



The UN Human Rights Treaty Body Review Agenda 2020:

Scope for Local and National Engagement

Oslo Consultation Report

1. Introduction

On October 17-18, 2018, 25 human rights experts met in Oslo for consultations on the UN Human Rights Treaty Body (TB) Reform Process. The theme of the *Oslo Consultation* was *The UN Human Rights Treaty Body Reform Agenda 2020: Reforms and Scope for Local and National Engagement*. The Consultation referred to and discussed the Report published in May 2018 by the Geneva Academy of Humanitarian Law and Human Rights titled *Optimizing the UN Treaty Body System*.

One purpose of the Consultation was to discuss key proposals of the Geneva Academy (GA) report in light of a *stakeholder* perspective, and focus the discussion of the Treaty Body reform process on the role of civil society and other domestic actors' engagement with the Treaty Body system. Another purpose was to test the Report's reform proposals against the backdrop of the participants' experiences in working with and within the Treaty Body system. The Consultation addressed the TB Reform Process in a global context of a shrinking opportunity space for civil society and other human rights stakeholders. The TB system is an important yet often little known arena for human rights documentation and debate, and reforms of the system should ensure better access for domestic stakeholders. The Consultation clearly expressed the view that a stakeholder approach must be appropriately reflected in genuine treaty body reforms.

The following observations are based on the presentations and deliberations during the Consultation and have been produced by the organizers of the event.

2. The State Reporting Procedure

Throughout the two-day consultation, extensive attention was devoted to analyzing proposals for reforms of the State Reporting procedure. Participants found the Academic Platform Report's suggestions appealing, as it was generally agreed that the TB system as it stands today does not allow for effective and functioning domestic stakeholder engagement. Main points of concern with the current setup relate to the *low levels of predictability, visibility* (hence accessibility) and *coherence* of the system. CSOs, independent national human rights institutions and ministerial representatives highlighted the difficulties they face in planning TB - related activities in advance of the reviews of their concern, with Follow-Up procedures currently not open to interaction with non-State domestic stakeholders. Available entry points for CSOs, NHRIs and Ombudsman bodies are not sufficiently clear and the means of information-sharing between the formal TB infrastructure (TB Members and OHCHR) and domestic stakeholders do not allow for sufficiently predictable plans of action related to the various TBs and TB-specific stages.

In light of the above concerns, participants found particular strengths in the introduction of both a Single Consolidated Review and a Clustered Review system, which would facilitate the introduction of a harmonized calendar of State reviews and increase the overall predictability of the State Reporting procedure. Both the Single Consolidated Review and Clustered Review models have also been found to possibly increase visibility of the reporting procedure as a whole, due to comprehensiveness of the review and the concentration of more reviews within a shorter period of time. Both proposed models offered by the Report however have not been considered faultless.



The 8-year cycle envisaged by the Single Consolidated Review model was found to be a concern for participants, who considered it as too long a gap for effective human rights monitoring, even if paired with UPR reviews. A constructive dialogue every 8 years would potentially diminish pressure on upholding human rights conventions as well as decreasing official entry points for all domestic stakeholders involved in the reporting procedure. The more frequent reporting schedule implied in the Clustered Review model, with State Parties required to submit State Reports and attend constructive dialogues every 4-5 years was deemed a safer option, although doubts were raised as to how to most effectively cluster the 10 TBs without losing the fundamental specificity and indivisibility of the rights enshrined in the different conventions.

In light of the above considerations and the possible introduction of either proposed model, the consultation highlighted the following recommendations:

- The inclusion of **a civil society segment to the intergovernmental process of the 2020 review**, in line with precedents set in the recent past (Global Compact for Migration as example of registration for CSO participation in the review)
- The introduction of **a Technical Review of Impact and Progress (TRIP)**, to take place between State Examinations (whether half-way between Single Consolidated Review or Clustered Review models). Consolidating the Follow-up stage in such way would allow for an increased role of domestic stakeholders in-country, a strengthened visibility of the TB system in arenas distant from Geneva and would allow for the consideration of a selection of (different) TB recommendations between reviews. This idea builds on existing practice (see procedure for Follow-up to Concluding Observations) and introduces a domestic element to it. Beneficial to the idealization of a most-effective introduction of the TRIP concept is the Subcommittee on the Prevention of Torture (SPT) - specific mechanism related to Visits to State Parties. Such template can be used to identify a model applicable throughout the system which would allow TB Members (ideally a joint team of different TBs' country rapporteurs) to plan follow-up visits halfway in-between Country Reviews. SPT has issued relevant rules of procedure, to be utilized as templates for conceptualizing a TB-wide TRIP model.
- The establishment of **a set schedule for Country Reviews**, ranging a span of time sufficient for domestic stakeholders to plan their alternative reporting/input with reasonable predictability. The Treaty Body Scheduler¹ has been deemed a promising development towards a more predictable State reporting structure. Importantly, the Treaty Body Scheduler has shown that all TB sessions can be comprehensively planned according to both Single Consolidated Review and Clustered Review models, also taking into consideration the recursivity of UPR cycles within the new schedule's logic. In addition, the introduction of a comprehensive and predictable schedule should not be affected by non-reporting States. Participants agreed that Country Reviews should take place according to the pre-established schedule, with State Parties to be considered in absentia.
- As common denominator to all the above considerations and proposals, participants highlighted the need for **a more sustained integration and synergy between the TB system and other UN human rights mechanisms**. There is a lack of policy coherence in the entire UN human rights system and the 2020 benchmark should be seen as an opportunity to galvanize initiatives dedicated to linking the Treaty-based and Charter-based systems of international human rights monitoring (above all with the UPR and Special Procedures).

¹ For more information on the Treaty Body Scheduler: <https://www.geneva-academy.ch/news/detail/153-the-consolidated-reporting-model-and-treaty-body-scheduler-presented-for-the-first-time-to-un-treaty-body-members>.



A logic and possible first step would be to coordinate the resulting TB schedule to other UN human rights mechanism, as shown by the pilot scheme employed by the Treaty Body Scheduler exercise. Participants agreed on the need for a strengthened correlation between TB recommendations and the Sustainable Development Goals as key to a fully cohesive and forward-looking human rights monitoring system.

During the discussions, participants agreed that the format under which the dialogue between the Treaty Bodies and State Parties takes place affects the system's overall effectiveness and as such recommended the following:

- The dialogue between the State Party and the Treaty Body should take place shortly after submission of the State Report (today, a dialogue meeting is sometimes several years after reporting).
- Fewer people in the room may enhance the quality and effectiveness of the dialogue. With the introduction of a chamber approach throughout the TB system, fewer committee members would be required. If substantive information about issues to be discussed is provided to State Parties in advance, this will make it possible to scale down the size of state delegations as well.
- The introduction of roundtable setups, with face-to-face seating during the dialogues (as “it is not easy to have a dialogue with someone who sits behind your back”).
- The OHCHR should make it easier for State Parties to provide good answers to their questions, for instance by showing the questions on screen during the meeting.
- The introduction of a standardized use of key words and documentation structure, throughout the system.

3. The Individual Communications Procedure

Participants discussed the role of domestic stakeholders in engaging with the individual communications procedure and found a number of recurring problems. Of particular concern, the growing backlog of pending communications, the difficulty in accessing information on the individual communications procedure and the capacity of TB members to effectively decide on cases under review. In light of such concerns, participants offered a number of recommendations:

- Establish a **user-friendly and accessible Individual Communications database**, inclusive of past Views as well as admissibility decisions.
- Elaborate **factsheets** as easy reference for prospective users of the procedure.
- Establish a **standardized set of rules on admissibility criteria** throughout the different TBs, inclusive of a “fast track” system which allows to process cases with similar patterns more swiftly (see European Court of Human Rights “fast track” procedure) and to prioritize most important and urgent cases under assessment.
- Introduce an **“assisting lawyers” scheme** that facilitates contributions made by young lawyers. Related to this, the OHCHR could allow for more internship and volunteer-related positions (e.g. UNV) specifically targeted for the OHCHR Petitions Unit.
- Push for **earmarked contributions to the Petitions Unit** by Member States, in order to increase the number of human rights officers dedicated to the individual communications procedure.

4. The Issuance of General Comments

Although domestic stakeholder engagement during the Days of General Discussion and throughout the issuance of General Comments has been increasing, participants offered a number of suggestions on how to improve the system, especially concerning transparency and accessibility:

- General Comments should be drafted with a **more “practical” approach**, explaining within the instrument the steps required to uphold the Convention and make related assessments. Mention was made of the value of General Comments as possible “toolkits” for domestic stakeholders to use in their activity.
- Domestic **stakeholders should be informed as early as possible** about the possibility to comment on Draft General Comments as well as participate as panelists during Days of General Discussion. Contribution to the development of General Comments is seen as an opportunity to maximize thematic information sharing with domestic stakeholders. It is also important for TB members to **communicate the expected timeline of adoption**, otherwise risking disengagement by domestic stakeholders during the process.
- States and domestic stakeholders should **expand efforts at publicizing General Comments**, both in terms of dissemination as well as translation.

5. TB Membership

Lastly, the Consultation addressed the issue of capacity and independence of TB membership. Participants offered the following recommendations:

- The setup of a **platform through which TB nominees would submit their candidature**, and which would provide civil society the possibility to review and comment upon candidates prior to political negotiations in New York. This would finally allow civil society to enter a field which has so far been state-driven. It could imply a comparative study amongst different nomination/election/appointment processes of international expert/judicial bodies (ECtHR, Council of Europe, UN Special Procedures, ACHPR, etc.) in light of the 2020 Review, inextricably linked to the issue of TB membership. Participants agreed on the potential role of academia in bringing this idea forward, through the idealization of a platform for review and vetting, thus facilitating the opening of public spaces for TB member nomination.
- Considering the inextricable link between TB member election and the practice of exchange of votes amongst State Parties, participants considered the value of introducing **an ethical charter for TB member nomination**, which States agree to abide by when involved in supporting each other’s candidates. Such Charter would list required standards for TB membership, specific to each nominee’s profile in terms of both capacity and independence.
- The introduction of a **training programme for newly elected TB members**. Currently, TB members only receive a one-day introduction course before starting their term. This programme would imply a comparative analysis of the different TBs' working methods and rules of procedure, which might be less complex and varied after the 2020 Review. The week-long course would take place 2-3 times a year and would cover all TB procedures, as well as attendance to live TB sessions and meetings with staff from the OHCHR. A training programme should also examine how civil society can interact with TB members in order to embed the TB system better in State Party societies.