

**Civil Society Consultation on Strengthening
the UN Human Rights Treaty Body System
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Japan Federation of Bar Associations**

**Opinion for
Civil Society Consultation on Strengthening
the UN Human Rights Treaty Body System**

**Japan Federation of Bar Associations
(JFBA)**

JAPAN FEDERATION OF BAR ASSOCIATIONS

1- 3, KASUMIGASEKI 1-CHOME, CHIYODA-KU, TOKYO 100-0013 JAPAN

TEL: +81 3 3580 9741 FAX: +81 3 3580 9840

Email: international@nichibenren.or.jp URL: www.nichibenren.or.jp

The Japan Federation of Bar Associations (JFBA) is a national bar association with a compulsory membership policy and is therefore composed of all practicing lawyers in Japan. The JFBA, as a NGO in consultative status with the ECOSOC, has been actively engaged with the UN human rights mechanisms. In particular, the JFBA has a long history of participating in the reporting procedures under the international human rights treaties to which Japan is a State party, namely ICCPR, ICESCR, CERD, CAT and CEDAW. Regrettably, Japan has yet to accept any individual complaint communications procedures. The JFBA also actively participated in the first UPR review of Japan in 2008.

The JFBA, based on these experiences of engaging with the treaty bodies as a national NGO, would like to make the following proposals to strengthen the functioning, effectiveness, and impact of human rights treaty bodies.

1. Enhancing access to the views and General Comments/Recommendations of treaty bodies

We recommend that the OHCHR website have links to useful resources to enhance the publicity of these resources. These links should include resources such as the SIM Documentation Site run by the Netherlands Institute of Human Rights of the Utrecht School of Law, where the views and General Comments/Recommendations of all treaty bodies are categorized and searchable by the articles and issues.

The views and General Comments/Recommendations of each treaty body are available on the website of the OHCHR and can be found by searching its Treaty Bodies Database. Recommendations of the treaty bodies and special procedures as well as those made in the UPR to each country are listed in the Human Rights Index on the OHCHR website. However, it is not easy, for instance, for a lawyer to find the General Comments/Recommendations or views relevant to the interpretation of particular articles or conduct comprehensive research on the General Comments/Recommendations and views relevant to particular human rights issues using the databases currently provided by the OHCHR. In this regard, other databases, such as the SIM, where the views of the treaty bodies are organized article by article or all the General Comments/Recommendations across the treaties are searchable based on the human rights issues, are extremely useful for the study and use of the human rights treaties in relation to specific cases and situations. Providing links on the OHCHR

website to already existing useful databases and search tools operated by universities and human rights institutions would substantively enhance access to the General Comments/Recommendations and the views of the treaty bodies.

2. Enhancing access of national stakeholders to the reporting procedures and enhancing visibility of the activities of the treaty bodies

We recommend that the treaty bodies consider holding their sessions in places outside Geneva or New York. It should be ensured that the press releases on the treaty bodies' sessions when held in places other than Geneva are equally detailed as those on the sessions held in Geneva. Sessions held in Geneva or New York should be made accessible through webcasting or conference call systems. Also if the treaty bodies adopt the List of Issues Prior to Reporting, we further recommend that the treaty bodies invite NGOs to their pre-sessional working groups where they adopt a list of issues for a hearing. Arrangements should be made to enable NGOs in countries to participate in the hearing through video-link.

The activities of the treaty bodies have not yet become familiar to the important stakeholders for the implementation of treaties at the national level, such as officers of the relevant government ministries and agencies, judges, parliament members, NGOs, as well as even the rights holders themselves. To make the activities of the treaty bodies closer and more visible to these stakeholders and make them more accessible to more stakeholders, it would be helpful to hold sessions of the treaty bodies in the places closer to the people other than Geneva or New York. Such possible places may include the cities functioning as regional centers. However, it is noted that even now, when the treaty bodies' sessions are held in New York instead of Geneva, where the headquarters of the OHCHR is located, press releases contain less details compared to those on the treaty bodies' sessions when held in Geneva. Thus, it is impossible to timely know the details of the sessions from the press releases. Press releases have significant value as an information resource for national NGOs other than the international NGOs based in Geneva or New York. Press releases allow national NGOs to timely know what is discussed in the treaty bodies' sessions. Therefore, it should be ensured that press releases on sessions currently held in New York, as well as on future sessions when they are held in places other than Geneva or New York, are as equally detailed as those reporting sessions held in Geneva. It is also recommended that treaty bodies' sessions where State party reports are considered are accessible through webcasting or conference call systems to make the activities of the treaty bodies more visible and

enhance their publicity.

Furthermore, some treaty bodies organize a hearing from NGOs in preparing a list of issues in their pre-sessional working groups and such hearings are important opportunities for the treaty bodies to receive information from NGOs in selecting issues to be focused on in the consideration of the reports. However, NGOs who can participate are inevitably limited due to the long travel required for a few hours of attendance. This may exclude NGOs working at the national levels. As a result, circumstances may arise where the participating NGOs cannot immediately provide detailed information during the hearing, if the questions from the members of the treaty bodies are concerned with issues in areas where the participating NGOs do not have expertise. Therefore, to make the hearing from NGOs more effective, connecting some points in the countries with the pre-sessional working groups through video link so that the relevant NGOs are able to make oral interventions from the connecting points should be considered. In particular, if the treaty bodies adopt the List of Issues Prior to Reporting, it is critically important that the list of issues cover relevant issues and concerns. For that reason, we recommend that the practice of organizing a hearing from NGOs in preparing the list of issues, which is already being practiced by some treaty bodies, be ensured.

3. Consultation as much as possible in the process of preparing State party's reports and NGO reports and reflection of the consultation's outcome into the State party's reports

We recommend that governments in the process of preparing State party's reports hold consultation with NGOs and national human rights institutions where existing on the issues and contents to be included in the State party's reports. To the extent possible, the State party's reports should reflect the information provided by NGOs and the national human rights institutions and governments should produce reports in a way so that treaty bodies can understand that the State party's reports have integrated the outcome of such consultation. The agenda for consultation should include discussions on the status of the implementation of the recommendations made in the consideration of the previous State party's reports, including discussions on the obstacles and what is needed to overcome such obstacles if those recommendations have not been implemented. The outcome of such consultation should be reflected in the State party's reports.

Wide consultation between governments and national human rights institutions and

NGOs in preparing the State party's reports has been encouraged by all treaty bodies and such practice has been already observed. However, the mere fact that consultation was held does not have real meaning unless the outcome of such consultation is reflected in the State party's reports. When consultation between governments and national human rights institutions and NGOs is held, it is desirable that the outcome of such consultation is reflected as much as possible in a clearly understandable way. It is also necessary and encouraged for NGOs to provide the treaty bodies with information by submitting their own independent reports. However, if the NGOs have no objection to some of the content of the State party's report or the views of the NGOs are already reflected in the State party's report and the government and the NGOs have generally common views on some parts of the State party's report, such clear indication in the State party's report will make it more efficient for the treaty bodies who read quite large volumes of the State party's reports and the NGO reports. Moreover, if the NGO reports only contain information that is still not provided in the State party's report, even after the outcome of the consultation with NGOs is reflected, or focus on those issues on which NGOs have different views from the government, NGOs' method of providing information will become more effective and make NGO reports easier to use for the treaty bodies.

Furthermore, it is necessary to improve the content of the State party's reports on the follow-up to the recommendations by including it in the consultation between governments and national human rights institutions and NGOs in preparing the State party's reports. To enable the State party's reports to contain the assessment of the status of implementation of previous recommendations and reflect the outcome of the consultation, it is needed to start the consultation as part of preparation process of the State party's reports at least one year before the deadline of the submission of the periodic reports.

4. Strengthening efforts targeting judges and parliament members who have important roles in the implementation of the human rights treaties at the national level, including implementation of the recommendations

We recommend that the OHCHR continue existing efforts to organize regional workshops with particular focus on judges and parliament members, such as regional colloquiums for judges and the regional workshop of the Committee on the Rights of the Child for the follow-up to the concluding observations.

Implementation of the human rights treaties at the national level is to be achieved by legislative measures, administrative measures, and other measures as well as effective remedies, in particular, the judicial remedies to be provided in the event the human rights enshrined by the treaties are violated. It means that the responsibilities for the implementation at the national level do not rest only on the governments, but the parliament and the courts also have important roles. Therefore, having members of the treaty bodies visit the State parties for follow-up to the recommendations and meet directly in-person with the parliament members and judges, as well as the government officers and NGOs, would be extremely helpful in raising awareness of the significance of the roles of the parliament members and the courts in the implementation of the treaties at the national level. . However, such a visit of the members of the treaty bodies is not always possible for every country. For this reason, initiatives designed for multiple State parties in the regions are highly valuable such as those regional colloquiums for judges organized by the OHCHR and the regional follow-up workshops of the Committee on the Rights of the Child. Similar efforts where judges or parliament members are invited together with some members of multiple treaty bodies should be encouraged in the future.

Furthermore, the relationship between the treaty bodies and the Inter-Parliamentary Union should be strengthened and through the latter the efforts to raise awareness of the importance of the roles of the parliament members in the implementation of the human rights treaties at the national level and follow-up to the recommendations among the parliament members of all the countries should continue.

5. Encouraging active participation of national bar associations and other lawyers' groups in the reporting procedures

We recommend that the OHCHR, in cooperation with the international/regional bar associations, initiate efforts in all countries such as inviting the representatives of the international/regional bar associations to the meetings of the chairpersons of the treaty bodies or organizing seminars or workshops on the roles of bar associations and lawyers' groups in the implementation of the human rights treaties at the national level, with the purpose of encouraging more positive engagement of the bar associations and lawyers' groups as NGOs by actively participating in the reporting procedures and providing information to the treaty bodies and follow-up to the recommendations.

Some of the bar associations and lawyers' groups in the world actively engage in human rights activities. In addition, bar associations in many countries play important roles in the legislative process by being invited for consultation or making policy recommendations on legislation. Needless to say, individual lawyers play important roles in the application of the human rights treaties in the domestic courts and other activities. However, the roles of the bar associations and lawyers' groups are equally significant.

As a matter of fact, the JFBA has been actively involved in both the reporting procedures of the treaty bodies and the UPR procedures of the Human Rights Council by submitting the reports, participating the sessions, and translating and disseminating the relevant documents in the country. Similar activities by the bar associations and lawyers' groups for the implementation of the international human rights treaties are observed in other countries including Korea, Australia and Malaysia.

In light of such experiences, we believe that it would be useful to enhance the recognition of the importance of the roles that the bar associations and lawyers' groups can play in the implementation of the human rights treaties at the national level, share the information on the existing practices, and encourage similar practice to be followed widely. For this purpose it will be useful to consider the possibility that the chairpersons of the treaty bodies and the representatives of the international/regional bar associations could meet to have a dialogue, or that the OHCHR, in cooperation with the international/regional bar associations, could organize seminars on the role of the bar associations and lawyers' groups in the implementation of the human rights treaties at the national level.

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