

Agenda

Regional Consultation for Northern America and the English-Speaking Caribbean

New-York, 1-2 June 2017

The Columbia University Global Freedom of Expression and Information Jurisprudence Project, the School of International and Public Affairs (SIPA), the Institute for the Study of Human Rights (ISHR), the Human Rights Institute at Columbia Law School (HRI), and the Arnold A. Saltzman Institute of War and Peace Studies (SIWPS) in collaboration with the Geneva Academy of International Humanitarian Law and Human Rights

Overview

The United Nations human rights treaty body system comprises ten different committees of independent experts, one for each of the core international human rights treaties. These bodies are tasked with monitoring and assisting the implementation of State parties' treaty obligations. Their shared functions involve assessing periodic reports from State parties and issuing "general comments" on the interpretation of their respective treaties. In addition, most treaty bodies are empowered to consider individual petitions alleging treaty violations, and some may initiate country-specific inquiries into potentially grave human rights situations.¹

Few issues are more important than ensuring that states across a broad spectrum of political, social, and economic conditions respect the basic human rights of their own citizens and others within their borders. Regrettably, few aims have proven more difficult to achieve. Noted experts, including former U.N. High Commissioner for Human Rights, Navanethem Pillay, credit the treaty body system with increasing the scope and quantity of international human rights monitoring. However, the ability of treaty body processes to advance human rights varies across settings and circumstances. Moreover, the treaty bodies themselves face non-trivial challenges of coordination and capacity in their efforts to improve human rights practices and supporting institutions.

Background and Process

In 2014, the United Nations General Assembly adopted Resolution 68/268, which makes several changes to the working procedures of the human rights treaty bodies. The measures specified in Resolution 68/268 are intended to enhance the capacity of the system to manage increasing volumes of work; to foster more efficient monitoring of States by the treaty bodies; and to improve collaboration between relevant stakeholders. This followed Resolution 64/254 (February 24, 2012), which launched an open-ended intergovernmental process on strengthening and enhancing the effective functioning of the treaty body system. A final review of this Strengthening Process accompanied by recommendations to enhance the longer-term viability of the treaty body system will take place in the UN General Assembly in 2020. To inform this review, the Secretary General was charged with producing biennial reports on the implementation of Resolution 68/268 in 2016 and 2018.

To contribute to the process leading up to the General Assembly's 2020 review, and specifically to help inform the 2018 report of the Secretary General to the General Assembly, the Geneva Academy has initiated a global academic process to gather ideas and recommendations to put forward in the intergovernmental debate. Central to this process is a series of regional consultations. Consultations took place in 2016 in Dublin, Ireland; Moscow, Russia; and San Jose, Costa Rica (co-sponsored by Columbia University). Further consultations are scheduled for 2017 in New Delhi, India; and Nairobi, Kenya. In addition, Columbia University will co-sponsor regional consultations for North America and the English Speaking Caribbean in New York in 2017, and in Amman, Jordan in August 2017.

¹ See <http://www.ohchr.org/EN/HRBodies/Pages/WhatTBDo.aspx> for a complete description.

These consultations aim to engage experts from around the globe in generating innovative ideas for how to improve the functioning, and deepen the impact of the U.N. human rights treaty bodies. Their objective is to gather theoretically and practically grounded assessments of ongoing efforts to strengthen relationships, communication, and coordination among the human rights treaty bodies, and to identify additional opportunities for building relationships and leveraging synergies between the treaty bodies, other UN mechanisms, and regional human rights systems. The consultations will also provide opportunities to reflect constructively on the work of the treaty bodies in the context of other U.N. organs and processes and broader developments in international affairs.

The New York Consultation

Columbia University is now inviting experts from academia, civil society, and persons with experience working in the U.N. and regional human rights systems to participate in the New York City consultation. This consultation will take place over two days on June 1-2, 2017 at the School of International and Public Affairs (SIPA) at Columbia University, in co-sponsorship with Columbia University's Global Freedom of Expression and Information Jurisprudence Project, the Institute for the Study of Human Rights, the Human Rights Institute at Columbia Law School, and the Arnold A. Saltzman Institute of War and Peace Studies, and in cooperation with the Geneva Academy.

The agenda will be organized around brief presentations of ideas on the questions and topics outlined below. The format will emphasize interactive dialogue and participation. Participants are asked to submit short (~1500 to 1800 word) thought papers on one or more of these research questions, and to offer recommendations for how to improve the effectiveness of individual treaty bodies, or the system as a whole. The deadline for providing these short written contributions is Monday, May 22. The conveners may ask for more developed papers from a few (willing) participants.

Columbia University is responsible for generating a Rapporteur Report summarizing the main ideas and recommendations that emerge from the consultation as they directly relate to the Geneva Academy's efforts to inform the final OHCHR and Secretary General reports to the General Assembly. Columbia may also decide to take the lead in coordinating additional outputs (e.g. reports, briefings) of potential interest to U.N. officials and other international policy experts on issues outside the scope of Resolution 68/268 reforms. We also encourage participants to contribute to the general pool of knowledge about treaty bodies and related processes by undertaking further research and writing on an independent basis.

Areas of Inquiry for the New York consultation

I - Goals and Impact

1. In what ways and at what points of entry can institutions that lack direct sanctioning power bring about improvements in human rights protections?
2. What models or theories of state (non-)compliance with human rights obligations, or of resistance to social, legal, and institutional change, are most relevant to understanding or improving the work of treaty bodies?
 - a. Under what conditions can improvements in human rights practices be promoted through law-based, discursive processes, and when should they be addressed through more incentive-based "political" means? What preconditions are needed for each these mechanisms to work, alone or in concert?
 - b. Why do state members sometimes decline to report to treaty bodies, or to implement treaty body recommendations? How might the tools and resources of the treaty bodies be used more effectively to increase state participation?

- c. How can the Treaty Bodies better accommodate differences in local capacity and culture that affect priorities for rights improvements, while also maintaining the highest aspirations for rights compliance?
 - d. What explains variation in state responsiveness to the reporting requirements and feedback mechanisms of different treaty bodies?
- 3. What metrics are appropriate to assessing how well treaty bodies are fulfilling their mandates? When is attention to outcome-type indicators warranted, and when are process-based indicators preferable?
- 4. In what ways does the work of the treaty bodies contribute to the development and diffusion of human rights norms, along with their implementation in domestic legal and political systems?
- 5. How might recent developments (populism, nationalism, state withdrawals from IOs) affect the objectives and operation of Treaty Bodies?

II - The Treaty Bodies and Strategies for Improving Human Rights Practices

1. Which strategies hold the most promise – alone or in combination – for inducing states to improve their human rights practices? To which of these strategies can treaty bodies, whether individually or as a corpus, contribute most effectively?
 - a. Naming and shaming
 - b. Capacity-building
 - c. Human rights education
 - d. Certification of information about treaty violations
 - e. Facilitating dialogue among human rights stakeholders
 - f. Country visits and follow up procedures to encourage and support implementation of treaty body recommendations in specific settings
 - g. Developing metrics and indicators for assessing state progress toward adopting recommended practices
 - h. Developing jurisprudence for individual cases
 - i. Others (?)
2. Under what circumstances might the aims and activities of different treaty bodies reinforce, or be in tension with, each other? How important to treaty body authority and legitimacy is consistency across the recommendations of different treaty bodies?
3. What criteria should be used to establish priorities and allocate resources in efforts to reform or restructure the treaty body system?
4. How do we address these issues and strategies within the Resolution 68/268?

III - Treaty-Bodies and Related Institutions: Assessing Compatibilities & Tensions

1. How can treaty bodies contribute to, and draw more effectively from, the larger human rights environment comprised of other U.N. organs, regional organizations, national human rights institutions, and non-governmental organizations? For which specific tasks, or in what specific areas might the human rights treaty bodies have comparative advantages?
2. To what extent does the work of other U.N.-based mechanisms and processes (Universal Periodic Review, Special Procedures, Human Rights Council activities, the review processes under the 2030 Sustainable Development Agenda) overlap with the mandate of the human rights treaty bodies? In what ways, or in what types of situations, do these processes reinforce or complement one another, and when does the multiplicity of

institutions and reporting obligations complicate treaty body efforts? How might complementarity and synergy be improved?

3. How can the relationship between the treaty bodies and regional human rights systems be enhanced? What possibilities exist for strengthening communication, jurisprudence, and best practices? What concrete benefits can be expected to follow from these efforts, and beginning at what point?
4. To what extent and how should the human rights treaty bodies approach their work differently in settings that lack a strong regional human rights regime and institutions?
5. How do we address and integrate these issues, findings and recommendations within the proposed reform process (Resolution 68/268 and the 2020 review)?

IV - Improving Access to Information and Encouraging Follow Up

1. What concrete steps can optimize the accessibility and impact of treaty body findings? What can be done to enhance the quality and frequency of interactions between the treaty bodies and various stakeholders?
2. Under what conditions do UN treaty bodies and regional mechanisms utilize follow up procedures to encourage or support implementation of treaty body recommendations? What is the role of in-country presence or visits? What is the role of other review mechanisms? What are the challenges, impacts, and potential new models?
3. What role does technology play? How should information/data about concluding observations, rulings on individual complaints, and associated contributions from member states and other stakeholders be organized and disseminated to enhance their reach and impact?
4. How important are individual complaint mechanisms to the work of treaty bodies? Does their importance vary among different treaties, or among political regimes and human rights profiles?

V - Treaty-Bodies' Working Methods: Organizational and Legal Challenges to Reform

1. To what extent and how is overlap among human rights treaties and procedures an asset or liability in efforts to promote and protect human rights?
2. Which areas of treaty body working methods and procedures could/should be harmonized and how within the framework of resolution 68/268? What could be the role of the Chairpersons in this regard?
3. Is a better division of labor between treaty bodies in reviewing States' implementation record possible? If so, how could this be accomplished?
4. 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?
5. Could a consolidation of treaty bodies be conceived that preserves the specificity of the respective treaties?
6. 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?
7. Are there other proposals that could add value to the framework of resolution 68/268 and that have not been previously considered?