



*Mission Permanente
de la République Islamique d'Iran
auprès des Nations Unies
et des autres Organisations Internationales à Genève*

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

OHCHR REGISTRY

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Recipients: H.R.T.D.
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The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the communication No.GVA-0713-ENG, dated 14 November 2011 of the High Commissioner for Human Rights requesting comments from State Parties on the ongoing discussion on the Treaty Body Strengthening Process, has the honor to submit the preliminary comments of the Islamic Republic of Iran on this subject.

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Office of the High Commissioner for Human Rights,

Human Rights Treaties Division

(Kind Attention: Mr. Ibrahim Salama)

Palais des Nations

Geneva 1211 (Fax: 022-9179008)

Iran's Comments on Treaty Bodies Strengthening Process

The Islamic Republic of Iran's comments

on

Treaty Bodies Strengthening Process

1- General Comments

- The Islamic Republic of Iran considers the role of the treaty bodies as a central pillar for the promotion and protection of all human rights worldwide and endorses their activities within their respective mandate and is committed to cooperate with them.
- We share the need and are in favor of strengthening and improving, not reforming, the system of treaty bodies as such to work more effectively. We commend respective efforts taken so far by the OHCHR to that aim. However, we maintain that there is an essential need for more clarity on the legal status of this process and the nature of its end result.
- The Islamic Republic of Iran is fully aware of the problems and challenges which treaty bodies facing as the result of increase in their numbers and workload including the issues of adequate resourcing and time allocation for their meetings. Meanwhile, we are of the view that afore –mentioned problems are mainly generated after treaty bodies started assuming additional voluntary responsibilities, which are not entrusted to them in relevant international treaties.
- The Islamic Republic of Iran firmly believes that since states are the creators of the treaty body system, bearing the primary responsibilities on implementing its provisions and reporting on compliance, and major beneficiaries of their outcomes as well, the essence of strengthening treaty body system depends on effective and well-built cooperation with the states parties and the treaty bodies

Iran's Comments on Treaty Bodies Strengthening Process

- We strongly believe that, strengthening the treaty body system should be an intergovernmental, transparent and inclusive process. To this end we fully support the proposal of the most State Parties for the creation of an open-ended Intergovernmental Working Group to deliberate in-depth on the strengthening the treaty body system, the final decision of which should be based on consensus.
- Strengthening treaty bodies is a vital and independent process that should not be treated together with or linked to issues related to the OHCHR, UPR and Human Rights Council, in order to avoid overlapping of their mandates.
- Strengthening the treaty body system should promote mutual trust and constructive dialogue with the state parties within the scope authorized by the treaties, based on principles of objectivity, impartiality, non politicization and selectivity in their work and with a spirit of cooperation.
- The process of strengthening treaty bodies should strictly respect the principles of International Treat Law. Therefore proposals should not go beyond standards and norms of ITL.

2- Comments on the list of emerging proposals**Strengthening the preparation of States parties' reports****List of Issues prior to reporting (LOIPR) and its added value:**

LOIPR is not yet adopted by all TBs and is still in a testing stage. It is required to be evaluated for its effectiveness by the TBs and the SPs after elapse of at least a period of reporting time (4 years). However, since LOIPR cannot cover all prospects it is recommended to remain optional in nature. Questions contained in LOIPR should strictly comply with the provisions of the respective treaties and should not go beyond the TBs' mandates.

Aligned interaction of the TBs with State parties, NHRI and NGOs:

- The modalities of the aligned interaction of the TBs, SPs, NHRI and NGOs should be worked out by the TBs themselves in consultation with the SPs. The consultations should be broad to reach a result that is acceptable for all parties.

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- The contribution of OHCHR in the Process should be solely procedural and remain as a facilitating role. The Process should be substantially handled by TBs members themselves.

- In relation to individual communications, the current international treaties predict only the contribution of the TBs, the SPs and the complainants themselves. Therefore the issue of the contribution of NHRI or NGOs in individual communications' procedures should be discussed only after the establishment of appropriate legal basis (after amending the international treaties).

- Participation by and acceptance and use of information from non-governmental organizations (NGOs) must stick to the general rules of the United Nations system as set forth in United Nations Economic and Social Council resolution 1996/31, entitled "Consultative relationship between the United Nations and non-governmental organizations".

- Every treaty body must also maintain an objective and impartial position and meticulously monitor information submitted by NGOs. Information from NGOs is only provided for reference during the committee's deliberations; unless the country under review has given its consent, such information should not be made public on committee websites or distributed by committees to the public in some other form.

"A tool box" for reporting:

The introduction of alternative accountability methods, such as country visits of experts, is only possible through the amendment of the existing international treaties or the development of new instruments (i.e. optional protocols).

Strategy for treaty body engagement with non-reporting States:

The issue should be discussed between the TBs and the SPs to determine the necessary measures.

Inclusive process of national consultations as part of the preparation of State reports:

The methodology and the modalities of the preparation of national reports are not regulated by international treaties and are within the exclusive competence of the SPs. The SP decides the format of the national mechanisms for consultations, in accordance with its national legislation and international obligations.

*Iran's Comments on Treaty Bodies Strengthening Process***Enhancing the constructive dialogue between Treaty Bodies and States parties****A more structured constructive dialogue:**

The practice of appointing country rapporteurs should be transparent, impartial and democratic. It must guarantee that among the country rapporteurs there is at least one person from the same region as the State under review or from a country with a similar legal system. Once the country rapporteurs are selected, the States parties should be informed in a timely manner. The States under review have the right to request, once, that another person be named as the country rapporteur.

Implementation of treaty bodies outputs and impact on the protection of rights holders**More focused and shorter Concluding Observations (Recommendations):**

Concluding observations must be relevant and practicable, and must be appropriate to the actual situation in the State party. They must not quote unverified, unofficial information. The treaty bodies must pay due attention to the clarifications and explanations given by the States parties in respect of the conclusions, and feedback from the States parties must be passed on to the United Nations General Assembly together with the conclusions of the deliberations.

Action by SPs to implement TBs' recommendations:

The methodology and the modalities of the implementation of the concluding observations and recommendations are not regulated by international treaties and are within the exclusive competence of the SPs. The SP decides, within the existing institutional, political, socio-economic, cultural, religious and other particularities, the possibility and the need to adopt implementation plans on the activities on the realisation of the TBs' recommendations, in accordance with its national legislation and international obligations.

Follow-up procedures were developed by TBs and are not foreseen by the international treaties and therefore the SPs have no legal obligation to cooperate with the TBs in follow-up procedures.

Enhanced interaction with UN entities:

The interaction of the SPs with the UN entities is regulated by the respective agreements in the framework of the coordinated modalities of the cooperation. The needs for assistance by UN entities are determined by the SPs. The proposal to develop a strategy on the interaction of TBs with UN entities with the aim to implement the TBs' recommendations needs further study in the context of defining tasks, modalities and the format of such cooperation.

Strengthened cooperation with the Special Procedures:

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The goals, mandates, modalities and methods of work of the SRs and the TBs fluctuate significantly. Mandating the TBs to monitor the implementation of the SRs' recommendations is only possible through the amendment of the existing international treaties or the development of new instruments (i.e. optional protocols). The SRs are also not mandated to monitor the implementation by SPs of the TBs' COs' recommendations. Giving them additional functions is only possible through the amendment of their respective mandates.

Added value of treaty body follow-up procedures:

OHCHR represents part of the UN Secretariat with a respective mandate, which does not foresee monitoring of implementation by the SPs of their obligations under the international treaties. The recognition of the proposal would require the creation of respective legal basis and giving OHCHR such monitoring functions is not likely to contribute to the strengthening of the national capacity for implementation of the international treaties.

Assessment of the implementation of concluding observations' recommendations:

International treaties do not foresee a procedure for the evaluation of the implementation of the concluding observations' recommendations in between the TBs' sessions. NGO's present shadow reports in which they can provide their evaluation of the implementation of concluding observations and recommendations. The institutionalisation of intra-session accountability procedure for SPs is only possible through the amendment of the existing international treaties or the development of new instruments (i.e. optional protocols).

The conclusions of the deliberations have bearing on the recommendations that committees are authorized to make under the treaties. Follow-up procedures should not burden the States parties with extraneous obligations.

Attracting the legislative power to the implementation of the concluding recommendations and creation of a special legal service:

The methodology and the modalities of the implementation of the COs' recommendations are not regulated by the international treaties and are within the exclusive competence of the SPs. The SP decides, within the existing institutional, political, socio-economic, cultural, religious and other particularities, the possibility and the need to adopt implementation plans on the activities on the realisation of the TBs' recommendations, and whether to undertake any legislative initiatives and/or create legal mechanisms. The amendment of the above methodology is implemented by the SPs in accordance with their national legislation and international obligations.

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Mandating the TBs to conduct country visits and to establish direct dialogue with the different branches of the powers within the SP is possible only through the amendment of the existing international treaties or the development of new instruments (i.e. optional protocols).

Treaty body follow-up visits:

Current treaties do not foresee country visits by TBs. Mandating the TBs to conduct country visits is possible only through the amendment of the existing international treaties or the development of new instruments (i.e. optional protocols).

Independence and expertise of treaty bodies' members

Independence and eligibility of members of human rights treaty bodies in terms of independence and expertise, existing good practices:

The requirements towards the candidate for TB membership and the mechanisms for their nomination and election are established by the international treaties and are within the exclusive power of the SPs. Amending the existing procedures is possible only through the amendment of the existing international treaties or the development of new instruments (i.e. optional protocols). The introduction of any criteria and/or mechanisms (consultative committees) for the selection of the candidates of the SPs through the adoption of decisions, recommendations or guiding principles by the TBs would exceed their respective mandates.

The structure of the committees must carefully adhere to the provisions of the treaties, taking into consideration the principle of equitable geographical distribution as well as the representative nature of variations among cultures and major legal systems.

Code of conduct for committee members

The States parties should negotiate and conclude a code of conduct for committee members, referring to practice in other United Nations bodies, to prevent abuse of authority and misconduct.

Individual communications

The individual communications' procedures are established by the respective international treaties. The review of individual communications is confidential and is conducted in closed hearings. Taking into consideration the nature of the TBs' work, decisions adopted by them does not have binding legal force and only have a recommendatory nature. Publishing or any other type of making available to the

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public the materials of the communication, its review process and its results would only possible with the agreement of both the SP and the complainant.

Resourcing the treaty body system

It is essential that the issue of financial resources for the Treaty Body System, address maximizing existing resources through improving the efficiencies in the existing budget and through appropriately enhanced financial support solely through the regular UN budget. In this context, a separate session in Geneva exclusively on resourcing of Treaty Bodies would be relevant. The background notes for such a session, needs to be circulated well in advance.
