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Follow-up to General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system

Development of a common approach by the treaty bodies to engaging national human rights institutions

Common approach to engagement with national human rights institutions

Note by the Secretariat**

Summary

At their twenty-eighth meeting, the Chairs of the human rights treaty bodies decided that they would consider a common treaty body approach to engagement with national human rights institutions, at their twenty-ninth meeting. In order to review how the treaty bodies engage with national human rights institutions, a consultation was held in Geneva on 9 and 10 March 2017 for representatives of the treaty bodies and national human rights institutions. Organized by the Human Rights Treaties Division and the National Institutions, Regional Mechanisms and Civil Society Section of the Office of the United Nations High Commissioner for Human Rights, in cooperation with the Global Alliance of National Human Rights Institutions and the Geneva Academy of International Humanitarian Law and Human Rights, the consultation built on General Assembly resolution 68/268, Human Right Council resolution 33/15 and other key reference documents. The present note contains an overview of the key issues discussed during the consultation and proposes possible areas for further strengthening engagement between the treaty bodies and national human rights institutions, for the consideration of the Chairs and their respective treaty bodies.

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** The present document was submitted after the deadline in order to reflect the most recent information.

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I. Introduction

A. Strengthening the treaty body system

1. The General Assembly, in its resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system, encouraged the human rights treaty bodies to continue to enhance their efforts towards achieving greater efficiency, transparency, effectiveness and harmonization through their working methods, within their respective mandates. In that regard, it encouraged the treaty bodies to continue to review good practices regarding the application of rules of procedure and working methods in their ongoing efforts towards strengthening and enhancing their functioning in relation to the provisions of the respective treaties (para. 9).

2. The human rights treaty bodies have welcomed and further encouraged, individually and collectively through the annual meeting of the treaty body Chairs, the participation and contributions of national human rights institutions in their work. The treaty bodies have also systematically recommended that States establish and/or strengthen their national human rights institutions, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and ensure that the institutions have the mandate and adequate resources to function independently and effectively.

3. National human rights institutions from all regions have been increasingly involved in treaty body processes and have been building their capacities to ensure their most effective participation and contribution to the treaty body system. The treaty bodies provide opportunities for national human rights institutions to be involved in their work, albeit with different statuses and to varying degrees. Across the treaty body system, a number of rules of procedure, working methods and practices relating to engagement and sharing of experience between national human rights institutions and the treaty bodies have developed over the years.

4. In the light of their mandate to consider good practices for possible harmonization across the treaty body system, the Chairs of the treaty bodies invited the Chair of the Global Alliance of National Human Rights Institutions to participate in their twenty-eighth annual meeting held in New York from 30 May to 3 June 2016. At the meeting, they discussed the engagement of national human rights institutions with the treaty bodies, their experiences and remaining challenges, taking into account existing treaty body practices, with a view to identifying possible areas for improvement or harmonization. The Chairs acknowledged the vital role of national human rights institutions, in accordance with the Paris Principles, in the protection and promotion of human rights and the long-standing cooperation between treaty bodies and national human rights institutions. Following their constructive engagement with the Chair of the Global Alliance of National Human Rights Institutions, the Chairs decided that they would consider a common treaty body approach to engagement with national human rights institutions at their twenty-ninth meeting (see A/71/270, para. 92).

5. The Human Rights Council, in its resolution 33/15 on national human rights institutions, took note of that decision and encouraged the treaty bodies, within their respective mandates and in accordance with the treaties establishing those mechanisms, to continue to consider a common treaty body approach to engaging national human rights institutions to ensure their effective and enhanced participation, in accordance with the Paris Principles, at all relevant stages of their work (paras. 21 and 22).

6. Prior to that, the General Assembly, in its resolution 70/163 on national human rights institutions, had already invited the treaty bodies to provide for ways to ensure the effective and enhanced participation by national human rights institutions at all stages of their work (para. 17).

7. In order to facilitate consideration by the treaty bodies of a common approach to engagement with national human rights institutions, a task force was established by the Human Rights Treaties Division and the National Institutions, Regional Mechanisms and

Civil Society Section of the Office of the United Nations High Commissioner for Human Rights (OHCHR), in collaboration with the Global Alliance of National Human Rights Institutions and the Geneva Academy of International Humanitarian Law and Human Rights, to explore the manner in which the treaty bodies engaged with those institutions.

8. A consultation between treaty bodies and national human rights institutions was organized by the task force, with the support of the Government of Australia. In preparation for the consultation, a number of discussion papers[1] were developed in advance with a view to informing the discussions. The papers focused on key areas of engagement by national human rights institutions in the work of the treaty bodies, including a review of existing practices by treaty bodies; experiences and perspectives of both treaty bodies and national human rights institutions; engagement in the reporting process; engagement with the communications procedure; engagement with the confidential inquiry procedure; follow-up to concluding observations and other recommendations; engagement in relation to country visits; working with other organizations; and other avenues for engagement.

9. It was decided that the consultation would take into account and use as a framework for the discussions, inter alia, general comments of the treaty bodies; papers on cooperation with national human rights institutions and practices developed by individual treaty bodies; recent reports of the Secretary-General on national human rights institutions (A/HRC/33/33) and activities of the Global Alliance of National Human Rights Institutions in accrediting national institutions in compliance with the Paris Principles (A/HRC/33/34); the draft harmonized approach adopted in Berlin in 2006 (HRI/MC/2007/3, annex I); the Paris Principles and the General Observations of the Global Alliance Subcommittee on Accreditation as adopted in May 2013;[2] and the 2010 Marrakech Statement on strengthening the relationship between national human rights institutions and the human rights treaty bodies system.[3]

10. The consultation to discuss a common approach to engagement with national human rights institutions was held in Geneva on 9 and 10 March 2017. Representatives of all the treaty bodies, 11 national human rights institutions, the Global Alliance and the Geneva Academy, as well as relevant OHCHR staff participated in the consultation.

11. Each session was moderated by a representative of a treaty body. With the aim of encouraging free and constructive discussion, focal points from each treaty body presented a discussion paper, then opened the floor for questions and general discussion under the Chatham House Rule.

12. The participants agreed that specific recognition of national human rights institutions accredited with "A" status by the Global Alliance Subcommittee on Accreditation was warranted, in line with current treaty body practice. Those which had attained accreditation should therefore be specifically recognized. Such recognition was mutually beneficial for the treaty bodies, which would have confirmation that credible information was being provided, and for the national human rights institutions, as it provided an incentive to strive for "A" status accreditation by demonstrating compliance with the Paris Principles. Notwithstanding accreditation, many institutions with specific thematic mandates, for example, on children, had provided inputs to the work of some treaty bodies. While ensuring a pre-eminent and distinct role for institutions accredited with A status by the Global Alliance, an inclusive approach to engagement with all national human rights institutions, as was the current practice, remained valid. The present note deals specifically with treaty bodies' engagement with national human rights institutions that have been accredited with "A" status by the Global Alliance.

[1] The discussion papers will be posted on the website of the Meeting of the Chairs of the human rights treaty bodies.

[2] See http://nhri.ohchr.org/EN/AboutUs/Governance/Documents/ICC%20SCA%20General%20Observations.pdf.

[3] See http://nhri.ohchr.org/EN/IHRS/TreatyBodies/Treaty%20Body%20Strengthening%20Process/Marrakech%20Declaration%20(EN).pdf.

B. Review of practices: experiences and perspectives of treaty bodies and national human rights institutions

13. It was agreed that cooperation between the human rights treaty bodies and national human rights institutions was critical and had been long standing. There were many avenues for various types of cooperation, some of which had been formalized in official treaty body documentation.

14. National human rights institutions had a unique role to play in promoting the recommendations made by treaty bodies and regional and other international mechanisms such as the universal periodic review in their respective States, including the national parliaments. They also had an important role to play in promoting national consultations prior to reporting and in the implementation and follow-up of recommendations.

15. Regarding the various processes in the treaty body system, there was a higher level of engagement by national human rights institutions in the reporting process than in other areas, for example the individual communications and inquiry procedures.

16. Information available to national human rights institutions on engagement with the treaty bodies, formal letters of invitation from the secretariats of the treaty bodies as well as information on deadlines for the submission of documents and participation in treaty body processes were not consistent across the system. A common approach might enhance efficiency and facilitate and stimulate engagement with the treaty bodies. Formal letters of invitation letters would legitimize such engagement vis-à-vis States. The earlier national human rights institutions contributed to the reporting process (e.g. in the formulation of list of issues), the more impact they could have. The importance of enhancing the use of new technologies — audio or video communications or web-casting — to facilitate the participation of national human rights institutions, especially those that were unable to travel to Geneva, would enhance engagement. Nonetheless, direct participation in meetings in Geneva was of primary importance and remained desirable.

17. The treaty bodies might wish to consider adopting a common approach to their rules of procedure in relation to participation by national human rights institutions. That would render the process clearer and more accessible. Nevertheless, flexibility remained an essential characteristic of the system and the specificity of the work of each treaty body, including the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, must be recognized.

II. Engagement in the treaty body reporting process

A. Consultations and inputs to State party reporting and alternative reporting

18. Further to the Paris Principles, national human rights institutions have the responsibility to contribute to the reports which States are required to submit to the treaty bodies, pursuant to their treaty obligations (see para. 3 (d)). Several national human rights institutions provide inputs to the reports of their respective States and/or hold consultations thereon at the national level. Treaty bodies could consider encouraging States to hold national consultations with national human rights institutions and civil society organizations, both prior to reporting to the treaty bodies and in follow-up to the treaty bodies' concluding observations.

19. Where necessary, national human rights institutions should express an opinion on the subject, with due respect for their independence (ibid.). Several national human rights institutions submit alternative reports and/or provide oral briefings, an initiative that many treaty bodies welcome. Indeed, national human rights institutions have been called upon to express their opinion independently and, where appropriate, in consultation with civil society organizations and other bodies. National human rights institutions could also play an important role in empowering civil society organizations to report to the treaty bodies. During the consultation on treaty body engagement with national human rights institutions,

experts called for the institutions to provide a synopsis of States and civil society's perspectives on the issue and noted that it would be helpful for all concerned. The submissions should be succinct and with clearly identified priorities.

20. It was suggested that the treaty bodies consider a realistic standardization concerning the submission of written contributions by national human rights institutions, including a common approach regarding deadlines for such submissions and harmonization of the format.

B. Contributions to the pre-session process

21. National human rights institutions have been encouraged to engage more proactively in the pre-session processes. Such engagement could highlight more focused priorities to facilitate the submissions of national human rights institutions in relation to and the preparation by the treaty bodies of the list of issues. With regard to the simplified reporting procedure, national human rights institutions are requested to ensure the provision of qualitative information, especially in the absence of a State party report, which could have an impact on the process. Some technical assistance in that regard may be required.

22. While relevant throughout the reporting process, the meeting between representatives of national human rights institutions and the country task force or rapporteur in advance of the dialogue and in particular during the pre-session stage has been recognized as having merit. Several treaty bodies, including the Human Rights Committee, already meet with national human rights institutions prior to the adoption of the list of issues.

C. Contributions to and during treaty body sessions

23. Treaty bodies could consider encouraging national human rights institutions to submit alternative reports in cases where a treaty body has decided to prepare a list of issues and examine a State in the absence of a report, as is already done by the Human Rights Committee. In such instances, national human rights institutions may be given the same opportunities to contribute to the process as under the pre-session reporting procedure.

24. In addition to the possibility of submitting alternative reports on a State, several national human rights institutions provide oral briefings to the treaty bodies, in private meetings with or without interpretation or in public meetings with interpretation. While there is considerable variance in the practice among the treaty bodies, the benefit of all approaches has been generally recognized. Nevertheless, treaty bodies may wish to formally recognize the institutions that have been accredited with A status by the Global Alliance in the discussions by, for example, identifying representatives of A-status institutions with a name plaque or by making an official announcement about their status.

25. It has been recognized that in all aspects of engagement with the treaty bodies, national human rights institutions should be treated distinctly from both States and civil society. In addition, scheduling the specific intervention by national human rights institutions during the dialogue with the State party could be considered. For example, the Committee on the Elimination of Racial Discrimination provides representatives of national human rights institutions the opportunity to take the floor at the beginning of the dialogue with the State party, while the Committee on the Rights of Persons with Disabilities permits them to do so at both the beginning and at the end of the dialogue. In that way, they can express their views on the dialogue immediately and, in the case of the latter Committee, they can give an opinion about the State party's responses.

26. Where more than one national body is represented under the segment allocated to the national human rights institutions, the current practice of dividing the time allocated for submissions by national human rights institutions among all the national bodies present does not appear to be ideal. The treaty bodies could consider requesting the Secretariat to review that practice taking into account, however, the set amount of time available during

the sessions. To enhance their inputs into the treaty body process, national human rights institutions are encouraged to engage more actively with the rapporteur or task force of the country under review.

27. National human rights institutions welcomed the practice by many treaty bodies, in the dialogue with the State party and in their concluding observations, of recommending the establishment of a national human rights institutions in accordance with the Paris Principles and the strengthening of such institutions where they exist.

28. Many treaty bodies provide national human rights institutions with advance notice of their reporting schedules and issue formal invitations to participate in the consideration of the reports. However, that is not done in a uniform manner. Many institutions have called for the practice to be harmonized, including the setting of submission deadlines, as it would make their engagement with the treaty bodies more efficient. It was suggested that the Global Alliance could play a role in consistently following up with national human rights institutions concerning invitations.

29. With respect to the regular posting on the websites of the treaty bodies practical information notes specifically for national human rights institutions and guidance on drafting written contributions, OHCHR and the Global Alliance could consider strengthening that practice. OHCHR could also consider designating specific focal points for cooperation with national human rights institutions in the Human Rights Treaties Division.

30. It may be helpful to develop, to the extent possible, standardized procedures on engagement with national human rights institutions across the treaty bodies, while recognizing the need to take into account the specificities of the treaty bodies. The practices of the Committees on Enforced Disappearances, the Committee on the Rights of Persons with Disabilities, the Committee on the Elimination of Racial Discrimination and Human Rights Committee, while varying, were cited as good examples.

III. Engagement with the communications procedures

A. States' ratification of Optional Protocols and the declaration recognizing the competence of the treaty bodies to consider individual communications

31. National human rights institutions do not engage systematically in the individual communications procedure of the treaty bodies. Indeed, communications are rarely received from States in some geographic regions, such as Asia, Africa and Latin America and the Caribbean. One reason is the lack of ratification of the necessary instruments. National human rights institutions could call upon their States to ratify the necessary instruments, as provided for under the Paris Principles, to give effect to the communications procedures. Engagement by national human rights institutions with the relevant ministries and parliaments would be helpful and they could consider creating a space or venue to discuss, at the national level, the ratification of the instruments enabling the use of the communications procedures. Annual reports of national human rights institutions constitute an important vehicle in which to give effect to calls for the ratification of various instruments and the lifting of reservations.

B. Awareness raising, capacity-building and assistance

32. OHCHR and the Global Alliance could consider providing capacity-building and training and engaging in outreach on the communications procedure to national human rights institutions. Similarly, strengthening notification to national human rights institutions, especially on the Views and decisions under the communications procedure, would facilitate better engagement in the follow-up process. Proactive engagement on the part of national human rights institutions in the individual communications procedure could be facilitated by directly notifying them of treaty bodies' Views and decisions in relation to

their respective State or by enhancing the user-friendliness of the relevant pages on the OHCHR website. In general, the institutions welcomed awareness-raising and human rights education in relation to the treaty bodies, their instruments and their work.

C. Role in the individual communications process

33. Given their capacities and the existence, in some regions, of mechanisms to deal with individual complaints, national human rights institutions are encouraged to be strategic in their selection of cases in which to engage. Notwithstanding, national human rights institutions could be more proactive in ensuring that alleged victims are aware of the communications procedures. While some national human rights institutions do not have the mandate to deal with complaints at the national level, some could submit amicus curiae to treaty bodies to facilitate their consideration of the legal issues in a given State. All national human rights institutions have a mandate to engage in human rights education and awareness raising and many conduct such activities, including providing training to legal professionals. The rules of procedure of some treaty bodies do not provide for national human rights institutions to submit amicus curiae; that is something that the treaty bodies concerned may wish to review.

IV. Engagement with the confidential inquiry procedure

34. Cooperation by national human rights institutions in relation to inquiries dealing with allegations of grave or systematic violations is crucial. Like with the individual communications procedure, national human rights institutions could promote the ratification of the necessary instruments or make the relevant declaration recognizing the competence of the respective treaty body to initiate the inquiry procedures.[4] Given that the inquiry proceedings are confidential, specific guidelines on how to engage national human rights institutions therein would be helpful. More information on how national human rights institutions could engage with treaty bodies in relation to the inquiry procedure would be useful. The inquiry procedure was not well known, therefore more capacity-building in that regard would be needed.

35. National human rights institutions potentially have an important role to play in terms of follow-up to inquiries. They could, for example, act as facilitator to bring together national actors to discuss the inquiry report, once it has been made public, and engage the State with regard to an effective follow-up plan.

V. Follow-up to concluding observations of the treaty bodies and recommendations of other procedures

36. Treaty bodies could consider streamlining and strengthening the inclusion of national human rights institutions in the follow-up to recommendations made by treaty bodies and other procedures. Currently, some treaty bodies encourage stronger engagement by national human rights institutions in the follow-up to their recommendations, while others do not invite the participation of the institutions at that stage of the reporting process. In their concluding observations, treaty bodies could include a recommendation encouraging States to recognize a role for and consult with national human rights institutions in the implementation of their recommendations, as done by some treaty bodies in relation to national parliaments.

37. National human rights institutions can and do raise public awareness on the State party's obligations under the human rights treaties. They also work directly with the State

[4] The treaty bodies that could initiate the inquiry procedure are the Committee against Torture, the Committee on Enforced Disappearances, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of Persons with Disabilities.

towards effective fulfilment of their obligations. National human rights institutions could play a very important role in the follow-up of recommendations made by treaty bodies, including in the identification of priority issues.

38. Treaty bodies could recommend that States directly involve national human rights institutions in the development and implementation of follow-up action plans for their recommendations. National human rights institutions could advise their Governments on the establishment of follow-up mechanisms. Memoranda of understanding between parliaments and national human rights institutions could be signed to assist in the follow-up, as has already been done in some States. More guidelines on how national human rights institutions could engage in such national action plans would be very useful.

39. Follow-up visits by treaty body experts as a way of familiarizing and raising awareness among relevant national stakeholders on the work of the treaty bodies was encouraged, however, such action was limited owing to resource constraints. Multi-stakeholder meetings on follow-up to recommendations could be encouraged, in which an expert could participate and explain the importance of the highlighted recommendations. While national human rights institutions could organize and convene such follow-up meetings, follow-up to recommendations remains a State responsibility. National human rights institutions should, nevertheless, engage with treaty bodies on follow-up to their recommendations and both should keep each other regularly informed of developments. Reviewing the implementation of treaty body recommendations and of other human rights mechanisms is a core responsibility of national human rights institutions accredited with "A" status by the Global Alliance Subcommittee on Accreditation. Standardization of their participation in follow-up meetings at the national level could also be encouraged.

40. The introduction of follow-up visits by treaty bodies would present several capacity-related and procedural issues, including in relation to time and resources, which are not currently provided for; the issuance by the State of an explicit invitation, with resources attached; and a clear definition of the role of the participants (national human rights institutions could play an active role in this) and coverage of their expenses.

41. Some national human rights institutions include information on follow-up to recommendation in their annual reports, as do national preventive mechanisms and national monitoring mechanism, whether or not they are part of the national human right institution.

42. National human rights institutions could contribute further in publicizing and disseminating the general comments of the treaty bodies, which would also require more effective communication between treaty bodies and national human rights institutions. National human rights institutions do, and should continue to, take into consideration the concluding observations of treaty bodies when undertaking amicus curiae briefs. For that reason, the treaty bodies could consider requesting OHCHR to widely disseminate their general comments to national human rights institutions.

43. With regard to follow-up to the Views and decisions made by treaty bodies in relation to individual communications, while the role and potential of national human rights institutions are well recognized, specific guidelines on how national human rights institutions could better engage in the process would be welcome and should be considered.

44. The recent introduction of national mechanisms for reporting and follow-up and the publication of the practical guide thereon[5] should be seen as a fertile ground for engagement by national human rights institutions, not only in terms of information sharing, but also with regard to holding the national mechanisms to account, and other cooperating parties during treaty body inquiries.

[5] See OHCHR, National mechanisms for reporting and follow-up: a practical guide to effective State engagement with international human rights mechanisms (2016). Available at www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

VI. NHRIs with formally designated roles within Human Rights Treaties.

45. The Committee on the Rights of Persons with Disabilities encourages States to include the national monitoring mechanism under their national human rights institutions, with the inclusion of persons with disabilities, as it does not see any conflict of interest in doing so. When the NPM function is exercised by and NHRI, the SPT seeks to assist the NHRI to ensure that the NPM is able to operate with full functional independence in accordance with the provisions of the OPCAT and its NPM Guidelines..[6]

46. The Global Alliance of National Human Rights Institutions Subcommittee on Accreditation considers the roles of the national monitoring mechanism and the national preventive mechanisms when they are part of a national human rights institution, but does not provide accreditation for those institutions separately. The Subcommittee on Accreditation has developed a specific General Observation in that regard and systematically recommends that an adequate budget be allocated to national human rights institutions to enable them to carry out their expanded mandate in relation to monitoring and preventive mechanisms, respectively.[7] Some States have multiple bodies that collectively constitute the national preventive mechanism. The work of national preventive mechanisms and national monitoring mechanisms is not fully known. The provision of further guidance for national human rights institutions that also carry out the functions of a preventive and/or monitoring mechanism could be considered.

VII. Treaty bodies, national human rights institutions and working with others

48. National human rights institutions should strive to have broad-based mandates in accordance with the Paris Principles and specialization in relation to specific rights. As independent bodies, such institutions generally cooperate with a wide range of actors at the national, regional and international levels. As such, they play a crucial role in promoting the activities of the treaty bodies at the national and local levels, among, inter alia, the national parliament, the judiciary, bar associations, civil society, academia, the business sector and the media.

49. Given the an ever-widening role of the business sector in the enjoyment of human rights, treaty bodies and national human rights institutions could explore and/or liaise on ways to look more carefully at the business sector and the consequences of its actions on the enjoyment of human rights, especially with respect to the privatization of the security sector. Such oversight should also be extended to international financial institutions. National human rights institutions should and some do hold such institutions to account.

50. A more sustained and timely exchange of information between treaty bodies and national human rights institutions should be considered as use of the media is a good way of disseminating information widely. As timing is everything to the media, the timeliness of information sharing can make a difference in publicizing important information.

VIII. Other avenues for engagement

51. The fact that the Global Alliance accreditation process is an independent one was appreciated. However, given the desire to give greater visibility to national human rights institutions accredited with “A” status, treaty bodies could consider paying closer attention to the capacity and independence of national human rights institutions. The Subcommittee

[6] For more information, see CAT/C/57/4, annex.

[7] See Global Alliance of National Human Rights Institutions Subcommittee on Accreditation Report, November 2016. Available at http://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Final%20Report%20-%20Nov%202016%20-%20English.pdf; also CAT/C/57/4, annex.

on Accreditation reviews requests for accreditation or reaccreditation every five years, however, special reviews to reassess the accreditation status of an institution may be requested at any time. Treaty bodies' feedback on the engagement of national human rights institutions can contribute to the information gathering in the accreditation process.

52. As mentioned above, it would be useful if national human rights institutions were to prioritize promotion of ratification of treaties and optional protocols. For example, they could support the Convention against Torture Initiative 2024, which aims to achieve universal ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and, inter alia, promote ratification of other conventions, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, for which the ratification rate is low, or of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. National human rights institutions could also play a role in preventing violations of the treaties by publicizing the early warning and urgent action procedures of the Committee on the Elimination of Racial Discrimination (see A/62/18, annex III) and the urgent action procedure of the Committee on Enforced Disappearances (see CED/C/4 and Corr.1) as well as the engagement by national human rights institutions with those procedures.

53. National human rights institutions can also play a valuable role in the development of the general comments of the treaty bodies. For example, they could participate in the days of general discussion on the subject, including as panel members, as well as provide comments on the draft general comments posted on the website of the relevant treaty body for public comment. However, in order for national human rights institutions to contribute effectively to the development of general comments, they need to be informed in a timely manner about the process and the possibility to comment. They would also need to coordinate with the Global Alliance on the possibility of a joint contribution, if the subject of the general comment/recommendation is related to the Global Alliance's thematic focus areas. National human rights institutions should be encouraged to disseminate the general comments of the treaty bodies and have them translated into local languages.

54. The role of the treaty bodies with regard to reprisals against individuals for seeking to cooperate or cooperating with them is set out in the San José guidelines (HRI/MC/2015/6). Several treaty bodies have designated focal points on reprisals and some have adopted specific policies on the issue. Assistance and protection of individuals or groups alleging that they have been the object of reprisals is the shared responsibility of, inter alia, treaty bodies and national human rights institutions.

55. The Chairs of the treaty bodies could consider including engagement with national human rights institutions as a regular item on the agenda of their annual meeting, or on an as-needed basis.

IX. Summary and possible areas of a common approach to engagement with national human rights institutions

56. The following summary contains points for consideration by the Chairs and the treaty bodies for developing a common approach to engagement with national human rights institutions. It has been recognized that national human rights institutions that have been accredited with "A" status by the Global Alliance Subcommittee on Accreditation have a distinct role within the treaty body system, notwithstanding the treaty bodies' engagement with other institutions.

A. Reporting process

57. There should be a distinct recognition of the value of national human rights institutions accredited with "A" status by the Global Alliance in the reporting process, while acknowledging that engagement with other institutions, including specialized bodies,

is not excluded. National human rights institutions are encouraged to cooperate with those institutions:

(a) In addition to the participation of national human rights institutions during the session, it is fundamental for national human rights institutions to have an opportunity to be involved at the pre-session stage. In that regard, public and private meetings with the institutions should be possible, depending on the situation in the country. National human rights institutions should also be encouraged to provide information for the formulation of the lists of issues for the dialogue with States;

(b) National human rights institutions should be given advance notification of a treaty body's consideration of a State. Their written (including alternative reports) and oral (including participation in the dialogue) contributions to the process should be encouraged. Issuing formal and timely letters of invitation to national human rights institutions to participate in the reporting process should be standard practice;

(c) Clear guidelines for submission of reports by national human rights institutions (preferably including deadline, information about the format and word limit) should be developed by the Secretariat;

(d) The involvement of national human rights institutions by the Committee on the Rights of Persons with Disabilities and the Committee on Racial Discrimination in the dialogue with the State party in the form of a formal public statement in their independent capacity should be considered as a good practice.

B. Communications procedure

58. To date there has not been any systematic engagement by national human rights institutions in this mechanism. It is incumbent upon both OHCHR and national human rights institutions to raise awareness and build capacity on the communications procedure, including promoting ratification by States of the necessary instruments (Optional Protocols or relevant articles in conventions). There has been an uneven use of the procedure by rights holders across regions.

(a) National human rights institutions could create a venue for dialogue with the State about the importance of the procedure and for victims to have access to such procedures at the international level;

(b) National human rights institutions could facilitate or assist victims with filing petitions to the treaty bodies;

(c) The communications procedure is resource intensive, therefore prioritization of work would be key;

(d) OHCHR should alert national human rights institutions about the outcome of the communications procedure in a systematic manner, for example, once the treaty bodies' Views or decision are made public;

(e) National human rights institutions could be encouraged to submit amicus curiae briefs to contribute to the information gathered by the treaty bodies in relation to particular cases, even though they may not be mandated to consider communications. More systematic and timely calls for contributions from national human rights institutions in relation to this and other treaty bodies procedures or practices should be considered;

(f) Further capacity-building and training for national human rights institutions on the communications procedure is required.

C. Inquiry procedure

59. The role of national human rights institutions is critical at all stages of the inquiry procedure, while respecting the confidentiality of the proceedings.

(a) National human rights institutions accredited with "A" status by the Global Alliance are important partners in the inquiry procedure and could provide support throughout the process, including in follow-up to the inquiry;

(b) "A" status national human rights institutions are not the only actors in a situation. Often, there is no "A" status human rights institution in the country where serious human rights violations are occurring or they are not the only human rights body. Hence, engagement, as appropriate, with other institutions may be necessary;

(c) Seeking engagement by the national human rights institution should be determined on a case-by-case basis by the treaty bodies during all stages of the inquiry process, including the preliminary assessment; the conduct of the inquiry (advisory role); during the country visit (to facilitate the visit and identify stakeholders, including witnesses and victims); and in follow-up to the recommendations;

(d) During the preliminary assessment, national human rights institutions could provide and help to assess information (advisory role);

(e) During the country visit, national human rights institutions could play an important role in facilitating the visits and in helping to identify stakeholders, including witnesses and victims;

(f) The reporting responsibility rests with the treaty bodies, but national human rights institutions could play an important role in the follow-up of their recommendations by the State;

(g) Confidentiality is critical to the inquiry process and imposed by the relevant instruments. Maintaining confidentiality is closely related to the "do no harm" principle. Treaty bodies have the responsibility to uphold those principles, as do national human rights institutions engaged in the procedure. National human rights institutions accredited with "A" status by the Global Alliance in particular could play a role in the process as they would guarantee the established standard.

(h) National human rights institutions accredited with "A" status by the Global Alliance could play an important role in preventing reprisals and providing witness protection. It would be of value to reflect that role in the relevant rules of procedure of the treaty bodies and national human rights institutions, while at the same time recognizing that full protection cannot be guaranteed.

D. Follow-up to recommendations

60. There is a need for greater clarity and information on follow-up procedures. Cooperation in this regard could be further strengthened. For example:

(a) The development of a national action plan to follow up recommendations would be worthwhile. States should be encouraged to seek the cooperation of national human rights institutions in the development of such plans and to implement recommendations in consultation with national human rights institutions and civil society Treaty bodies could, in their concluding observations, encourage States to engage in the development of such a consultative national action plan for follow-up;

(b) The role of "A" status national human rights institutions should be recognized and further embedded in follow-up procedures and processes. National human rights institutions should be formally invited to contribute to the follow-up of recommendations in their countries, including by means of letters of invitation. Direct engagement by national human rights institutions with Members of Parliament, ministries and other public authorities is recommended.

(c) National human rights institutions would welcome guidelines on how to follow-up on recommendations. Such guidelines could be set out as the role of national human rights institutions immediately after the issuance of the recommendations; in following up the implementation of the recommendations; in following up the Views and

decisions or the interim measures adopted in relation to individual communications; and in following up the recommendations in inquiries and country visit reports;

(d) The introduction of a priority system in relation to a selected number of recommendations and a set period for follow-up, based on consultations with the national human rights institutions, would facilitate their engagement in follow-up mechanisms. Regarding recommendations in concluding observations, the treaty bodies should set deadlines for their implementation by the States. It would be helpful if treaty bodies defined an adequate follow-up methodology in consultation with national human rights institutions and other stakeholders;

(e) National human rights institutions should be encouraged to communicate with States between reporting periods;

(f) Follow-up visits by treaty bodies, organized in close consultation with national human rights institutions would be welcome. Their effectiveness would relate to the timing of the conduct of the consultations;

(g) The importance and potential of amicus curiae briefs, based on concluding observations and general comments would promote the enactment of jurisprudence by the courts, in accordance with international standards, and may be an area that treaty bodies could further explore;

(h) National human rights institutions should be encouraged to facilitate the dissemination of treaty body outputs. Accurate translation of treaty body outputs is essential and States should be encouraged to consult national human rights institutions in that regard.

E. NHRIs with formally designated roles within Human Rights Treaties.

61. Cooperation with and among national human rights institutions, national monitoring mechanisms and national preventive mechanisms is important at the national level. In that respect:

(a) Further guidance on interaction with treaty bodies for national human rights institutions with more than one mandate, for example, also functioning as a monitoring and/or preventive mechanism, is needed;

(b) The Global Alliance could play a role in offering such guidance in conjunction with the treaty bodies concerned.

F. Other stakeholders

62. A variety of stakeholders need to be engaged and held to account in relation to the work of the treaty bodies. National human rights institutions could function as a bridge in facilitating such engagement. For example:

(a) Cooperation with, inter alia, national parliaments, the judiciary, bar associations, civil society, the business sector, academia, the media as well as religious leaders could be fostered by national human rights institutions;

(b) Cooperation with regional and international human rights and other regional organizations that do not have a specific human rights mandate could be fostered by national human rights institutions.

G. Other avenues for engagement

63. Although some existing avenues for engagement are already positive, there is still room for strengthening them, including the following:

(a) The Global Alliance Subcommittee on Accreditation refer the concluding observations of the treaty bodies to acknowledge and assess the performance of national human rights institutions and their level of compliance with the Paris Principles. In that

regard, the practice of including references to the compliance of national human rights institutions with the Paris Principles in concluding observations is considered as a good practice;

(b) It would be beneficial for treaty bodies to receive more regular information about the Global Alliance's accreditation process. That could be in the form of regular updates by either OHCHR or the Global Alliance;

(c) National human rights institutions should be encouraged to prioritize advocacy in relation to ratification of treaties and Optional Protocols and withdrawal of reservations;

(d) Enhanced awareness raising for national human rights institutions of the early warning and urgent action procedures of the Committee on the Elimination of Racial Discrimination and the urgent action procedure of the Committee on Enforced Disappearances is encouraged;

(e) National human rights institutions should be encouraged to provide input for the development of general comments, including by participating in the days of general discussion and commenting on drafts posted for public comment on the websites of the treaty bodies;

(f) National human rights institutions should be encouraged to broadly disseminate general comments in their countries. OHCHR could further strengthen the timely notification of their issuance;

(g) Both national human rights institutions and treaty bodies play a role in the adoption of the San José Guidelines. There are limitations on both sides; the "do no harm" principle must apply; and witnesses must be made aware of the limitations of both bodies;

(h) More regular and systematic interactive relations or meetings, including in-person or audio/video meetings, between individual treaty bodies and national human rights institutions and the Global Alliance should be held whenever possible;

(i) Enhanced cooperation with the Global Alliance office in Geneva would be welcome;

(j) Inclusion of national human rights institutions as a regular item on the agenda of the annual meetings of the Chairs of the human rights treaty bodies could be considered;

64. Treaty bodies should consider requesting the Secretariat to undertake the following tasks, as a matter of course:

(a) Provide national human rights institutions with advance notice of the reporting schedules of the treaty bodies, in a consistent manner;

(b) Issue formal letters of invitation to national human rights institutions to participate in the work of the treaty bodies in a timely manner;

(c) Post practical information notes intended specifically for national human rights institutions on the websites of the respective treaty bodies, including guidance on drafting written contributions;

(d) Facilitate more opportunities for informal exchanges so as to strengthen the relationship between national human rights institutions and treaty bodies, similar to the consultation organized in March 2017;

(e) Designate specific focal points for national human rights institutions within the Human Rights Treaties Division.