Questionnaire re. General Assembly resolution 68/268 – Swedish response

Sweden welcomes the continued attention payed to the strengthening of the UN treaty body system both by the United Nations Secretary-General and the Office of the United Nations High Commissioner for Human Rights (OHCHR). Sweden takes this opportunity to express its gratitude for the efforts made by the Secretary-General, including submitting comprehensive reports to the General Assembly, as well as by the OHCHR in supporting the UN treaty body system.

The treaty body system constitutes a fundamental pillar of the international community’s work to promote, protect and fulfil all human rights. It is of outmost importance that the work of the human rights treaty bodies – in examining the progress made by State Parties and in their provision of recommendations on the implementation of treaties – is continued and performed by committees specialized in their respective fields.

Sweden emphasises that the treaty body system’s integrity and independence must be defended in all circumstances. It is of outmost importance that this is assured throughout upcoming review.

Continued efforts to strengthen and enhance the treaty body system are still needed. The treaty bodies still face numerous challenges for them to function effectively. In this regard, Sweden is proud to have been main sponsor[[1]](#footnote-1), of the General Assembly resolution 73/162 on the human rights treaty body system, placing emphasis on the need for continued efforts to strengthen this essential part of the United Nations.

In response to the request of the OHCHR, regarding the preparation of the comprehensive report of the Secretary-General on the status of the human rights treaty body system to be submitted in January 2020 in advance of the review, Sweden would like to submit the following general comments. This response is submitted in addition to the reply of Sweden preceding the second biannual report of the Secretary-General (A/73/309).

# General comments on the implementation of General Assembly resolution 68/268 including provisions addressed to States

## Efforts to strengthen national implementation of international human rights treaties

In addition to the latest reply referred to above, Sweden would like to report of recent developments in national implementation as follows.

The government appointed in March 2018 a ministry inquiry on the establishment in Sweden of a national human rights institution in accordance with the Paris Principles. The inquiry submitted its report in the end of 2018 and it is currently being circulated for formal consultation. It was declared in the Statement of Government Policy in 2019 that an independent human rights institution will be established.

The Concluding Observations from the Committee on the Rights of the Child plays an important role in Swedish children's rights policy and the Government's strategic work on the Convention on the Rights of the Child in Sweden. An example of this is the imminent incorporation of the Convention on the Rights of the Child into Swedish law. The Swedish Parliament has decided that the act will enter into force on 1 January 2020. Another example is the establishment of a children's rights delegation which is a forum for dialogue between the Government and civil society organizations in Sweden that work with the rights of the child nationally and internationally.

Sweden welcomes efforts made to enhance the accessibility, visibility and transparency of the work of the committees by webcasting public meetings. It enables wider participation and shared practices. It has also been valuable for members of the delegation when preparing for meetings with committees.

## The simplified reporting procedure

With regards to operative paragraph 2 of General Assembly resolution 68/268, concerning the use of a simplified reporting procedure, Sweden would like to inform that it has continued to accept the use of such a procedure when being offered with that possibility, the latest example being the request from the Committee on the Rights of the Child, which Sweden endorsed on the 16th of May 2018. Sweden welcomes the new and simplified reporting procedure that has simplified and enhanced the effectiveness of the preparation of the reports to the committees. However, Sweden notes that the responses required to the lists of issues used in the simplified procedure, still are very comprehensive. Protracted proceedings and back-logs are still issues of concern in terms of State Party reviews. For example, in November 2018, Sweden submitted its eight-periodic review, comprised of responses to the list of issues, to the Committee Against Torture. However, the constructive dialogue will not take place until sometime during 2020.

## Common core document

In April 2018, Sweden submitted an updated common core document to the OHCHR, providing general and factual information on the implementation of all the treaties to which Sweden is a party.

# Comments on the state of the human rights treaty body system in view of the upcoming review in 2020.

Sweden believes that the 2020 review should aim at strengthening the protection of rights-holders and victims of human rights violations; preserving the integrity and the independence of the treaty bodies; as well as reinforcing the implementation of States’ obligations for the benefit of the rights-holders on the ground. All stakeholders – be it States, treaty bodies, OHCHR, national human rights institutions or civil society – should give due consideration to their respective role in this process. The treaty body strengthening process should be pursued within the existing framework and attempts to weaken the treaty bodies must be avoided.

## The effectiveness of measures taken to ensure the sustainability of the human rights treaty body system

### State Party reporting

As was mentioned in our previous response, the Government has developed working methods to ensure a common routine for reporting to the treaty bodies and for follow-up of the concluding observations. This entails, for instance, holding routine open consultations with affected civil society organisations prior to impending convention monitoring. Consultations with the organisations are also held as a follow-up to the concluding observations. Sweden take this opportunity to inform the OHCHR that in 2017 – when Sweden had reported under both the ICCPR and the ICESCR – a common consultation on the Concluding Observations was held. This approach was welcomed by civil society and enabled the Government to quickly identify to what extent the recommendations under the two covenants overlapped.

### Individual communications

The OHCHR Secretariat plays a critical role in supporting the treaty bodies to fulfil their mandate. We commend the efforts that have been made to calculate and adapt the resources needed for the treaty bodies meeting sessions, and note with satisfaction that the goals set have been exceeded when it comes to, inter alia, the average number of individual complaints that have been considered by the treaty bodies. However, we note with concern that the resources at the Secretariat have not been adapted to meet the increase in the number of individual complaints, nor have they been calculated with a focus to reduce the back-log of individual complaints, which some of the treaty bodies suffer from. It is imperative to address the backlog in processing individual complaints in order for the treaty body system to keep its legitimacy and its role in protecting human rights. Protracted proceedings leave the complainants in a situation of legal uncertainty for a very long time, which raises human right concerns. Furthermore, it is to the detriment of the credibility of the individual communication procedure and the system as such. Protracted proceedings also add to the work load since they tend to create further work, e.g., by the parties who might submit further observations which have to be handled, or make inquiries regarding the status of the proceedings.

### Addressing intimidations and reprisals

All intimidations and reprisals against individuals and groups cooperating with the treaty bodies are unacceptable. Continued efforts are needed in this regard and Sweden welcomes a continued work of the Treaty Body Chairs’ to coordinate and cooperate with Assistant Secretary General Andrew Gilmour in responding to intimidations and reprisals.

## Further action to strengthen and enhance the effective functioning of the human rights treaty body system

### State Party reporting

Sweden would like to underline that universal review of all State Parties by the treaty bodies, and predictability of reviews, are key concerns.

Sweden believes that more predictable and coordinated calendars for examining State Party reports could make both the preparation of States Parties’ reports and the review of States Parties more efficient. As mentioned above, the Government has taken internal steps to ensure a common routine for reporting to the treaty bodies and for the follow-up of the Concluding Observations. Consequently, as mentioned above, Sweden has coordinated its follow-up of the Concluding Observations regarding the ICCPR and the ICESCR. Sweden welcomes further steps to coordinate the reporting under these covenants as well as other initiatives for clustered reviews. This would enhance the effectiveness of State Party reporting as numerous issues are of relevance to multiple treaties. For example, parameters such as gender based violence, including sexual and domestic violence as well as harmful practices, is of relevance for the review of the Committee Against Torture, as well as under CEDAW, CERD etc. This expansion of matters relevant for the reviews has resulted in extensive and overlapping reporting.

Clustered reviews could also reduce duplications of recommendations and the risk of inconsistency and fragmentation of the Concluding Observations of the committees. This would also facilitate and enhance an effective national implementation.

Another key point for the effective functioning of the human rights treaty body system is synergy with the UPR-process, both in terms of coordination of the processes and consideration of national reports. Sweden also believes that the periodicity needs to be overviewed to impel State Parties to report in accordance with the treaties.

### Alignment of working methods

Sweden supports continued efforts of the committees in aligning their working methods in order to enhance coordination and implementation, as well as accessibility for all stakeholders, including individual rights holders. Further steps in this regard could include the formation of a joint working group on Rules of Procedures and working methods, that could address the issues of duplications, lack of coherence and fragmentation. Other efforts could include strengthening the mandate of the Chairs of the treaty bodies to decide over, or negotiate agreements, for this purpose.

### Individual communications

Sweden believes that in order for a real change for the better to be envisaged concerning the processing of individual complaints, it is imperative that the High Commissioner ensures that the resources at the Secretariat are adapted to meet the increase in the number of individual complaints and to reduce/eliminate the backlog, which is a matter of providing the necessary number of staff with the right level of expertise, as well as the technical solutions needed, bearing in mind that the Secretariat’s support for the work of the treaty bodies is a legal requirement under the relevant treaties.[[2]](#footnote-2)

We recommend developing technical solutions and tools for the effective management of cases. Expertise and inspiration in this regard can be sought from other human rights mechanisms, such as the European Court of Human Rights, and from best practices of other treaty bodies.

We support the establishment of pre-sessional working groups on communications, which reduces the time spent on communications in plenary as well as methods of processing repetitive complaints more swiftly.

Sweden welcomes the recently amended Rules of Procedure of the Human Rights Committee concerning individual communications, making the proceedings more foreseeable and aiming at reducing the turnover times by, inter alia, setting limits to the number of written observations that the parties generally may submit and providing for the opportunity for the Committee to set a date for when the exchange of observations should be concluded. While the effects of these amendments remain to be seen in practice, it is still an important step in the right direction and a measure that could serve as a model for the other Committees.

We also suggest considering introducing an obligatory complaint form for individual complaints (and maybe also for inter-state complaints), to ascertain that all necessary information and necessary documents are submitted at the initial stage of the proceedings, thereby reducing the need to spend time/resources asking for clarifications, etc. Using an obligatory complaint form also facilitates the assessment of whether the complaint reaches the threshold for being communicated to the Government. The complaint form should be accompanied with explanations as to what is requested in each part of the form to enable complainants to submit a complaint which fulfils the necessary requirements. In this work, guidance and inspiration can be provided by the work of the European Court of Human Rights.

We welcome the analysis and the proposed solutions described in the report “Optimizing the UN Treaty Body System” from the Academic Platform on Treaty Body Review 2020, coordinated by the Geneva Academy, and would especially like to support the following proposals:

* Strengthening the registry function of the Secretariat.
* Aligning the treaty bodies working methods and rules of procedure.
* Developing a technique to identify structural problems that underlie repetitive cases, thereby reducing the number of cases that must be examined in detail.
* Prioritize cases that involve allegations of serious breaches of human rights.
* Creating a more accessible and user-friendly database of the Views adopted by the treaty bodies to enhance coordination between the treaty bodies and help unify the treaty bodies consideration of complaints addressing similar questions.
* Facilitating access to comparative jurisprudence from other, and especially regional, human rights mechanisms to enhance quality of the treaty bodies legal analysis and harmonize their decisions and Views with those other human rights mechanisms. This would be of relevance from both a procedural and substantive viewpoint.

1. Together with Denmark, Finland, Iceland, Norway, Slovenia and Belgium. [↑](#footnote-ref-1)
2. See, for example, article 36 of the ICCPR,” the Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.” [↑](#footnote-ref-2)