**Recommendations for how to improve access and simplify reporting for Small States**

**Non-paper for discussion with the UN Committee against Torture**

**Response to the questionnaire in relation to General Assembly resolution 68/268**

**Purpose**

1. This non-paper has been prepared with the purpose to offer some suggestions from Small States, taking into account their particular experiences and challenges, for the UN Committee against Torture (CAT), and for other UN human rights Treaty Bodies (TBs) as part of the 2020 treaty body reform process, on how to improve access and simplify reporting for Small States.

**Background**

1. During the CTI’s annual briefing to the UN Committee against Torture in May 2018, the CTI Ambassadors mentioned the ‘reporting burden’ on Small States, in particular how the human and financial resource implications of reporting are regularly stated as the principal reasons for States not signing up to additional human rights treaties, including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), and that reporting often stood in the way of otherwise political willingness to ratify. Since the CTI started its work in 2014, reporting has been an important part of CTI’s objectives towards achieving universal ratification and active implementation of UNCAT by 2024.
2. The Committee against Torture indicated it would welcome the views of Small States, to inform their own procedures as well as the wider TB reform process, with the hope to encourage timely reporting and to minimise the inadvertent obstacles to additional ratifications. As over 50% of the non-States-parties to UNCAT are Small States (many of which Small Island Developing States (SIDS) and/or Least Developed Countries (LDCs)), this is a fundamental and recurring issue.
3. In order to hear and compile the views of Small States, CTI convened a half-day closed discussion on good practices, as well as challenges and recommendations regarding the reporting process to the TBs generally, with a focus on the Committee against Torture. The event, co-sponsored by Costa Rica and Switzerland, and organised in partnership with the [Commonwealth Secretariat](http://www.thecommonwealth.org/) and the [Universal Rights Group (URG)](https://www.universal-rights.org/), took place on 4 April 2019 at the Commonwealth Small States Office in Geneva. It was attended by representatives from the Permanent Missions to the UN in Geneva of 12 Small States[[1]](#footnote-1), along with representation from the CTI Core States,[[2]](#footnote-2) Costa Rica, Switzerland and the United Kingdom.
4. This summary non-paper captures the good practices, challenges and recommendations put forward by participants. The meeting was held under the [Chatham House](https://www.chathamhouse.org/chatham-house-rule) rule of non-attribution, such that neither the individual views of participants nor the States they represent are attributed in this report.
5. The CTI Ambassadors will brief the UN Committee against Torture on the aforementioned discussion and share the content of this non-paper at its next briefing, on 2 May 2019. This non-paper will also be submitted to help inform the 2020 treaty body reform process.

**Strong willingness, yet significant challenges**

1. Participating Small States reminded each other of the fundamental value of human rights to just and peaceful societies, emphasising their desire to comply with all reporting procedures and deadlines and to play a meaningful role in the UN human rights treaty body system. They noted that the periodic review process can help strengthen domestic implementation by identifying areas of good practice or where domestic reforms and improvements are needed, yet they stressed that this could only be fully realised through real changes to domestic organisation and the TB review processes. The growth in TB reporting and the many procedural requirements has led, in some instances, to an over-bureaucratisation of the process, whereas States encouraged each other to promote the democratisation of human rights reporting as a way to foster and improve the human rights situation domestically.
2. Some participants highlighted that the technical advice received from the Office of the United Nations High Commissioner for Human Rights (OHCHR)’s capacity building programme had allowed them to establish specific entities or mechanisms to coordinate reporting, implementation and follow-up on recommendations (known as “National Mechanisms for Reporting, Implementation and Follow-up” (NMRIFs)), to sensitise government officials through workshops on TB reporting, as well as to strengthen the implementation of human rights policies. However, participants were of the view that TBs and other bodies, such as the OHCHR, could do more to assist Small States in complying with their reporting obligations.

**Domestic good practices**

*National mechanisms*

1. In light of various reporting obligations generating a significant number of recommendations for domestic action, alongside the need for coordination and sustainability, participants shared the positive impact of establishing or designating a permanent (rather than *ad hoc*) NMRIF. This mechanism can take a variety of forms, with examples being given of NMRIFs that were based within a ministry or inter-ministerial:

* **Based within a ministry:** Examples were given of (a) the assignment of a specific ministry to be responsible for a specific treaty body report including coordinating with other relevant departments and agencies; (b) the creation of a specific human rights Ministry; or (c) establishing a human rights division within the Prime Minister’s Office. In the example given, involving the creation of a specific human rights Ministry, the mechanism was composed of a permanent Secretariat with members from the judiciary, Parliament, the Department of Public Prosecutions and civil society organisations. It was reported that the mechanism’s members meet on a regular basis and coordinate and prepare reports, engage with international and regional human rights bodies and monitor, track, compile and implement recommendations received.
* **Inter-ministerial:** Participating States shared examples of the creation of inter-governmental or cross-ministerial mechanisms or committees. In the cases shared, the NMRIF also included the participation of several national institutions and civil society organisations and it was presided either by the Attorney General, the Prime Minister and/or the Ministry of Foreign Affairs.

1. Based on the experiences of States that have set up a NMRIF, the following key issues were shared:

* A preference to invite members of civil society organisations to either form part of the mechanism itself or to attend regular meetings, so that their perspectives could be fed into the drafting of treaty body reports;
* The usefulness of creating thematic working groups within the mechanisms that link the specific recommendations received to the governmental institutions entrusted with coordination and follow-up;
* The need for adequate training and technical support of members of mechanisms in light of the technical expertise required to respond to TB recommendations and putting together reports, with regional seminars (including those being run by the OHCHR, or by the Commonwealth) highlighted as good opportunities to develop and exchange relevant expertise and experiences;
* Allocating adequate resources for and securing political support of the mechanism, including by integrating it within the government’s budget and priorities, and informing and sensitising Parliamentarians about the mechanism and the reports produced, so that they can endorse implementation of the TB findings and recommendations.
* Regular meetings, including “in-between” treaty body reporting to keep recommendations on the government’s agenda.

*Databases*

* The use of electronic databases or portals such as SIMORE (*Sistema de Monitoreo de Recomendaciones*, in Spanish), which allows States to compile all recommendations received from the Universal Periodic Review (UPR) and the TBs and to identify the institutions responsible for follow-up to their implementation. This also ensures transparency and scrutiny, as public institutions and civil society organizations can monitor the status of implementation of recommendations.

1. A number of participants underlined how modern technology and the use of databases can support the collection of data required for reporting, and assist with the implementation of recommendations received.

**Challenges**

1. The majority of participating Small States acknowledged that there had been considerable efforts to simplify TB reporting over the years through, for example, the issuance of the Common Core Document, the adoption of the List of Issues Prior to Reporting (LOIPRs) as part of the new simplified reporting procedure, or the follow-up procedure. However, all participants highlighted that notwithstanding these reforms, Small States still encounter a range of particular challenges as a result of ‘Small-State specific’ constraints.

*Phase I: Preparation of the report*

* Limited human resources mean that most Small States have few, and at times only one, staff in the relevant Ministry in charge of reporting. This prevents them from timely responses to a growing list of competing reporting obligations that arise out of the UPR process, the TB reviews and follow-up process, the Special Procedures requests, the voluntary national reviews under the 2030 Agenda, and, if applicable, any other regional human rights mechanisms.
* A lack of funds and technical support to establish a NMRIF.
* In the absence of a NMIRF, the lack of coordination between different Ministries additionally exacerbates reporting on issues that affect a range of Ministries and departments.
* The existence of competing timelines for the submission of reports before different TBs and the growing number of reports to be submitted with newly ratified treaties;
* Different submission requirements, requiring Small States to spend time and resources understanding the different requirements and adjusting reports accordingly.
* Insufficient electronic data compilation tools, making it difficult to compile data, and the inability to provide data in a disaggregated manner, as is often requested by the TBs. There was hesitation from some States based on political sensitivities regarding collecting data on a race/ethnicity-disaggregated basis, especially in countries recovering from race/ethnic violence or tensions. It was felt that the TBs did not take account of these factors in their requests.

*Phase II: Participating in the review in Geneva*

* The financial burden associated with sending a State delegation to Geneva to attend the TB reviews;
* Limited time given to delegations travelling to Geneva to respond to often more than 100 questions by the following day (especially relating to the CAT reviews). Participating States pointed out the great frustration and difficulty in responding to so many questions. This is particularly due to the lack of necessary support and/or technical expertise from their small missions in Geneva (many small States do not have missions in Geneva), which, coupled with the time difference, makes it difficult to get responses from their colleagues in capital in such short period of time. Also, there was limited time to ask advice from the committees.
* The different working methods and approaches to the TB review (face-to-face) process.
* Related to this, a lack of clarity as to when the simplified reporting procedure could be used, due to the fact that TBs have not harmonised in which cases it is offered.

*Phase III: TB Concluding observations, recommendations and follow-up*

* The absence of advice or assistance on how to implement specific recommendations, despite requests for such advice or assistance by Small States.

**Recommendations**

1. Participants highlighted that the 2020 Treaty Body reform process and CTI’s briefing to the UN Committee against Torture, present two opportunities to raise Small States’ concerns and constraints, and share a number of recommendations on how to ease their reporting burden, streamline TBs reporting procedures and make them more accessible for Small States.

*Phase I: Preparation of the report*

* Simplify even further and harmonise the reporting procedures of the different TBs, with the possibility of providing States with a template to ease the drafting of the report, to ensure better coordination with one another and to avoid unnecessary duplication of questions, themes and recommendations.
* It was suggested that TBs could select up to five areas for discussion, rather than the full spectrum of issues (especially for periodic reports). Another suggestion was that reporting focus on the macro-issues.
* LOIPR should be available across-the-board, including for initial reports.
* Allow States to request the LOIPR only once, applicable for all TBs (rather than separate requests to each TB) and thereafter for it to be applied automatically.
* Offer greater flexibility in arranging the calendar of TB reviews, including with the possibility of allowing the State to request an extension for submission of the report, particularly in cases where the report was drafted by a previous Government, or where multiple reports are scheduled in a single year.
* Request for TBs or their Secretariats to hold briefings in Geneva on TB reporting, or to prepare a tool (in written or video format) that practically informs delegations about what to expect during the review.
* Put in place a single “TB Reporting Secretariat” that coordinates scheduling and calendaring for all TBs to ensure greater predictability of country reviews and avoids Small States from having to report to multiple TBs within a short timeframe. Scheduling should also take into account a country’s UPR review.

*Phase II: Participating in the review in Geneva*

* Expand the mandate of the “Trust Fund to Support the Participation of Least Developed Countries (LDCs) and Small Island Developing States (SIDS) in the work of the HRC” to include specific support to facilitate LDCs/SIDS reporting to TBs in Geneva. This would help address financial constraints of Small States to send representation to Geneva for TB reporting.
* Increase the use of reporting via videoconference. For example, a State mentioned the usefulness of being able to report via videoconference in one of OHCHR’s regional offices. In this regard, OHCHR could promote the possibility of holding TB reviews in their regional offices. Meetings before the submission of the report would also be helpful to assist with reporting and could also be a possibility for technical assistance to be offered.
* Where appropriate, hold de-localised sessions in the State under review or “regional sessions” with several countries of a specific region at the same time. This will help reduce costs otherwise required to travel to Geneva, reduce the burden of delegations having to work overnight to accommodate time differences, and raise awareness of the relevant TBs in the region.
* Shorten the meeting time with Small States delegations. This would allow the discussion to be more focused and prevent delegations from having to stay multiple nights.
* There was interest in the “clustering” of multiple TB reviews into a single period, allowing States to limit their time in Geneva. It was felt this would work well for CEDAW, CRC and CRPD, as often the ministries are the same or work closely together.
* Want the dialogue to be more interactive and open, suggesting reform of the review procedures in those TBs such as CAT that spend half-day asking questions, and then half day of responses. Allow more opportunities for the delegations to ask questions for advice from the committee on specific areas; and avoid duplication of questions (and recommendations) from the TB members.
* The approach to States could be improved. Several participants highlighted how the current review process is a “one-way dialogue” that resembled an appearance before a court and lacked a positive narrative geared towards encouraging and assisting with implementation.
* States did not agree to reviews *in absentia*, which goes against the idea of having a “constructive dialogue”. A number of Small States had been reviewed in this way. Participating States reported a lack of clarity as to when a TB decides to proceed with such a review.
* Coherence between the TBs on the substance (interpretation) of specific human rights topics that are covered by multiple TBs would be helpful.

*Phase III: TB Concluding observations, recommendations and follow-up*

* TBs to pay closer attention to country differences and asymmetries and adapt recommendations to the particular reality of the country, rather than deliver recommendations in a generalised (template) manner. States sought also more specific or tailored advice on how to implement a recommendation in the relevant country.
* Following a review, TBs to offer or refer the State to places where technical assistance could be requested with regard to the implementation of received recommendations.

**CTI Secretariat**

**April 2019**

**About the CTI**

CTI is a 10-year inter-governmental, cross-regional initiative of the Governments of Chile, Denmark, Fiji[[3]](#footnote-3), Ghana, Indonesia and Morocco, launched at the 30th anniversary of the UN Convention against Torture (UNCAT) in March 2014, promoting the universal ratification and implementation of UNCAT by 2024. The overall aspiration is to reduce the risks of torture and ill-treatment worldwide.

The CTI Core States enjoy the support of a full time [Secretariat](https://cti2024.org/en/contacts/), based in Geneva. The CTI also benefits from expert advice and support from the [Association for the Prevention of Torture (APT),](http://www.apt.ch/)a leading international torture prevention NGO.

The CTI is also supported by its [Group of Friends](https://cti2024.org/en/group-of-friends/) consisting of UN Member States, torture prevention experts and non-governmental organizations.

**Website:** [www.cti2024.org](http://www.cti2024.org).

**E-mail:** [info@cti2024.org](mailto:info@cti2024.org).

1. Participating States included The Bahamas, Barbados, Dominican Republic, Fiji (also a CTI Core State), The Gambia, Haiti, Malawi, Maldives, Marshall Islands, Mauritius, Solomon Islands and Vanuatu. [↑](#footnote-ref-1)
2. The CTI Core States of Chile, Denmark, Ghana, Indonesia and Morocco attended. [↑](#footnote-ref-2)
3. Fiji joined the CTI Core Group in February 2019. [↑](#footnote-ref-3)