



Comments and observations on treaty body working methods

Submission to the 26th Annual meeting of Chairpersons, 24-27 June 2014

In light of the recently adopted General Assembly resolution 68/268 and the decision by the treaty body Chairpersons to focus the 26th annual meeting of Chairpersons on working methods, the International Rehabilitation Council for Torture Victims (IRCT) hereby submit our views and input on development and harmonisation of working methods. The comments address specific and cross cutting issues relating to the three working documents currently being considered and other elements that the annual meeting of Chairpersons should address at the first given opportunity.

We welcome the underlying objective of the three working documents to make the State reporting process more effective, focused and accessible. In this regard, it is particularly important to ensure accessibility and clarity in the way specific issues are addressed from List of Issues Prior to Reporting (LOIPR) to Concluding Observations. The systematic video recording and webcasting of interactive dialogues already enables all national stakeholders to monitor and react to the deliberation leading to the concluding observations. This significantly impacts the use of the State reporting process at the national level and it could be further enhanced if treaty body working methods were to facilitate a greater clarity on how national stakeholders' specific priority issues were addressed through the process.

Enhanced access and utility of the State reporting process should be at the core of efforts to amend and harmonise treaty body working methods. In this respect, it is important that the three working papers are considered collectively so that all three phases of the process work towards the same objective.

Simplified reporting procedure

The IRCT strongly support the use of a simplified reporting procedure (SRP) as a method of focusing the reviews and preparing all stakeholders for the dialogue between State party and treaty body. In our experience with the Committee Against Torture and other treaty bodies applying such procedures, we have noticed a significant improvement in the quality and specificity of State reporting and the detail of the dialogue both leading to

increased quality and legitimacy of the Concluding Observations. We have three concrete observations to the working paper.

1. In order for the SRP to function effectively, it is important to carefully schedule and sequence the full reporting cycle to optimise proximity between the different steps. We have observed instances where LOIPRs are drafted approximately one year after the issuance of Concluding Observations. This effectively merges it with the follow-up procedure and leaves the State very limited time to implement before new questions arrive. We concretely propose a one-year period between the submission of the LOIPR and the reporting deadline combined with the opportunity for States to commit to a date for the interactive dialogue before the State report is officially submitted.
2. Annex 3 should provide a specific section where treaty bodies can ask concrete questions about issues that were not addressed in previous Concluding Observations to ensure effective ability to address new and emerging issues.
3. The SRP does have potential to promote reporting from States with long overdue reports and we encourage that this possibility is considered in connection with the new technical assistance programmes on treaty body reporting and implementation as a measure to promote increased reporting compliance.

Constructive dialogue

We welcome the efforts to enhance the focus and the interactive nature of the constructive dialogue and as highlighted in the introduction there are significant benefits if this can lead to increased clarity for national stakeholders of how individual issues were discussed and concluded. One of the strengths of the treaty body system is that it is composed of experts in a wide variety of fields and this expertise must be at the centre of efforts to enhance the dialogue. In this context, we wish to make the following observations:

1. We strongly support the use of country rapporteurs and task forces to prepare, lead and coordinate the dialogue.
2. The selection of country rapporteurs and task forces should primarily be focused on ensuring that their expertise matches the key human rights issues in the State under review. This is essential to a constructive and thorough dialogue.

3. Considering that treaty body members are required to be independent and have their own specific fields of expertise, the role of the rapporteur should be to coordinate member interventions rather than allocate questions and all members should be allowed to intervene during the initial round of questioning.
4. Each treaty body member brings important expertise to the constructive dialogue and introducing barriers such as “most significant... issues” or “priority issues” to what treaty body members can raise will unduly restrict their ability to effectively scrutinise the State.

Concluding Observations

We welcome the objective of making Concluding Observations more focused, concrete and implementable and note the objective of limiting treaty body documentation. However, we do not agree with the argument advanced in the working paper that reducing the length of Concluding Observations will result in greater impact and we question the feasibility of reducing length while making recommendations more Specific, Measurable, Achievable, Result-oriented and Time-bound (SMART) as this will often require more words. In this context, we submit the following specific observations:

1. Concluding Observations should be SMART and country specific to achieve greater impact and it may also be relevant to evaluate how overly lengthy Concluding Observations impact national implementation. More practical and implementation oriented General Comments may be a useful tool to ensure SMART recommendations and save words at the same time.
2. Should word limits be introduced, this should be acknowledged as a cost saving measure rather an inherent improvement of quality.
3. We are concerned about the initiative to prioritise recommendations based on the implementation capacity of the State (paragraph 33(c)) since this may detract importance from essential areas for improvement and may in fact encourage States to demonstrate low implementation capacity in order to get “softer” recommendations at the next review.
4. We are similarly concerned with the proposal in the annex to only make recommendations that can be implemented within the reporting period. This risks removing the focus on more long-term reform efforts as treaty bodies will no longer provide valuable technical guidance on such issues.

5. Section C of the annex established that “*Concerns and recommendations should reflect the information in the report and replies to lists of issues as well as questions and issues raised in the dialogue*”. We would encourage that this section includes a reference to other information available on the human rights situation in the State under review.

Cross-cutting issues

The objective of our comments in the three previous sections is to provide technical input to the individual working papers. However, as the processes outlined in the three papers are actually three elements of one process, we will submit a few observations on possible inconsistency between the processes. Since resolving these inconsistencies depend on the final outcome of each document, we will not propose solutions in this section.

1. The SRP paper proposes that the LOIPR mainly focuses on implementation of previous recommendations; and the Concluding Observations paper proposes that only elements that can be implemented within the reporting cycle are subject of recommendations. The combination of these two elements appears to significantly restrict the issues that can be addressed in subsequent reporting cycles.
2. The constructive dialogue paper proposes that the dialogue focuses on the most significant issues in the State party; and the Concluding Observations paper proposes that Concluding Observations are based on the constructive dialogue but that they only address issues that are implementable within the reporting cycle. From IRCT’s experience the most significant issues often need sustained long-term action to be effectively addressed and can not necessarily be expected to be implemented within one reporting cycle. The implementation of the working papers as they currently stand may therefore result in inconsistency between the substance of the dialogue and the Concluding Observations.

Issues that should be addressed in subsequent Chairpersons Meetings

We welcome the immediate focus of the Chairpersons meeting on enhancing and increasing harmonisation of working methods. In this context, we submit a few ideas for aspects of treaty body strengthening that could be addressed as a natural follow up to the discussion on working methods.

1. Accessibility for national stakeholders is an essential element of an effective State reporting process. In this regard, we encourage the Chairpersons meeting to move quickly towards institutionalised webcasting and video conferencing and to consider how both these functions can operate to the benefit of all national stakeholders. Allowing national NGOs to participate in NGO briefings via video conferencing would be an important element in this.
2. Follow-up on national implementation of treaty body recommendations is the fourth element of the State reporting cycle. Over the past years, several treaty bodies have developed innovative and increasingly effective methodologies for promoting national implementation through follow-up activities. We encourage the Chairpersons meeting to consider addressing this important aspect in connection with the ongoing work on enhancing working methods.

About the IRCT

The International Rehabilitation Council for Torture Victims (IRCT) is a health-based umbrella organisation that supports the rehabilitation of torture victims and the eradication of torture worldwide. Our members comprise more than 140 independent organisations in over 70 countries. Our work is governed by these member organisations. Today, we are the largest membership-based civil society organisation to work in the field of torture rehabilitation and prevention.