Working paper - Executive summary

 Options and guiding questions for the development of an implementation plan for the conclusions of the treaty body Chairs at their 34th meeting in June 2022 (A/77/228, paras. 55-56)

 Office of the High Commissioner for Human Rights, 29 May 2023

 I. Introduction

At their 34th meeting in June 2022, the Chairs of the United Nations human rights treaty bodies made forward-looking proposals on the treaty body system ([A/77/228](https://undocs.org/Home/Mobile?FinalSymbol=A%2F77%2F228&Language=E&DeviceType=Desktop&LangRequested=False), paras. 55-56). These unanimous conclusions lay the foundation for increasing predictability, ensuring accessibility, harmonizing procedures, and promoting coordination on substance and working methods. They provide a unique opportunity to create an efficient, fit-for-purpose, cost-effective and coherent treaty body system, without treaty amendments. This Working Paper offers options and guiding questions on the implementation of the Chairs’ conclusions.

 II. Context and purpose

The Chairs’ conclusions of 2022 are the latest step in a ten-year long treaty body strengthening process, which was initiated in 2012 by former High Commissioner for Human Rights, Navi Pillay ([A/66/860](https://undocs.org/Home/Mobile?FinalSymbol=A%2F66%2F860&Language=E&DeviceType=Desktop&LangRequested=False)). This Working Paper is based on the Chairs’ conclusions and reflects the outcomes of the 2020 co-facilitation process ([A/75/601](https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F601&Language=E&DeviceType=Desktop&LangRequested=False)). It is grounded in GA resolution [68/268](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F68%2F268&Language=E&DeviceType=Desktop&LangRequested=False), and factors in the 2021 audit report of the Office of Internal Oversight Services (cf. GA res [75/252](https://undocs.org/Home/Mobile?FinalSymbol=A%2Fres%2F75%2F252&Language=E&DeviceType=Desktop&LangRequested=False), para. 54).

The Chairs’ conclusions have been positively referred to in the Secretary-General’s 4th biennial report on the status of the treaty body system ([A/77/279](https://undocs.org/Home/Mobile?FinalSymbol=a%2F77%2F279&Language=E&DeviceType=Desktop&LangRequested=False), paras. 63-73) and, although without corresponding budgetary language, in GA resolution [77/210](https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F77%2F210&Language=E&DeviceType=Desktop&LangRequested=False). The timing of this Working Paper is politically important, as it falls within the 75th anniversary of the Universal Declaration of Human Rights and responds to the Secretary-General’s “[Call to Action for Human Rights](https://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Asperation_A_Call_To_Action_For_Human_Right_English.pdf)” (2020), as well as his report “[Our Common Agenda](https://www.un.org/en/common-agenda)” (2021).

 III. The approach of options and questions

This Working Paper is prepared at the request of the Chairs for OHCHR to draft the implementation plan for their conclusions ([A/77/228](https://undocs.org/Home/Mobile?FinalSymbol=A%2F77%2F228&Language=E&DeviceType=Desktop&LangRequested=False), paras. 55 (c), 56) and is based on OHCHR’s overall responsibility, as articulated in GA resolution [48/141](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F48%2F141&Language=E&DeviceType=Desktop&LangRequested=False) (para. 4). OHCHR herewith proposes options and guiding questions, addressed to States and treaty body members within their respective competencies and responsibilities. They cover the three pillars of the Chairs’ conclusions (predictable schedule of reviews, harmonization of working methods, digital uplift) and add the technical details needed to put the Chairs’ guidance into practice.

Member States and Committees need to answer the questions and refine the options outlined in this Working Paper. Otherwise, the status quo will prevail and the increasing backlog of State party reports pending review and of individual complaints will increase. Without additional resources to cover all treaty body mandated activities, OHCHR would be forced to continue reducing its deliverables to a level that can be effectively supported with existing resources, thereby preventing Treaty Bodies from fulfilling their respective mandates and limiting victims’ access to their rights. If an implementation plan for the Chairs’ conclusions can be agreed upon, a corresponding adjustment of the existing resource formula in GA resolution [68/268](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F68%2F268&Language=E&DeviceType=Desktop&LangRequested=False) (paras. 26-27) will be required to fund the cost-effective options presented in this Working Paper. This will be achievable through the biennial GA resolution on the human rights treaty body system, scheduled for December 2024.

 IV. Guiding principles and practical considerations

The Chairs’ conclusions aim to ‘strengthen the protection of rights holders, which is the main goal at the centre of the legal obligations of States’ ([A/77/228](https://undocs.org/Home/Mobile?FinalSymbol=A%2F77%2F228&Language=E&DeviceType=Desktop&LangRequested=False), para. 55 (d)). In addition, this Working Paper should be seen in light of the following considerations:

* The Chairs have drawn conclusions within their sphere of competence under the mandates of existing legally binding treaties. They refer to the periodic reporting obligations of States parties, which are enshrined in the treaties that States negotiated and ratified;
* States are the creators and beneficiaries of the treaty monitoring system. They have regularly articulated their expectations for synergy, non-duplication, complementarity, and cost-effectiveness;
* While treaty bodies are distinct legal entities, a treaty body *system* remains an objective necessity to rationalize their work given the congruence of provisions in various treaties, the steady increase in the number of treaty bodies, the use of this notion of a *system* by States, and the fact that unnecessary duplication would harm the credibility of the treaty bodies and of the entire system.

 V. Rationale and benefits of various modalities to implement the three pillars of the Chairs’ conclusions

The *introduction of an 8-year predictable schedule of reviews* for the treaty bodies that have periodic reviews, and for CED and SPT “in accordance with their mandates and practices”, with follow-up reviews in-between ([A/77/228](https://undocs.org/Home/Mobile?FinalSymbol=A%2F77%2F228&Language=E&DeviceType=Desktop&LangRequested=False), para. 55 (1)(a)-(b), (e), (h)-(i)), will have the following benefits:

* Replacing the unpredictability of the current system with an 8-year schedule that allows States and other stakeholders to plan with certainty and efficiency their substantive and organizational preparations for and follow-up to State party reviews, with some flexibility in exceptional circumstances;
* Equal treatment of States parties in a predictable schedule of reviews, ensuring full reporting compliance and no accumulation of any future backlog;
* Provision of renewable expert advice, in comparison to the current backlog that requires States parties to update their reports and that delays the provision of timely recommendations;
* Increasing the complementarity of reviews that should reduce the duplication of issues raised by the treaty bodies and allow States to optimize national consultative processes;
* Alleviating the workload of States parties and other stakeholders with a periodicity of full reviews and follow-up reviews, that strike a balance between the importance of timely follow-up on critical issues and regular visibility at the national level for the sake of the rights-holders on the one hand, and the time and resources that need to be invested on the other.

*The Working Paper proposes three options for an 8-year predictable schedule of reviews:*

 *(a) Under option 1 (“linear reviews”), reviews of a State party would be scheduled sequentially, as feasible, across the 8-year cycle for those treaty bodies that have periodic reviews (if a State party ratified all eight treaties with periodic reviews, one full review would generally take place per year);*

 *(b) Under option 2 (“partial clustering”), the reviews under both Covenants would be scheduled ‘back-to-back’ in one year of the 8-year cycle, to strengthen the indivisibility of rights in ICCPR and ICESCR, with the other six full reviews taking place sequentially;*

 *(c) Under option 3 (“full clustering”), the reviews of two international human rights treaties with periodic reporting procedures would be undertaken ‘back-to-back’ every other year (e.g., year 1, 3, 5 and 7), as much as feasible from a scheduling point of view. Covenants and Conventions would be paired, where rights are similar, overlap and/or are traditionally addressed by the same national authorities or stakeholders. This clustering would facilitate the substantive preparation of reviews, rendering them also more time- and cost-efficient for States and other stakeholders.*

*The three options for the follow-up reviews taking place in-between the full reviews are the following:*

 *(a) Under option 1, the follow-up reviews would be based on correspondence only, which is the format currently adopted for the follow-up procedures by many Committees (CAT, CCPR, CED, CEDAW, CERD, CESCR, CMW). This option offers simplicity, continuity, and low cost;*

 *(b) Under option 2, the review of follow-up reports could be undertaken in the current correspondence-based manner, with an additional constructive dialogue and briefings by stakeholders in a hybrid or online format. This approach achieves a balance between direct engagement of treaty bodies with States parties and stakeholders and, time- and cost-efficiency;*

 *(c) Under option 3, the assessment of follow-up recommendations could be undertaken as an in-situ visit to the State party by a delegation of treaty body members and Secretariat staff. While maximising visibility and engagement on the national level, this option would entail time-consuming and cost-intensive substantive and organizational preparation and conduct of, and follow-up to, such missions by the treaty bodies and the Secretariat. A standing invitation by States parties to treaty body members would be needed to ensure predictability.*

*The harmonization of working methods was unanimously agreed by the Chairs (*[*A/77/228*](https://undocs.org/Home/Mobile?FinalSymbol=A%2F77%2F228&Language=E&DeviceType=Desktop&LangRequested=False)*, para. 55 (5)) and has been strongly and repeatedly requested by the GA since its landmark resolution* [*68/268*](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F68%2F268&Language=E&DeviceType=Desktop&LangRequested=False)*. A genuine and sustainable harmonisation will have the following advantages:*

* Facilitating the engagement by States parties and other stakeholders with the treaty body system, while considering the specificities of each treaty;
* Allowing States and other stakeholders to focus primarily on their substantive preparations, instead of facing a multitude of procedures and deadlines that differ between treaty bodies;
* Shortening of the currently long duration between the submission of a State party report and its review, which avoids the need for updates and allows for timely recommendations;
* Reducing the reporting burden by generalizing the simplified reporting procedure that will allow States parties to prepare and submit more focused, shorter, and substantive reports prioritizing fewer issues to follow up on;
* Reduction of duplications in concluding observations and in lists of issues (prior to reporting);
* Improved accessibility and provision of reasonable accommodation for different stakeholders.

*The Working Paper proposes two options for coordination on the harmonization of working methods, in addition to numerous technical proposals on how to align working methods on specific aspects of State party reviews and other mandated activities of the treaty bodies:*

 *(a) Option 1 is the continuation of the current practice, under which the treaty bodies discuss the harmonization of working methods at the annual Chairs’ meetings and in exchanges between the Chairs and focal points on an ad hoc basis, without systematic implementation of decisions. Continuing this approach would save the time and effort needed for coordination and ensure safeguarding the preferences and specificities of each treaty body. However, this approach would risk perpetuating the current plethora of different working methods, that States and other stakeholder must navigate;*

 *(b) Option 2 would be to establish a coordination mechanism, under which the decision-making by the Chairs of the treaty bodies becomes conclusive in this area, with support from their focal points on working methods. This option would allow to institutionalize a systematic harmonization of existing and new working methods in the interest of coherence and efficiency that would benefit States and all other stakeholders.*

Finally, the *digital uplift* will have the following benefits:

* Facilitated engagement by States, victims, and other stakeholders, through a common webpage and a joint submission and document management platform for reports and petitions, while still allowing for other formats of submissions for those who do not have access to the necessary digital tools;
* Increased time efficiency and improved substantive outcomes in the work of treaty bodies through IT tools that support collaborative drafting, the automated compilation of information and the automated production of agendas and other session-related documents;
* Facilitating capacity-building activities through digital means;
* Rendering the treaty body system sufficiently efficient to address its constant growth.

*The Working Paper proposes several IT tools to move away from the current practices that are characterize by paper- and email-based exchanges, with limited, and inconsistent use of mostly unconnected databases and information-sharing that is not always timely. The proposed options are:*

 *1. A common webpage and database on the simplified reporting procedure (SRP);*

 *2. Common and user-friendly submission and document management platforms that allow easy access to publicly available documents for external audiences;*

 *3. A collaborative online drafting platform for treaty body members and Secretariat staff;*

*4. The automated establishment of a list of documents on the human rights developments and progress in States parties;*

*5. The enhanced automation of the development and processing of standard session-related documentation.*

*Additionally, the capacity-building tools for States and other stakeholders are being digitalized by OHCHR’s Treaty Body Capacity-Building Programme.*

 VI. Suggested way forward

An important question for Member States to consider is when the ‘ongoing process of the consideration of the state of the human rights treaty body system’ (GA resolution [77/210](https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F77%2F210&Language=E&DeviceType=Desktop&LangRequested=False), PP9) will be ripe for their decision. This Working Paper suggests that the biennial GA resolution on the human rights treaty body system, scheduled for December 2024, is the most logical timing and vehicle for such a decision. For this to happen, States, potentially through the co-sponsors of GA resolution [77/210](https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F77%2F210&Language=E&DeviceType=Desktop&LangRequested=False), would need to start engaging regularly with the Chairs and OHCHR. The United Nations High Commissioner for Human Rights intends to initiate such structured discussions.

 (a) The HC will engage with the treaty body Chairs during their 35th annual meeting (29 May – 2 June) to launch the discussions on the Working Paper, with the aim of soliciting their concrete feedback on the options and guiding questions enshrined therein;

 (b) The HC will solicit input from all Member States on the Working Paper, including by inviting them to informal consultations, based on which the Office will finalize the implementation plan.

This Working Paper aims to structure and guide these processes.