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HUMAN RIGHTS TREATY BODIES IN THE AGE OF CONNECTIVITY

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Fifty years ago, in December 1966, the UN General Assembly adopted the two major human rights Covenants – the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) – which together form the backbone of the international human rights legal system. Anniversaries present an occasion for reflection – reflection backwards into what happened in the past and why; reflection on where we have come, and a look forward to where we should be headed. This anniversary therefore creates an occasion to look at the future of the UN treaty bodies and their place in the larger international human rights system.

Like all supranational human rights mechanisms, the treaty bodies established by multilateral human rights instruments are engaged in a process of "norm enunciation," "norm transfer" and ultimately "norm internalization."[1] Norm enunciation involves the process of clarifying the content of international human rights law in particular contexts. Because rights under multilateral human rights treaties are rarely directly adjudicated in national jurisdictions, authoritative supranational bodies like the UN treaty bodies play a vital role in providing guidance regarding the meaning of these rules. Enunciating legal norms – clarifying and making the law concrete for all actors – is one of their core functions.

Treaty bodies and other human rights mechanisms also are engaged in the transfer of norms: transfer from the international plane to the domestic, and transfer among international and regional human rights instruments, and transfer among human rights mechanisms, including among the treaty

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[1] See Sarah H. Cleveland, "Norm Internalization and U.S. Economic Sanctions", 26 *Yale J. Int'l L.* 1 (2001); Harold Hongju Koh, "Why Do Nations Obey International Law ?" 106 *Yale L.J.* 2599, 2646 (1997).

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bodies, other UN human rights mechanisms, regional human rights systems, other international and regional courts such as the International Court of Justice and the European Court of Justice, national governments and courts, and civil society groups, among others.

The Human Rights Committee is charged with interpreting a particular Covenant – the ICCPR – rather than assessing the totality of relevant human rights obligations. But it also participates in norm transfer – both vertically, from the international to domestic jurisdictions, and horizontally, by taking into account, and contributing to, jurisprudence developed in other fora.

The ultimate goal of both norm enunciation and transfer is norm internalization. This is a process by which repeated interactions among States and a variety of domestic and transnational actors crystalize interpretations of applicable global norms and ultimately promote the internalization of those norms into States' domestic values and habitualized conduct. The goal is to move States from non-compliance, to one-time grudging compliance, "to habitual internalized obedience."[2]

While this process obviously is not a panacea to achieve universal human rights compliance, the treaty body periodic review process formally provokes numerous interactions between the State under review and the treaty bodies, as well as creating an opportunity for engagement by domestic and international civil society with the State on matters of human rights concern. The challenge for the modern era is how to maximize the contributions of the human rights system in general, and the treaty bodies in particular, to this norm internalization process.

I. THE THREE ERAS OF THE HUMAN RIGHTS SYSTEM

In considering this question, it is appropriate to recognize that the human rights system has gone through three stages of development (not perfectly chronologically): The first was the age of *universalization and internationalization*, when the human rights idea was introduced into the international system and codified into widely ratified instruments. Second came the age of *institutionalization*, when the major architecture of our international and regional human rights mechanisms was created. Finally, we are now in the age of *connectivity*, in which we need to better develop the substantive, communicative and institutional relationships – or synapses – among these instruments, and between our human rights institutions, States, and civil society, in order to maximize the impact of a human rights system of limited resources on real conditions, faced by real people.

[2] Koh, *supra*, at 2655.

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The UN Charter "internationalized" human rights, by declaring that promoting respect for human rights was a matter of international concern and a principle purpose of the United Nations, linked to the preservation of peace and security. Thus also commenced the "universalization" of human rights – as international human rights instruments were increasingly embraced, and the idea of human rights was increasingly "recognized and rights given protection in the… constitutional systems of all countries."[3]

This also was the era of codification. In relatively short order, a remarkable swath of positive international human rights instruments was created: in 1948, the American Declaration of the Rights and Duties of Man, the Universal Declaration of Human Rights and the Genocide Convention were all adopted. The four Geneva Conventions came in 1949; the European Convention on Human Rights in 1950, and the Refugee Convention in 1951. The Convention on the Elimination of Race Discrimination opened for signature in 1965, and the two Covenants in 1966. Further UN instruments addressing specific rights – such as torture and disappearance – and specific groups – such as women, children, migrants, and the disabled, have followed. But the institutions to oversee implementation and compliance remained to be developed.

The Age of Institutionalization saw the construction of our international human rights architecture – the web of UN treaty bodies and special procedures, regional human rights courts and commissions, ad hoc and international criminal tribunals, and other bodies that together form the fabric of our modern human rights oversight system.

We know that the current treaty bodies resulted from a compromise, or a dilution, of Australia's original proposal for a world court of human rights presented at the Paris conference in 1946.[4] Between 1969 and 2011, 10 treaty bodies came into being, with a total of 172 experts. Most of the treaty bodies enjoy similar powers to review periodic reports of States, review individual complaints from States that have accepted that jurisdiction, and issue general comments or recommendations. This period also saw the expansion of UN Charter-based special procedures in the Human Rights Commission and Council, including working groups, special rapporteurs, and commissions of inquiry. It also brought the parallel development of the regional human rights systems in the Americas, Africa, and Europe, as well as supporting regional political mechanisms, including the Organization of American States, the

[3] See Louis Henkin, *The Age of Rights* 139 (1990), quoted in Henkin, Cleveland, et al., *Human Rights* (2nd ed. 2009).
[4] See Annemarie Devereux, *Australia and the Birth of the International Bill of Human Rights*, 1946-1966, 180 (2005) ; U.N. Commission on Human Rights, Summary Record of 15th Meeting, U.N. Doc. E/CN.4/SR.15 (5 Feb. 1947), at 2.

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Council of Europe, and the African Union. And since the mid-1990's, we also have seen the proliferation of ad hoc, hybrid, and international criminal courts.

II. THE AGE OF CONNECTIVITY

The treaty bodies are a vital part of a broader universal human rights ecosystem. Working in concert with other parts of that system can enhance the overarching aim of the system to promote and protect human rights in all countries. Currently, the lack of coordination leads to unnecessary duplication in some areas, while elsewhere gaps in human rights monitoring and accountability efforts persist.

The proliferation of multilateral human rights mechanisms within the UN system, including numerous treaties, each with its own treaty body, in addition to the Human Rights Council's special procedures and the Universal Periodic Review (UPR) process, has raised significant concerns regarding resource duplication, redundancy of effort, substantive overlap, and coherence within the UN human rights oversight system. The proliferation of human rights and related institutions beyond the UN system also creates parallel risks. The multifarious treaties, treaty bodies, and other human rights mechanisms increase the risk that the noise in the system will prevent any particular voices from being heard, and that overlap is also leading to fatigue and confusion on the part of States, civil society, the media, and other actors.

The existence of these diverse instruments and fora, however, also presents an opportunity. The multifarious international and regional mechanisms of the human rights system offer opportunities as "laboratories of experimentation" in the development of legal and procedural best practices, opportunities for development and reinforcement of new norms, and opportunities for reinforcing the recommendations and decisions of other mechanisms.

The modern challenge, then, is how, out of the patchwork cacophony of the current human rights system, to ensure that the human rights treaty bodies function as part of a larger cohesive whole, to better link them to civil society and parallel institutions, to maximize their capacity as catalysts for norm enunciation, transfer, and internalization. In sum, how do we leverage a whole that is greater than its parts? This is the challenge of our current Age of Connectivity.

Although there are many potential avenues for strengthening connectivity for treaty bodies within the human rights system, this chapter focuses on four: connectivity among the treaty bodies; connectivity between the treaty bodies and other aspects of the UN system; between the treaty bodies and the

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regional human rights systems; and with States, national human rights protection mechanisms, civil society and victims.

A. Connectivity among Treaty Bodies

The ten treaty bodies were not designed to be a system. They were created by States as free-standing institutions, each functioning independently within the framework of its respective treaty, each with the power to independently establish its own procedures, and with its own reporting and review requirements for States. It therefore is not surprising that the evolution of the treaty body system has lacked coherence, with multifarious reporting requirements placing unnecessary burdens on States and civil society, and with a trajectory of unchecked linear growth that in the long term is neither sustainable or desirable. Although a single, permanent treaty body ultimately will be needed to address current resource, capacity, and coordination constraints,[5] in the near-to-mid term, there are less intrusive means available to achieve significant coordination of treaty body processes, without amending individual treaties or losing the specificity of particular treaty regimes. The following are some proposals for ways to improve connectivity and coherence among the independent treaty bodies, to help the treaty bodies function more as a system.

1. Coordinated Country Examinations

There is an urgent need for a more coordinated and unified process for treaty body country examinations of human rights compliance. The Office of the High Commissioner previously proposed the establishment of a coordinated five-year "master calendar" for the review process,[6] but Resolution 68/268 did not embrace this proposal, due to concerns about resource implications, compatibility with the timelines established in the treaties and the ability to generate the cooperation of non-reporting States.[7]

A more ambitious idea would be the development of an *eight-year global reporting calendar*.[8] This proposal would consolidate country reviews on an eight-year cycle, during which the treaty body reviews will be consolidated

[5] The idea of a unified standing treaty body was put forth by the High Commissioner initially in 2006. See Concept Paper on the High Commissioner's Proposal for a Unified Standing Treaty Body, UN Doc. HRI/MC/2006/2 (2006), http://www2.ohchr.org/english/bodies/icm-mc/docs/HRI.MC.2006.2.pdf.

[6] OHCHR, *Strengthening the United Nations human rights treaty body system* (June 2013), at 37, http://www2.ohchr.org/english/bodies/HRTD/docs/HCReportTBStrengthening.pdf.

[7] See e.g., Report of the co-facilitators on the open-ended intergovernmental process to conduct open, transparent and inclusive negotiations on how to strengthen and enhance the effective functioning of the human rights treaty body system, A/67/995 (16 Sept. 2013), at 35-36, http://www.ohchr.org/documents/hrbodies/tb/hrtd/a-67-955.doc.

[8] See Yuval Shany & Sarah H. Cleveland, "Treaty Body Reform 2020: Has the time come for adopting a Global Review Calendar?" (2017) (on file with the author).

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into two batches, with back-to-back reviews by each set of treaty bodies conducted four years apart. One possibility would be to group the review by the two Covenant treaty bodies together (the HRC and the CESCR), and to alternate that review with a review before the specialized treaty bodies. This arrangement might allow for the most comprehensive review of rights in each of the consolidated sessions. Each clustered review session would be based on a single, consolidated list of issues from the participating treaty bodies, and a single written response from the State. Although treaty bodies would continue to issue their own concluding observations, to preserve treaty specificity and void excessive coordination challenges, the clustering of reviews would allow States to receive more coordinated concluding recommendations from the treaty bodies participating in each cycle.

In order to maintain such a calendar, States would be expected to report and participate in the oral dialogues on time (as they currently do in the UPR process), with reviews conducted in the absence of a report for non- or late-reporting States. Thus, an important value added of this approach would be to systematically bring non- (and egregiously late) – reporting States into the review system.

Such a reporting regime would significantly reduce the complexity, overlap and redundancy of periodic reporting and repetitive oral reviews of States, and thus facilitate States' participation in the system. It would also improve "connectivity" among treaty body examinations: the system would encourage the treaty bodies to function more as a single coherent system, in which the treaty bodies divide work among them and rely upon and reinforce each other's examinations in a coherent manner. It would allow streamlining of effort with respect to reporting, dialogue questions, concluding recommendations, and follow-up for States, civil society, and the treaty bodies. A fixed treaty body reporting schedule would also increase the visibility of the treaty body reviews more generally, and thus the incentives for States to participate and report in a timely manner. It would also promote greater accessibility and connectivity for the treaty body review process with the UPR and work of the Human Rights Council, UN special procedures, regional human rights mechanisms, civil society, and others, as discussed further below.

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2. Coordinated Follow-up

Connectivity could also be promoted through greater consistency in treaty body follow-up procedures. Currently eight treaty bodies have developed some form of follow-up procedure.[9] Each treaty body developed its own follow-up methods independently of the others, and thus has its own procedures for overseeing implementation of both concluding observations and individual communications. Greater uniformity in procedures, evaluation systems, and timeframes for follow-up would make it easier for States to comply, for civil society to engage in the follow-up process, and for treaty bodies to complement each other's work. It would also make possible coordinated in-country visits to States to address implementation of recommendations from different treaty bodies, and yield more accessible information that could be more easily evaluated through parallel processes, such as Special Rapporteurs and the UPR.

3. Enhanced communication

Currently, there is no structured means by which treaty bodies are informed of developments – procedural and jurisprudential – in other treaty bodies, nor can they readily access each other's jurisprudence. The only formal process for coordination and communication among treaty bodies is the annual meeting of the treaty body chairs, which while vital, is insufficient to ensure adequate communication among treaty bodies and to create opportunities for coordination of working methods. Periodic official meetings among treaty body members to discuss jurisprudential developments and common challenges, and the establishment of working groups of treaty body members tasked with addressing specific topics relating to alignment of working methods, such as the prior working group on follow-up, would promote dissemination of best practices, and foster greater alignment of jurisprudence and greater coordination of treaty body procedures.[10] In addition, the OHCHR Secretariat should ensure an open and organized flow of information among treaty bodies, including to apprise the treaty bodies of important jurisprudential developments in other treaty bodies.

4. Access to treaty body jurisprudence and webcasts

It is vital that the jurisprudence of the treaty bodies be readily accessible online, in a database that is current, comprehensive, and readily navigable, including word searchable, in all working languages. While OHCHR has

[9] These include the Human Rights Committee, ESCR Committee, Committee on Enforced Disappearances, Committee Against Torture, Committee on the Elimination of Racial Discrimination, Committee on Mirant Workers, and the Committee on persons with Disabilities.

[10] See, e.g., Inter-Committee Meeting Working Group on Follow-up, 12-14 January 2011, www2.ohchr.org/english/bodies/icm.../Points_agreement_ICM_WGonFollow-up.doc.

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taken important strides toward making treaty body jurisprudence available online, the current database is cumbersome, incomplete, not up to date, and difficult to navigate. This raises broader problems for the transparency, accessibility and ultimately the connectivity of the treaty body system.

Development of a user-friendly, up-to-date, comprehensive, word-searchable database of treaty body jurisprudence and other treaty body outputs, in all working languages is essential to ensuring visibility and accessibility for treaty body work. Webcasts of country examinations should also be broadcast and archived in all treaty body working languages. Links to the webcasts for individual countries should be easy to locate on the OHCHR website.

B. Connectivity within the UN system

Within the United Nations human rights system, treaty bodies should be better connected to the work of the OHCHR field offices and special mandate holders, and their work could be better reinforced by the UPR process.

1. OHCHR field offices

OHCHR desk and field officers possess great expertise and local presence that could strengthen the work of the treaty body system. Field offices should routinely provide information to treaty bodies regarding their human rights priorities and concerns for countries coming up for examination through a regularized mechanism. OHCHR should also provide consistent input to treaty bodies in response to follow-up reports submitted by States. Field offices also could also support follow-up on implementation of concluding recommendations and individual communications with both government representatives and civil society.

2. Special procedures mandate holders

Currently, the OHCHR Secretariat includes country-specific information from special procedures, such as special rapporteurs, working groups and commissions of inquiry, in the materials compiled in preparation for review by a treaty body. However, more specific and targeted input from special rapporteurs and other mandate holders, including regarding issues of particular interest or concern in a particular State, should be facilitated by the OHCHR Secretariat, and would improve the accuracy of treaty body work. This is particularly true where special procedures have recently conducted activities regarding the State under review, or where they have prepared thematic reports relevant to particular issues being confronted by treaty bodies in country examinations and individual communications. Being apprised of work of special procedures that is relevant to particular treaty body communications would also be a useful supplement to the development

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of treaty body jurisprudence. Special mandate holders, in turn, could provide assistance on in-country follow-up of treaty body recommendations and individual communications.

3. Universal Periodic Review

Materials from Universal Periodic Reviews of States increasingly are an important source of information for treaty body reviews of States. However, the UPR and the treaty body review processes could consciously be made much more integrated and complementary. The UPR is a political, peer review process, in which States are asked to accept or note the recommendations received from other States. This has an advantage in that the UPR process forces States to take recommendations from the UPR back to their capitols and provoke a domestic discussion about the requested reforms. The UPR should not be used to second-guess or compete with treaty body recommendations, which are the product of distinct, independent, expert, legal assessment. But with more accessible information from the treaty bodies, the UPR could be used to support and encourage State implementation of treaty body recommendations and individual communications.

Consolidation of the treaty body review process into an eight-year universal global calendar, and the resulting rationalization of treaty body recommendations, could make the work of the treaty bodies more accessible to the UPR process and other UN Charter mechanisms. Ideally, a compilation of treaty body recommendations, views, and follow-up assessments could be readily accessible for each State reviewed in the UPR process. The eight-year calendar also could allow States to be scheduled for appearance before the treaty bodies and the UPR on alternating four-year cycles, so that States would appear before a cluster of treaty bodies, and then two years later appear in the UPR, and two years later again before the other cluster of treaty bodies, and so on. In this manner, the UPR process itself could be more strategically employed to provide a form of political follow-up regarding State implementation of treaty body recommendations.

C. Connectivity with regional human rights systems

Treaty bodies and regional human rights systems *de facto* reinforce each other's work in a number of ways. Treaty body country examinations address thematic and structural concerns that may also be addressed by regional human rights commissions, and activities of both systems may scrutinize implementation of recommendations and judgments made by the other system. The jurisprudence of both bodies can be mutually reinforcing, with respect to both general principles of doctrine as well as specific violations in particular countries. However, there is a need for greater complementarity

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and connectivity between the UN treaty bodies and regional human rights systems, in order to preserve scarce resources, support the development of coherent jurisprudence, and to mutually enhance the work of human rights monitoring and protection in a more self-conscious and strategic manner.

1. Collaboration in country reviews and monitoring

Greater access to information from the regional systems, particularly regarding country conditions and thematic areas of concern, would enhance the examinations of particular countries by the treaty bodies. The treaty bodies, in turn, could assist with follow-up to judgments of regional human rights courts and recommendations by commissions by integrating this information into country examinations, as appropriate. The regional mechanisms could also support follow-up regarding recommendations and views of the treaty bodies, by integrating those recommendations with their own ongoing work.

2. Access to comparative jurisprudence

The doctrinal work of the treaty bodies, and harmonization of the jurisprudence of various human rights mechanisms, would be substantially enhanced if the treaty bodies were systematically provided with information regarding the comparative jurisprudence of other human rights mechanisms, in addition to that of other treaty bodies. The Registry and Secretariat of the European and Inter-American Courts of Human Rights routinely provide those courts with comparative domestic, regional, and international jurisprudence of relevance to the issue under consideration. Amicus briefs also feed information on comparative international, regional, and national jurisprudence into such systems. Treaty bodies currently have no comparable systematic access to such information, however, whether through in-house support or *amicus* submissions. As a result, any particular treaty body's awareness of other comparative jurisprudence is necessarily partial and ad hoc, and may disproportionately emphasize the jurisprudence of a regional system, mechanism, or substantive doctrinal area over others, depending on the particular knowledge of individual treaty body members. The OHCHR Secretariat should consistently provide information on comparative jurisprudence to treaty bodies as a matter of course when individual communications are under consideration – particularly regarding major jurisprudential developments in other systems, or when the communication presents a relatively novel issue for the treaty body. This function potentially could also be filled by *amici*, including from law school human rights clinics, if the subject of the communications under consideration were made public in a sufficiently timely manner. In either case, consistent access to such information would significantly enhance the quality of the treaty bodies'

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analysis and the dialogue with other human rights mechanisms, and help avoid unintentional divergences in the development of jurisprudence.

3. Periodic meetings

Like meetings among the treaty bodies themselves, harmonization of jurisprudence and sharing of procedural best practices would be greatly enhanced by meetings between representatives of the treaty bodies and their counterparts from regional human rights commissions and courts. Individual treaty bodies and the treaty body chairs occasionally have held *ad hoc* meetings with the European and Inter-American human rights mechanisms, but such meetings should be regularized and continued under official UN auspices, to establish a standing platform to discuss best practices and procedural and jurisprudential developments. Constitutional courts from around the world meet periodically to discuss common experiences, divergences and procedural and jurisprudential developments, and human rights bodies should do the same.

4. Staff focal points and exchanges

In addition to periodic meetings among members, coherence, coordination, and exchange of knowledge between the treaty bodies and regional human rights systems could be significantly improved by the establishment of active and effective focal points within the Secretariat or Registry staff of each institution. These individuals could serve as conduits for information-sharing, particularly related to important legal developments, upcoming country examinations, and monitoring of implementation and follow-up. In 2014 OHCHR signed a memorandum of understanding with the Inter-American Commission of Human Rights (though not yet with the Court), and the Inter-American Court of Human Rights has entered into similar arrangements with a number of sister courts.[11] But these efforts presently are insufficiently developed and implemented.

The establishment of systematic staff exchanges, where a staff attorney of a regional body is designated to work full time in the OHCHR treaty body section for a certain period, and vice versa, would also enhance information exchange and mutual understanding, by allowing each system to have a fully informed employee promoting engagement and cooperation from the perspective of her "home" institution.

[11] See OAS, UN and Inter-American Human Rights Systems Sign Joint Declaration on Collaboration, 19 Nov. 2014, http://www.oas.org/en/iachr/media_center/PReleases/2014/137.asp. The agreement designates contact or focal points for coordination; calls for regular annual meetings and ad-hoc consultations, as well as regular exchange of information, and other forms of collaboration.

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5. Regional rotation of treaty body sessions

Although the Human Rights Committee previously held periodic sessions in New York, treaty bodies currently all sit in Geneva, though some have the capacity to conduct inquiries or site visits. The visibility and accessibility of treaty body work could be significantly enhanced for both States and civil society organizations if country examinations were periodically held in different geographic locations.[12] Funding decisions and most elections for treaty bodies are held in New York, and the Secretary General, who is charged with overseeing the treaty bodies, sits in New York. It therefore is vitally important for the treaty bodies to be understood and have a profile with the missions of UN member States in New York.

Moreover, country examinations held in other regions could focus on States from that region, and would therefore be higher profile, more efficient, less expensive, and more accessible for participation by States and local civil society groups. Regional sessions would also create opportunities for engagement with regional and national human rights mechanisms and institutions, as well as local governments, civil society and media. Regional sessions that focused solely on country examinations and other aspects of treaty body work, but not individual communications, also would not require relocation of the OHCHR Secretariat petitions unit, and thus could be more cost effective.

D. States, National Human Rights Mechanisms, Civil Society & Victims

If treaty bodies engage in detailed analysis of human rights situations, but that work stays in Geneva, it has no impact. The ultimate goal of treaty body work is to secure the internalization of treaty body recommendations and views into State practices, as noted. It is through the repeated interactions between States and treaty bodies, facilitated by civil society and other actors, that treaty bodies seek to ensure that States conform their behavior to their human rights commitments. This necessarily requires that the work of the treaty bodies be accessible, visible, and widely known and understood within the domestic context. Thus, the work of the treaty bodies will only be effective if it successfully penetrates domestic legal and political processes, including the appropriate components of national and sub-national governments, as well as the consciousness of local media, civil society groups, victims, and all other relevant stakeholders.

[12] See Christof Heyns and Willem Gravett, "Bringing the UN Treaty Body system closer to the people" (14 Aug. 2017), http://www.icla.up.ac.za/news/234-bringing-the-un-treaty-body-system-closer-to-the-people.

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Conversely, the lack of visibility and accessibility of treaty body processes and outputs, and inconsistency in practices among the various treaty bodies, obstructs the ability of well-intentioned States, civil society groups, and victims to engage effectively with the treaty body system. States are the ultimate subjects and objects of the treaty body system. But national human rights mechanisms and civil society provide many of the essential synapses that make the treaty body system effective. These actors feed vital information into the treaty body system. They are also essential to disseminating its outputs – the concluding observations, views, follow-up processes, and general comments of the treaty bodies – as well as to maintaining the pressure on States to make those outputs effective.

A number of the recommendations in this chapter – including coordinating the treaty body reviews of particular States, coordinating treaty body recommendations and follow-up mechanisms, and the creation of an effective and accessible database for treaty body jurisprudence, would also facilitate the engagement of States, civil society groups, victims, and others with the treaty body system. What follows are therefore additional ways to enhance connectivity with States, national human rights mechanisms, civil society and victims.

1. Strategic engagement with States

In order to more effectively penetrate government structures, treaty bodies could be more strategic in their engagement with States regarding dissemination and implementation of treaty body work relating to both country examinations and individual communications. While States themselves bear legal responsibility on the international plane, not their separate components, States are not monolithic entities. They are disaggregated entities, comprised of components with different functions, capacities, equities, and values, and should be recognized and engaged with to some extent as such. Among other things, treaty bodies could request, both in country examinations and in follow-up to individual communications, that countries establish an inter-governmental mechanism for preparing submissions to treaty bodies and implementing treaty body recommendations and views. States should be asked to identify the government entity or entities empowered to implement the treaty body's views or recommendations designated for follow-up, to disseminate the views to those offices, and to designate a contact or focal point within the relevant domestic office(s) who is responsible for overseeing implementation. When relevant, treaty bodies could also specify that their recommendations and views be disseminated to particular government actors – such as the legislature, or a particular branch of the executive – to better ensure engagement with the appropriate State mechanisms.

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Parliaments, in particular, have an important and often under-appreciated role to play in ensuring compliance with treaty body recommendations and individual communications. Parliaments have primary responsibility for reviewing and revising legislation to ensure that it conforms with the State's human rights treaty obligations and making budgetary allocations, among other roles. [13] They also should be engaged in the development of State reports and participate in the country examination process, as well as in the process of implementing the resulting recommendations and views from individual communications. CEDAW, for example, has issued a statement on its relationship with parliamentarians and includes a standing paragraph on the role of parliaments in its concluding observations to States.[14]

To the extent that a State has an effective independent national human rights protection mechanism in place, that mechanism can also share responsibility for ensuring dissemination and engagement with the relevant components of the domestic government.

2. Engagement with national human rights protection mechanisms

Treaty bodies should also engage in a more sustained way with national human rights protection mechanisms. Not all countries have formal or fully independent and adequately resourced national level mechanisms. But treaty bodies encourage their development, and where they do exist, NHRIs, Ombudsmen's offices, and equivalent mechanisms can serve a vital role in raising awareness of treaty body views and recommendations. They can make treaty body findings and recommendations available on their websites, engage with government representatives, and conduct trainings and provide information regarding engaging with the treaty body system. National level mechanisms can also play a role in human rights monitoring and contribute to country reviews. Likewise, national human rights protection mechanisms should be specifically apprised of treaty body recommendations and individual communications, and should be actively engaged as part of the follow-up implementation and reporting process for both.

[13] See, for example, ICCPR article 2(2) (obligating States parties "to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant") ; see also Murray Hunt, et al. (Eds.), *Parliaments and Human Rights, Addressing the Democratic Deficit* (2015).

[14] CEDAW, National parliaments and the Convention on the Elimination of All Forms of Discrimination against Women (2010), CEDAW, Concluding Observations, Fifth Periodic Report of Croatia, CEDAW/C/HRV/CO/4-5, 61st Session (15 July 2015), para. 7 ("The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention…. It invites Parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.")

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3. Engagement with civil society

Civil society plays an indispensible role, not only in investigating and documenting human rights violations, but in mobilizing a citizenry and pressuring governments to implement their human rights obligations. The opinions of treaty bodies do not themselves remedy human rights violations, change laws, or alter government conduct. They are at most a catalyst; they create opportunities and incentives around which others can mobilize to secure change. Sometimes those other actors are found within governments themselves. But often, the heavy lifting depends on civil society.

In the context of the Human Rights Committee, civil society organizations help educate domestic populations about the State's human rights obligations and the treaty reporting process. They produce general reports on human rights conditions in countries as well as specific shadow reports for the Committee that test the State's submissions. Civil society actors appear in person in Geneva for formal and informal briefings with treaty bodies; they propose recommendations, and when treaty bodies issue their recommendations, civil society groups take them back, publicize them, educate the government and public about them, and hold the government's feet to the fire in implementing them. Civil society, then, is essential to ensuring that synapses between treaty bodies and States connect, and that that ongoing communication is secured.

In addition to the various proposals above, harmonization of treaty body timelines and procedures, making information about treaty body schedules and deadlines readily accessible online, and enhancing digital participation by NGOs that are unable to travel to Geneva in person, would all help enhance the connectivity of civil society to the treaty body system.

4. Technical support to States and Civil Society

Resolution 68/268 established a technical support program to assist State participation in the periodic reporting and country examination process. Such technical support should be made available to States, not only to facilitate their preparation of reports, but also to assist them in the follow-up and implementation process for recommendations from country examinations as well as individual communications. Technical support should also be provided to other stakeholders who are well-placed to promote and monitor human rights compliance on the ground, including national human rights protection mechanisms, civil society, and OHCHR in-country staff. Training of civil society should inform them about the various ways to access the treaty body system and engagement with the entire cycle of treaty body processes – from submitting shadow reports, to appearance at the country dialogue in Geneva, to participating in the follow-up process, including

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submitting shadow follow-up reports and individual communications, and otherwise promoting implementation of the work of the treaty bodies.

5. Accessing Individual Communications for States, Civil Society, and Victims

Treaty bodies generally do not make information regarding pending individual communications public until those communications are decided. This makes it impossible to track what issues are pending before treaty bodies, or to allow for amicus participation. In addition, individuals who have suffered human rights abuses reportedly often have difficulty navigating the UN treaty body system, and receive limited feedback regarding the status of pending communications.

To the extent possible, treaty bodies should ensure *public* online access to information regarding pending communications, consistent with considerations of privacy and the confidentiality of treaty body deliberations regarding individual communications. They should also establish *private* online access for the parties to individual communications to case documents and information on case status. This would include digitizing submissions and making them accessible online to the parties. Such a mechanism would also enhance the ability of treaty body members to access information about communications under consideration. Both of these reforms would significantly enhance the accessibility of the system and its connectivity to States, victims, treaty body members, and outside commentators.

CONCLUSION

A fundamental challenge confronting the UN treaty bodies, as well as the modern human rights system, is ensuring that its various mechanisms and components actually function as a *system*. To improve human rights compliance on the ground in the Age of Connectivity, the work of the treaty bodies must be significantly more visible and accessible to other treaty bodies, as well as to other international, regional and national human rights mechanisms, States, victims, civil society and other stakeholders.

There are many ways that these relationships can be strengthened and rationalized. But heightening substantive, normative and institutional connectivity of the treaty body system through transnational dialogue with other human rights mechanisms, and facilitating connections to civil society and States, including by deploying new technologies, will prove critical both to preserving scarce resources and to enhancing the efficiency and effectiveness of the institutions developed over the last 50 years. It also ultimately will enhance the sustainability of the treaty bodies and their contribution to the struggle to promote domestic norm internalization and protection of human rights.

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Ce 11ème colloque international du C.R.D.H. a été organisé en partenariat avec l'Association Française des Nations Unies (A.F.N.U.) et la Fondation René cassin, avec le soutien de l'Ambassade de Norvège à Paris.

Il s'agissait de réfléchir à l'avenir du système de protection des droits de l'Homme des Nations Unies à la lumière de son histoire, de son évolution récente et des propositions qui sont faites actuellement en vue de son renforcement ou, plus radicalement, de sa réforme. Le colloque se situait ainsi dans le contexte d'une série d'anniversaires, notamment les cinquante ans des deux Pactes internationaux sur les droits de l'homme de 1966 et les dix ans du Conseil des droits de l'Homme, créé en 2006. Il a permis de réunir des universitaires, des experts et d'autres protagonistes, notamment les diplomates et les fonctionnaires internationaux de très haut niveau, pour une réflexion libre et critique sur le système de protection des droits de l'Homme des Nations Unies. Il a ainsi été possible de dresser un bilan des projets et propositions relatifs au renforcement ou à la réforme déjà adoptés, mais aussi de réfléchir aux perspectives d'avenir en étudiant de manière pratique les différentes options et les initiatives diplomatiques déjà en cours.

Cet ouvrage est dédié à la mémoire de Sir Nigel Rodley.

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