**Recommendations for the Third Biennial Report of the UN Secretary-General**

**on the Status of the Human Rights Treaty Body System**

**Submission by the Jacob Blaustein Institute for the Advancement of Human Rights (JBI)**

April 24, 2019

JBI respectfully submits the following suggestions concerning the third biennial report of the UN Secretary-General on the status of the human rights treaty body system, to be submitted in January 2020 for consideration by the UN General Assembly:

1. **Affirm that the principal goal of efforts to reform the human rights treaty bodies should be to enhance the protection of rights-holders.**

The Secretary-General’s second biennial report on the treaty body system notes that the treaty body chairpersons have said that increasing the protection of rights-holders is a key parameter according to which all proposals to further strengthen the treaty body system should be assessed.[[1]](#endnote-1) The Secretary-General’s third biennial report should not merely note this, but should explicitly affirm that any future reform efforts should strengthen the human rights treaty system’s protection of all rights-holders.

1. **Call on Member States to respect the independence of the treaty bodies and their legal capacity to establish their own working methods, particularly in the context of the anticipated review of the human rights treaty body system in 2020.**

A central principle underpinning UN General Assembly resolution 68/268 on the treaty body system is that the human rights treaties give the treaty bodies the legal competence to establish their working methods and rules of procedure. Member States, particularly acting through the UNGA, rather than the meetings of States parties to the treaties, do not have this legal competence. Maintaining the treaty bodies’ independence in this respect is essential, as it is fundamental to their ability to carry out their work effectively. Recognizing this, resolution 68/268 does not dictate working methods changes to the treaty bodies, but rather contains *requests* to the treaty bodies and *encourages* them to consider adopting certain new measures. As 2020 approaches, the Secretary-General should remind all stakeholders of the importance of the principle of independence to the legitimacy and effectiveness of the treaty body system and the need to respect it while seeking solutions to the challenges facing the treaty bodies.

1. **Welcome increased coordination by the treaty bodies but affirm that overlap across their work is essential, particularly for rights-holders who are addressed by a specialized treaty.**

Since the adoption of General Assembly resolution 68/268, some member States have requested the treaty bodies to endeavor to reduce the overall reporting burden for those States that have ratified many of the human rights treaties. However, some observers have cautioned that arbitrarily limiting the number of issues on which States parties are asked to report to the treaty bodies could have a negative impact on their ability to protect certain rights-holders. In considering how to accommodate this request from States, the treaty bodies have discussed strategies to ensure greater coordination to avoid providing inconsistent guidance to States, as well as reducing “overlap” in cases where this would not have a negative impact on the protection of certain rights-holders.

In the context of the anticipated 2020 review of the treaty body system, the Secretary-General should welcome efforts by the treaty bodies to coordinate with one another to ensure coherence and consistency in their recommendations to States parties and to focus on priority issues. However, the Secretary-General should also remind States that if treaty bodies were to eliminate “overlap,” one practical impact would be that the treaty bodies monitoring the treaties that apply to all (the Human Rights Committee, CESCR, CAT, and CED) would be barred from considering issues having a particular impact on rights-holders who are addressed by the specialized treaties (namely, children (CRC), women (CEDAW), racial and ethnic minorities (CERD), people with disabilities (CRPD), and migrant workers (CMW)). This would be a counterproductive, absurd, and harmful consequence of reform, particularly since its primary goal is to ease the burden of human rights reporting for persons working for States parties to the treaties.

1. **Affirm the Secretariat’s willingness to facilitate the development by treaty bodies of new measures to enhance their effectiveness, including by supporting pilot projects where feasible.**

Since the adoption of resolution 68/268 in 2014, the treaty bodies, individually and collectively through focal points established by them, have discussed further measures to increase their effectiveness. Several have proposed that each treaty body should establish its own provisional calendar, reviewing States parties according to its own periodicity, and coordinate with other treaty bodies to avoid unduly burdening States with many reviews by treaty bodies in a single year. The Secretary-General’s report should clearly state whether the Secretariat is able to support treaty bodies that decide to take this step.

Additionally, several treaty bodies have expressed a desire to pilot other proposed new working methods (for example, several treaty bodies coordinating in the drafting of Lists of Issues Prior to Reporting; the two Covenant bodies conducting back-to-back reviews of States parties; other treaty bodies conducting reviews of States parties’ compliance in their respective countries or regions rather than in Geneva). This demonstrates the importance of encouraging innovation by the treaty bodies and allowing them to test proposed reforms before adopting them for general use or recommending their adoption by other treaty bodies. The Secretary-General’s report should encourage these efforts and clearly indicate whether the Secretariat is in a position to support the treaty bodies in carrying out such pilot projects.

1. **Reiterate that any 2020 review of the UN human rights treaty body system should be transparent and accessible to State and non-State stakeholders.**

The Secretary-General’s second biennial report emphasizes: “in the lead-up to the review by the General Assembly of the human rights treaty body system in 2020, it is essential that discussions be held in an open, transparent and inclusive manner….” This is a vitally important principle that the Secretary-General should reiterate in the final report to States parties in advance of the 2020 review.

The stakes of the possible 2020 review are high: seemingly minor changes to the relationship between Member States and treaty bodies, as set out in a resolution reflecting the outcome of the 2020 review of the treaty body system, could have serious implications for the ability of the treaty bodies to carry out their work effectively. At the same time, some changes may be necessary; for example, to ensure that the treaty bodies receive sufficient Secretariat staff support to carry out their work. The surest way for Member States to assess the merit of any reform proposals or funding recalculations affecting the treaty bodies and to guard against unintended negative consequences would be to allow for a variety of stakeholders to express views on these proposals while they are under consideration.

1. See UN Doc. A/72/177, para. 29. [↑](#endnote-ref-1)