**SOUTH AFRICA’S WRITTEN SUBMISSION TO THE**

**2020 HUMAN RIGHTS TREATY BODY REFORM PROCESS**

1. **Predictable Review Cycle (PRC)**

A proposal exists that there could be a predictable calendar, in which State party reviews are done in two slots in an 8 year cycle, four years apart to ensure review by 5 Treaty Bodies every 4 years. Although this is feasible, states would have to consider whether they could manage doing more than one report to a Treaty Body at the same time. This proposal would save on travel expenses for states but may not help much with the current reporting fatigue.

Some Committees have chosen to move in the direction of the predictable review cycle over an eight-year period and will review all States Parties (SPs), including non-reporting states. One of the major advantages of a predictable review cycle is that it enables both the Committees and States Parties to plan properly. It also brings into the reporting fold the large number of states that avoid the scrutiny of the treaty-bodies by simply not reporting at all. This is very unfair to the states that report diligently and leaves a human rights protection gap in those states that do not report. The overarching idea is that Committees such as the Committee on Economic, Social and Cultural Rights (CESCR) and the Human Rights Committee (ICCPR) will co-ordinate their reporting cycles, lists of issues prior to reporting (LOIPRs), and dialogues so as to achieve greater streamlining and avoiding unnecessary overlap. This is already being piloted in practice between the two committees. A similar arrangement is being looked into with the "Convention committees" such as CEDAW, CRC and the CRPD. However, **t**he proposal that the reports of States Parties will be reviewed once every 8 years will mean that States will only have three hours to report and dialogue with the relevant Committee. This means that the time to present and dialogue with the Committee will be reduced to three hours.

Recommendation:

The proposal for a predictable calendar, as introduced by the ICCPR Committee, is strongly supported with the caveat that the multi-sectoral nature of delegations is not diminished. This system will hopefully make the entire treaty body system more manageable, with states and other stakeholders able to plan well in advance.

However, South Africa does not agree with the proposal to reduce the time of dialogue with each State to three hours. Considering the enormous amount of work and costs involved in drafting these reports, three hours to present a State report and dialogue with a Committee is too brief and not feasible. States will be dissatisfied with the cost-benefit implications of travelling to Geneva for a three hour meeting. The meeting requires at least 6 hours for a proper discussion to be held and without the dialogue being superficial.

1. **Presentation of consolidated reports**

The proposal that State Parties should present consolidated reports, i.e. reports addressing several or all conventions, and thereby reducing the State Party reporting burden.

Recommendation:

South Africa does not agree with this proposal as it would weaken the Treaty Body system. The issues of vulnerable groups, in particular, issues of women, rights of the child and people with disabilities, will disappear and whole constituencies have formed around these issues and their specific rights should not be diluted.

1. **Increasing treaty body review capacity by using sessional chambers within the Committee**

Various committees have used this method in order to deal with backlogs.

Recommendation:

South Africa does not favour this for State Party reviews, but it is not opposed to it when dealing with Communications in the various committees, when done for three days, three times a year.

1. **Extending the use of the simplified reporting procedure to all periodic reports**

All States should make use of the simplified reporting procedure, should they have already submitted their initial reports. This should be the main method of reporting, unless a State requests to opt out and use the original reporting procedure. The advantages of this for states is that they are sent a list of issues prior to reporting (max 30 questions, 4500 words), and can build their report around those questions - so the review becomes much more focussed around the issues that really matter in that State.

Recommendation:

South Africa has adopted the simplified reporting procedure and supports that it be introduced for State Party Reviews. Many of committees have chosen to adopt the simplified report procedure (SRP) as their default method as it makes the review process more contextual and more relevant. This procedure has a number of advantages in that it enables the report and dialogue to be much more focused and to hone in on the most relevant issues. It also has the advantage of alleviating the reporting burden on States.

1. **Alignment of working methods**

States often have to deal with overlapping topics between Committees in List of Issues Prior to Reports (LOIPRs) and when addressing concluding observations. There is general support that the working methods of the United Nations Treaty Bodies should be aligned as far as possible, particularly rules of procedure relating to communications, follow-up, National Human Rights Institutions (NHRIs) and civil society organisation participation, etc. This will facilitate greater transparency and clarity for stakeholders in their interactions with the Treaty Body system as a whole without States, NHRIs and CSOs having to try and come to grips with multiple different working methods and procedures.

Recommendation:

South Africa supports the proposal that more could be done to avoid duplication, e.g. committees could leave questions on disability to the Committee on the Rights of Persons with Disabilities (CRPD) if that state has also ratified the CRPD. However, there may be complexity in the cross cutting nature of rights, e.g. child justice issues should not be left to the Committee on the Convention Against Torture (CAT) as it is too specialised. There is therefore general agreement that the specificities of each treaty and the mandate of the relevant treaty-body should also be taken into account and not be subsumed into a "one-size-fits-all" model. A good balance between these two considerations should be sought.

1. **Undertaking considerations of State party reports in the region instead of in Geneva**

The Committee on the Rights of the Child (CRC) is the only committee that has done this by undertaking three State Party reviews in Samoa.

Recommendation:

South Africa strongly supports this proposal and the positive aspects of Treaty Bodies rotating their sessions in various regions, and not just holding sessions in Geneva. By visiting a particular region, contextual dialogue is promoted; the profile of the Treaty Body system is raised in the region; and the work of the Treaty Body is taken seriously by states. In Africa, Treaty Body Committees meet in different countries on the continent, resulting in much more ownership by States Parties when Committees visit their country. This will furthermore assist in providing a more developing, Southern focus to the whole Treaty Body system.

The main concern will be resourcing, and this would need to be specifically built into the funding formula for Treaty Bodies in order for it to become a viable part of the working methods of the United Nations human rights Treaty Bodies going forward. Should donors from the region be able to fund the costs of the travel of Committee members, this would ease the burden on the United Nations. This funded travel to regions could be in addition to the existing three sessions held in Geneva, rather than replacing one of the sessions. Outcomes of the recent visit by the CRC Committee to the Pacific should be studied to consider the advantages and disadvantages of regional visits.

1. **Communications**

The issue of communications and a more modern, on-line case management system is currently under discussion by the Treaty Body Chairs and should be a critical part of the 2020 Review process. At the moment it is a rather cumbersome, paper-based system that is neither efficient nor environmentally-friendly. It is also hard for authors, States and other stakeholders to keep track of the status of various communications. During the CONVID-19 pandemic, many committees have resorted to utilising more online platforms and have instead held virtual meetings.

Recommendation:

Although South Africa understands the need that has arisen to utilise on-line applications during the COVID-19 period as a temporary solution, this cannot be considered as a long-term solution. A number of Treaty Body activities can undoubtedly be enhanced by online platforms. However, in-person meetings of Treaty Bodies and dialogues with States Parties remain critical, and these cannot be replaced by online meetings without comprising the fairness, transparency and effectiveness of the Treaty Bodies functioning. There is growing concern that the current COVID-19 pandemic will lead to a human rights protection-gap, and efforts are underway to address the impact of the pandemic through a joint Treaty Body Working Group on COVID-19. Furthermore, although developed countries may support the proposal to revert to on-line applications for future Treaty Body meetings, complications do exist in developing countries with poor communication systems; lack of reliable energy/power; the lack of reliable data systems; translation costs, etc. Online applications and meetings cannot replace the in-person meetings where dialogue with a State delegation and other stakeholders is critical. Perhaps more inter-sessional work could be done using online platforms, e.g. when dealing with communications or working on general comments. The quality of the Committee work would suffer if this was to become the general method of work for future State Party reviews.

1. **Resourcing**

The issue of the resourcing of the Treaty Bodies is under discussion by the Treaty Body Chairs and will be further discussed at their July meeting. This is a major issue as it often the case that some of the mandated activities of the Treaty Bodies are not properly funded. For example, since the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights came into effect in 2013, CESCR has not had budgeted meeting time to deal with communications. The result is that the Working Group on Communications often has to meet in the evenings or early mornings before or after formal sessions to deal with communications, and the Committee is fast developing a significant backlog of communications.

Committee members in the Treaty Body system are of the opinion that more funds, and not less, should be allocated to the Treaty Bodies and to human rights in the United Nations system in general. The fact that Treaty Body sessions were almost cancelled due to lack of funds in 2019 is alarming when considering that the States set up the system, ratified the treaties that legally require reporting, and then place the Treaty Bodies at risk of being unable to carry out their work due to lack of funds.

Recommendation:

South Africa is does not support the proposal to reduce funding to Treaty Body sessions. The Treaty Body system is the normative backbone of the United Nations Human Rights system and is vastly undervalued due to the fact that its impact is not immediately visible. A global study is currently underway to measure the impact of the Human Rights system in all UN states in order to establish the centrality of the Treaty Body system in the human rights project. In reality it is not such an expensive system as the Independent Experts are not paid, except for the daily allowance for the days that they are in Geneva. Proper resources of all the mandated activities of Treaty Bodies are essential for the effectiveness and legitimacy of the entire system. The current resourcing formulation in General Resolution 68/268 (mandating the 2020 Treaty Body Review) is also in need of revisiting as it is based on the number of reports that the Treaty Body has historically considered. With the transition of a predictable review calendar it is essential that the formula be prospective, i.e. based on the reports to be considered in the next cycle to ensure sustainable resources.