The Permanent Mission of the State of Israel to the United Nations wishes to present its compliments to the President of the General Assembly and to the co- facilitators for the review of the UN human rights Treaty Body system, and is honoured to refer to the co-facilitators questionnaire dated 17 June 2019, regarding the process of “Strengthening and enhancing the effective functioning of the human rights treaty body system” following General Assembly resolution 68/268, and to submit its comments as follows.

At the outset, Israel wishes to reiterate the comments that were included in the joint non-paper submitted by Costa Rica on behalf of a group of States, which Israel was a part of.

Israel attributes great importance to the work of the Treaty Bodies (TBs) and to the need for cooperation and constructive dialogue with States. Israel, therefore, engages frequently with the different Treaty Bodies, sends high ranking officials to its relevant sessions and takes the implementation of the recommendations given to it under serious consideration.

Israel is party to 7 core human rights conventions. It engages with the TBs and complies with the Conventions' obligations. However, in recent years, Israel's experience working with the committees has highlighted the great need for a reform and for a closer examination of the current working process and methods of the Treaty Bodies. As will be presented in detail in this paper, the reform should look closely on issues such as the nature of the constructive dialogue with States, more streamlined and harmonized rules of procedures and methods of work for the committees, and ensuring committee members have the relevant expertise.

First, as was highlighted in its submission to the third biennial report of the Secretary General with regards to the implementation of resolution 68/268, Israel wishes to make the following remarks.

* **The procedure of nomination of experts –** members of the committees are chosen by States parties as independent experts, who are expected to conduct their duties in an independent, impartial and professional manner. These elements are the basis for the credibility of the committees, and the credibility of the committees is the basis for a constructive cooperation between the committees and the States parties.

Therefore, Israel believes that the co-facilitator's report should emphasize the need to comply with the idea enshrined in the human rights conventions, according to which members of committees must be experts of a high moral standing, recognized competence and experience in the field of human rights in general, and in the relevant fields of each committee in particular.[[1]](#footnote-1) To this date, the experts nominated by the State of Israel have met these standards and have been chosen in a process open to all relevant stakeholders in Israel, including the government, academia, civil society, etc.

The need for such compliance was highlighted in the past two years, as Israel engaged with the CERD Committee regarding a communication sent by the Palestinian Authority. The issue that arose was the jurisdiction of the Committee to examine the communication, given the lack of treaty relations between the State of Israel and the Palestinians. This was undoublty a very complex legal matter. Unfortunately, even though the Committee, at its own request, received clear and straight forward legal advice from the Office of the Legal Advisor of the United Nations (OLA), the Committee has decided to ignore this position, as well as its own past practice and statements on a similar matter; and to ignore widespread and established treaty law and practice;

This unfortunate and disappointing experience gravely harmed the relationship between Israel and the Committee and has called into question the objectives and purposes of the Committee, as well as it its credibility and ability to address matters in a professional, balanced and impartial manner.

Therefore, Israel believes it is imperative that the Experts will respect the rules of procedures and past precedents, and act accordingly. In particular, it cannot be tolerated that Experts will seek relevant legal advice and then bluntly disregard it. This raises a serious concerns that political motives guided the decision making process rather than appropriate legal considerations.

* **Working languages –** in accordance with OP30 of Resolution 68/268, while it is acceptable to allocate only three official languages for each State review, such a selection should not hamper the State's right to interact with the committees in any of the six official languages. This was not the case during one of Israel's recent reviews, where a high ranking official who came from Israel to speak to a committee was unable to interact in Arabic, one of the six official languages of the UN and the representative's mother tongue, due to the Secretariat's inability to accommodate that need. In cases where the Secretariat is unable to make sure that translation into all six official languages is available on short notice, it should communicate that to the State party as early as possible and confirm with the State party, reasonable time before the review, which languages will require translation throughout its presentation.
* **The use of the simplified reporting procedure –** Israel is not only in favor of this important tool, agrees with its effectiveness and cooperates with it regularly, but it also believes its use should be extended to all the Treaty Bodies, as will be further detailed below.
* **The submission of a core document**- Israel has submitted a core document and updates it regularly, and is currently compiling another update, upon the Treaty Bodies' requests. However, Israel would like to note that in its recent review before the CESCR Committee, referrals made by the State to the Core Document, were not welcomed by the Committee.
* **Acts of intimidation and reprisals**- Israel wishes to emphasize its opposition to reprisals and favors actions taken to avoid and prevent them. In this regard, Israel wishes to commend the Treaty Bodies for the ongoing efforts in this matter, such as the appointment of focal points on reprisals.

Second, with regards to the Treaty Body Review 2020, and on a more general note, Israel is of the opinion that the review process must include a thorough examination of the actions that could be taken by the Treaty Bodies themselves, without the involvement of States. This includes the improvement, updating and harmonization of methods of work and rules of procedure, as will be detailed below.

Furthermore, the Secretariat by its nature has a closer view on the work of the TBs. Therefore, it should address issues that are within its capacity, such as scheduling reviews, involvement in assisting the experts of the TBs with the harmonization of their work, etc.

**Harmonization and updating of rules of procedures and methods of work-** to date, there is a lack of harmony and coherence between the rules of procedures and methods of work of each committee. While it is understandable and acceptable that each committee has its own view on the conduct of its work, there are many common issues between the Treaty Bodies that could be harmonized via common guidelines, particularly on procedural matters. Currently there are some committees which update the rules of procedure and methods of work every few years, while others have not done so in a long while. By updating all the rules of procedures and methods of work of all Treaty Bodies and making them uniform, States will be able to collaborate more easily with the committees due to the simpler and clearer rules that will not require them to adjust themselves to different rules at each submission and review. Moreover, this would clearly extend to the work of CSOs and NHRIs which will have an easier way to engage with the Treaty Bodies. Therefore, it is Israel's strong view that the rules of procedure and methods of work should be updated and harmonized.

Furthermore, in some cases outdated rules of procedure are not suitable and do not allow the Committees to address new and emerging issues that are brought before them. In order to ensure legal certainty and predictability, the Committees should be encouraged to update the rules of procedure as a general matter and thus to avoid the need to write ad-hoc rules of procedure.

In this regard Israel wishes to further encourage the Treaty Bodies to adapt a short and concrete List of Issues, which will further assist States with the submissions of replies to the committees.

**Dialogue between States and Treaty Bodies –** Reviews are the key instrument for dialogues between Treaty Bodies and States parties. Therefore they should only be used for the purpose of evaluating the implementation of the obligations enshrined in the specific treaty, by that State party, and not as a platform to advance a political agenda. A real constructive cooperation can take place only if these conditions are met. Unfortunately, there have been certain instances in which such a dialogue was not conducted in a manner that provided States parties assurances of the objectivity, impartiality and professionalism of certain committees. In fact, in several cases during the past year, there has been a deep frustration after the engagement with the Committee, since the impression was that the Committee bluntly ignored the complexity of the situation, but also all the information presented to it during the Israeli appearance, as none of it was not reflected in the final conclusions of the Committee – which raised serious questions as to the value of the entire exercise, in particular, given the enormous intergovernmental efforts invested in this matter.

* Israel strongly believes that the report should indicate the need for committee members to focus every session on the obligations under the Convention of the party that is before it rather than towards those of other States Parties.
* The dialogue that is conducted during the State party's review needs to be reflected in the summary of the review and in the Concluding Observations of the committees. Accordingly, Concluding Observations should not automatically mention outdated or false information, particularly if updated facts were provided by the State during its review.
* More time should be given between the end of the review and the adoption of the Concluding Observations in order to provide sufficient time for the State party to submit additional information that will be reflected and properly taken into consideration by the committee, before adopting the Concluding Observations. Allowing committee members more time for considering additional information provided by States, or reflecting on the responses provided by States under review, is important for improving the credibility of the committee.
* In this context, Israel wishes to emphasize the importance of the work of civil society and their significant inputs on the issue of human rights. However, the extent of reliance of the Committees on data provided by civil society raises the question of whether such information should be checked and verified, especially when it contradicts official factual and statistical information provided by the State party.
* Finally, regarding the relationship between the committees and the Secretariat, Israel wishes to highlight that although it acknowledges the important role that the Secretariat plays in supporting the work of the experts, the substantive decisions in all procedures before them should be made solely by the committees members. Thus, if the Secretariat compiles information and prepares a summary, committee members should be committed to supervise and modify the content. Otherwise, the professional dialogue between the States parties and the committee members cannot take place.

**Creating a joint calendar for all submissions and reviews-** one of the main difficulties for States today is the complexity of coordinating their schedule for the submission of reports and reviews to different Treaty Bodies. This difficulty consists of several elements:

* A prolonged time gap between submission of reports and the later reviews, which on many occasions obligates States to submit a written response to the List of Issues that includes all the relevant and recent developments which occurred before the review;
* Lack of oversight on the upcoming reviews and submissions to all committees;
* Lack of a logical and organized assignment of reviews conducted by the different committees, which has resulted in cases where one year a State might have no review, and the next year it is required to report to several committees in a short time frame.

Therefore, with regards to this difficulty, Israel finds it important to have a multi-year calendar, coordinated between the Treaty Bodies, with all the upcoming submissions and reviews for each State to allow for reasonable time to prepare. In this regard, we believe that the UPR system provides a model to obtain inspiration from.

It should also be noted that in order to make the calendar more suitable, it should be adapted to the relevant State and, therefore, should consider religious holidays in order to ensure the State's ability to participate in the constructive dialogue.

In summary, we believe that the planning of reviews needs to be guided by the principles of predictability, transparency, clarity, flexibility and coordination, which would better serve the interests of all stakeholders involved.

**Time gap between reviews -** Israel is aware that suggestions were raised to extend the time gap between reviews to up to 8 years and that that has become the practice of the Human Rights Committee. However, in Israel's opinion, the time between reviews should be 4 years, with an option to conduct a follow up, as 8-year gap is too long and it may create difficulties in conducting a review which is relevant and consistent with the reports submitted years before.

It should be stated that one method that can overcome the challenge of a long time gap is a follow-up mechanism between reviews. However, such a mechanism could present an additional burden similar to that of the reporting process, and would cause an overload, especially for smaller States. Therefore, a 4-year gap is more reasonable.

**Encouragement of developing a simplified reporting procedure with respect to all Treaty Bodies-** currently the different committees are at different stages of the implementation of simplified reporting procedures. While some have already developed the practice, others are only starting a pilot. Considering the burden that the preparation of reports entails, a simplified reporting procedure assists States in complying with its reporting obligations. Moreover, it helps to improve the dialogue between the committee and the States under review, since it is easier to identify the interest of the monitoring body, which facilitates the preparation of the report.

Additionally, simplified reporting procedure adds more certainty as to when the review will take place, as is demonstrated in the Human Rights Committee's Rule of Procedure 73.1: “The meeting with representatives of the State party shall take place within 12 months from the date in which its replies to the list of issues prior to reporting were submitted to the Committee.”

**Joint reviews by different Treaty Bodies and a joint list of issues –** in order to avoid overlapping and duplication, Israel is in favor of having joint reviews by different Treaty Bodies. However, this joint process should not be considered based on “general committees” and “specific committees”, but rather on joint thematic focuses between the different Treaty Bodies. Thus, if this idea is to be developed, the planning of a joint review should be guided by a thematic focus. It is our proposal that once the Treaty Bodies that are intended to work together are identified, they prepare a list of common issues, and questions that are relevant to all of the reviewing bodies.

It should be emphasized that the idea is not to minimize in any way the independence of the committees or to intervene in the list of issues, but rather to decrease the repetition and overlapping issues that States receive nowadays and, thereby to give them time to provide more detailed answers with regard to the different issues.

Moreover, Israel considers this proposal as a way to enhance the complementary aspect of the committees' work and as an opportunity to ensure a comprehensive protection of human rights, with both similar and particular focus by each Treaty Body.

Consequently, the review by these committees should take place close in time, to avoid a situation where the report produced in response to the joint list of issues becomes irrelevant and also to enable a reasonable time frame for the presence of a delegation in Geneva.

It should also be highlighted that joint reviews will only succeed if States are given enough time for preparation and for the presentation of the reports.

An example of the implementation of this proposal could be a joint review by the Human Rights Committee and the Committee Against Torture, while other similar thematic interests should be identified in order to consider a possible joint review by other committees.

**Use of new information's technologies**

One of the main lessons learned from the Covid-19 crisis is the important role that information and communication technologies (ICTs) can play in connecting people all around the world. Israel recognizes that for some countries, and especially those geographically distanced from Geneva, appearing before a Committee can be a challenge, both in logistic and financial terms. Therefore, the use of ICTs can provide an opportunity to improve the engagement of other States parties. This possibility should not be used as an exception for those that cannot reach Geneva, but rather it should be embraced, as an opportunity to improve the engagement of all States and civil society. In the case of States, having the possibility of a hybrid appearance before the committee, with people present in Geneva, but also connected from the capital, can expand the amount of relevant State officials and experts engaging with the Committee. States have received comments from some committees highlighting that they would have preferred seeing certain ministries and/or departments taking part in the delegation. Given the challenges of bringing a delegation to Geneva even in times of routine, ICTs could make it possible to follow the proceedings and interact with the Committee in a virtual way. The lessons learned and investments made as a consequence of the pandemic can assist in identifying the best way to simplify the routine of the reporting procedures.

Regarding civil society, the use of ICTs could allow for the participation of more local organizations, which may lack the resources required to travel to Geneva, to engage with the committees.

**Accessibility for Persons with Disabilities**

OP22 and OP29 of resolution 68/268, refer to accessibility, both in terms of making the work of the Treaty Bodies known, and in particular regarding persons with disabilities. Israel is a strong advocate for the inclusion of persons with disabilities, and therefore, supports taking measures to make the work of the Treaty Bodies more accessible. Israel believes that the webpage of the Treaty Bodies needs to be improved, so that information will be more easily accessible. The Task Force on Accessibility of the Human Rights Council has made important advancements in this regard. Israel suggests that the Treaty Bodies engage in a similar way with States parties and the Secretariat, to work towards improving accessibility.

Furthermore, in order to make the Treaty Bodies' system more accessible, participation of persons with disabilities in committees other than the CRPD should be encouraged. Currently, all the efforts of the Secretariat focus on providing services for that committee in terms of accessibility. By providing accessibility to all of the committees' meetings and promoting the candidacy of members with disabilities, the work in terms of accessibility will improve significantly.

The Permanent Mission of the State of Israel to the United Nations avails itself of the opportunity to renew to the Office of the President of the General Assembly and to the co-facilitators for the review of the UN human rights Treaty Body system the assurances of its highest consideration.

New York, 7 July, 2020

1. CCPR: article 28.2 ; CESCR: Res ECOSOC 1985/17, paragraph (b) ; CERD: article 8.1 ; CRC : article 43.2; CRPD : article 34.3; CAT : article 17.1 ; CEDAW : article 17.1 [↑](#footnote-ref-1)