



**TB-Net Reflections on the implications of the COVID-19 crisis
for the effective functioning of the UN Treaty Bodies:
Challenges and opportunities regarding online meetings**

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1. Introduction

TB-Net (NGO Network on UN Treaty Bodies¹) is an informal group of international NGOs and networks created in February 2017, who work closely with the UN Human Rights Treaty Bodies (UNTBs) and have specialised expertise on their procedures and substantive work. Our mission is to support and enhance the effectiveness of the UNTBs so that they can better contribute to the realisation of the human rights of all persons.

With the suspension of in-person meetings of the UNTBs in Geneva and New York until the end of August 2020 due to the COVID-19 pandemic, the UNTBs are making efforts to find solutions to continue to fulfil their mandates through online platforms. Some of the UNTBs have started to hold online meetings and others are planning to hold sessions over summer via online meetings.

The purpose of this paper is to provide early reflections on the opportunities and challenges for online work for the UNTBs and how it might impact civil society engagement. Given the fast-changing environment and considerable uncertainty regarding in-person meetings, TB-Net will continue to assess the need for, and efficacy of, online meetings and review its position if deemed necessary. The paper sets out our views as at 2 June 2020.

Our TB-Net's objective is the promotion, protection and realisation of human rights on the ground and therefore the effective functioning of the UNTBs. We urge caution in embracing online activities for the UNTBs where it comes at the expense of the quality of the meetings and the work and at the expense of full, meaningful and safe civil society participation and engagement with the UNTBs. Nevertheless, we recognise that in the short term, it may be that solutions must be found to continue the work of the UNTBs and that necessarily, this might mean some meetings proceed in a manner that is not ideal. We consider that the temporary solutions should be carefully assessed and the experiences should inform any consideration of longer term changes in working methods.

At the same time, we would like to highlight that more needs to be done to ensure meaningful participation of civil society in the upcoming and future online sessions. Due consideration must be given to the access and resource challenges facing civil society organisations (CSOs) as their participation in the processes of the UNTBs is more crucial than ever for the UNTBs to do their work. Therefore timely information and easily accessible information about the UNTBs plans for online meetings and future sessions is key for the procedures to remain inclusive. UNTBs scheduling can have a significant impact on the work of civil society and on their ability to engage with the UNTBs. Uncertainty and insufficient notice of UNTB plans, could mean that CSOs are unable to dedicate their scarce resources, or raise funds, to undertake work engaging with the UNTBs.

Further, the looming human rights crises precipitated by the economic and social fallout of COVID-19, will likely persist years beyond the containment of the disease. The work of

¹ TB-Net is composed of CCPR-Centre, Child Rights Connect, GI-ESCR, IDA, IMADR, IWRAW-AP and OMCT.

the UNTBs and CSOs that work to protect, promote and realise human rights, will be more important than ever.

2. General principles regarding on-line work for the UNTBs

One UNTB system

TB-Net considers that the UNTBs should endeavour to operate as one system of human rights monitoring bodies. Therefore, we urge the UNTBs to take a common and consistent approach across the UNTBs regarding online work. We recognize that some different practices will be necessary to accommodate the operational differences and specificities amongst the UNTBs. However, we suggest that such differences should be kept to an absolute minimum in order to ensure the system's maximum accessibility and transparency for civil society and other stakeholders.

Public UNTB meetings

All UNTB meetings that are normally public (i.e. open to observers and webcast), should continue to be held in public, in the context of the COVID-19 disruptions. All Committee meetings that are normally undertaken in *private* and amongst Committee members only (i.e. not including meetings with external stakeholder participation), could be done online, subject to the requirements mentioned below.

Requirements for online meetings

TB-Net suggests the following requirements for all online meetings:

- Safe technology platform for online work to avoid interferences and leaks of confidential information and the risk of reprisals;
- For all online meetings there should be equality in access for all UNTB members, including with respect to internet access, necessary equipment (eg: computers), accessibility requirements, time zones and interpretation. Online meetings must ensure the participation of the greatest number of members as possible;
- In relation to interpretation, all online public meetings must provide interpretation in the working languages of the Committees; and
- All online public meetings must be webcast and the webcast should be available in all of the languages of the meeting.

Transparency and predictability of online work

Information about online work should be published on the Committees' webpages as far in advance of the meetings as possible. Such information should include: the date, time, agenda and relevant documents, for online public meetings; upcoming decisions to be made in public or private meetings; and information about how stakeholders can follow the meeting and, where applicable, intervene. Any decision adopted should be published on the Committee's website in a timely and user-friendly manner (i.e. in the "Recent Events and Developments" section).

Civil society engagement

The level of civil society engagement with the UNTBs should not be compromised in a move to online meetings. Full, meaningful and safe civil society engagement must be guaranteed for all online meetings. In fact, with timely and transparent outreach and appropriate safeguards, online work could expand access and participation for civil society partners. UN country teams and OHCHR national presences could also provide valuable assistance to CSOs wishing to engage in UNTBs online meetings, for instance by making available technology and meeting space.

The impacts of COVID-19 on the work of CSOs has been significant and varied. Due to confinement measures and their physical and economic consequences, many CSOs have found it very difficult to continue their work monitoring States' implementation of the human rights treaties and reporting to the UNTBs. For many CSOs these impacts are likely to continue beyond 2020 and may be exacerbated by an adverse human rights funding environment. Yet, the human rights monitoring and accountability work of CSOs will be more crucial than ever in the coming months and years to ensure States' compliance with their treaty obligations. In this context, we encourage the UNTBs to build practices that prioritise CSO engagement and offer flexibility and creativity in their methods of work and procedures to ensure the maximum engagement possible.

3. Specific elements of the UNTBs' work

State reporting procedure

TB-Net thinks that the only way to ensure a quality dialogue and in-depth exchange with the State Party is through a face to face meeting. Experience has shown that the limitations of technology and internet connections can hamper the effectiveness of the Dialogue, even in the scenario where all the Committee members are in Geneva and only the State delegations are online. Challenges with matching long sessions and time zones are also relevant factors to consider. Further, the experience of the CRC extraordinary session in Samoa has shown that there is an added value for the UNTBs to get closer to the stakeholders they engage with. This increased proximity to stakeholders is generally not possible with online meetings - on the contrary, online meetings can create more distance between the UNTBs and the stakeholders on the ground.

Therefore, TB-Net recommends that online Dialogues with States Parties should, in the COVID-19 context when the UNTBs members, the State representatives and civil society cannot travel, be avoided and that the UNTBs continue to use the online option for other work, only under the conditions mentioned in the General Principles section above. However, we acknowledge that if travel restrictions were to be prolonged for several months more, it may become necessary to hold State Parties' Dialogues via online meetings. Should the necessity for online Dialogues with States Parties arise, it would require considerable technical and human resources capacity building, in order for the Dialogues to be conducted effectively. Therefore, any steps taken towards this should be done with careful and timely preparation. Nevertheless, we recognise that outside the context of COVID-19, there is positive potential for small States, for which the travel of their representatives to Geneva is a disproportionate burden, to participate in the constructive Dialogue with the UNTBs via video conference.

TB-Net welcomes the decision taken by several UNTBs to adopt the LOIPRs online and inter-sessionally. This is a practice that could be assessed as a potential long-term measure, which would enable the UNTBs to dedicate in-session time to other activities where the Committee members need more discussions and interaction. However, predictability and transparency of the process remain crucial and clear information must be publicly available regarding the working methods, so that civil society can effectively monitor and engage.

LOIs could also be adopted online and inter-sessionally. However, given that the adoption of the LOIs is in the middle of the reporting process, it would be important that the timeframe of the online adoption does not delay the following steps of the cycle (replies to LOIs and sessions). For example, if the LOIs were to be adopted online soon after the pre-session, this could be an opportunity to dedicate more time to meetings with civil society during the pre-session.

Meetings with civil society, whether under the standard or simplified reporting procedure, should remain a priority for the UNTBs. The space for exchanges with civil society should be improved and expanded through online working methods, and by no means restricted or deteriorated. In the same logic as for Dialogues with States Parties, meetings with civil society should prioritise quality and effectiveness. TB-Net recommends that the UNTBs increase the practice of online engagement with civil society to complement, and not replace, face-to-face meetings. The improvements in video-conference facilities that the pandemic might bring should be used to improve the quality of online meetings with civil society as well.

Work on new General Comments

The UNTBs are currently developing General Comments with different working methods. For example, some Committees undertake their 'reading' of the draft General Comment in public and others do this in private. TB-Net considers that public readings of draft general comments are a good practice as they allow stakeholders to follow the conceptualisation and development of the human rights standards. This empowers them to meaningfully contribute to the process by providing relevant inputs to the UNTBs.

TB-Net considers that public readings of draft General Comments could be held online if the conditions in the General Principles section above are respected. General Comments are crucial areas of work of the UNTBs and the members must be able to work effectively online, otherwise there might be delays which would result in overly lengthy processes.

It is TB-Net's understanding that Working Groups of members in charge of the drafting of General Comments are already working online to ensure continuity of the process despite the pandemic. This is a welcome initiative that could be assessed as a potential long-term practice to systematise, if it was found to make the process more effective.

TB-Net considers that the consultation process for the development of General Comments is an essential and important part of the process that should not be negatively impacted by the transition to online work. The opportunities for civil society to engage with the UNTBs on General Comments should be expanded and not reduced by the online working methods. Further, any online elements of the process must continue to guarantee

predictability, transparency, accessibility, inclusivity and safety, especially in relation to civil society participation.

Days of Discussion

Our view is that Days of Discussion cannot occur solely through online meetings. We consider that this is another part of the UNTBs' work that benefits significantly from in-person meetings where stakeholders can share their perspectives, discuss the finer details of the topic and build connections and partnerships that otherwise they would not have the opportunity for. Webcasting and online participation are already good practices for Days of Discussion. Online participation could be enhanced to expand the inclusion of stakeholders who cannot travel to Geneva, particularly civil society, while ensuring the interactivity of in-person meetings.

Work under the UNTBs' Individual Communications Procedures

In view of the backlog of individual communications, we believe that the UNTBs should continue to process communications online. The Working Groups on individual communications of most UNTBs already met online and inter-sessionally, before the COVID-19 crisis, and this work is continuing online. We consider that Committees as a whole should validate and adopt all Views, and that for most decisions, particularly the many repeat decisions of UNTBs like CAT and the HRCtee and the many straight-forward admissibility and discontinuance decisions, this adoption could be done online. However, we suggest that the option for Committee members to request a discussion in-person on any communication should be retained, to ensure that for new, difficult or complex decisions, members can benefit from in-person exchanges.

Follow-up procedures (Views and COBs)

In times of crisis it is important that the Dialogue between the UNTBs and the States Parties continues in between country reviews. The follow-up procedure is the eminent procedure to fulfil this role. While under normal circumstances, TB-Net prefers the practice of the HRCtee where the follow-up report is discussed and adopted by the Committee in a public plenary meeting, in this time of crisis we urge the UNTBs to continue their habitual follow-up work while observing the standards of predictability and transparency of the procedure through public information allowing all stakeholders, including civil society, to engage.

TB-Net would further recommend that the UNTBs continue their follow-up work on individual communications online, during this period.

4. Conclusion and Recommendations

The pandemic has drawn everyone's attention to the need to strengthen the capacity of the UNTBs - and the other human rights mechanisms - to engage and interact online. If there is a positive outcome of this situation, it could be that the UNTBs members will benefit from a better digital environment in which they can interact among themselves as well as with stakeholders they would not otherwise reach, in a safe and effective manner.

While this has not yet been achieved, it is important to adopt a pragmatic approach, pilot experiences and draw lessons with the ultimate goal of maintaining the quality of the UNTBs' work as much as possible, and even improving it in the long-term. The impact on

the engagement of civil society should be one of the primary considerations of decisions relating to online working methods, including safe accessibility requirements. TB-Net could support the UNTBs to assess these decisions by collecting feedback from the CSOs who will experience the new online working methods.

Further, TB-Net recommends that when decisions are taken on any modification of future sessions and online working methods, the UNTBs ensure that:

- Engagement with civil society is enhanced and not reduced through on-line working methods and the UNTBs ensure flexibility and inclusivity. Online engagement should complement, and not replace face-to-face meetings with civil society;
- Decisions are immediately and widely communicated;
- Information about any modification of future sessions and on online work is shared in a timely manner to allow transparency and predictability of the process;
- Current public meetings remain public and accessible if held online;
- Inter-sessional online work is used for private meetings of Committee members only;
- Dialogues with States Parties should not be held online, except in very exceptional circumstances, where in-person meetings are not possible for a prolonged period of time; and
- Days of Discussion are kept as in-person meetings with online participation available to enhance engagement.