

SUGGESTED RESEARCH QUESTIONS

**Human Rights Protection by Enhancing the
Effective Functioning of the Human Rights Treaty
Body System**

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INTRODUCTION

In 2020, the General Assembly will review the effectiveness of the measures adopted in resolution 68/268 on the effective functioning of the treaty body system, in order to ensure their sustainability. The General Assembly may also decide on further action to strengthen and enhance the effective functioning of the treaty body system. A broad process has been launched to collect innovative solutions for the challenges faced by the treaty body system that the General Assembly could consider in 2020.

The Geneva Academy has started a project which aims to provide a central platform for academic contributions of interested researchers. The Platform will also cooperate with academic institutions around the world for the holding of regional academic consultations to gather broad and varied input.

As part of this Academic Platform Project on the 2020 Review, all interested institutions, organizations and individuals are invited to submit their ideas for the effective functioning of the treaty body system. As a possible guide and to ensure a coherent approach, this paper puts forward potential questions.

The research questions use the same parameters as resolution 68/268, which focused on the functioning of the treaty body system itself and did not examine questions related to the implementation and impact of treaty body recommendations or decisions at national level.

Respondents are welcome to answer one, several or all questions below. They may also wish to choose a different format or submit any additional views or thoughts. For ease of reference and to ensure a commonality of approach across the regional workshops that will be organized, the questions have been grouped under four categories.

The research questions formulated in this document are a development of an earlier list, taking into account comments received through regional consultations, individual academics, Treaty Body Members and NGO representatives.

A) CONNECTIVITY, HARMONIZATION AND CONSOLIDATION

1. Is a restructuring of the treaty body system necessary? If so, how could a consolidated reconfiguration preserve the specificity of the treaties?
2. Which areas of treaty body working methods / procedures could / should be harmonized and how? Are unified working methods and rules of procedure possible?

3. Should/could the proposal of a unified standing treaty body be considered for inclusion in the review of the treaty body system in 2020? Are there possible variations to the consolidation of treaty bodies other than merging them into one treaty body? What would be the legal implications of treaty body reform?

4. Is a better division of labor between treaty bodies in reviewing States' implementation record or examining individual complaints possible? If so, how could this be accomplished? And would this need a revision of the treaties?

B) MEMBERSHIP

5. How could the nomination and selection of treaty body members be strengthened within the framework of resolution 68/268? Are term limits necessary?

6. What new measures could be taken to guarantee the independence, expertise, competence, gender balance, regional diversity and availability in the context of nomination and election of treaty body members?

7. Would the proposal for a platform for nominations / elections be helpful? And what could be the practical modalities of such a proposal?

C) REPORTING AND DIALOGUE

8. How can reporting compliance by State parties be strengthened?

9. What additional capacity building efforts would be needed? How could State Parties' reporting requirements be alleviated without compromising the quality of the review?

10. Would the use of one single and comprehensive State party report submitted under ratified treaties make the reporting process more streamlined and efficient for treaty bodies and simpler and less heavy-processed for States without compromising on the quality of the reporting process?

11. Is the current reporting process adequate? Could alternative reporting processes be explored that addresses the duplication, fatigue and cost for States of multiple reporting obligations?

12. Could modern technology provide alternative avenues for the constructive dialogue of the State party with the treaty bodies, e.g. through video conferencing?

13. Does the Secretariat need to be strengthened and what should be its role?

D) COMPLEMENTARITY / SYNERGIES BETWEEN TBS AND CHARTER-BASED SYSTEM

14. How could complementarity and synergy between the HRC mechanisms (Universal Periodic Review, Special Procedures) and the Treaty Bodies be optimized? What risks are involved with those synergies and how can they be avoided?

15. How can other international human rights mechanisms (Human Rights Council) and regional mechanisms be used for follow-up?

16. What would be the potential impact of treaty body reform on other international human rights mechanisms (Universal Periodic Review, Special Procedures, Human Rights Council)?

E) DECISIONS ON INDIVIDUAL COMPLAINTS

17. How could handling of individual complaints / communications be improved and better coordinated among various TBs? Is it possible to create an inter-committee transfer of complaints if a complaint is addressed to one Tb but another is more competent on the subject matter? Is it possible to establish a practice of systematic consultations of the SR and other HR mechanisms in the decision taking?

18. Is there a need of specific dedicated register, possibly combining the needs of service related to the individual complaints looked at by all TBs entitled to do so, and how to establish it?

BACKGROUND

GA RESOLUTION 68/268

The General Assembly, in resolution 68/268 of 9 April 2014, decided certain measures to allow the treaty body system to cope with some of the challenges it faced. Specifically, it

- Granted more meeting time to the treaty bodies to enable them to conduct more State party reviews, examine more individual communications, and address the backlog (paragraph 26). As a result of this measure, the treaty bodies in 2015 met for a total of 99 weeks.

- Adopted a mathematical formula (paragraph 27) that allows meeting time and resources for the treaty body system to increase every two years should the workload increase. This formula is based on: the average number of reports and individual complaints received per treaty body during the previous four years, an assumed attainable rate of review of at least 2.5 reports per week and 1.3 hour per communication, and an additional margin of 5 per cent to prevent the recurrence of backlogs.
- Established a capacity-building programme to help States with their reporting obligations and with setting up or strengthening of national mechanisms for reporting and follow-up.
- Reduced entitlements in the area of documentation and interpretation. Savings from these measures were reinvested in the system which allowed the treaty body strengthening exercise to be cost-neutral.

THE GENERAL ASSEMBLY FURTHER

- Encouraged the treaty bodies to harmonize their working methods, in particular the simplified reporting procedure, constructive dialogue, concluding observations, and the consultation process for the elaboration of General

COMMENTS

- Called on the treaty body Chairpersons to assume a leadership role in the harmonization of procedural matters, including by formulating conclusions on working methods and promptly generalizing good practices across the treaty body system
- Respected and re-affirmed the independence of the treaty bodies and their members

PREVIOUS PROPOSALS ON TB STRENGTHENING

There have been four major UN initiatives to strengthen the effective functioning of the treaty body system. Some of the proposals that were put forward sought to bolster the effective functioning of the treaty body system within its existing structure, namely:

- Consolidation of reports to treaty bodies (Philip Alston proposal; SG proposal): instead of submitting one report under each treaty ratified, States submit one consolidated report under all treaties ratified, summarizing implementation of the full range of provisions of the human rights treaties to which it is a party.
- Comprehensive reporting calendar (HC report on treaty body strengthening, A/66/860): the current reporting deadlines are organized into a single Comprehensive Reporting Calendar, based on a periodic five-year cycle. Within this five-year period, a maximum of two reports per year would be due for a State that is a party to

all the treaties, ensuring maximum commonality between the two reports due each year, and synchronizing the deadlines for these reports with the due dates under the Universal Periodic Review.

- Joint treaty body working group on communications (Proposal by the Committee on the Elimination of Racial Discrimination (CERD), supported by the HC in her report on treaty body strengthening, A/66/860): recommendations emanating from treaty bodies, are brought to the attention of the plenary of the treaty body to which one Working Group on Communications, composed of members from different the communication was addressed for formal adoption.

- Platform for elections of treaty body members (HC report on treaty body strengthening): States parties present their potential candidates for treaty body membership in an open public space using modern technologies, including social media. This space would be moderated by five former treaty body members from various professional backgrounds reflecting adequate balance in terms of sex, regions and legal systems.

- In 2006, the High Commissioner for Human Rights proposed the creation of a unified standing treaty body. This proposal put forward some of the elements listed above (e.g. consolidation of reports), but also called for a structural change, namely to consolidate all treaty bodies into one single treaty body. The key features of this structural reform initiative were:
 - Possibility of a chamber system to preserve the specificity of each treaty
 - Single cycle for reporting on the implementation of all treaty obligations every 3 to 5 years
 - One dialogue of up to 5 days, depending on the number of treaties ratified
 - Detailed criteria for membership, including geographic and gender balance, and term limits
 - New system for the nomination and election of members
 - Professionalization of treaty body membership and senior level remuneration to attract the highest caliber of candidates