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**COLUMBIA UNIVERSITY**  
IN THE CITY OF NEW YORK  
INSTITUTE FOR THE STUDY OF HUMAN  
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# Report

## Regional Consultation for the Middle East

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Jordan  
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On August 21-22, 2017, Columbia University hosted a regional consultation for the Middle East and North Africa (MENA) region to identify gaps in the works of the United Nations Treaty Body System and to offer recommendations for how to improve the effectiveness of individual Treaty Bodies, or the System as a whole. The Consultation was organized to prepare for the 2020 United Nations Treaty Body review set out in General Assembly Resolution 68/268 (2014). The two-day discussion was co-facilitated by Columbia University's School of International and Public Affairs, Columbia Global Freedom of Expression, the Institute for the Study of Human Rights, and the Arnold A. Saltzman Institute of War and Peace Studies, with the support of the Columbia Global Center in Amman.

The Consultation brought together 23 human rights experts from academia, civil society, the Treaty Body system, and the United Nations. Prior to the consultation, some participants submitted reports on one or more themes outlined in the Concept Paper developed for this and similar regional exercises. Just as the previously held consultations, the MENA meeting was split into six thematic segments:

- Goals and Impact;
- The Treaty Bodies and Strategies for Improving Human Rights Practices;
- Treaty-Bodies and Related Institutions: Assessing Compatibilities and Tensions;
- Treaty-Bodies and Civil Society Organizations;
- Improving Access to Information and Encouraging Follow Up; and
- Organizational and Legal Challenges to Reform.

Participants spoke at length on issues that often overlapped with one or more of the six thematic segments. Thus, to better convey the vibrant discussion, this report is organized around the key issues raised during the Consultation. Additionally, each section of the report includes recommendations from participants that address related issues or concerns. It should be noted that the recommendations included in the report have not been adopted by the participants and may not even reflect consensus during the discussions that took place.

## RETREAT FROM HUMAN RIGHTS?

Much of the world, including the MENA region, is facing intensified resistance to the universal human rights agenda. Numerous regimes brazenly violate the rights of those within their borders, and there are mass movements that revel in rights violations. Some cynically claim legalistic and humanitarian justifications for such behavior, and disseminate ideological interpretations of human rights as a symptom of social and cultural decadence. It would not be surprising if human rights activists, and civil societies more broadly, were to become discouraged and disillusioned in the face of this onslaught, especially in the MENA.

However, this was not the prevailing attitude among many of the attendees of the Amman consultation. Several participants argued, using various examples, that when opposing mainstream interpretations of international human rights, forces hostile to this agenda implicitly or explicitly acknowledge the power of law and rights discourses. Moreover, even groups that frequently take issue with universalistic approaches to human rights use this discourse to protect their own interests. This suggests that human rights norms continue to exert influence, despite current challenges.

At the same time, participants described a growing civic disinterest in rights and rights promotion in many (though not all) MENA countries together with a “securitization” of human rights dialogues. Most participants felt that increasingly muscular challenges to standard human rights methodologies signaled a need to consider broader perspectives and fresh tactics.

A number of participants remained optimistic about human rights in the MENA region. They noted that abuses of individual civil rights remain strongly linked to exploitative economic and social policies, but that even groups whose rhetoric opposes human rights values use the human rights discourse or norms to protect their interests. For example, in Tunisia, Salafists and women who advocate for wearing burqas to schools, defend the practice as part of a right to education.

Other participants suggested that the human rights project (including the work of the Treaty Bodies) is threatened in the MENA region not because societies lack an interest in human rights, but because there is simply too little accountability for violations. For example, under current conditions the government in Egypt is not being called to account for abusive practices, which, then demoralizes human rights advocates and dissuades the general population from seeking change through these mechanisms.

In this context (and others), participants debated whether the legal approach of the human rights project and of Treaty Body work is limiting and possibly ineffective. A few participants expressed frustration at the ineffectiveness of identifying rights-based legal remedies to solve a range of practical problems confronted by vulnerable, disadvantaged people. One participant suggested that non-legal strategies, such as enhancing economic development, and focusing on attitude changes could be more effective. One follow-up recommendation would be for TB members and others working with them to explore ways to provide a facilitating environment for the non-legal efforts that may be more promising.

Another participant pointed out that for some developing states, national legal and administrative remedies may actually be workable. India's institutionalization of a right to emergency food was cited as an example. Others insisted that Treaty Body evaluations that underscore states' legal obligations regarding human rights provide a needed foundation on which engagement with non-legal goals and standards should proceed.

## **CULTURE, RELIGION AND THE WORK OF THE TREATY BODIES**

A persistent theme throughout the consultation discussion involved assessing the role of faith and culture in the promotion and practice of human rights in the MENA region. All participants argued that approaching rights questions in a contextually sensitive manner is necessary and appropriate. One participant in particular argued that improving the uptake of substance of human rights principles in MENA countries may at times require downplaying discourses of human rights universalism in favor of frames and reference points that resonate with Islamic cultures and ideals, which tend to focus on duties to oneself and others. Other participants insisted that deviations from universalist principles and discourses should be avoided or minimized, since this would possibly open the door for non-cooperative governments to rewrite the rules to validate their own practices. Participants offered a range of ideas about what taking such an approach requires from Treaty Bodies in practice.

Several participants insisted that Treaty Body members need to acknowledge that culture and religion are historical and evolving and that many societies contain progressive elements that see themselves as working *within* – not in opposition to – these frames. Encapsulating this idea, one participant stated “We shouldn't discount rights implementation without at least *testing* whether governments and societies may have receptive elements.” Others cited examples of governments taking progressive actions that are in tension with local culture, such as when the death penalty was *de facto* abolished in Lebanon. It follows that where Treaty Bodies are able to identify and engage with political strategies behind (the continuing tolerance of) cultural practices that may be violating universalist understandings of human rights, or that governments use to justify engaging in, or allowing, human rights violations, their chances of being agents of positive change will improve.

The discussion also touched on tactical approaches to strengthen the effectiveness of the Treaty Bodies, and human rights work more generally, in the MENA region. For instance, this may require that faith sensitive topics not be brought up at the forefront of reports. One participant argued that because Islam is focused on the concept of the duties of individuals – to God, to society, and to themselves – that efforts on the part of Treaty Bodies and others to reframe international human rights in such terms could increase the resonance and uptake of evaluations and recommendations. Another recommendation from the same participant was for Treaty Bodies to take note of religious beliefs and sensitivities in drafting reports and to not foreground issues (like LGBTI rights), since in some settings this will result in the entire evaluation being rejected.

Overall, the discussion suggested that states grounded in non-Western cultures may endorse international legal commitments that substantially overlap with the substance of international human rights treaty law, but derive those obligations from different normative systems or express them in different terminology. This might lead to full ratification and implementation of some international legal obligations, refusal to ratify others that conflict with norms prevailing in such states, ratification with reservations in other cases, or full ratification combined with localized forms of implementation.

As pointed out by one participant, this approach has been reflected in the academic literature on human rights as “the cultural vernacularization” approach. At a more practical and positive level, it creates an opportunity to enlist a normatively motivated popular movement on behalf of the human rights project. If done creatively, this has the potential to transform what is sometimes a “negative” human right into a source of positive energy for a dynamic constituency. From a Treaty Body standpoint, this suggests that cultural or religious relativist arguments should not be ignored, and tensions between such arguments and the work of the Treaty Bodies should be explored to better protect human rights.

## IMPACT OF THE TREATY BODIES

Issues over the effective implementation of Treaty Body recommendations were raised repeatedly. Many MENA countries simply fail to implement treaty body recommendations. For example, Kuwait received 118 recommendations from Treaty Bodies in 2015, but at the time this Regional Consultation took place, not a single one had led to a change on the ground. Even when States choose to implement, they do so selectively. Additionally, when recommendations are implemented, their effectiveness remains doubtful. For instance, States may adopt legal or technical recommendations, but those do not necessarily generate changes in practice. A range of reasons behind non-compliance and non-implementation were identified and debated.

A number of participants argued that the lack of government accountability for failure to implement Treaty Body recommendations is a major reason for non-compliance, since States are not penalized in any way when they choose to ignore suggestions from Treaty Bodies. A few insisted that accountability for legal obligations should be strengthened to counter states’ efforts to get away with partial compliance, non-reporting, empty aspirational statements, gradualist criteria, and other dodges. Several ideas were offered for ways to increase pressure on unwilling governments including banning States with poor human rights records from nominating members to committees or from serving on the Human Rights Council. Another idea was to make treaty body recommendations binding. This suggestion was called into question by some participants on grounds that in the current international political climate of backlash against rights and rights-based approaches, such an initiative would be unlikely to succeed. Furthermore, because it would require re-opening the Treaties, such an effort could create more fundamental threats to the Treaty Body system.

Several participants suggested that CSOs could take a more active role in enforcing accountability by changing their reporting priorities. Currently, CSOs mostly focus on reporting

human rights abuses to Treaty Bodies. Some noted that this process has almost become an end in itself, since it absorbs much of the focus of parties engaged with Treaty Bodies. However, CSOs could also track and report on how Treaty Body recommendations are being implemented by the States. Examples of such monitoring were highlighted: in some settings CSOs have developed action plans for translating Treaty Body recommendations into policy recommendations using simple language, and for tracking progress in the interim periods. This degree of follow up is fairly unusual but very helpful. Other CSOs could follow suit elsewhere or the Treaty Bodies themselves could encourage development of such an integrated framework.

In addition, some participants observed that lack of follow-up on reporting obligations and on implementation may be a function of state incapacity. Empirically stronger human rights protections at a national level appear to require functioning administrative and legal institutions, reasonably high per capita income, a diversified economy, and capable political support groups with the ability and incentives to prioritize the development of rights-protective institutions. One participant suggested that states that seek in good faith to meet their treaty obligations, but which lack some of these facilitating conditions, cannot be reliably encouraged using decontextualized legal obligations. Instead, they require engagement on a range of issues needed to put the state on a progressive path toward creating the political, institutional, and economic conditions for full compliance. For these states, Treaty Body recommendations and follow-up could have the quality of a good management consulting report containing a tailored step-by-step set of directives.

Several participants argued that Treaty Body recommendations are often vague and too general, making it difficult for States to implement them while also making them easier to evade. Some suggested that this vagueness may come from having too many voices on the committees. For instance, the Human Rights Committee (HRC) has 18 Committee Members, and consensus on how to best respond to challenges in particular settings can be difficult to achieve. Consequently, committee members compromise by issuing broad and vague recommendations. One proposed solution was to train Treaty Body rapporteurs on how to produce specific recommendations. It was also suggested that CSOs might be informally empowered to ask the Treaty Bodies to clarify recommendations. However, at least in the case of the HRC, no CSO has issued such requests.

### **Recommendations:**

- Treaty Body members and those working with Treaty Bodies should actively try to understand why states engage in non-performance, or delayed performance of treaty obligations, and why at times individual states have variant records across different human rights treaties. Where possible, this information should inform Treaty Body assessments and recommendations.
- Treaty Body strategies should consider which political strategies are likely to be most effective for inducing states to improve their human rights practices, depending on context and the vulnerability of the state to various pressures and inducements. Among the mechanisms considered were naming and shaming, linkage to trade concessions,

efforts to use treaty provisions to empower accountability through domestic courts, and strengthening the capacity of civil society groups to monitor performance.

- In relations with UN and legal institutions, the Treaty Bodies should be open to working closely with organizations and processes that have a political and operational character. Instead of a legalism-in-charge model, this relationship might be more productively approached as one of mutual accommodation and adaptation. The UPR, for example, can help the Treaty Bodies gauge how to formulate recommendations that will get buy-in from states. Dialogue with UNDP or SDG modalities will help Treaty Bodies develop jurisprudence in ways that are concretely relevant to rights-based approach to operational issues.
- All States should be encouraged to produce a National Plan of Action/Plan of Implementation, bringing together the various recommendations received through various committees.
- OHCHR should create an online database that compiles all Treaty Body recommendations. The recommendations should be linked to both the Treaty Bodies that issued them, as well as the concerned Member States.
- Explore the idea of introducing penalties for States that fail to implement treaty body recommendations.
- Explore the suggestion of establishing judicial mechanisms to hold States accountable when they fail to implement recommendations.
- Encourage CSOs to monitor and report on how States are implementing treaty body recommendations.
- Train treaty body rapporteurs on how to reduce vagueness and increase specificity in their reports. The goal should be to produce recommendations that are specific and that avoid platitudes.
- Encourage CSOs to issue requests to Treaty Bodies to clarify their findings, recommendations or comments.

## WORKING METHODS OF THE TREATY BODIES

Participants found Treaty Body working methods in need of re-shaping and strengthening in several respects. The following practices were particularly critiqued:

- The Treaty Body operational habit of “constructive dialogue” which does not reflect the nature or real function of the exchange with States Parties;
- The legal reasoning behind their findings and recommendations which tend to be lacking or weak;

- Treaty Body members appear unnecessarily narrow and defensive in their working methods and conceptual approach.
- Collectively and individually, the committees' procedures are inefficient and uncoordinated in ways that place severe and unnecessary burdens on states and civil society groups. The committees lack the resources to work at anywhere near full effectiveness.

## **THE CAPACITY OF THE TREATY BODY SYSTEM**

A few participants expressed concern that the Treaty Body system simply cannot handle a continuously increasing workload. At the moment, there are ten Treaty Bodies and 172 signatory States. There is at least one treaty body meeting every day. For instance, the HRC deals roughly with 75 complaints a year. These participants warned that as the number of signatory States grows, if more states begin to meet their reporting obligations, the Treaty Body system will be overwhelmed.

Others complained that current working methods are ineffective. Participants highlighted the absence of coordination over current and past reporting priorities as a missed opportunity. This was illustrated by the example of the inquiry process of the Committee on the Elimination of Discrimination against Women (CEDAW). A rule of confidentiality as currently interpreted prevents CEDAW from sharing certain information with other committees. For instance, confidentiality prevents CEDAW from keeping a record of rejected requests to conduct inquiries or other decisions as part of the inquiry process, and sharing it with other Treaty Bodies. This information is important, as it may shed light on the reliability of certain sources, and thus save Treaty Bodies valuable time.

The participants also discussed possibilities for securing additional Treaty Body staff assistance without increasing costs via the UN Junior Professional Officer (JPO) program or through Treaty Body clerkships. The idea of using JPOs received mixed feedback. Some worried that the JPO funding structure (whereby the officers are paid by their own governments) creates risks of bias and political pressure. Others argued that JPOs from a wide range of states have proven themselves to be useful to Special Rapporteurs.

There was considerably more enthusiasm for the proposal to establish clerkship programs similar to those employed by standing international and regional tribunals. This was especially pronounced among younger participants, who expressed confidence that it would not be difficult to recruit eager and well-qualified clerks from across the MENA region to assist Treaty Body members, although it was conceded that these clerks might ultimately be drawn from a relatively narrow range of top law programs.

### **Recommendations:**

- Treaty Bodies should explore ways to share information (e.g. on rejected inquiries or the reliability of sources) and coordinate their review to improve coherency and consistency of their reviews and increase efficiency.

- Explore ways to amend the rule of confidentiality to permit members from different Treaty Bodies to view rejected inquiries and submissions, keeping in mind the sensitive nature of the work and the risk of reprisals.
- To address the staffing needs of Treaty Bodies, explore the possibilities of establishing clerkship programs with law schools. Such programs should take into account the importance of regional, linguistic, social, economic, and other forms of diversity.

## **LANGUAGE**

A vocal subset of participants insisted that Arabic is not treated as a working language of the United Nations in human rights practice, with much of the work being conducted in English or French. Furthermore, resource constraints have created immense translation backlogs for a range of Treaty Body documents. These include reports and written reviews, as well as interim proceedings (complaints, formulation of questions) and General Comments. Several participants also highlighted issues with interpreters and translators who misinterpret terms into Arabic, which may have political consequences. The Committee on the Rights of the Child was cited as a frequent offender when it comes to not using Arabic, and in often taking up to a year to translate its reports to the General Assembly into Arabic. Others observed that Treaty Body materials that are translated into Arabic mostly concern countries in the MENA region, which makes it impossible for many stakeholders to learn about practices in other countries or regions.

With Treaty Bodies not offering adequate language services, Treaty Body documents are sometimes translated by civil society actors. Unfortunately, as one participant noted, such translations are often sub-par due to lack of understanding of technical terminology. There was some discussion of whether governments could be asked to step-in and translate Treaty Body documents. Such practices already exist to some extent. For example, a law in Yemen obligates all treaties and conventions to be translated into Arabic. However, concerns were raised over reliance on government translating services. An example related to China was brought-up (based on the New York Consultation on Treaty Body Reform): Chinese State interpreters would offer translation services to civil society, but in doing so they would redact or edit certain politically sensitive information. The participants agreed that reliance on governments for the translation of treaty body documents should be avoided if possible.

Another solution proposed to resolve the language issue was to request help from human rights institutions at the Arab League. Participants familiar with the Arab League felt that the organization could translate basic documents, but that it also had financial constraints, and could not be fully relied on. Furthermore, relying on regional bodies could potentially weaken the claims of Arabic-speaking states to treat Arabic as an official UN language, and thus to provide translation services.

Lastly, participants briefly touched on whether in the future the issue of language will be resolved via free digital translation services (i.e. Google Translate), which may not offer adequate translations at the moment, but will assuredly improve with time. Participants felt that reliance on digital tools is problematic at the moment because of poor translations, and it is uncertain when exactly the tools will evolve to a point of producing acceptable translations.

### **Recommendations:**

- Address the issue of language and the need for additional resources for translations during the 2020 review of the Treaty Bodies. Specific to the MENA region, adequate resources must be spent on Arabic translation. Furthermore, finances must be provided to Treaty Bodies to ensure a timely and adequate translation of concluding recommendations, reports to the General Assembly, and other Treaty Body documents.
- Demand from Treaty Bodies and the OHCHR to have documents to be officially translated into Arabic. Request to have Arabic included as an official working language of the Human Rights Committee.
- Consider developing a memorandum of understanding between Treaty Bodies and the Arab League, to have the Arab League Member States to contribute more towards translation of treaty body documents and reports.

### **DIVERSITY AND PROFESSIONALISM OF TREATY BODY COMMITTEE MEMBERS**

Participants discussed ways of enhancing the diversity and capacities of Treaty Body members. It was agreed that Treaty Body committees suffered from a lack of regional, national, and linguistic diversity. Additionally, several participants stressed that the volunteer nature of the work and rigorous demands, made it easier for academics and wealthy individuals to serve on treaty body committees. Thus, the committees often lack professional diversity. These demands also made it particularly hard for younger professionals to serve as Treaty Body members.

On the topic of professionalism, several participants agreed that many Treaty Body members do not have the required skills, knowledge and qualities. The participants cited inadequate screening of Treaty Body members at the nomination stage as partially responsible for problems of diversity and capacity. Additionally, some participants complained that permitting individuals to rotate between Treaty Bodies and Special Procedures, added to the lack of diversity.

To resolve some of these problems, it was recommended that CSOs establish mechanisms to facilitate assessments of Treaty Body candidates. Such a process should be free from lobbying or advocacy, and should focus on reviewing the quality of the candidates based on an agreed list of qualifications.

Another point that was raised but not discussed extensively was that Treaty Bodies do not have a mechanism to hold states accountable for failing to nominate members. For instance, in the past decade there have been at least two cases where a Treaty Body member resigned, and the sending state did not provide a replacement (CEDAW, for example, has operated one member short during the past two sessions.)

### **Recommendations:**

- Ensure that Treaty Body members are diverse in respect to gender, race, language, region, age, and profession or expertise. Introduce steps to incentivize States to nominate candidates from a variety of backgrounds and diverse in terms of gender, race, etc.

- CSOs should take a more active role in screening Treaty Body candidates by establishing a coalition tasked with assessing capacities of the candidates, and identifying potential conflicts of interest. The results of these assessments should be public.
- Introduce incentives (or punitive) measures to force States to nominate candidates to ensure Treaty Bodies do not have vacant seats.
- Introduce steps to incentivize States to comply with recommendations and the review process. Alternatively, identify and introduce measures in response to non-compliance.

## **FOLLOWING-UP ON TREATY BODY RECOMMENDATIONS**

Participants were concerned that most Treaty Bodies lack follow-up procedures for their recommendations. The system is designed to review human rights concerns during reporting cycles and demands little in terms of follow-up on previously issued recommendations. In short, the system as a whole lacks a continuous process for assessing human rights implementation.

There are exceptions. One of the few Treaty Bodies with a follow-up procedure is the Human Rights Committee. During each state's reporting period, the HRC selects two or three recommendations and asks that they be implemented within a year, and assigns a rapporteur to check on their status. For instance, Mauritania was asked to publish all treaties that it has joined so that they would be available to legal professionals in the country. A member of the HRC visited Mauritania to check on the status of the implementation of this and other recommendations. As a result, the publication recommendation was fully implemented, and other selected recommendations were partially implemented.

A few participants suggested that the OHCHR or the Treaty Bodies establish a centralized system to send reminders to States to report on the implementation of recommendations. This could be part of a broader initiative to harmonize Treaty Body calendars and schedules. For ideas of what such a system would entail, some participants suggested reviewing tools created by NGOs for following-up on UPR recommendations (e.g. UPR-Info). Another idea was to create a platform to record and list all Concluding Recommendations from Treaty Body reviews, which would make it easier for CSOs and stakeholders to identify issues to follow-up on.

As for who (or what) should engage in follow-up, participants agreed that CSO engagement is essential. However, it was also conceded that increasing burdens on CSOs might be unrealistic. Several participants argued that CSO in the MENA region are stretched thin already, and are becoming increasingly beholden to government bureaucratic demands and political pressures. In principle, CSOs could seek additional outside resources to undertake follow-up tasks, but governments in the MENA region have begun to impose restrictions on funding. Lastly, even where CSOs are able to secure funding to increase monitoring capacity, it can still be very difficult to follow-up on Treaty Body recommendations because CSOs often simply cannot access government information, and are unaware of the government's priorities.

### **Recommendations:**

- All Treaty Bodies should adopt clear follow up procedures and/or protocols. For example, Treaty Bodies Chairs could establish a unified system to rate the status of the implementation of their recommendations.
- Establish a common follow-up mechanism for treaty body recommendations.
- Treaty Bodies should treat follow-up on recommendations as a distinct theme during country reviews.
- Individual Treaty Bodies can appoint rapporteurs to track and report on the implementation of Treaty Body recommendations.
- Establish procedures to create continuity in follow-up mechanisms within and across reporting cycles.

## **PREVENTING AND RESPONDING TO REPRISALS**

In many MENA countries human rights work has become equated with sedition or anti-State conspiracies on behalf of foreign agents. One participant noted, for instance, that in Palestine the average person does not understand the acronym “NGO”, but knows to associate it with something negative. In practical terms, MENA governments at times have labeled human rights activists as advocates of foreign ideologies to justify travel restrictions, organization closures, harassment of activists, and smear campaigns.

Noting this problem Treaty Bodies have taken some steps in response. Eight out of ten treaty body committees have adopted the San Jose Guidelines against Intimidation or Reprisals. Some Treaty Bodies also have established focal points to monitor instances of reprisals, so that alleged violations can be raised during reviews. However, most consultation participants worried that the mechanisms adopted by the Treaty Bodies have not been sufficiently effective in protecting human rights defenders from reprisals and imprisonment. One suggestion was for Treaty Bodies to raise the issue of reprisals publicly and to take steps to generate broader interest and awareness of this problem. This could include issuing condemnations of member states that engage in reprisals, including outside of regular review cycles. Lastly, it was noted that civil society and human rights defenders will likely need to develop processes to supplement whatever protections international mechanisms may offer.

### **Recommendations:**

- All Treaty Bodies should adopt and implement the San Jose Guidelines.
- Treaty Bodies should more actively and publicly voice concerns about reprisals and how their effects on CSOs and human rights.
- Treaty Bodies should use unilateral reporting to denounce verified reprisals.

## CREATING A MULTI-STAKEHOLDER APPROACH TO TREATY BODY ENGAGEMENT

One interesting, if more abstract, conversation concerned the definition of States and Statehood. It was suggested that the distinction between State and Government is frequently collapsed in international affairs discourse, resulting in over-emphasis on the government as the sole representative of the People of a given country and a reification of its role. This participant argued that “It is a challenge to get across that human rights is statecraft, and human rights violations are a failure of statecraft. Governments should serve the state – they are not the state... Governments are custodians, and thus have duties in this regard.” Several participants agreed that although the executive branch of governments represents states before Treaty Bodies and assumes international liability, other actors have important roles and voices as *part of the State*. This is particularly true of CSOs, even as they are accused of working for foreign powers. The idea here was that Treaty Bodies could directly or indirectly distinguish between states and peoples on one hand, and governments on the other so as to strengthen the agency and legitimacy of other actors.

This conversation had several practical implications for identifying target audiences for Treaty Body engagement, as well as for the status of CSOs and other non-governmental stakeholders.

### **Recommendations:**

- Treaty Bodies, OHCHR and CSOs should not use terms like ‘shadow’ or ‘alternative’ reports: these are parallel or additional reports -- examples of rights holders engaging in processes evaluating governments and other actors.
- Treaty Bodies should engage with a range of stakeholders within governments, not just the executives. This might include NHRIs, local governments, municipalities, parliaments, and civil servants.
- Treaty Bodies should insist on full answers to standard questions about whether the state involves CSOs in preparing its reports, and to make clear why this involvement matters and what it ideally looks like.

## INCREASING VISIBILITY OF THE TREATY BODIES AND THEIR WORK

The Treaty Body system is complicated and difficult to understand. Additionally, the system often feels removed from the realities on the ground due to the time it generally takes for it to react or comment on human rights issues. These two concerns make the Treaty Body system seem “remote.” The participants suggested that improving visibility of the treaty body system could curb the problem of remoteness.

For instance, in Tunisia, a recent review of the country's compliance with the Convention against Torture by the Committee against Torture (CAT) was aired live on television. This allowed the public to better understand how Treaty Bodies work. Unfortunately, the broadcast failed to reach a wide audience and did not fully explain the CAT system. Nonetheless, it signaled a strong commitment on the part of the government to address torture.

Although Treaty Bodies often receive media attention during country visits, much of their work remains unnoticed. This problem affects human rights work in general, but is more widespread in respect to Treaty Bodies due to the technical and legal nature of their work. The OHCHR has undertaken some steps to raise the visibility of Treaty Bodies, including coordinating with CSOs on media engagement strategies. In addition, the UN broadcasts and archives some Treaty Body sessions online. Participants strongly endorsed the webcasting service, and were hoping for it to be expanded. However, there was a worry that expanding webcasting and archiving services might be used as an argument to replace the practice of producing summary reports of Treaty Body session. A few participants stressed that this would be unacceptable.

Additionally, Treaty Bodies do not actively use new technologies, particularly social media, to highlight their work. Many CSOs rely on social media to collect and disseminate information. Therefore, Treaty Bodies could be used to disseminate information about the country reviews, concluding observations and follow-up in a simplified and more accessible way to stakeholders, and right-holders alike. In fact, Special Procedures, some of whom have thousands of followers, mandate holders could serve as models for Treaty Bodies' social media engagement. OHCHR could aid Treaty Bodies with the development of a communication strategy that utilizes new technologies.

Some participants observed that CSOs also can help with improving the visibility of Treaty Body work, but that such efforts could be made easier by more uplifting and active presentation of information (rather than the standard succinct "CAT is reviewing X.")

Another proposal to improve visibility was to provide better general information on the Treaty Body system. Currently, many Treaty Bodies' websites do not properly explain their purpose and fail to offer guidance on how to engage with them. In general, the websites are so poorly designed that even specialists familiar with the Treaty Body system and human rights law face difficulties finding concluding observations, reports, or meeting schedules. Participants thus overwhelmingly agreed that there was a need to redesign treaty body websites. To this end, support was expressed for seeking public-private partnerships with large corporations, particularly if those partnerships are focused mainly on short term remaking of websites and web tools.

### **Recommendations:**

- OHCHR should maintain a user-friendly and comprehensive calendar of Treaty Body State reviews that is linked to each country's individual UN page.
- To increase visibility, Treaty Bodies and the OHCHR should undertake a major redesign of the Treaty Body websites to ensure content is more accessible to a broader public

audience. Webcasting and web-archiving systems should be further supported, but not at the cost of summary reporting.

- Considering the importance of social media in reaching stakeholders and rights-holders, Treaty Bodies should utilize new digital technologies more proactively. In this regard, OHCHR should aid Treaty Bodies in developing a communication strategy that utilizes new technologies, such as social media.
- Establish private and public partnerships with corporations to sponsor the redesign of treaty body websites.

## INTEGRATION OF TREATY BODY WORK AND RECOMMENDATIONS

### WITH SDGS

One of the topics that generated much discussion among the participants was the lack of integration between the Treaty Bodies and the Sustainable Development Goals (SDGs) framework. Participants tended to agree that many MENA states were more engaged with the SDGs than with Treaty Bodies because 1) the SDG system offers financial resources, and 2) the SDG system allows States to selectively prioritize and report, thus making it a less rigorous and critical process than Treaty Body review.

Several participants observed that SDG mechanisms are insufficiently attentive to the protection of individual civil and political rights and their essential role as a foundation for economic and social rights.

Several argued that efforts to integrate SDG targets with Treaty Body obligations also could incentivize improved human rights practices during and after the SDG implementation process. For example, SDG 5A demands that States guarantee women equal access to economic resources. To facilitate this, the SDG guideline could refer Governments to CEDAW's General Comments to ensure effective implementation.

Several participants underscored that efforts toward integration would not require a retooling of the Treaty Body system or that Treaty Bodies adopt the development language of the SDGs. Instead, the proposal envisions Treaty Bodies taking the lead on human rights issues in service to the global development agenda in ways directed toward improving implementation of Treaty Body obligations.

There are already precedents for such functional integration. The Committee on the Rights of the Child in a new General Comment on adolescents, reviewed the relationship between children's rights and the SDGs. Also, in 2016, CEDAW in its submission to the high level political forum explained the relationship between its mandate and practices with the SDGs. Some Treaty Bodies are also referring to SDGs in an *ad hoc* manner. These practices are beneficial, but have not been systematized.

Another way to work toward integrating the SDGs and the Treaty Body system is through General Comments. For example, CEDAW has issued a General Comment on how the Women's Peace and Security Initiative should be understood through treaty obligations (General Comment no. 30). At the moment, it is the only treaty body that has produced such work.

### **Recommendations:**

- All Treaty Bodies should develop approaches and strategies to engage with and influence the SDG system at the global level so that the human rights discourse becomes part of the system.
- Systematize Treaty Body submissions to the high level political forum and possibly include reporting on SDGs as part of the exercise. This may require developing and agreeing a particular schedule and methodology.
- Develop manuals and implement training programs that clarify how different stages of the Treaty Body reporting cycle relate to the SDG process, in a manner that would encourage cross-linkages. For example, given the lack of an outcome document requirement for the SDGs, the Treaty Body system could help to fill this void.
- Treaty Bodies should consider the idea of issuing General Comments on SDGs that relate to their mandates.
- Explore processes to introduce treaty body mechanisms into the SDGs system in order to ensure that States comply with human rights as they pursue their development agendas.

### **WITH REGIONAL MECHANISMS**

The discussion on how to integrate treaty body and regional mechanisms was limited insofar as the region currently lacks robust institutions of this type. The Arab League has two committees that work on human rights. The first, an inter-governmental one, meets regularly but does not issue human right reports and it has no rapporteurs. The second committee, established in 2008, shows promise for being more engaged with member states and governments. On paper, the committee operates as a Treaty Body. It produces reports and recommendations that some human rights experts have found impressive. However, the overall level of the work suffers because the committee's members lack extensive human rights expertise.

The Arab League's second human rights committee is currently considering issuing General Comments. This presents an opportunity for the work of the Treaty Bodies to be reflected in a nascent regional mechanism. A few participants suggested that there should be proactive effort to ensure that the Arab League establishes mechanisms and working methods that complement (or at least do not undermine) the work of the Treaty Bodies.

To identify how such cooperative mechanisms could operate, participants suggested reviewing how the work of the Treaty Bodies has influenced, or is influencing, the legal frameworks of regional human rights committees, and to build on that experience. Participants did not specify

who should lead such efforts, although the responsibility might fall on the UN OHCHR, which already works with MENA's regional mechanisms on their capacity to address human rights issues.

**Recommendations:**

- Establish mechanisms to ensure that the work of Arab League's human rights committees are compatible with the U.N. Treaty Bodies in their work, particularly in General Comments that the regional mechanism plans to issue in the near future.

**WITH THE UNIVERSAL PERIODIC REVIEW**

Several participants felt that the human rights community is often too quick to dismiss the Universal Periodic Review as a politicized process. However, it was suggested that there are States that want to buttress the UPR's integrity and which may be willing to raise Treaty Body recommendations or observations during the UPR. Others suggested that Treaty Bodies themselves should have a more active role during the UPR. They could participate in the UPR process and focus on States' Treaty Body obligations.

Others argued that the Treaty Bodies could also learn from the UPR. For instance, the UPR has a methodology to assess whether recommendations have been adopted that creates a cumulative record of implementations and information follow-up. The Treaty Bodies lack such a system, which was cited as a weakness of the system.

**Recommendations:**

- Treaty Body Chairs could reach out to States that are willing to raise concerns, as part of the UPR review, over non-compliance with Treaty Body recommendations.
- Explore the possibility of Treaty Bodies participating in UPR review in official capacities.
- Treaty Bodies should review the UPR's methodology for tracking recommendations and implementation over time and consider adopting a similar mechanism.

## APPENDIX A - LIST OF RECOMMENDATIONS

As highlighted in the introduction, the recommendations included in the report and summarized below have not been adopted by the participants and may not even reflect consensus during the discussions that took place.

### MEMBER STATES AND THEIR REPRESENTATIVES

- All States should be encouraged to produce National Plans of Action/Plans of Implementation, bringing together the various recommendations received through various committees.
- Explore the suggestion of establishing judicial mechanisms to hold States accountable when they fail to implement recommendations.
- Address the issue of language and the need for additional resources for translations during the 2020 review of the Treaty Bodies. Specific to the MENA region, adequate resources must be spent on Arabic translation. Furthermore, finances must be provided to Treaty Bodies to ensure a timely and adequate translation of concluding recommendations, reports to the General Assembly, and other Treaty Body documents.
- Introduce incentives (or punitive) measures to force States to nominate candidates to ensure Treaty Bodies do not have vacant seats.
- Introduce steps to incentivize States to comply with recommendations and the review process. Alternatively, identify and introduce measures in response to non-compliance.

### TREATY BODY CHAIRS

- Treaty Body strategies should consider which political strategies are likely to be most effective for inducing states to improve their human rights practices, depending on context and the vulnerability of the state to various pressures and inducements. Among the mechanisms considered were naming and shaming, linkage to trade concessions, efforts to use treaty provisions to empower accountability through domestic courts, and strengthening the capacity of civil society groups to monitor performance.
- OHCHR should create an online database that compiles all Treaty Body recommendations. The recommendations should be linked to both the Treaty Bodies that issued them, as well as the concerned Member States.
- Treaty Bodies should explore ways to share information (e.g. on rejected inquiries or the reliability of sources) and coordinate their review to improve coherency and consistency of their reviews and increase efficiency.
- Explore ways to amend the rule of confidentiality to permit members from different Treaty Bodies to view rejected inquiries and submissions, keeping in mind the sensitive nature of the work and the risk of reprisals.

- Ensure that Treaty Body members are diverse in respect to gender, race, language, region, age, and profession or expertise.
- All Treaty Bodies should adopt clear follow up procedures and/or protocols. For example, Treaty Bodies Chairs could establish a unified system to rate the status of the implementation of their recommendations.
- Individual Treaty Bodies can appoint rapporteurs to track and report on the implementation of Treaty Body recommendations.
- Establish procedures to create continuity in follow-up mechanisms within and across reporting cycles.
- All Treaty Bodies should adopt and implement the San Jose Guidelines.
- Treaty Bodies should more actively and publicly voice concerns about reprisals and how their effects on CSOs and human rights.
- Treaty Bodies should use unilateral reporting to denounce verified reprisals.
- Treaty Bodies should engage with a range of stakeholders within governments, not just the executives. This might include parliaments, NHRIs, local governments, municipalities, and civil servants.
- Treaty Bodies should insist on full answers to standard questions about whether the state involves CSOs in preparing its reports, and to make clear why this involvement matters and what it ideally looks like.
- Systematize Treaty Body submissions to high level political forums and possibly include reporting on SDGs as part of the exercise. This may require developing and agreeing a particular schedule and methodology.
- Develop manuals and implement training programs that clarify how different stages of the Treaty Body reporting cycle relate to the SDG process, in a manner that would encourage cross-linkages. For example, given the lack of an outcome document requirement for the SDGs, the Treaty Body system could help to fill this void.
- Treaty Bodies should consider the idea of issuing General Comments on SDGs that relate to their mandates.
- Explore processes to introduce treaty body mechanisms into the SDGs system in order to ensure that States comply with human rights as they pursue their development agendas.
- Treaty Body Chairs could reach out to States that are willing to raise concerns, as part of the UPR review, over non-compliance with Treaty Body recommendations.
- Explore the possibility of Treaty Bodies participating in UPR review in official capacities.

- Treaty Bodies should review the UPR's methodology for tracking recommendations and implementation over time and consider adopting a similar mechanism.

## **TREATY BODY CHAIRS AND OHCHR**

- Treaty Body members and professionals working with Treaty Bodies should actively try to understand why states engage in non-performance, or delayed performance of treaty obligations, and why at times individual states have variant records across different human rights treaties. Where possible, this information should inform Treaty Body assessments and recommendations.
- In relations with UN and legal institutions, Treaty Bodies should be open to working closely with organizations and processes that have a political and operational character. Instead of a legalism-in-charge model, this relationship might be more productively approached as one of mutual accommodation and adaptation. The UPR, for example, can help the Treaty Bodies gauge how to formulate recommendations that will get buy-in from states. Dialogue with UNDP or SDG modalities will help Treaty Bodies develop jurisprudence in ways that are concretely relevant to rights-based approach to operational issues.
- Explore the idea of introducing penalties for States that fail to implement treaty body recommendations.
- Train treaty body rapporteurs on how to reduce vagueness and increase specificity in their reports. The goal should be to produce recommendations that are specific and that avoid platitudes.
- To address the staffing needs of Treaty Bodies, explore the possibilities of establishing clerkship programs with law schools. Such programs should take into account the importance of regional, linguistic, social, economic, and other forms of diversity.
- Demand from Treaty Bodies and the OHCHR to have documents to be officially translated into Arabic. Request to have Arabic included as an official working language of the Human Rights Committee.
- Consider developing a memorandum of understanding between Treaty Bodies and the Arab League, to have the Arab League Member States to contribute more towards translation of treaty body documents and reports.
- Treaty Bodies, OHCHR and CSOs should not use terms like 'shadow' or 'alternative' reports: these are parallel or additional reports -- examples of rights holders engaging in processes evaluating governments and other actors.
- OHCHR should maintain a user-friendly and comprehensive calendar of Treaty Body committee reviews that is linked to each country's individual UN page.
- To increase visibility, Treaty Bodies and the OHCHR should undertake a major redesign of the Treaty Body websites to ensure content is more accessible to a broader public

audience. Webcasting and web-archiving systems should be further supported, but not at the cost of summary reporting.

- Considering the importance of social media in reaching stakeholders and rights-holders, Treaty Bodies should utilize new digital technologies more proactively. In this regard, OHCHR should aid Treaty Bodies in developing a communication strategy that utilizes new technologies, such as social media.
- Establish private and public partnerships with corporations to sponsor the redesign of treaty body websites.
- All Treaty Bodies should develop approaches and strategies to engage with and influence the SDG system at the global level so that HR discourse becomes part of the system.
- Establish mechanisms to ensure that the work of Arab League's human rights committees are compatible with the U.N. Treaty Bodies in their work, particularly in General Comments that the regional mechanism plans to issue in the near future.

#### **CIVIL SOCIETY ORGANIZATIONS**

- Encourage CSOs to monitor and report on how States are implementing treaty body recommendations.
- Encourage CSOs to issue requests to Treaty Bodies to clarify their findings, recommendations or comments.
- CSOs should take a more active role in screening Treaty Body candidates by establishing a coalition tasked with assessing capacities of the candidates, and identifying potential conflicts of interest. The results of these assessments should be public.

## APPENDIX B - LIST OF PARTICIPANTS

1. **Nawaf Alhendal**, Kuwait Watch, Founder and Human Rights Defender, Kuwait
2. **Abeer Al-Khraisha**, OHCHR - Regional Office for the Middle East and North Africa, Treaty Body Capacity Building Program, Human Rights Officer, Lebanon
3. **Fadi Al-Qadi**, Jordan Independent Panel on Human Rights, Coordinator, Jordan
4. **Ahmed Arman**, National Organization for Defending Rights and Freedoms, Executive Director, Yemen
5. **Bakhtiyor Avezdjanov**, Columbia Global Freedom of Expression, Program Officer, USA
6. **Elazar Barkan**, Columbia University, Professor of International and Public Affairs and Director of the Institute for the Study of Human Rights, USA
7. **Lazhari Bouzid**, Advisory Committee of the Human Rights Council, Member, Algeria
8. **Agnes Callamard**, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions; Columbia Global Freedom of Expression, Executive Director, USA/France
9. **Amna Guellali**, Human Rights Watch, Tunisia Office Director, Tunisia
10. **Ruth Halperin-Kaddari**, Committee on the Elimination of Discrimination against Women, Vice President; The Ruth and Emanuel Rackman Center for the Advancement of the Status of Women, Chair, Israel
11. **Shawan Jabarin**, Al-Haq, General Director, Palestine
12. **Heba Khalil**, the Egyptian Center for Economic and Social Rights, Senior Researcher, Egypt
13. **David Kretzmer**, Hebrew University of Jerusalem, Professor Emeritus; Sapir College School of Law, Professor of Law, Israel: former member and vice-chair, Human Rights Committee
14. **Tonya Lee Putnam**, Columbia University, Associate Professor at the Department of Political Science, USA
15. **Heba Morayef**, Amnesty International, North Africa Research Director and Tunis Head of Office, Tunisia
16. **Samar Muhareb**, ARDD-Legal Aid, Director, Jordan
17. **Ines Osman**, Alkarama Foundation, Coordinator of the Legal Department and Regional Legal Officer, Switzerland
18. **Ahmed Ragab**, Al Azhar University, Professor of Reproductive Health, Egypt

19. **Mervat Rishmawi**, Human Rights Consultant, Researcher, Policy Analyst, and Trainer, UK/Palestine
20. **Jack Snyder**, Columbia University, Robert and Renee Belfer Professor of International Relations, USA
21. **Joseph Schechla**, Habitat International Coalition, Habitat International Coalition International, Coordinator for Housing and Land Rights Network, Egypt/USA