

# The 2020 GA Review of the UN Human Rights Treaty Body System: What are the Innovative Solutions for Reform? *Methodology Brainstorming Meeting*

## Meeting report

The Geneva Academy in partnership with Friedrich-Ebert-Stiftung held a two day expert meeting to discuss possible research initiatives that could be undertaken in light of General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system.<sup>1</sup> The aim of the meeting was to deduce the level of interest in undertaking such research; discuss who and how other actors would like to be involved and identify potential parameters for the research. The meeting was conducted under Chatham House Rule.<sup>2</sup>

This document is the Geneva Academy's report of the meeting. **It does not necessarily express the views of the group as a whole nor should any points raised in it be associated with any individual or organisation unless expressly stated.**

To open the meeting a stock-check was taken of the achievements and remaining challenges of the treaty body system. A thorough overview of the achievements and challenges facing the treaty body system can be found in the background materials of the meeting (add link). In sum, the achievements of the treaty body system were said to include the wide ratification of the treaties and the optional protocols, and their significant impact on improving human rights protection internationally and nationally, including in the reframing of constitutions, laws and policies. The independence of treaty bodies was highlighted as a unique attribute of the system. It was also highlighted that the work of the treaty bodies has often enhanced communication and collaboration among line ministries, particularly in the preparation of State party reports and related follow-up.

There are significant challenges facing the treaty body system. The overstretching of resources owing to the recent rapid increasing number of treaty bodies, State party reports and individual communications was highlighted, as well as the corresponding reporting demands on States. Only 20-30 States fulfil their reporting duties in a timely manner and 19% of States never meet even their initial reporting obligation. Frequently, the lack of reporting is the result of capacity constraints. However, this is not always the case as the list of States that are fully compliant with their reporting obligations includes States from both developed and developing countries. Despite the poor rate of state reporting there is a backlog of reports.

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<sup>1</sup> A/Res/68/268, 21 April 2014.

<sup>2</sup> When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed

Indeed, it was purported that if States fulfilled their reporting obligations in a timely manner, the treaty body system would immediately collapse as it is not currently equipped to deal with the workload that would exist if all States parties submitted their reports in time. There is also a backlog of individual complaints and at present the treaty body system appears to lack the capacity to deal with the number of petitions received.

In spite of efforts made, the working methods of the treaty bodies continue to differ and the need for harmonization remains. The outputs of the treaty bodies at times overlap and differ, thereby risking duplication of recommendations as well as fragmentation and conflict in jurisprudence. The fragmented approaches of the treaty body system do not contribute to the fulfillment of the purpose and objectives of the norms. It was suggested that it is unrealistic to expect States to effectively and promptly implement all recommendations received, and the problem of implementation is exacerbated by overlapping and at times contradictory recommendations from the different treaty bodies. Furthermore, cross-referencing among treaty bodies, and with other international mechanisms, remains the exception rather than the rule.

Treaty body membership was also discussed. The nomination and election of treaty body members is a State-driven process. The qualifications, expertise and independence of treaty body members fluctuate. There is also a problem of stagnation with some treaty body members remaining for a prolonged period in the absence of term limits. It was also highlighted that there is no clear accountability for treaty body members.

Four previous initiatives to reform the treaty body system were presented and analyzed, namely (1) the reports by independent expert Philip Alston (1988-1996); (2) the UN Secretary-General's proposal of a single report (2002-2006); (3) the UN High Commissioner for Human Rights proposal of a Unified Standing Treaty Body (2006); and the Treaty Body Strengthening process launched by the UN High Commissioner for Human Rights and finalized by the UN General Assembly (2009-2014). For details on each of these initiatives, see the meeting's background documents ([link](#))

## **Current Initiative**

### ***Output of the research initiative***

The aim of any academic research initiative would be to compile, in a structured manner, several proposals for tackling the challenges facing the treaty body system that are legally sound, realistic, and that would strengthen the current treaty body system. The purely academic nature of this process would allow for a neutral actor, who does not engage regularly with the treaty body system, to shape independent proposals. It was highlighted that new ideas and should be on the table in time for the review of the treaty body system by the General Assembly in 2020 (as scheduled by A/RES/68/268).

### ***Composition of the academic research network***

The members of the network should be independent. To guarantee this independence it was agreed that serving treaty body members should be associated to the academic project (as well as other stakeholders), but not directly involved.

The Geneva Academy sees itself as coordinator and disseminator of the research findings. The Academy can use its geographical location and contacts to facilitate research and outreach to various stakeholders, as well as to test and inject ideas into the intergovernmental debate.

The Geneva Academy will also keep members of the academic network updated on activities and events relevant to the initiative. The Geneva Academy will not be offering any financial support to those participating in the research, nor has it for the moment foreseen to conduct itself research for the project.

OHCHR welcomed an independent academic research initiative. It expressed its willingness to provide factual data and information and to facilitate contacts of the academic network with States, treaty bodies and stakeholders, as relevant and appropriate.

### ***Timeframe***

The academic project will cover the timespan from 2016 to 2018, with research completed and proposals ready before the submission of the 2018 report of the Secretary-General to the General Assembly, mandated by resolution 68/268.

The draft report of the preliminary brainstorming meeting (14-15 December 2015) will be disseminated to participants in February 2016. A concept note with a timeline, as well as potential research questions, will be attached.

In early 2016, the Geneva Academy will brief interested States on the academic project. The Geneva Academy will also brief the International Service for Human Rights (a Geneva based NGO coordinating the NGO response to Res 68/268).

### ***Working methods and process***

Outreach to treaty body members, as well as civil society at national and regional levels, were highlighted as an important element of any research undertaken.

In relation to specific research questions, it was suggested that comparative review of the differing approaches of each treaty body may be beneficial so that good practices can be distilled. At the same time, good practices from other monitoring bodies, such as the ILO Supervisory Mechanism, should also be studied and considered.

The research undertaken must be independent and objective, and researchers should be cautious not to presuppose the conclusion or inadvertently steer research towards a presumed result. Academics working on the initiative should not necessarily look for consensus amongst themselves as various ideas and models for the future could be envisaged.

## **Potential research themes**

While there appeared not to be a clear consensus on whether or not research should be limited to the parameters of General Assembly resolution 68/268, nor the target or scope of the academic project, it was agreed that all reflection should aim towards strengthening and not weakening the treaty body system. Concrete research questions proposed by participants addressed the fields of effective functioning of Treaty Bodies, resources for the system and the role of secretariat, the Treaty Body membership as well as coherence and coordination. Another important point was the conviction that a review should in any case avoid sacrificing effectiveness for the sake of (budgetary) efficiency.

The questions have been integrated in a separate document: "Suggested Research Questions 2020 Review" (see attached).

Generally, it was suggested that an assessment be made of previous reform initiatives and that lessons be learned from these initiatives. Since the context had dramatically changed since the previous reform initiatives, it was suggested that previously rejected treaty body reform proposals be considered in the formulation of the academic research questions.

It was suggested that the right-holders and beneficiaries of the treaty body system should be at the center of any review of the treaty body system. The point was further made that the treaty body system should not be considered in isolation and that its relationship to other international mechanisms, such as the Human Rights Council' Special Procedures and the Universal Periodic Review, warranted dedicated research and attention.

## **Funding**

Potential sources of funding were identified during the meeting including States, international organizations, foundations and bilateral diplomatic representations.