence summaries.** Participants underscored the challenge of accessing and understanding the jurisprudence of the treaty bodies, including for other treaty bodies, States, national and regional human rights mechanisms, civil society, academia, and particularly for those directly impacted by human rights violations. They emphasized the need for more user-friendly fact sheets or other documents to distill and disseminate case law and other developments. The Inter-American Court's use of case bulletins¹³ and decision books,¹⁴ and the European Court of Human Rights' fact sheets¹⁵ were noted as potential examples to build upon.
- **Periodic meetings in New York.** Some participants noted that it is important for the visibility and health of the treaty bodies within the UN system for them to hold occasional country examination sessions in New York.¹⁶ Funding decisions and most elections for treaty bodies are held in New York, and the Secretary General, who is charged with overseeing the treaty bodies, sits in New York. It therefore is vitally important for the treaty bodies to be understood and have a profile in the Missions of UN member States in New York. Periodic sessions in New York would also have the benefit of increasing the visibility and accessibility of the treaty bodies for States and civil society organizations in the Americas. Country examinations held in New York could have a regional focus on States from the Americas, and would therefore be more efficient, less expensive, and more accessible for participation by States and civil society groups from the Americas. New York sessions that did not examine

¹² <https://www.upr-info.org/database/>.

¹³ See, e.g., <http://www.corteidh.or.cr/sitios/libros/todos/docs/boletin5eng.pdf>.

¹⁴ See, e.g., <http://www.corteidh.or.cr/sitios/libros/todos/docs/indigenas.pdf>.

¹⁵ <http://www.echr.coe.int/Pages/home.aspx?p=press/factsheets>.

¹⁶ Sarah H. Cleveland, Submission to the Costa Rica Regional Consultation, *Enhancing Human Rights Connectivity for the Treaty Body System* (2016), p. 6.

communications, but focused on country examinations and other aspects of treaty body work, also would not require relocation of the Secretariat petitions unit, and thus could be held at lower cost.

E. Strengthening the Secretariat

The Secretariat is instrumental to the ability of the treaty bodies to fulfill their mandates, and can also be key to improving how committees function individually, as well as ensuring greater connectivity among the treaty bodies themselves, and with other human rights mechanisms and stakeholders.¹⁷ Participants expressed appreciation for the Secretariat and its work. They discussed, however, that presently, the relationship between the treaty bodies and Secretariat is sub-optimal. As one example, the treaty bodies have been given increased meeting time, yet, they are not able to fully utilize that time effectively because the Secretariat was not provided with equivalent resources to support that additional time. Thus, necessary documents cannot be prepared by the Secretariat in a timely manner. **Limitations to the Secretariat's ability to effectively support the treaty bodies were highlighted, including lack of adequate resources that are clearly dedicated to the specific work of the treaty bodies.** Some participants expressed concern that as currently structured, the Secretariat lacks sufficient depth of seniority and broad-based comparative international human rights law expertise as compared to the secretariats for regional human rights mechanisms, due in part to the system of staff rotation. Participants also noted the absence of relationships of oversight and accountability between treaty bodies and the Secretariat staff. Accordingly, participants identified the following proposals to address these factors, as well as recommendations that would facilitate greater treaty body coordination in line with the other proposals made during the consultation.

- **Ensure Secretariat expertise, capacity, and oversight.** Participants agreed that the Secretariat is largely staffed with talented, dedicated, hard working personnel, who are vital to the functioning of the system. They underlined, that like the regional human rights courts, **the treaty bodies need to be supported by dedicated senior, professional Secretariat staff** with the expertise, knowledge, and training to undertake effective research and drafting in support of the treaty body mandates. Such qualifications are significantly undermined by the system of staff rotation, and reliance on short-term contract employment and interns, which deprives the treaty bodies of permanent, professional staff. Participants urged that the treaty bodies optimally should also have input and visibility into staff hiring and promotion decisions and input into the annual reviews of staff performance. They further urged that the Secretariat should have a clear management structure and mixed seniority structure, which would allow staff to progress in their career within the treaty body unit, in order to secure long-term Secretariat staff within to the treaty bodies who are expert in the jurisprudence of the treaty bodies and comparative human rights jurisprudence. The Secretariat could also play an important role in bringing to the attention of treaty bodies relevant jurisprudence and work from other treaty bodies as well as from other UN and regional human rights mechanisms. Participants noted that the

¹⁷ *Id.*, pgs. 4; 7; James Cavallaro, Submission to the Costa Rica Regional Consultation, *Complementarity of the UN and Treaty Body System* (2016), p. 2-3; Carlos Ayala Corao, Submission to the Costa Rica Regional Consultation: *Reflexiones Preliminares* (2016), p. 1.

organization of the Secretariat of the Inter-American Commission and Court could offer insights in ways to enhance relationships between the treaty bodies and the Secretariat. Additional research on other systems would be beneficial to strengthen these proposals.

- **Ensure information sharing.** As the central office that helps prepare the treaty bodies for country examinations and assists with drafting of communications and general comments, the Secretariat should ensure there is an open and organized flow of information among treaty bodies, and between treaty bodies and the other UN human rights mechanisms, particularly the UPR and the Special Procedures, as well as with regional human rights bodies. The Secretariat could also play a more important role in avoiding, rather than replicating, overlap in the issues raised in treaty body country examinations. Participants also observed that each treaty body should have a focal point who receives copies of all outside communications relating to the work of that treaty body that the Secretariat receives, so that the treaty body will be apprised of incoming communications and able to independently assess how they will be addressed. **Greater information flow would both enhance the individual work of the treaty bodies, and foster greater jurisprudential harmonization and coordination in follow-up and human rights monitoring.**

F. Strengthening Resources and Working Methods

1. Resources

- **Ensure adequate resources.** The challenge of ensuring adequate resources for treaty bodies, and Secretariat support, permeated consultation discussions. It was strongly agreed that the treaty body system must receive funding adequate to fulfill its mandate, and that such funding must be **based on anticipated future resource needs**, recognizing the expansion of individual communications and increased country reviews, including of non-reporting States, and not simply based on past activities and resource allocations. Participants further stressed that the funding stream for the work of a particular treaty body should be **dedicated to that treaty body and fully transparent**, so that the treaty bodies are able to exercise oversight over resource allocations and expenditures.
- **Match treaty body resources with sufficient Secretariat resources.** Participants emphasized that resources should be better calibrated to enhance the work of treaty bodies during in person sessions, and between sessions. As noted above, despite increased treaty body meeting time, the backlog has increased. Participants noted that this results, in part, from the reality that the increased meeting time has not been matched by increased Secretariat resources and time to prepare documents needed to facilitate discussion and resolve outstanding cases and country review matters.

2. Working methods

- **Greater flexibility for document word limits.** Multiple participants expressed concern regarding the inefficiencies generated by the current fixed, 10,700 word per document, limit for treaty body documents. While there was some agreement with the idea of word limits in principle in order to allow for translation and not overwhelm users of the system, a number of participants called for a more flexible approach that takes into account the diverse purposes of different treaty body documents. A specific proposal was made to **cap word limits per treaty body on an annual or sessional basis**, rather than dictating the length of each document, in order to allow each committee some discretion to meet its operational needs regarding the length of particular documents, while still responding to institutional constraints.
- **Periodic meetings among committee members.** More frequent and deeper communication among treaty body members would enhance harmonization of jurisprudence and facilitate greater coordination of treaty body procedures. The current annual treaty body chairs' meeting, while valuable, is insufficient to allow for in-depth discussion of substantive issues and effective practices. Participants recommended reviving the past practice of inter-committee meetings and working groups,¹⁸ as a regular opportunity. These meetings should be complemented by additional efforts to keep treaty bodies apprised of jurisprudential and other developments.
- **Enhance accessibility for individual communications.** Participants repeatedly noted that individuals who have suffered human rights abuses often have difficulty navigating the UN treaty body system because it is hard to be physically present at proceedings, and further, that those with filed cases receive little feedback regarding case status, and find such information difficult to access. Accordingly, participants recommended enhancing feedback from the Secretariat to petitioners regarding case status, as well as establishing online access to case documents and information on case status. This would include digitizing files, and making them accessible to the parties. Participants with experience in the Inter-American system noted its electronic case-tracking database as a possible model.

IV. PROPOSALS RELATING TO OTHER UN MECHANISMS

The treaty body system is a vital part of a broader universal human rights ecosystem. Working in concert with other parts of the system can enhance the overarching aim of the system: to promote and protect human rights in all countries. Currently, the lack of coordination among UN mechanisms and offices leads to unnecessary duplication in some areas while gaps in human rights monitoring and accountability efforts persist. In addition to the potential for **engaging complementary UN mechanisms in follow-up**, as discussed above, participants focused proposals on four main areas where synergy and coordination within the UN would lead to positive outcomes: **information sharing with UN in-country offices; coordination with special mandate holders; engaging the UPR process; and expanding technical assistance initiatives.** While not alone sufficient,

¹⁸ See, e.g., Inter-Committee Meeting Working Group on Follow-up, 12-14 January 2011, www2.ohchr.org/english/bodies/icm.../Points_agreement_ICM_WGonFollow-up.doc.

participants noted that these proposals should be complemented by other initiatives.

- **Improve information sharing with UN field offices.** UN personnel in field offices often have access to information that would complement and enhance the treaty bodies' understanding of information provided by States for country examinations and follow-up. However, mechanisms for providing information from OHCHR field offices or other UN offices to treaty bodies are used inconsistently in the periodic reporting process, and are not established for purposes of follow-up. Participants proposed that field offices should routinely provide information regarding their human rights priorities and concerns for country reviews and follow-up through a regularized mechanism. Participants also noted that strengthening these avenues for communication can also contribute to greater collaboration with local UN offices in disseminating concluding observations to civil society and government representatives, and supporting follow-up once a review has occurred. Several participants, while agreeing with this proposal in principle, emphasized that OHCHR and UNDP staff do not necessarily receive adequate training on the UN treaty bodies, and that it is critical to **ensure that UN in-country staff are knowledgeable about the human rights treaties, the committees, and recommendations made to the States in which they work.**
- **Strengthen coordination with special mandate holders.** The treaty bodies currently obtain information on the work of Special Procedures through the Secretariat in advance of country reviews. While helpful, participants discussed the added value of more specific and targeted input from Special Rapporteurs and other mandate holders, particularly those who have recently conducted activities in States under review by a committee, or thematic reviews relevant to individual communications.
- **Coordination with the UPR.** There were disparate views regarding engagement with the UPR process. Some participants were skeptical regarding the value of entangling treaty body recommendations with the UPR process. Others observed that consolidation of the treaty body review process (see Part III(A)(1), above), and the resulting rationalization and consolidation of treaty body recommendations, could make the work of the treaty bodies more accessible to the UPR process and other special procedures. Ideally, a compilation of the treaty body recommendations, views, and follow-up assessments could be readily accessed for each State coming up for review in the UPR. In addition, providing for a single periodic appearance by States before the treaty bodies would allow States to be scheduled for appearance before the treaty bodies and the UPR on alternating four year cycles, so that States would appear before the treaty bodies, and then two years later appear in the UPR, and two years later again before the treaty bodies, etc. In this manner, the UPR process itself could be self-consciously employed to follow-up on State implementation of treaty body recommendations, and vice versa.¹⁹

¹⁹ Sarah H. Cleveland, Submission to the Costa Rica Regional Consultation, *Enhancing Human Rights Connectivity for the Treaty Body System* (2016), p. 4.

- **Focus technical initiatives on the full range of treaty body stakeholders.** Participants emphasized that enhancing implementation requires moving beyond technical assistance to States for reporting, and **should include capacity building on implementation for States, as well as the stakeholders who are well-placed to promote and monitor human rights compliance on the ground**, which include civil society, national protection mechanisms, as well as OHCHR in-country staff.

V. ENGAGEMENT WITH REGIONAL AND NATIONAL HUMAN RIGHTS SYSTEMS

Participants discussed the need for greater complementarity and connectivity between the UN treaty bodies and regional human rights systems, in order to both preserve scarce resources, and to mutually enhance the work of human rights monitoring and protection. The following concrete proposals were made to encourage cross-fertilization of substantive jurisprudence and practices, including regarding follow-up and monitoring.

- **Periodic meetings with other human rights mechanisms.** Participants underscored the need for more regularized meetings between representatives of the treaty bodies and their counterparts from regional human rights commissions and courts as platforms to discuss practices, as well as procedural and jurisprudential developments. Individual treaty bodies and the treaty body chairs occasionally have held ad hoc meetings with the European and Inter-American human rights mechanisms. Such meetings have proven extremely useful in promoting the exchange of best practices, and should be regularized and continued under official UN auspices.
- **Establish staff focal points and exchanges.** In 2014, OHCHR and the Inter-American Commission entered an MOU to enhance cooperation between the UN and Inter-American systems.²⁰ Participants broadly agreed that exchange of knowledge between the treaty bodies and regional human rights systems should be improved by building on this MOU to develop and maintain active focal points within the Secretariat or Registry staff of regional courts and commissions, who serve as conduits for information sharing, particularly related to legal developments, country examinations, and monitoring. Participants also proposed the establishment of systematic staff exchanges, where a staff attorney of a regional body (i.e. the Inter-American Commission or Court or the European Court) is designated to work full time in the OHCHR treaty body section for a certain period, and vice versa, which would allow each system to have a fully informed employee working in one system and promoting engagement and cooperation from the perspective of her “home” institution.

²⁰ See http://www.oas.org/en/iachr/media_center/PReleases/2014/137.asp. The agreement designates contact or focal points for coordination; calls for regular annual meetings and ad-hoc consultations, as well as regular exchange of information, and other forms of collaboration.

- **Enhance treaty body access to comparative jurisprudence.** Cross-fertilization of treaty body and regional jurisprudence is only possible where treaty members have information on the jurisprudence of regional bodies. Unlike the European and Inter-American Commission and Courts, whose legal staff routinely provide information on comparative human rights jurisprudence from the treaty bodies and other national, regional, and international jurisdictions, the treaty bodies have no formal avenue to receive this information – whether through in-house staff or *amicus* submissions. Participants proposed that, in addition to providing information regarding jurisprudential developments of other treaty bodies, as discussed above, the Secretariat should provide the treaty bodies information regarding important relevant comparative jurisprudence of other human rights bodies, in order to inform the examination of individual communications. At a minimum, such information should be provided regarding significant new jurisprudential developments elsewhere, or when a treaty body addresses a legal issue of first impression.
- **Increase collaboration in country reviews and monitoring.** Participants highlighted that information sharing from the regional systems, specifically regarding country conditions and particular issues of concern, would also enhance the examinations of particular countries by the treaty bodies. The treaty bodies, in turn, could assist with follow-up to judgments of regional human rights courts by integrating this information into country examinations. Participants likewise noted that treaty bodies and regional mechanisms could better integrate monitoring and follow-up through activities that include participation of experts in joint hearings (through oral or written submission) and joint country visits in the Inter-American System.²¹
- **Engage national human rights protection mechanisms.** Participants recommended that treaty bodies engage in a more sustained way with national human rights protection mechanisms. While not all countries have formal or fully independent and adequately resourced national level mechanisms, where they do exist, NHRIs and Ombudsmen's offices can serve a vital role in raising awareness of treaty body views and recommendations. They can make treaty body findings and recommendations available on their websites, engage with government representatives, and conduct trainings and provide information regarding engaging with the treaty body system. National level mechanisms can also serve a role in human rights monitoring and contribute to country reviews if they have sufficient capacity.
- **Strategic engagement with States.** It was recommended that the treaty bodies should be more strategic in their engagement with States regarding implementation of treaty body work. Rather than simply requesting dissemination, treaty bodies could specifically direct their recommendations and views to the relevant government actors – such as the legislature, or a particular branch of the executive – to better ensure engagement with the appropriate State mechanisms. As part of the follow-up process for country views, States could be specifically asked to identify the government entity or entities empowered to implement the views, to disseminate the views to those offices, and to

²¹ James Cavallaro, Submission to the Costa Rica Regional Consultation, *Complementarity of the UN and Treaty Body System* (2016).

designate a contact or focal point within the relevant domestic office(s) who is responsible for overseeing implementation. NHRIs, to the extent that they exist, should also be specifically apprised of treaty body views and recommendations. Parliaments should also be engaged in the development of State reports and participate in the country examination process.

CONCLUSION

Improving connectivity, coordination, and harmonization among treaty bodies, and strengthening relationships with civil society, States, and national level human rights mechanisms through technology and other means will enhance the capacity of the treaty body system to effectively fulfill its mandate. Participants emphasized that with sufficient resources and support to undertake the proposals laid out above, treaty bodies can enhance their efforts to improve human rights compliance and accountability in partnership with key stakeholders.