

**Joint submission towards the Treaty Bodies Strengthening Process  
by the following Former OHCHR Minority Fellows:**

1. Marian Luka (Roma minority, Germany)
2. Sofia Melikova (Tsakhur National and Cultural Autonomy, Tsakhur minority, Russia)
3. Marina Shupac (Youth Platform of Interethnic Solidarity of Moldova, Russian speaking and Bulgarian ethnic minority, Moldova)
4. Dafina Savic (Romanipe, Canada, Romani peoples worldwide)
5. Nouha Grine (OHCHR Tunisia Minority Fellow, Amazigh peoples)

The submission has been prepared according to the Guide in formulating the submissions (available [here: https://www.un.org/pga/74/wp-content/uploads/sites/99/2020/06/UN-Human-Rights-Treaty-Body.pdf](https://www.un.org/pga/74/wp-content/uploads/sites/99/2020/06/UN-Human-Rights-Treaty-Body.pdf)) and is focused on selected areas of the Guide.

**I. The functioning of the treaty body system: its efficiency, effectiveness, strengths and weaknesses; suggestions for its further improvement**

Eight of the ten existing UN treaty bodies have active competence to deliver views (communications) on individual communications and monitor the extent to which the State parties implement the Treaty provisions. In this respect, they review the reports provided by the States on the application of the human rights treaties. The jurisprudence of the UN treaty bodies contributes significantly to the protection of human rights, and hence to (constantly) push for political reforms (decision-making and advocacy) at national (and international level) in this field.

The mechanism of individual complaint represents a model of human rights protection that aims to offer remedies to complainants and ensure that similar human rights violations do not reoccur. Victims of abuse can raise their cases before these bodies. The increase in the number of the Treaty Bodies (institutional plurality of the Treaty Bodies, and formally separate entities) has parallelly cumulated with a steady increase in the number of State parties (from all five continents) ratifying the Optional Protocols to Treaties, recognizing in this way the ability of the Treaty Bodies to receive and consider (and issue views on) individual complaints, and for the states to get reviewed and implement the respective views on human rights violations, on the other.

Consequently, there are four main critical aspects to be named.

Firstly, the individual complaint mechanism became one of the fastest growing issues of the United Nations human rights protection system in the recent years. Accordingly, there is currently a huge amount of communications waiting to be reviewed. This deeply affects the yet recognized ability of the Treaty bodies to address complaints in a timely and efficient way, which means delayed justice for victims. The Treaty Bodies are traditionally perceived as regional

human rights courts, which for these reasons might lose their reliability/credibility. Moreover, some victims wait for years even before the registration of their complaints is acknowledged.

Secondly, despite the early informal harmonization of the case law (views and remedies), there are significant discrepancies between the Treaty Bodies decisions, their capacity to review their evolving case law and the capacity of each body to demand human rights reform to ensure similar human rights violations do not take place in the future. There is a risk that qualitative difference with regard to the case law (for instance, diverging approaches to specifying general remedies) issued by each Body (8 Bodies) leads to its overall fragmentation, which might send mixed signals to both complainants or/and victims of human rights violations and state parties.

Thirdly, the UN Treaty Bodies secretariat is under-resourced and exposed to regularly deal with a huge amount of complaints. For these reasons, there is a lack of capacity to properly disseminate the views.

Finally, victims of human rights violations, communities, groups or NGOs often do not dispose the necessary knowledge and expertise to access the individual complaint mechanism or to easily navigate through the legal complexity of the information. This is also available for end-user communities (such as domestic judges, regional human rights courts, parliaments, members of civil society, National Human Rights Institutions and other UN human rights mechanisms) to which the legal reasoning of the views (effective use of the case law, for instance by the judges and courts) is either clearly or comprehensively explained or easily accessible (identifying the prescriptions following from the UN human rights case law).

In order to ensure the sustainability of the UN Treaty Bodies and strengthen an effective functioning of the individual complaint mechanism, **we make following recommendations:**

1. To make the mechanism accountable for the complainants, i.e. to handle complaints timely and efficiently , especially those regarding grave human rights violations;
2. To provide enough financial support and human resources for the Treaty Bodies secretariat in order to properly organize, present and disseminate the views;
3. To ensure a cross-bodies communication of decisions and harmonize their case law, in order to ensure coherence and transparency for the victims of human rights violations, on the one side, and human rights experts and institutions with regard to jurisprudence, on the other; to guarantee remedies are implemented by the state party and ensure that violations do not reoccur, in order to advance the decision-making process regarding political reforms;
4. To provide basic and essential knowledge for victims of human rights violations to effectively access the complaint mechanisms before the UN human rights treaty bodies; to improve coherence, transparency and quality of views on individual complaints regarding an easy access by the end-users of their database.

5. Additionally, to improve the funding to the OHCHR (UN Petitions Unit and Urgent Action Section) in order to ensure the required expertise in handling individual communications.

## **II. Strengthening the engagement with civil society and other relevant stakeholders**

Minority communities often lack information about relevant opportunities to engage with the Treaty Bodies: calls for contributions, alternative submissions for the country review, etc. This is caused by several structural obstacles, including underrepresentation of minorities in the Treaty Bodies membership and secretariat, lack of linguistic accessibility, lack of knowledge.

At the same time minority representatives often lack funds to travel to Geneva to participate in the country review process, lobby and advocacy within the Treaty Bodies members. Minority representatives often lack access to information on the mechanisms, capacity to advocate and contribute to these processes, and knowledge about funding opportunities for participating in the country review process. It leads to the situations when majority-led CSOs from certain countries are in a better position to allow themselves advocacy with the Treaty Bodies members and minorities issues are left behind during the review process.

As stated in the United Nations High Commissioner for Human Rights' report on participation of civil society in United Nations processes, promotion of civic space and protection of civil society actors: "there are still many gaps in terms of participation modalities and effective outreach to groups at risk of being left behind, in particular minorities and indigenous groups".

We strongly encourage the Treaty Bodies to adopt a proactive strategy on engaging with minorities **by ensuring the following:**

1. To elaborate a strategy of disseminating relevant calls for submissions among minority civil society. This can be done by enhancing communication among Treaty Bodies and OHCHR Indigenous and Minorities Section as well as OHCHR regional and country offices who have contacts of relevant minority organizations, groups, and activists.
2. To put in place a monthly/bimonthly newsletter in all UN languages and by each Treaty Body which would allow CSO, including grassroots minority organizations to follow relevant updates and follow-up to them when needed.
3. To establish a UN Fund for Minorities which would allow civil society representatives belonging to minorities to come to Geneva during their country review process and organize lobbying and advocacy activities with Treaty Body members. Similar UN Fund already successfully operates in relation to Indigenous Peoples and its practices can and should be applied to minorities as well.

4. To enhance cooperation between Treaty Bodies and OHCHR Fellowship Programmes for Indigenous Peoples, Minorities and people of African Descent. These Programmes proved to be an effective way to equip minorities and Indigenous Peoples with relevant skills and knowledge in effective engagement with the Treaty Bodies.
5. To elaborate, in cooperation with minorities representatives, a guidance with good practices of minorities engagement with the Treaty Bodies which would serve as a motivation for minorities to actively work with the Treaty Bodies.
6. To elaborate a mechanism of regular exchange among Treaty Bodies and minority communities which would allow to monitor the mainstreaming of minority issues within the work of Treaty Bodies. This could be done in a form of an annual discussion with minorities representatives and with the use of digital tools to enhance regional representation. This can be also done by establishing a minority advisory panel within the Treaty Bodies.
7. To ensure protection in case of intimidation for collaborating with the Treaty Bodies and made information of such protection opportunities widely available.
8. To encourage Treaty Body members representing specific geographical areas to actively engage with CSO and minorities from those regions, including by using relevant regional languages. Regional consultations with minorities started by the mandate of the SR on Minority Issues in 2019 is a good practice to include the voices of minorities into the work of UN HR Mechanisms which might be expanded to the Treaty Bodies as well.

### **III. Use of new information and communications technologies and its potential to further increase efficiency and accessibility**

Information and communication technologies are rapidly changing our world. Recent developments related to COVID-19 show the necessity to further develop information technologies and integrate them into the mechanism of the treaty body system. Now more than ever, technologies must ensure that everyone can access the information they need. Thus, our common goal is to make better use of technology in order to promote overall inclusion and accessibility.

Based on the above, **we recommend the treaty bodies:**

1. To develop together with the States a user-friendly database that will provide access to concluding observations, views and decisions of the treaty bodies;
2. To establish a user-friendly joint online submission platform for individual communications;

3. To integrate an online subscription calendar with the past and upcoming events into the current webpage;
4. To provide solutions allowing persons with most types of disabilities to use information technologies (e.g., voice recognition, screen reading, text-to-speech etc.);
5. To provide inclusion of an international sign language, as well as online interpretation into the six official UN languages;
6. To establish collaboration with the national and regional authorities to ensure an equal access to information of groups or individuals from socially disadvantaged groups or low income areas with a limited Internet access (e.g., through regional communication tools, publications in local languages and etc.);
7. To ensure an overall equal access to information, as well as the application of new information technology tools, better use of infographics, audio-visual materials and etc.;
8. To provide a safe space to foster dialogue and launch online consultations between the stakeholders (treaty body representatives, states, and civil society).

#### **IV. Opportunity of reviews in countries or in regions**

This issue would be a “novum” with regard to the role and function of the human rights Treaty Bodies on the ground. Regarding the key challenges and shortcomings exposed under the issue no. 1 and beyond, **we make following recommendations:**

1. The opportunity of review in countries or regions would enable the direct access to and participation of civil society (lack of knowledge and resources) and national/supranational legal experts and institutions in the review cycle of the Treaty bodies, what would ensure in turn the effectiveness of the function of treaty bodies.
2. Would provide the direct opportunity of holding regional dialogues with different target groups which would empower the civil society and offer accountability and transparency for victims of human rights violations in seeking responsive justice and remedies;
3. Strengthening the competencies of the national and local courts, and advancing the rule of law and political reforms decision making process (synergy effect with other Regional Courts);
4. Effective implementation of the case law;
5. Sustainability and credibility of the Treaty Bodies;
6. Strengthening of the regional UN and OHCHR offices.

**Risk:** politicization of the Treaty Body members

**V. Preserve and strengthen the independence and impartiality of treaty body members and ensure diversity in terms of gender, geography, background, expertise, representation of different forms of civilization and principal legal systems, as well as the participation of persons with disabilities**

Internal and geographical diversity of the UN Human Rights Mechanisms are a precondition that their work will leave no one behind. Representation of vulnerable groups, including minorities within the UN Human Rights Mechanisms will also encourage those groups to actively engage with the mechanisms and will serve as good practices for Member States to include them in decision-making processes as well.

Unfortunately, minorities are widely unrepresented in the UN System, including Treaty Bodies. There is also a lack of geographical representation. For example, there is only one expert who is representative of Eastern Europe in CERD - Mrs Rita Izsák-Ndiaye.

In addition to that, the requirement for the Treaty Body member candidate to be nominated by the State party of his/her nationality automatically excludes many critical voices of Human Rights experts with minority background who fight exclusion at their national levels.

To ensure inclusion of minority experts in the Treaty Bodies and wider diversity of the Treaty Bodies **we recommend the following:**

1. To actively encourage experts with minority background and from other vulnerable groups to apply for the positions of the Treaty Bodies members and made a relevant disclaimer in the election documentation (announcements to apply for the Treaty Body membership, etc). At the same time to actively encourage Member States to nominate experts from minority communities.
2. To conduct internal diversity audits within the Treaty Body members and the Treaty Body secretariat to identify the diversity gaps in terms of minorities and other vulnerable groups representation and design the further action plan to eliminate it.
3. To actively encourage experts with minority backgrounds to apply for the positions at the Treaty Body secretariat and ensure diversity of experts working in the secretariat.
4. To ensure that within the Treaty Body there are experts speaking different UN languages so the Treaty Body is able to engage with CSO in all UN languages;

## **VI. Current system of processing individual communications, inter-State communications and urgent actions: its efficiency, effectiveness, strengths and weaknesses; suggestions for its further improvement**

Individual communication procedure is a fundamental tool to guarantee human rights for individuals, on the one hand, and to provide monitoring of the States' compliance with their obligations under the core Treaties, on the other. Apart from having a remedial effect on the individuals concerned, the final decisions of the Committee members serve also as preventive mechanisms for the potential violations. However, there is still a significant potential for further improvement that could contribute to the development and optimization of the individual communication procedure.

First of all, it is challenging for an individual to easily find the relevant information on how to submit a communication under the specified treaty body procedures. There is no centralized online platform with practical information on the individual communication procedures and how to use them.

Secondly, Information on the number of communications received is also far from transparent. At the moment there is no joint database with the number of individual complaints that can be checked by States, complainants and other related parties.

Thirdly, it is essential to ensure that victims of human rights violations or/and local NGOs are aware of the existing treaty body procedures. It is especially relevant for such vulnerable groups as Minorities, Indigenous Peoples or individuals/ residing in rural areas.

Thus, considering all the said above, improvements are needed for the treaty body complaint procedures to achieve their full potential. In this regard **we suggest to consider the following recommendations:**

1. To increase the number of Committee members or/and the number of Secretariat experts in order to speed up the procedure and ensure timely reaction to individual communications, especially in case of the need for urgent and interim measures;
2. To provide individual complaint mechanism for the Committee on Migrant Workers (which has not entered into force yet);
3. To provide together with the States a more inclusive mechanism to allow the submission of individual complaints in Minority, Indigenous and/or Sign languages;
4. To establish a more straightforward and user-friendly multilingual online form for the submission of individual communication;

5. To elaborate together with the States and NGOs an awareness raising campaign to spread information about the treaty body mechanism and individual communication procedure in remote areas of the world, where individuals are not aware of their existence (in particular, rural communities or areas resided by Minorities, Indigenous populations and other vulnerable groups);
6. To create a joint transparent table with the the number of pending and processed individual complaints (statistical database);
7. To provide better visibility, share best practices and examples with positive outcomes of the individual communication procedure.

## **VII. Accessibility for persons with disabilities and wider accessibility and visibility of the work of the treaty bodies**

Linguistic accessibility remains one of the obstacles which prevents minorities and other vulnerable groups from active engagement with the Treaty Bodies. Most of the time, submissions to the Treaty Bodies are acceptable only in English and in some cases in French and Spanish. At the same time in many cases draft documents released by Treaty Bodies for consultations with CSO is available only in English.

Minorities from non-English speaking countries face double burden by the need to find means for translating their submissions into English. This discourages minority communities which leads to the small number of submissions from minority groups , or submissions made by the “usual suspects” or international NGOs on their behalf. Lack of linguistic accessibility also prevents the wide dissemination of concluding observations among general public and right holders, including minorities. To address these obstacles **we recommend the following:**

1. To ensure that Treaty Bodies have capacity to receive submissions made in all UN languages concretely by
2. To allocate funds for translating submissions to Treaty Bodies made in minority or regional languages by the minority groups. This can be done by expanding already existing good practice within some of the national OHCHR offices. For instance, OHCHR presence in Moldova regularly offers technical support to vulnerable groups , including translation during the UN Treaty Bodies submissions. Such practices should be further supported, expanded and widely advertised within the minority groups .
3. To allocate funds for translating concluding observations to the official and minority languages of the observed countries.
4. To ensure digital presence of Treaty Bodies in social media in all UN languages.



