

REPORT

TRIP: AN EFFICIENT TOOL FOR THE IMPLEMENTATION OF TREATY BODIES' RECOMMENDATIONS

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THIS DOCUMENT

This document presents the main ideas and different models for the TRIP: Technical Review of Implementation Progress, as discussed at the September 2019 conference, co-organized by the Geneva Academy and the Norwegian Centre for Human Rights. It does not attempt to provide a full record of the discussions.

THE CONFERENCE

The aim of this conference was to develop the modalities for an enhanced and coordinated follow-up procedure to Treaty Body output – Concluding Observations and Decisions – in form of a **TRIP: Technical Review of Implementation Progress**.

The idea of this new mechanism emerged from proposed new models of consolidated TB dialogues with states, taking place on an 8-year cycle, as developed by the [Academic Platform on TB Review 2020](#). To avoid a protection gap in the time between the reviews and place a stronger focus on national implementation, this new mechanism was first discussed at a follow-up [consultation in Oslo](#), focusing on local and national engagement. (see its [report](#))

TRIP would comprise a national visit, to take place between State Examinations, to consolidate the follow-up stage and to allow for (1) an increased role and information from domestic/in-country stakeholders, (2) a strengthened visibility of the TB system in arenas distant from Geneva, and (3) the consideration of a selection (based on 'prioritization') of (different) TB recommendations between reviews.

This idea builds on existing practice and introduces a domestic/in-country element to it. The TRIP concept is inspired by the Subcommittee on the Prevention of Torture (SPT) - specific mechanism related to visits to State Parties. This mechanism can be used to help identify a model applicable throughout the system which would allow TB Members (ideally a joint team of different TBs' country rapporteurs) to plan follow-up visits halfway in between Country Reviews. SPT has issued relevant rules of procedure, which could usefully be built upon to develop a TB-wide TRIP model.

The TRIP takes inspiration, in part, from the submission of mid-term reports by States which is occurring with greater regularity¹ between the cycles of the Universal Periodic Review (UPR). While the outcomes of TBs and UPR are of different legal nature, experiences of participation in

¹ To date, 75 States have submitted UPR mid-term reports.

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRImplementation.aspx>

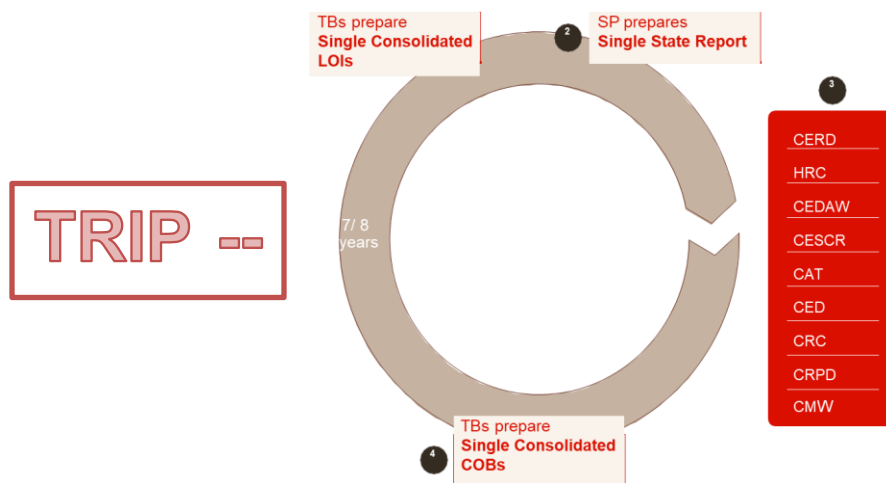
the UPR, including the submissions of voluntary mid-term reports, have proven valuable to the design of this new practice in the TB reporting cycle.²

In practical terms, the TRIP models also draws on experiences of follow-up activities by TBs, either conducted by TB members or former members in official capacity or with the assistance of the NGO Centre for Civil and Political Rights (CCPR Centre).

TRIP: AN OVERVIEW

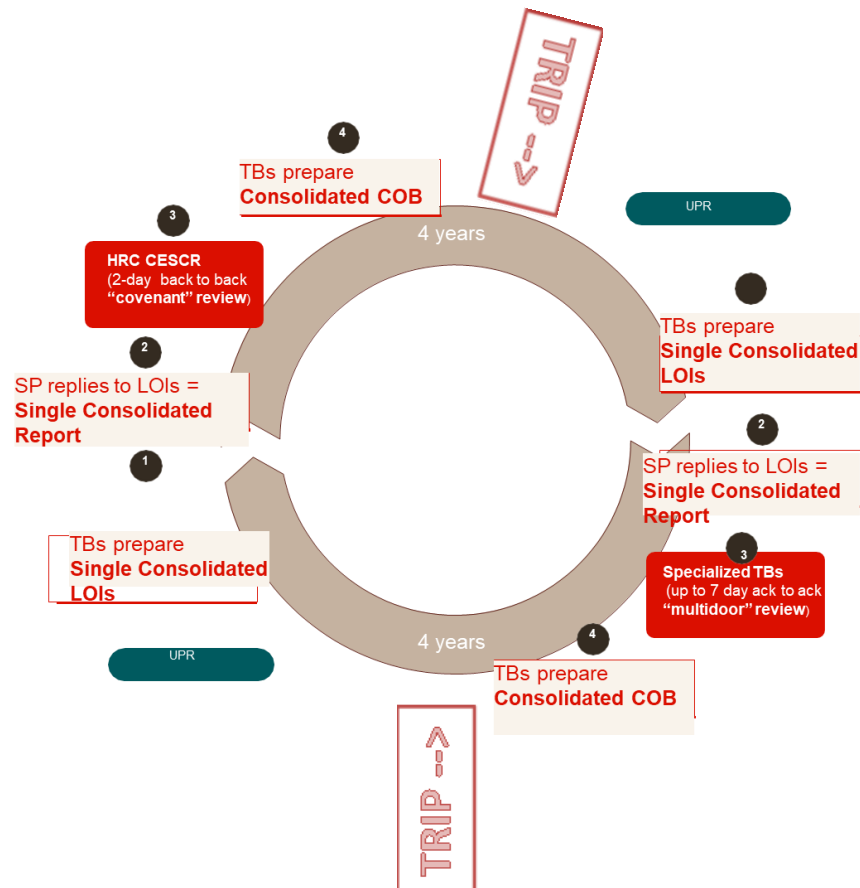
The [Academic Platform on TB Review 2020](#) proposes two new models of consolidated TB dialogues with states, taking place on an 8-year cycle. The TRIP adds a national component of follow-up and an evaluation of the implementation of TB recommendations and would be scheduled half-way through the reporting cycle.

OPTION 1: SINGLE CONSOLIDATED REVIEW BASED ON A SINGLE STATE REPORT



² For an overview of the lessons that can be drawn from the UPR mid-term reports for the follow-up work of TB's see: Research Brief from the Geneva Academy 'The Universal Periodic Review (UPR) Mid-Term reporting process: Lessons for the Treaty Bodies'

OPTION 2: CLUSTERED REVIEWS BASED ON SEMI-CONSOLIDATED REPORTS



Why? To avoid a protection gap in the time between the reviews, to call attention to the indivisibility and interdependence of all rights, and to place a stronger focus on national implementation, this new mechanism complements the follow up reporting procedure in Geneva with a national follow-up component, spaced between the Geneva-based reviews. Combining the follow-up to all TB recommendations will add coherence and increase the national-level perception and functioning of the TBs as one integrated system. It will strengthen the visibility of the TB system and allow for an in-depth examination of a selection of (different) TB recommendations between reviews.

What? The TRIP is a national visit, taking place in between State examinations, consolidating the follow-up stage and allowing for an increased role of domestic stakeholders in country. The visit would depend upon the agreement of the country concerned. This idea builds on existing practice, as discussed at the Chairperson meeting in 2018³ and strengthens the domestic element to it. The TRIP will have the triple purpose of assessment, assistance and accountability.

³ [Procedures of the human rights treaty bodies for following up on concluding observations, decisions and Views \(HRI/MC/2018/4\).](#)

When? The TRIP would take place at roughly the midpoint between the consolidated reviews which take place in Geneva. Inspired by the UPR mid-term review, it would allow for an in-country review of the implementation of TB COBs and Views. The COBs would be those prioritized for follow up by TBs. Coordination both with the TB's Review calendar and the UPR schedule would have to be ensured. Additionally, OHCHR would need be to coordinate to avoid clashes with SR visits or OHCHR missions.

Who? The TRIP would be done by a small delegation drawn from country rapporteurs of the treaties concerned, former TB members, former Special Rapporteurs, Academics - supported by OHCHR staff.

How? Country rapporteurs will undertake the follow-up visit halfway between Country Reviews. This could be a joint team of TBs' country rapporteurs or, alternatively, one or two country rapporteurs mandated by the other concerned country rapporteurs. OHCHR staff would be required to support the TRIP, relying on the organizational and convening roles of domestic stakeholders (e.g. Government, NHRI, and UN country teams, if present). Based on a select number of recommendations the TRIP delegation will meet over 3-4 days and discuss with government and other relevant stakeholders in the country. It will then issue an evaluation of implementation of recommendations.

How much? The budget of the TRIP would have to be calculated. While the original proposals by the Academic Platform (single or consolidated review on 8-year cycle, with 100% compliance⁴) were designed to be relatively cost-neutral compared to the current budget, the TRIP would involve certain additional costs. They could be kept low by sending a small delegation and grouping visits per region.

TRIP: DETAILS

The following details are important considerations to shape the TRIP to add value to the reporting cycle, and is feasible and implementable. The conference discussed these questions, putting forward alternatives and models, showing their respective advantages and challenges.

BUDGET

A primary challenge will be to determine the budget source to cover the costs. While UN Country Teams (UNCTs), where they are present and the OHCHR TB capacity-building program might contribute to the missions to keep costs lower, the TRIP should nevertheless be part of the regular budget of OHCHR to ensure independence and sustainability. A combined TRIP as follow-up across a group of TBs, would clearly keep costs lower than a TRIP-function for each TB individually.

⁴ [Optimizing the UN Treaty Bodies System.](#)

FUNCTION AND PURPOSE

Design, but also acceptance of the TRIP, may largely depend on its functions and purpose. CCPR Centre-led follow-up visits are predominantly used for awareness-raising and capacity building. One model of the TRIP would include a stronger accountability element. This impacts on timing – while the CCPR Centre visits are scheduled six months, after issuing of COBs, the TRIP would take place half-way through the reporting cycle.

The discussions revolved around different aspects of the TRIP, resulting in a triple purpose of the visit. The three components would be weighted differently according to expected outcome.

1) Assessment - the monitoring function of the TRIP could be the main purpose, in which case it has to be scheduled sufficiently distant from the issuing date of the COBs. This would enhance accountability (see point 3 below) but reduce the focus on assistance (point 2 below). While technically contributing to pressure states for implementation, a predominant focus on assessment could also weaken political acceptance. It could also be seen as repeating the assessments of other fora, e.g., UPR, SRs, etc. especially in countries where there is sufficient information available on the prevailing shortcomings in human rights treaty compliance.

2) Assistance – Avenues for technical cooperation and assistance provided by the TRIP may suggest a date closer to the issuing of the COBs, comparable to the CCPR Centre example. Focusing on this aspect of the TRIP will respond to the need of national stakeholders for information, relevant comparative practice, raising awareness about TB COBs and providing details on what is required to implement the recommendations in the national context. Thus, political acceptance would likely be significantly stronger for this option. Realistically, offering technical assistance, including capacity building, would require additional longer-term support but the visit could link the State parties with relevant sources of expertise and catalyze technical cooperation projects designed to implement human rights recommendations. This is arguably the value-added of TRIP visits, which could offer information to motivate action on implementation.

3) Accountability – to become part of a regular (8-year) reporting cycle, the TRIP would have to contribute to accountability, providing an assessment to the concerned TBs and inform the elaboration of the LOIPR of the next review.

SCOPE AND REACH

Given the current numbers of COBs per State and TB, the TRIP would have to sharpen focus, clustering recommendations around a limited number of core-themes. The TB practice of choosing a limited number of priority COBs under their follow-up procedures could serve as example.

Coming during discussions on system-wide coordination and coherence of the human rights system, the TRIP offers an opportunity for a holistic approach, including follow-up to recommendations of Special Rapporteurs (SRs) and the Universal Periodic Review (UPR). It would strengthen the role of OHCHR and UNCTs in the follow-up on human rights recommendations on national level and engage different actors in order to improve the level of implementation. Given current political acceptance of the SDG agenda, linking certain

recommendations with relevant SDGs may increase the chance of implementation of resource-intensive recommendations.

Overall the TRIP proposal raises a number of legal and practical questions. What is the legitimacy of a TB mechanism to engage in follow-up to recommendations of other (charter-based) bodies? Is the unique legal basis of TB recommendations compromised by amalgamating them with other (political) human rights recommendations?

One proposed solution would be to use implementation matrices⁵, which are centered on TB recommendations, but use SRs and UPR recommendations as a supportive framework, and link to relevant SDGs to enhance political support and suggest avenues for funding. The time available for a visit – currently suggested to take about 3-4 days, also suggests limiting the scope.

THE TRIP DELEGATION

Another proposal, roving TBs, envisages all TB members to travel to the region (i.e., the UN regional headquarters with full conference facilities, e.g., Bangkok for Asia and the Pacific) or country under review. For the TRIP, practical and budgetary considerations would suggest a much smaller delegation who would address follow-up to several TBs recommendations. One option would be to include one representative (e.g. country rapporteur) of each TB concerned; a more streamlined version would see only one or two TB members, entrusted to assess and motivate implementation of recommendations of several TBs. In both cases, OHCHR support would be crucial.

Another option discussed was whether the review of implementation could be done by other experts, e.g. former TB members, again supported by OHCHR. The roster of experts for the TB capacity building program is an example.

NATIONAL COUNTERPARTS

To realize the full potential of national engagement, the TRIP would include meetings with relevant branches of government (such as the NMRF, line ministries, sub-national governments) parliament (as many COBs require legislative change), NHRI, civil society, but also UN resident coordinator, or UN agencies where they are present in the country. One of the reference points for the development of a methodology and Terms of Reference for TRIP missions can be the work of the OHCHR Methodology Team to guide the conduct of the visits. At the time when the methodology is finalized, it is important that the same methodology be followed to ensure consistency.

⁵ For an example of such a consolidated matrix see op. cit. research brief from the Geneva Academy 'lessons from...

POLITICAL ACCEPTANCE

Experiences of the UPR mid-term reports⁶ or the CCPR Centre missions⁷, as well as the success of the TB capacity-building program⁸, provide reasons for careful optimism in terms of acceptance by states to such an institutionalized follow-up and capacity-building mechanism. As discussed above, this will surely depend on the function and purpose of the TRIP. An additional element will be the flexibility, including whether TRIP would be offered as 'opt-in' or 'opt-out' mechanism.

As fallback option if a State does not accept the visit, the TBs should retain the possibility to conduct a TRIP also within their session in Geneva, if necessary based on UN and NGO information, so as to ensure that non-cooperation would not result in a full loss of the assessment and accountability aspects gained by a TRIP. Aspects of technical assistance would on the other hand be rather absent.

THE PLACE OF TRIP IN THE 2020 REVIEW DISCUSSION

If the 2020 Treaty Body Review by the General Assembly were to lead to a comprehensive, substantive resolution, the TRIP could be spelled out in the text and corresponding budgetary implications calculated and confirmed.

Short of this, it is important to note that this new mechanism can be piloted under the existing system. TBs could adopt it in their working methods, even if budgetary constraints may prevent them from engaging into many TRIP visits at present. One message has been clear from the discussions of this conference, but also from other discussions on and input by national stakeholders: a much stronger focus on national implementation is essential to ensure that TBs recommendations have impact and bring change in the lives of rights-holders. This essential need is addressed by the TRIP proposal irrespective of where decisions are taken to pursue these visits.

⁶ See op.cit. Geneva Academy Research Brief, 'lessons from.....()'.

⁷ Acceptance rate by states is currently at over 90%.

⁸ Officials from 135 countries trained between 2015 and 2017, according to 2nd SG report on TB strengthening (https://www.un.org/en/ga/search/view_doc.asp?symbol=A/73/309) Note that the vast majority of training was on capacity building was on reporting to TBs and not on follow-up or implementation of recommendations.