

# SIMPLE GUIDE *to the* TREATY BODIES

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## **International Service for Human Rights**

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## ABBREVIATIONS

### International treaties and optional protocols

UDHR	Universal Declaration of Human Rights
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Covenant on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Their Families
ICRPD	Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities (not yet in force)
ICPED	Convention for the Protection of All Persons from Enforced Disappearances
CRC-OPAC	Optional Protocol to the CRC on the involvement of children in armed conflict
CRC-OPSC	Optional Protocol to the CRC on the sale of children, child prostitution and child pornography
ICCPR-OP1	Optional Protocol to the ICCPR (on individual complaints)
ICCPR-OP2	Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty
OP-CAT	Optional Protocol to CAT
OP-CEDAW	Optional Protocol to CEDAW
OP-CRPD	Optional Protocol to the ICRPD

### Treaty bodies

CAT	Committee against Torture
SPT	Subcommittee on Prevention of Torture
CEDAW	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRC	Committee on the Rights of the Child
HRC	Human Rights Committee
CRPD	Committee on the Rights of Persons with Disabilities
CPED	Committee on Enforced Disappearances (not yet established)

### Other

CHR	Commission on Human Rights
ECOSOC	Economic and Social Council
NGOs	Non-governmental organisations
NHRIs	National human rights institutions

## CHAPTER I

# WHAT ARE THE TREATY BODIES?

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### A. WHAT ARE TREATIES?

The *Universal Declaration of Human Rights* (UDHR), adopted in 1948, elaborated upon and systematised for the first time the idea of 'human rights' derived from the United Nations (UN) Charter. The UDHR enumerated a variety of civil, political, economic, social and cultural rights, that were subsequently separated and incorporated into two Covenants – the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). The UDHR and the two Covenants together form the minimum standard of international human rights protection, known as the International Bill of Rights. Several other international human rights conventions followed, which focussed on more specific thematic concerns (such as racial discrimination) or on the protection of vulnerable groups (such as women, children, migrant workers or disabled persons), and substantively complement and expand upon particular rights guaranteed in the International Bill of Rights.

A '**treaty**', '**convention**' or a '**covenant**' is an international legal instrument. A treaty imposes legal obligations upon a State who is a party to that treaty. A State can become party to a treaty by ratifying it, which means that the State voluntarily decides to be bound by the provisions of the relevant treaty. When a State becomes party to a treaty, it is obligated under international law to uphold and implement the provisions of the relevant treaty. This implies that the domestic legislation of the State party must be in conformity with the provisions of the treaty and cannot contradict them in any way. In some cases, a State may declare a reservation to a particular article of a treaty that it has ratified. If the reservation to the relevant article is deemed admissible, then the State may no longer be considered to be bound to fulfill that particular provision. If the reservation is found to be contrary to the spirit of the relevant treaty, however, it will be deemed inadmissible and the State will be considered bound by that particular provision. Some of the international human rights treaties have been expanded upon by the creation of an **optional protocol**, which may increase protection in a particular area, or contain additional procedures that allow for further monitoring or receipt of individual communications. In order to be bound by an optional protocol, a State must ratify it separately in the same manner that it ratifies a treaty or a convention.

The main international instruments are sometimes referred to as the 'core' instruments because they take their inspiration from the provisions enshrined in the UDHR. The current seven core international human rights treaties are:

- *International Covenant on the Elimination of All Forms of Racial Discrimination* (ICERD)
- *International Covenant on Economic, Social and Cultural Rights* (ICESCR)
- *International Covenant on Civil and Political Rights* (ICCPR)
- *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW)
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT)
- *Convention on the Rights of the Child* (CRC)
- *International Convention on the Protection of the Rights of All Migrant Workers and Their Families* (ICRMW)

Two new conventions are presently open for ratification. These new instruments will enter into force after the requisite number of States has ratified them. These new instruments are:

- *Convention for the Protection of All Persons from Enforced Disappearance* (2006)<sup>1</sup>
- *Convention on the Rights of Persons with Disabilities* (2006)<sup>2</sup>

While the two new conventions are not yet in force, they also provide for the creation of **committees**, or **treaty bodies** to monitor the implementation of the conventions by State parties. The committees will be established after the respective conventions come into force.

### B. MANDATE OF THE TREATY BODIES

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<sup>1</sup> This Convention will enter into force 30 days after at least 20 States have ratified the Convention (Article 39).

<sup>2</sup> This instrument was open for signature from 30 March 2007. The Convention will enter into force 30 days after at least 20 States have ratified the Convention (Article 45(1)).

The **treaty bodies** were created in order to monitor and encourage States to uphold and implement their international obligations under the international human rights treaties. The treaty bodies are international committees of independent experts who monitor State parties' implementation of each of the seven core human rights treaties and their optional protocols. The implementation of each of the international treaties is monitored by its own committee (refer to Table I). At present, there are eight treaty bodies/committees monitoring the implementation of the seven core international human rights conventions. They are:

- The Committee on the Elimination of Racial Discrimination (CERD)
- The Committee on Economic, Social and Cultural Rights (CESCR)
- The Human Rights Committee (HRC)
- The Committee on the Elimination of Discrimination against Women (CEDAW)
- The Committee Against Torture (CAT)
- The Sub-committee on the Prevention of Torture (SPT)
- The Committee on the Rights of the Child (CRC)
- The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

All the treaty bodies receive administrative and financial support from the Treaties and Follow-up Unit of the Treaties and Council Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR). CEDAW was serviced by the Division for the Advancement of Women (DAW) in New York, but has also come under OHCHR when it moved to Geneva in January 2008.

**Table I: International conventions and their treaty bodies**

TREATY	RELATED TREATY BODY
ICERD	Committee on the Elimination of Racial Discrimination (CERD)
ICCPR	Human Rights Committee (HRC)
ICESCR	Committee on Economic, Social and Cultural Rights (CESCR)
CEDAW	Committee on the Elimination of Discrimination against Women (CEDAW)
CAT	Committee against Torture (CAT)
CRC	Committee on the Rights of the Child (CRC)
ICRMW	Committee on the Protection of Migrant Workers (CMW)

### **C. COMPOSITION OF THE TREATY BODIES**

The members of the treaty bodies are independent experts who are of recognised competence in the field of human rights, and are required to be 'of high moral standing', or 'of acknowledged impartiality', as stipulated by the relevant treaties. The most important point to note is that even though the members of the treaty bodies are elected by States, they are meant to serve in their personal capacity and carry out their duties with absolute impartiality and objectivity. The treaty bodies are intended to serve as autonomous expert bodies, and not political or inter-governmental bodies such as the UN Human Rights Council or the UN Security Council. As a measure to provide explicit protection of their independence, for example, CERD specifies that its members cannot be dismissed or replaced without their consent.

The number of members of each treaty body varies from ten to 23 members (refer to Table II). Members of the treaty bodies are nominated and elected by State parties to the relevant treaty from among their own nationals for fixed and renewable terms of four years each. Elections of half the membership of a committee takes place every two years. There is no limit on the re-election of committee members, with the exception of

the Subcommittee on Prevention of Torture (SPT), whose members can be re-nominated only once.

This rule was instituted in response to the re-election of committee members in several of the treaty bodies for extended periods of time.

Equitable geographical distribution in addition to adequate representation of different legal systems and cultures is to be maintained in the selection of members of all treaty bodies. However, CESCR is the only treaty body that has a formalised geographical quota. Members of treaty bodies are unpaid but they receive a small allowance from the United Nations for the meetings of the committees.

## **D. THE TREATY BODIES**

This section provides a brief introduction to each of the treaty bodies and an overview of their primary activities and procedures.

### **1. Committee on the Elimination of Racial Discrimination (CERD)**

The Committee on the Elimination of Racial Discrimination (CERD) was the first treaty body to be established, and is the committee overseeing the implementation of the *International Convention on the Elimination of all forms of Racial Discrimination (ICERD)*. Provision for the creation of a committee to monitor implementation of the Convention was made under ICERD, due to the conviction of the Third Committee of the UN General Assembly that the treaty would not be effective unless sufficient emphasis was placed on implementation. This set the precedent for the formation of all the other treaty bodies. CERD consists of 18 experts who meet twice a year for three weeks at a time.

### **2. Committee on Economic, Social and Cultural Rights (CESCR)**

The Committee on Economic, Social and Cultural Rights (CESCR) monitors the implementation of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*. CESCR is composed of 18 experts, who meet twice a year for three weeks at a time. Unlike the case of the other treaty bodies, ICESCR did not provide for the creation of a committee to oversee its implementation. Instead, the Economic and Social Council (ECOSOC)<sup>3</sup>, the principal organ of the UN dealing with economic and social issues, was given the general mandate to monitor the implementation of the Covenant by State parties through the examination of periodic reports. ECOSOC established a sessional working group in 1985 to assist in the examination of State reports, which subsequently became the Committee on Economic, Social and Cultural Rights in 1987. Other than this main difference, and the fact that the members of CESCR are elected through ECOSOC, there are no major differences between CESCR and the other treaty bodies in terms of their role or function. Nevertheless, there have been some attempts at the Human Rights Council to 'rectify' the legal status of CESCR in order to make more like the other existing treaty bodies.<sup>4</sup>

Currently, CESCR does not have a complaints procedure (for more information on complaints procedures please refer to Chapter II.B). However, discussions are underway on the elaboration of an Optional Protocol to the ICESCR that would allow CESCR to receive and consider individual communications. Until this time, some complaints regarding the violation of economic, social and cultural rights that fall under any of the other international conventions can be brought under the competent procedures under the international treaties. For example, a case of discrimination on the basis of gender or race in provision of services relevant to the fulfilment of economic, social and cultural rights may be brought under CEDAW or CERD. However, bringing cases of such violations under other conventions clearly has limited effect.

### **3. Human Rights Committee (HRC)**

The Human Rights Committee (HRC) monitors the implementation of the *International Covenant on Civil and Political Rights (ICCPR)* and is mandated to receive complaints under the First Optional Protocol to the ICCPR (ICCPR-OP1). The HRC was created in 1976 and consists of 18 members who meet three times a year for three weeks at a time. The Committee holds its sessions twice in Geneva and once in New York every year.

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<sup>3</sup> ECOSOC, established under the UN Charter, is the principal organ of the UN which coordinates the economic, social, and related work of the UN and serves as the central forum for discussing international economic and social issues, and for formulating policy recommendations addressed to member States and the UN system. In addition to looking at economic and social issues, ECOSOC is also mandated to 'encourage universal respect for human rights and fundamental freedoms'.

<sup>4</sup> For further recent information on discussions to rectify the legal status of CESCR, please refer to ISHR's *Daily Update* of 10 December 2007, published during the 6<sup>th</sup> session of the Human Rights Council.

#### **4. Committee on the Elimination of Discrimination Against Women (CEDAW)**

The Committee on the Elimination of Discrimination Against Women (CEDAW), established in 1982, monitors the implementation of the *International Convention on the Elimination of Discrimination Against Women* (CEDAW) and is mandated to receive complaints under its Optional Protocol (OP-CEDAW). CEDAW has 23 members, who meet for three weeks twice a year. As of 2008, CEDAW will meet three times a year in Geneva, and twice a year in New York. Three sessions will be held in parallel chambers till 2010, in order to deal with the backlog of work of the committee.

#### **5. Committee against Torture (CAT)**

The Committee Against Torture, established in 1987, monitors the implementation of the *International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT). CAT is composed of ten independent experts who meet twice a year for three weeks at a time.

##### *Subcommittee on Prevention of Torture (SPT)*

The Subcommittee on Prevention of Torture (SPT) was established by the Optional Protocol to CAT (OP-CAT) in order to complement the aim of CAT to prevent torture, and is a separate treaty body. SPT is mandated to conduct visits to places of detention within the territories of all State parties, after which it will submit confidential reports containing recommendations to the State party. Ten independent experts from the field of administration of justice or detention serve on SPT. SPT started having meetings in 2007 after its members were elected at the end of 2006.

#### **6. Committee on the Rights of the Child (CRC)**

The Committee on the Rights of the Child, created in 1990, monitors the implementation of the *International Convention on the Rights of the Child* (CRC). The CRC is comprised of 18 members, who meet three times a year for three weeks at a time.

#### **7. Committee on Migrant Workers (CMW)**

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) monitors the implementation of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICRMW). CMW is the most recently created treaty body, and held its first plenary session in March 2004. It presently holds two sessions per year, and is composed of ten independent experts.

### **F. CREATION OF NEW TREATY BODIES**

#### **1. Committee on the Rights of Persons with Disabilities (CPD)**

The *Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities* (ICRPD), adopted by the General Assembly in 2006, creates a Committee on the Rights of Persons with Disabilities (CRPD) mandated to monitor the implementation of human rights obligations under the Convention by State parties, through submission of periodic reports. The Optional Protocol to the Convention allows the Committee to receive and consider complaints on behalf of individuals as well as groups, and also provides for the Committee to conduct confidential investigations of allegations regarding grave or systematic violations of the Convention. If the State so consents, such investigations could be carried out through country visits. The Convention and the Optional Protocol are not yet in force.<sup>5</sup>

#### **2. Committee on Enforced Disappearances (CED)**

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<sup>5</sup> According to Article 45 of the CPD, the Convention will enter into force 30 days after at least 20 States have ratified the Convention. According to Article 13 of the OP-CPD, it will enter into force 30 days after at least ten States have ratified the Optional Protocol.

The *Convention for the Protection of All Persons from Enforced Disappearance* (ICED), also adopted in 2006, creates a Committee on Enforced Disappearances (CED). The CED is mandated to consider periodic reports, individual and inter-State complaints, and will also be allowed to undertake field inquiries and bring situations of widespread and systematic enforced disappearance to the attention of the General Assembly. The Convention is not yet in force.<sup>6</sup>

**Table II: Composition and sessions**

TREATY BODY	COMPOSITION	NUMBER & DURATION OF SESSIONS	SESSIONS	
			PERIOD	LOCATION
<b>CERD</b>	18	2 sessions per year, of 3 weeks duration each	February and August	Geneva
<b>HRC</b>	18	3 sessions per year, of 3 weeks duration each	March, July and November	New York Geneva Geneva
<b>CESCR</b>	18	2 sessions per year, of 3 weeks duration 1 week for pre-sessional working group	May and November	Geneva
<b>CEDAW</b>	23	2 sessions per year, of 3 weeks duration each; OPCEDAW prior to each session for 3-5 days  Pre-sessional working group for 5 days immediately after each session to prepare lists of issues and questions for following session	January and July	New York*
<b>CAT</b>	10	2 sessions per year, of 3 weeks duration each	May and November	Geneva
<b>CRC</b>	18	3 sessions per year, of 3 weeks duration each	January, May and September	Geneva
<b>CMW</b>	10 **	Approximately 2 sessions per year, of around 1 week duration each	April and November/ December	Geneva

\* CEDAW will begin meeting in Geneva from 2008.

\*\* Membership of CMW will increase to 14 when the Convention has 41 State parties.

<sup>6</sup> According to Article 39 of the CED, the Convention will enter into 30 days after at least 20 States have ratified the Convention.

## CHAPTER II

### WHAT DO THE TREATY BODIES DO?

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The treaty bodies are mandated to carry out several activities in fulfilling their function of monitoring the implementation of State parties' obligations under the treaties.

All treaty bodies (except SPT) can:

- Receive and consider **reports** submitted by State parties
- Issue **concluding observations/recommendations** to assist State parties in implementing their obligations
- Develop **general comments/recommendations** interpreting provisions of their respective treaties both substantively as well as procedurally

Some treaty bodies may be mandated to perform additional functions, such as:

- Consider **individual communications**
- Consider **inter-State complaints**
- Conduct or initiate **inquiries**
- Conduct **investigations** through country visits

These functions and activities will be discussed in further detail below, and have also been summarised in Table IV at the end of this chapter.

#### A. CONSIDERATION OF REPORTS

When States become party to one of the international human rights treaties, they are obliged to submit an initial, followed by periodic reports to the treaty body in question (refer to Table III for periodicity of reporting). A periodic report is a report that a State party is required to submit at regular intervals of time, as prescribed by the relevant convention or treaty. The main purpose of the periodic reports is to examine the extent of the compliance of States with their obligations under the treaties, and how these obligations have been translated into the domestic legal provisions of the particular State. Ideally, the preparation of the report should also serve as a means by which countries can assess and debate particular human rights issues in their own countries, and identify problems and areas that may require further attention. A State party submits an initial report (usually one or two years after ratification), followed by periodic reports (usually to be submitted every four or five years) according to the requirements of the respective treaties. One of the primary ways through which treaty bodies monitor implementation of their respective treaty by State parties is through the consideration of these State party reports.

**Table III: Periodicity of reporting**

TREATY BODY	PERIODICITY OF STATE REPORTS	
	INITIAL REPORT	PERIODIC REPORT
<b>CERD</b>	1 year	Every 2 years (but in practice every 4 years) and whenever CERD requests
<b>CESCR</b>	2 years	Every 5 years
<b>HRC</b>	1 year	Every 4 years, or whenever requested by the HRC
<b>CEDAW</b>	1 year	Every 4 years, or whenever requested by CEDAW
<b>CAT</b>	1 year	Every 4 years, and any other reports requested by CAT
<b>CRC</b>	2 years	Every 5 years, and any other information requested by CRC
<b>CMW</b>	1 year	Every 5 years, and whenever requested by CMW
<b>CRC-OPSC</b>	2 years	Every 5 years or with next CRC report
<b>CRC-OPAC</b>	2 years	Every 5 years or with next CRC report

The process of monitoring States' obligations through the reporting process follows several stages (although all treaty bodies may not follow all the stages):

- Preparation of the report at the national level
- Pre-sessional preparation for the plenary session
- Consideration of the report in the plenary session of the concerned treaty body
- Issuing of concluding observations
- Follow-up on implementation of the concluding observations

These various stages are examined in detail below.

## 1. Preparation of the State report

While the preparation of the State report at the national level is essentially an inter-ministerial process involving input from various governmental departments, the report should also be prepared in broad consultation with national human rights institutions (NHRIs), non-governmental organizations (NGOs) and civil society in order to make it as comprehensive and as inclusive a process as possible. A comprehensive report would ideally contain information relating to national efforts, both at the legislative and policy levels, to implement the State's human rights obligations; progress made by the State towards fulfilling its obligations; the difficulties faced in implementing its obligations; and the intentions of the State concerned for improving its implementation of the relevant human rights obligations.

### *Reporting guidelines and format for the State report*

Although the requirements of the country reports vary according to the stipulations of each of the respective treaties, the basic format of all the reports is similar. There may also be different guidelines for the submission of initial or periodic reports. Additionally, the treaty bodies have devised guidelines for both the format and the substantive content of the country reports.<sup>7</sup> The main aim of having guidelines to assist in the preparation of State reports, in addition to ensuring the uniformity and completeness of reports, is to obtain a comprehensive idea of the human rights situation in the particular country. Different treaty bodies have developed differing guidelines on how this can be achieved. For example:

- Reporting according to each article of the relevant convention
- Reporting according to clusters of related articles
- Asking more detailed questions under particular articles
- Or leaving the information to be submitted up to the State

General information regarding a State party, such as basic facts and figures about the country, its political and legal system, and other relevant information, are required in reports to all of the treaty bodies. In order to ease the reporting burden on States and decrease the volume of State reports, the treaty bodies decided to allow States to submit a core document to all the treaty bodies.<sup>8</sup> This document would contain information relevant to all treaty bodies, and would form the first part of the State report. It is the State party's responsibility to ensure that the common core document is kept as current and up to date as possible.

When the idea of the common core document was first envisioned, it was expected only to contain the general information supplied by States, but it has since been expanded (the 'expanded common core document') to provide more detailed background information about the State, in addition to information on the common substantive provisions of all the treaty bodies, such as provisions on non-discrimination and equality. The common core document therefore now contains the following information:

- Detailed general background information on human rights implementation, including factual and statistical information, as well as a general framework for the protection and promotion of human rights
- Similar provisions relating to substantive rights of relevance to all the treaty bodies

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<sup>7</sup> The guidelines issued by the treaty bodies for preparation of State reports are compiled and contained in HRI/GEN/2/Rev.4 (May 2007)

<sup>8</sup> More information on the guidelines on an expanded core document and treaty-specific targeted reports and harmonised guidelines on reporting under the international human rights treaties can be found in HRI/MC/2004/3 (June 2004) and HRI/MC/2006/3 (May 2006).

The expanded core document is submitted along with a shorter treaty-specific report to the respective treaty bodies. The treaty-specific report provides the relevant information under the particular articles of the respective treaties and is unique to each of the treaty bodies.

### *Submission of reports*

In most cases the treaties explicitly establish the periodicity of reporting (refer to Table III), in order to ensure the regular evaluation of the human rights situation in a State party. However, due to chronic under-reporting or long delays in the submission of reports by many States, some treaty bodies have begun to allow for late reports to be submitted with subsequent reports in the form of a 'combined' report. For example, a State can submit its third periodic report along with its fourth periodic report when the latter is due. The treaty bodies have allowed for the submission of a combined report to help clear the backlog of overdue reports, while at the same time maintaining consistency of the periodic reporting procedure. Submission of a combined report by a State party is an exceptional procedure that must be sanctioned by the relevant treaty body in its concluding observations.

In the exceptional case of CERD, whose reporting periodicity is every two years, the Committee allows for the submission of two reports every four years to ease the reporting burden on States, but at the same time firmly calls for the periodic assessment by the State of the implementation of its obligations under the treaty.

## **2. Pre-sessional preparation**

All the committees carry out certain activities in preparation for their main plenary sessions.

### *Pre-sessional working groups*

A pre-sessional working group is convened prior to the main session of some of the treaty bodies. The aim of the pre-sessional working group is to draft a list of issues and questions (CEDAW, CESCR, CRC) for the next session, or to consider individual communications (HRC, CAT). The pre-sessional working groups are usually held in private, with the exception of the pre-sessional working group of CESCR, which is public and open to NGO participation.

### *List of issues and questions*

All the treaty bodies (except SPT) prepare lists of issues and questions prior to their sessions, which generally follow the structure of the relevant treaty. However, practices for developing the list and the use of the list vary across the different treaty bodies. The responses to the list of issues can serve as a supplemental source of information from the State party, particularly if significant information is missing from the State report. For example, it may take a year or more before a State report is considered by a treaty body, and some of the information provided may be out of date. Or, the information provided by the State may be largely quantitative in nature, providing statistics and indicating general trends, without any real qualitative reflection on the situation of human rights in the concerned country. The list of issues and questions can provide an opportunity for the treaty body to receive relevant information absent in the report.

The list may also indicate to the State the nature and focus of questions that will be raised in the plenary session. Sometimes States are asked to submit a written response to the list of issues and questions before the consideration of the report. The responses will be used by the treaty bodies as supplementary information for the consideration of the State report in the plenary session. CEDAW, CESCR, HRC and CRC require State parties to submit a written reply to the list of issues, whereas in the case of CERD and CAT, there is no formal requirement to do so and States may submit a written response if they wish to do so. The list of issues and questions can be prepared at any established point before an up-coming session.

In a recent development in May 2007, CAT introduced a new procedure on a trial basis for the list of issues and questions. It was decided that the State party's replies to the list of issues and questions will constitute its periodic report (this will apply to periodic reports due in 2009 and 2010), but not to the initial report or periodic reports already submitted to the Committee. The aim of this new procedure is to encourage States to produce more focused reports, in the hope that the list of issues would serve as a better guide for discharging their reporting obligations under CAT.

### *Role of country rapporteurs*

The treaty bodies may appoint one (CEDAW) or two country rapporteurs (CAT, CERD and CRC), or a 'country task force' (HRC) for each State report. The role of the country rapporteur or the task force is to comprehensively examine the State report, and then draft the list of issues and questions (see below) to submit to the State party. The country rapporteur or the task force will then play a lead role in questioning the delegation when it presents the report to the treaty body. The country rapporteur or task force is often also responsible for drafting the first draft of the concluding observations of the relevant committee on the report of the State party (see below).

### **3. Additional sources of information**

In addition to the State report and replies to the list of issues and questions, the treaty bodies also receive additional information from other sources such as national, regional or international NGOs and any other civil society actors. There is no requirement for UN accreditation for NGOs to submit information to the treaty bodies. Reports from national NGOs (commonly referred to as 'shadow', parallel or alternative reports) are of particular value to the treaty bodies in examining State reports, as they provide an alternative source of information on the human rights situation in a particular country. While NGOs working on particular thematic issues may choose to focus their reports on issues within their areas of specialisation, often NGO reports may follow the format of the State report and provide in-depth and comprehensive information on every article of the relevant convention. This makes it an easy and useful tool for the work of committee members who can crosscheck and compare information with that supplied by the State party.

Additionally, the Secretariat of the relevant treaty body prepares a country dossier, containing all available relevant information on the situation in the concerned country from within the UN system.

Additional information, generally of a confidential nature, may also be submitted by the UN specialised agencies such as UNICEF, UNHCR, the ILO, and the WHO.

### **4. Dialogue with the concerned country**

The plenary sessions of the treaty bodies that have their sessions in Geneva are usually held at Palais Wilson, which houses the OHCHR. The consideration of the country report by the treaty body in a plenary session provides an opportunity for a **constructive dialogue** between the experts of the treaty body and the State in question to identify issues, solutions, best practices, further areas for implementation, and other means to implement the rights being examined under the treaty. The terminology 'constructive dialogue' has been adopted by all the treaty bodies in order to underline the non-judgmental nature of the process.

The **basis for the dialogue** between the experts of the treaty body and the State delegation is not only the periodic report, but also the list of issues and questions that has been sent to the State party in advance of the review, and the State's responses. Additionally, the treaty bodies may consider information from other UN bodies, including UN field offices, NGO reports, NHRI reports, and any other relevant information that is available prior to the plenary session.

The **process** is as follows. The State party usually sends a delegation to be present at the consideration of that State's report by the treaty body, which may consist of representatives of the permanent mission of the country in Geneva and/or other ministers or government officials from the capital of the concerned country. Usually, the process commences with a formal welcoming statement by the chairperson of the treaty body, followed by an opening statement from the head of the State delegation. The head of the State delegation will introduce the State party's report and summarise key points. Following this introduction, committee members, usually headed by the country rapporteur or the country task force, will make their comments or observations, and ask questions to the delegation. The structuring of the constructive dialogue is based on the individual practices of each of the treaty bodies. The HRC, for example, asks delegations to respond to the first half of the list of issues, after which committee members will pose their questions to be answered by the State delegation. The delegation then provides responses to the second half of the list of issues and so on. In the case of CERD, on the other hand, following the introductory remarks of the State delegation, the country rapporteur/task force makes an initial assessment of the country report and may ask additional questions. This is followed by committee members asking a series of questions to the delegation, to which the delegation usually provides answers only the following day. CEDAW, CESC and CRC ask delegations to respond to questions based on clusters of articles under their respective conventions, and the delegation must provide answers to each cluster before moving to the next.

In exceptional cases, if a State **fails to submit its report**, the treaty body may choose to examine the implementation of the treaty in that country in the absence of a report, in what is known as the '**review procedure**'. In the case where no State report has been submitted, the committee may examine the extent of implementation of obligations by the State on the basis of information received from other sources such as NGOs, other UN agencies, etc. The treaty body will formulate a list of questions and issues for the State delegation to answer during the plenary session. The review may even take place without the presence of a State delegation. In practice, the threat of the treaty bodies using the review procedure has frequently provided the requisite incentive to a State party to submit its periodic report to the relevant committee shortly after it has been informed that it would otherwise be considered under the review procedure.

## 5. Issuing concluding observations and recommendations

The outcome of the consideration of the State report by the treaty bodies culminates in the development of concluding observations and recommendations to the State party.<sup>9</sup> The country rapporteur appointed by each treaty body is in charge of drafting the concluding observations for that particular country. The concluding observations are debated and adopted by the treaty body in a private meeting. The concluding observations are intended as a guide for implementing human rights obligations through the future legislation and public policy of the State party. The concluding observations may include the following:

- Acknowledgement of positive steps taken by the State to achieve its obligations
- Identification of problematic areas that require further action by States in order to fulfill obligations under the treaty
- Practical steps that the country can take in order to improve its implementation of human rights standards

The concluding observations issued by the treaty bodies are not only a critical examination of the human rights record of the State party. They can also be used to support budget requests, changes in policy and programmes, or requests made by NGOs or even other State organs.

The treaty bodies encourage the wide dissemination of the concluding observations in the concerned country, to encourage their implementation by all relevant actors within the State. Civil society and other actors can play an important role in supporting the efforts of the State to fulfill its human rights obligations.

The adoption of the concluding observations marks the end of the examination of the report, and they are usually made public through the OHCHR website at the end of or soon after the end of the plenary session. The concluding observations are usually shared with the concerned country first before being made public.

The implementation of the State obligations under a given treaty will continue to evolve with time, and the subsequent periodic reports provide an opportunity for States to inform the treaty bodies of how they have followed up on the previous concluding observations and recommendations.

## 6. Follow-up of recommendations

Follow-up to the concluding observations and recommendations of the treaty bodies is essential to give concrete form to the substantive work of the treaty bodies and actually improve the situation of human rights on the ground in a particular country. Given that the recommendations of the treaty bodies are not legally binding, the process of ensuring their implementation lies equally in the hands of treaty bodies themselves, State parties, and civil society actors who can encourage and support implementation by States. The primary responsibility for implementing the human rights obligations under the treaties, however, lies with the State party.

Treaty bodies have devised several ways in which they can monitor the implementation of their recommendations by **States**:

- While all the treaty bodies generally **request information on follow-up** from State parties during the constructive dialogue with States, some treaty bodies have put down formal procedures in order to more closely monitor the implementation of the concluding observations. For instance, a treaty body may stipulate a fixed time period within which the State must report back regarding implementation of the concluding observations.

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<sup>9</sup> The concluding observations of all the treaty bodies can be accessed at <http://tb.ohchr.org/default.aspx> (UN link) or at <http://www.universalhumanrightsindex.org/> (Non-UN link).

The HRC, for example, chooses three key issues that it calls upon a State party to report back on, within a fixed time-period prior to the next session. The country rapporteur then communicates the response of the State to the relevant treaty body. CERD has issued a set of guidelines to follow up on concluding observations and recommendations, elaborating upon ways in which the country can implement the above, such as dissemination of the concluding observations, regular reporting on progress in implementation, and coordinating with NHRIs and NGOs. CERD also has a procedure by which it can request further information or even an additional report from State parties regarding the implementation of the recommendations of the treaty body by the State party.

- Some treaty bodies may designate a **follow-up rapporteur** or task the country rapporteur with follow-up. CERD provides for a follow-up coordinator who will advise and coordinate with a designated focal point person of the concerned State to encourage the follow-up efforts. The HRC also uses a follow-up rapporteur, but in this case it is to monitor more procedural matters such as whether a State party has submitted its report, rather than to examine the substantive efforts of the State to implement its human rights obligations.

NGOs can play a critical role in both monitoring and providing support to State parties in implementing their obligations at the national and international levels. NGOs can also submit information on the measures taken by the State to follow up on concluding on observations.

## B. INDIVIDUAL COMMUNICATIONS

Individuals can submit **complaints, communications or ‘petitions’** to a treaty body regarding violations of a right or rights by their State under the relevant treaties, provided that the treaty has a complaints procedure and provided that the State has recognised the competence of the treaty body to consider complaints against it by ratifying the relevant optional protocol or making the required declaration under the relevant article of the treaty. Usually, treaty bodies consider complaints submitted in written form, and do not use oral or audio-visual evidence.

**Table IV: Complaints procedures**

Treaty body	Complaints procedure
HRC	First Optional protocol to ICCPR (ICCPR-OP1)
CERD	Article 14 of CERD
CAT	Article 22 of CAT
CEDAW	Optional protocol to CEDAW (OP-CEDAW)

The **procedure for submission** of individual complaints may either be contained within an article of the particular international treaty, or it may be established by a separate optional protocol to the treaty. For example, HRC and CEDAW can consider complaints through their respective optional protocols. In the case of CAT and CERD however, individual communications can be considered when States have made the required declaration under Article 22 of CAT and Article 14 of ICERD. The complaint procedures for each of the treaty bodies may vary slightly, and detailed information about each of the procedures is available on the OHCHR website.<sup>10</sup>

In order to be able to submit an individual complaint against a State to a treaty body, two conditions have to be met:

- The State must have **ratified the relevant treaty**, and
- The State party has to have **explicitly recognised the competence of the treaty body** through ratifying the optional protocol or through making the required declaration under the appropriate article of the respective convention.

Some treaty bodies may stipulate a formal **time limit** within which submission of complaints must be completed. CERD, for example, will deem a complaint inadmissible if it is submitted after 6 months have lapsed between the exhaustion of domestic or international remedies and the submission of the complaint. But even when there are no formal time limits announced, it is advisable that a complaint is submitted as

<sup>10</sup> The procedures for individual complaints or communications for each of the treaty bodies can be accessed through their individual webpages linked through <http://www.ohchr.org/english/bodies/>.

soon as possible after the exhaustion of domestic remedies. In general, it can take more than a year before a complaint reaches the attention of a treaty body.

Where a State party has recognised the competence of the treaty body to consider individual communications, the treaty body can consider complaints from any **individual** claiming a violation of their rights, or from any third parties on behalf of an individual who has either given their written consent or who is incapable of giving consent. In some cases, not only can complaints be brought on behalf of individuals (HRC or CAT), but also on behalf of **groups of individuals** (CERD or CEDAW) whose rights have been violated.

Even though treaty bodies are quasi-judicial mechanisms, there is no way to enforce their recommendations and decisions. However, it is expected that State parties implement the recommendations of the treaty bodies, and provide an appropriate remedy to the complainant.

### *Criteria for admissibility*

In order to submit an individual communication, it has to fulfill certain formal **criteria for admissibility**, which are the procedural requirements that need to be fulfilled in order to be able to submit the complaint. The criteria for the admissibility of individual complaints and communications vary across the different treaty bodies, but their general mode of operation is quite similar. In order to submit an individual communication to the treaty bodies, it has to fulfill some or all of the following criteria (depending on the requirements of the relevant convention):

- The complainant, if not the victim of the alleged violation, must have received authorisation or the consent of the victim to submit the complaint on his or her behalf. However, in some cases exceptions to this rule may be made if the complainant can provide convincing arguments as to why obtaining the authorisation of the victim to submit the complaint was not possible. Anonymous complaints cannot be submitted.
- The complainant must have exhausted all domestic remedies. This means that the complainant should have attempted to pursue the complaint through the domestic legal system. There may be some exceptions to this rule, if a complainant can prove that pursuing domestic remedies would be too prolonged or ineffective, but this would have to be argued on a case-by-case basis.
- Similarly, the complaint cannot be pending consideration at any other mechanism of international or regional settlement, such as the African Commission on Human and Peoples' Rights or the Inter-American Commission on Human Rights (IACHR). In addition to this prerequisite, some treaty bodies may further specify that the complaint must not have already been considered by an international mechanism.<sup>11</sup>
- If the State party has declared a reservation to the particular article of the convention applicable to the case, then a complaint alleging violation of that particular article will not be admissible. Alternatively, the State party may have entered a reservation to the Optional Protocol, limiting the competence of the committee to examine particular types of communications.
- The complaint should not constitute an abuse of the complaints procedure, that is, through the submission of frivolous complaints or otherwise inappropriate use of the procedure.
- Some treaty bodies state that the complaint must not be 'manifestly ill-founded', meaning that it is insufficiently substantiated.
- The incident that is the subject of the complaint must have occurred after the entry into force of the relevant convention in the concerned State party. However, if the incident occurred prior to the entry into force of the convention but its effects have continued to be felt after the date of entry, then a complaint can be submitted on this basis.

### *Content of the communication*

Several of the treaty bodies have provided a 'model complaint questionnaire' on their individual webpages, in order to guide complainants on what information should be contained within the complaint.<sup>12</sup> The general **form of a complaint** would contain the following pieces of information:

- Facts on which the complaint is based
- Basic personal information about the complainant

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<sup>11</sup> However, this does not preclude also submitting a communication to one of the Special Procedures of the Human Rights Council, as a communication to the Special Procedures is not only a non-judicial process but also there is no consideration of the merits of the case.

<sup>12</sup> Model complaints questionnaires for each of the treaty bodies can be accessed through their individual webpages linked through <http://www.ohchr.org/english/bodies/>.

- Proof of consent of the victim, if the complainant is a third party
- Steps taken to exhaust domestic remedies in the concerned countries
- Steps taken to submit the complaint to any other international body
- Reasons why the complainant considers that his or her rights have been violated, preferably including the articles of the treaty which have allegedly been violated
- All documents relevant to substantiation of the complaint (preferably with relevant translations)

<b>Procedure for submission of individual communications</b>
1. Check if the concerned country has ratified the relevant Optional Protocol, or made the requisite declaration under the designated article of the relevant convention, recognising the competency of the committee to consider an individual communication regarding the concerned country. Make sure that the State has not submitted a reservation to any relevant articles of the convention.
2. Check that domestic remedies in the concerned country have been exhausted.
3. Check that the complaint is not pending at any other mechanism of international or regional settlement.
4. Check that the complaint falls under the scope of the relevant convention.
<b>Submit the complaint as soon as possible!</b>

*Procedure for consideration of individual communications*

The general **procedure** of the complaints process is as follows. The complainant checks to the best of his or her abilities that the complaint fulfills the admissibility criteria, and submits an individual communication to the treaty body via the petitions unit of the Office of the High Commissioner for Human Rights (OHCHR).

The petitions unit of OHCHR conducts an initial **pre-screening process** of the thousands of communications that it receives every year. If the relevant communication contains all the required information, then the unit prepares a summary of the case and submits it to the Special Rapporteur on new communications, who is a member of the relevant committee. This process takes a few weeks.

The Special Rapporteur on new communications then will decide based on the summary of the case submitted by the petitions unit whether there is sufficient information to proceed with registering the communication, in which case the case is assigned a number and added to the docket of communications of the relevant committee. If there is insufficient information, then the communication is not registered and it is archived among the cases of the relevant committee. A reply is also sent to the complainant stating why the process could not continue. This process takes around 4 months.

The official consideration of the complaint by the committee then begins, and takes place in two stages – consideration of admissibility, and consideration of the merits of the case. These two stages may take place simultaneously, or consecutively, as decided by the committee or as requested by the State party.

In the first stage, the relevant treaty body will consider whether the complaint is **formally admissible** for consideration, that is, whether it fulfills the admissibility criteria specified above. The communication is sent to both the State party as well as the complainant who have 6 months to respond regarding the admissibility of the communication.

If the committee decides that the complaint is **inadmissible**, then it will communicate this to the complainant and the State party, and the procedure ends here. If the complaint is deemed admissible, the committee will send the complaint to the State party, asking for **clarification/a response by the State** regarding the complaint, usually within six months. The State should ideally respond within six months and submit information regarding the case to the committee. In some cases the State may first even be asked to comment on the admissibility of the case prior to this step. If the State does not reply, then the decision of the committee will be based on the original complaint.

The committee will then proceed to consider the **merits** of the case in closed session, based on the response of the State and the original complaint submitted by the complainant. To examine the 'merits of the case' means that the relevant committee will consider whether the complaint substantively falls under the scope of the relevant convention. The general comments or general recommendations (see following

section) provide a good guide as to what the committees consider to fall within the scope of each of the conventions.

If the committee considers that there has been a **violation** of the rights of the complainant under any of the articles of the relevant convention, then it will submit this information to both the State party and the complainant. It will call upon the State to give effect to the findings of the committee within three months. If the committee finds that no violation has taken place, this decision is communicated to both the State party and the complainant and the procedure ends here.

In **special circumstances requiring urgent attention**, a treaty body may issue a request to the State party to take interim measures in order to prevent irreparable harm to the victim. This may apply, for example, in a case where an order of execution is to be carried out, or an individual who may face the threat of torture is about to be deported. If the complainant wishes for the committee to make the request for interim measures, it is advisable that this is explicitly stated in the complaint.

NGOs can not only play an important role by assisting victims in using the complaints procedure, but can also submit complaints on behalf of victims.

<b>Procedure for consideration of individual communications</b>
1. The committee receives individual communication, and checks if it fulfills the admissibility criteria.
2. If the complaint is deemed <b>admissible</b> , the committee submits the complaint to the State party and seeks information/clarification from the State regarding the complaint. If the complaint is deemed <b>inadmissible</b> , then this is communicated to the complainant and the State party, and the process ends here. No appeals to the committee are possible.
3. If the complaint is deemed admissible, the committee then proceeds to examine the <b>merits</b> of the case in closed session.
3. If the committee considers that there is a <b>violation</b> of a right or rights under the relevant convention, the committee will send its findings to the State party and call upon it to give effect to the findings within three months. If the committee considers that <b>no violation</b> has occurred, this decision will be communicated to both State party and complainant simultaneously, and the process ends here.

## **C. STATE-TO-STATE COMPLAINTS**

The procedure of State-to-State complaints allows for a State to submit a complaint to a treaty body about alleged **violations of a treaty** committed by another State. Both States must be parties to the treaty in order to invoke this procedure. In view of the political repercussions of such a complaint, it is easy to understand why this procedure has never, to date, been used by any State. The basis of State-to-State complaints varies slightly across the different treaty bodies.

Under CAT (Article 21) and ICRMW (Article 76) complaints can be made regarding a State that is **not giving full effect to the provisions** of the treaty in question. Again, the exhaustion of domestic remedies and the recognition of the competence of the committee in this regard are pre-requisites for the use of this procedure. Under ICERD (Articles 11-13) and the ICCPR (Articles 41-43) a procedure for the resolution of State-to-State complaints has been established through the creation of an **ad hoc conciliation commission**.

Under CEDAW (Article 29), CAT (Article 30) or ICRMW (Article 92), there is another provision for the resolution of inter-State disputes regarding the **interpretation of application of a treaty** through negotiation or arbitration, by the International Court of Justice (ICJ). States can opt out of this procedure through declarations at the time of ratification, but if they do so they cannot bring complaints against any other States due to the principle of reciprocity, i.e. both States must be subject to the procedure. Again, this procedure has never been used.

## **D. INQUIRY PROCEDURE**

CAT and CEDAW are the only two treaty bodies that can **initiate inquiries into well-founded allegations of 'serious, grave or systematic' human rights violations** by a State party. The entire inquiry process is confidential, and is undertaken in consultation with the concerned State.

Again, as in the case of individual complaints, they may only initiate such an inquiry if the State party has recognised the competence of the treaty body to do so. When a State ratifies either CAT or OP-CEDAW, it automatically recognises the competency of the respective committees to initiate inquiry procedures at any time. However, both treaties contain a provision to allow States to 'opt out' of provisions, which allow State parties to withdraw their consent to allow the respective committees to conduct this procedure. This is done by making an explicit declaration under Article 28 of CAT or Article 10 of OP-CEDAW.

If CAT or CEDAW receives reliable information regarding the systematic violation of rights by a State party, the relevant committee may first invite the State party to cooperate by submitting observations regarding the information that has been received. On the basis of this information, the treaty body may decide to deploy one or more members of the committee to conduct a confidential inquiry and submit an urgent report. Both OP-CEDAW and CAT also allow for committee members to conduct country visits, with the consent of the concerned State.

The findings of the committee members, along with their recommendations, are submitted to the concerned State. A six-month deadline is established for the State party to respond, and to inform the committee of any measures taken in light of the inquiry procedure. The committee can decide to include a summary of the proceedings in its annual report, after consultation with the State party.

NGOs can submit valuable information to the treaty bodies regarding systematic violations of human rights, to enable the relevant treaty body to initiate the inquiry procedure.

## **E. GENERAL COMMENTS/RECOMMENDATIONS**

All the treaty bodies produce **general comments or general recommendations** that are meant to serve as authoritative guides for States on how to implement and interpret the conventions to which they are a party. Such general comments can provide substantive guidance on specific articles of the convention, or may provide more general guidance for State parties, on topics such as how to present State reports to the treaty bodies. For example, the HRC has developed general comments not only on substantive provisions of the ICCPR, such as on the right to self-determination or the right to life, but also on reporting guidelines and the reporting obligations of the State. Information regarding the general comments of the treaty bodies can be found on the OHCHR website.<sup>13</sup>

General comments may vary in length and complexity, and can sometimes take the form of 'commentaries' on particular articles of a convention. General comments may also be revised or replaced in accordance with the increased experience of the treaty bodies or developments in a particular area.

The modalities for developing and adopting the general comments include three basic stages – consultations, drafting, and adoption. Some committees may choose to incorporate expert advice from other UN agencies, other bodies and NGOs into the drafting of the general comments. Any treaty body can propose the drafting of a general comment on a particular article of the convention that it is monitoring or on any other theme. The general comments, as guides to the implementation and interpretation of a given treaty, are intended to be as simple and easy to understand as possible.

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<sup>13</sup> Available at: <http://www.ohchr.org/english/bodies/treaty/comments.htm>.

**Table V: Activities of the Treaty Bodies**

ACTIVITIES AND FUNCTIONS OF TREATY BODIES ↓	TREATY BODIES ↓										NGO INPUT ↓	
	CERD	CESCR	HRC	CEDAW	CAT	SPT	CRC	CMW	CPD	CED		
Examination of periodic reports submitted by countries who have ratified the relevant treaty	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓ → Through consultations regarding preparation of State reports → Through submission of alternative reports
Formulation of concluding observations to direct the implementation of the convention	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✗
Competency to consider individual communications, either through an optional protocol or through a declaration to an article in the relevant convention	✓	✗	✓	✓	✓	✗	✗	✓	✓	✓	✓	✓ → By assisting victim to submit a complaint → By submitting complaint on behalf of the victim
Competency to consider Inter-State complaints	✓	✗	✓	✓	✓	✗	✗	✗	✗	✗	✓	✗
Formulation of General Comments or General recommendations to guide States parties on interpretation of the treaties	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓ → By raising relevant issues during general days of discussion
Conduct inquiries through country visits to investigate well-founded allegations of systematic violations of human rights	✗	✗	✗	✓	✓	✓	✗	✗	✓	✓	✓	✓ → Through submission of relevant information
Follow-up procedure	✓	✗	✓	✗	✗	✓	✓	✗	?	?	?	✓ → Providing information on progress of follow-up → Supporting State implementation of recommendations of treaty body
Early-warning or urgent action procedure	✓	✗	✗	✗	✗	✓	✗	✗	?	?	?	✓ → Submitting information on violations

## CHAPTER III

# HOW CAN NGOs ENGAGE WITH THE TREATY BODIES?

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Time and again, members of the treaty bodies have affirmed the importance of NGO input and actively encouraged the participation of NGOs in the work of the treaty bodies. Generally, NGOs working in the field of human rights can interact with the treaty bodies, and do not require ECOSOC accreditation in order to do so.<sup>14</sup> There are a number of ways in which NGOs and other civil society actors can have input into the work of the treaty bodies, in formally institutionalised ways as well as informally. Several of the treaty bodies, such as CESCR and CRC, have specific guidelines for NGO participation in their work.

In order to take full advantage of the opportunities available to them, NGOs should view their involvement in the relationship between treaty bodies and States in as constructive and non-adversarial a manner as possible, especially since this is how the treaty bodies themselves engage with States. Such an approach is more likely to yield tangible results by allowing genuine engagement with States and encouraging them to fulfill their human rights obligations.

Regarding *formal* avenues for participation, NGOs can provide input at almost every stage of the work of the treaty bodies (refer to Table IV at the end of the previous chapter). These are discussed in further detail below.

### A. CONSIDERATION OF REPORTS

NGOs can provide input into several crucial stages of the reporting process:

#### 1. Preparation of the State report

NGOs can be called upon to participate in **national consultations** preceding the drafting of the State report, if the State concerned encourages broad participation of all stakeholders. NGOs can submit valuable findings and information and make recommendations to the State regarding the drafting of the report. Unfortunately, not all States make the effort to include the participation of NGOs in national consultations, and NGO perspectives and information are often excluded from the information contained in the State party report. The treaty bodies try to encourage States to hold broad and inclusive national consultations by drawing particular attention to the consultative process employed by the State in the production of its report in the concluding observations issued by the committee after consideration of the report.

#### 2. Pre-sessional preparation

Whether or not they are involved in the preparation of the State report, NGOs and other stakeholders can submit a report of their own (**alternative, parallel or 'shadow' reports**) that present information in the same format as the State report, but include their own research, findings and views on the implementation of the relevant convention in their national contexts. Such a report can help committee members achieve a more comprehensive picture of the human rights situation in a country and is therefore essential to examining the record of a State party. If an NGO does not have the time or resources to submit a comprehensive report prior to the session of the relevant treaty body, it should consider at least sending a short letter or some other brief submission of information highlighting key issues that deserve the attention of the committee.

NGOs can make **written submissions** to the secretariat of the relevant treaty body at any time, even one week before the relevant committee is scheduled to consider a State party report. However, it is in the interest of NGOs to submit information as early as possible before the consideration of the report of the relevant country is considered by the committee in order to ensure that the information that they supply is taken into consideration when examining the record of the State concerned. For example, if NGOs submit their alternative reports well in advance of the session, this would give committee members the opportunity to examine the questions or information presented in their reports with closer attention. If the report has been submitted so much in advance that the situation in a particular country has changed, NGOs could also send an update to their report closer to the time of examination.

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<sup>14</sup> There may be some cases where NGOs require ECOSOC accreditation in order to participate in a session of a treaty body. Please consult with the OHCHR website for up to date information.

The treaty body can and often do use the information presented in the NGO report to raise specific questions in the **list of issues and questions** to be sent to the State in advance of the main session and during the constructive dialogue. Also, if the information is provided in advance of the plenary session, then it will be included in the relevant country file prepared by OHCHR for each of the committee members before consideration of the concerned country.

#### 4. Dialogue with the concerned country

Generally, NGOs are allowed to attend all the plenary sessions of the treaty bodies as observers. In order to attend a session of the treaty bodies, NGOs are required to obtain accreditation from the secretariat of the relevant committee in advance. While NGOs cannot participate in the dialogues with the concerned State during plenary sessions, NGOs may make **oral submissions** during an allotted time period either at the end of a session or in a pre-session meeting.

#### 5. Briefings

NGOs can also participate in briefings either before, during or in-between the treaty body sessions. For example, CESCR holds a pre-session briefing that is open to NGOs, who can present oral or written submissions. Some of the treaty bodies, such as CAT for example, allow for NGO representatives to brief committee members orally during a session. In the case of the HRC and CERD, NGOs can also request the OHCHR to hold 'lunch-time' briefings, which committee members are invited to attend. As the lunch time-slot is considered to be outside the formal working period of the committee members, it is left up to committee members to decide if they want to attend the briefing.

**Table VI: NGO participation in treaty body briefings**

TREATY BODY	TYPE OF BRIEFING
<b>CERD</b>	<ul style="list-style-type: none"> <li>▪ NGOs do not brief during the plenary session</li> <li>▪ Lunch-time briefings with NGOs for country-specific information</li> </ul>
<b>CESCR</b>	<ul style="list-style-type: none"> <li>▪ Oral briefing by NGOs during pre-session working group</li> <li>▪ First day of session devoted to NGO oral briefings (open)</li> </ul>
<b>HRC</b>	<ul style="list-style-type: none"> <li>▪ First day of session devoted to NGO oral briefings</li> <li>▪ Lunch-time briefings with NGOs for country-specific information</li> </ul>
<b>CEDAW</b>	<ul style="list-style-type: none"> <li>▪ Oral briefing by NGOs during pre-session working group</li> <li>▪ Beginning of first and second week of session (open)</li> </ul>
<b>CAT</b>	<ul style="list-style-type: none"> <li>▪ NGO oral briefing to committee on day before State report is considered during plenary session (private)</li> </ul>
<b>CRC</b>	<ul style="list-style-type: none"> <li>▪ Oral briefing by NGOs during pre-session working group</li> <li>▪ May allow NGOs to brief committee during session</li> <li>▪ NGOs can request private meetings with the Committee</li> </ul>

#### 6. Follow-up of recommendations

NGOs can play a vital role in follow-up of the recommendations of treaty bodies in several ways. NGOs can **monitor** the efforts of the government to implement the concluding observations and recommendations of the treaty bodies, and report this information back to the treaty bodies either through formal submissions (such as an alternative report) or informally. Producing a follow-up report is a key means by which an NGO can help a treaty body assess the level of progress in implementation of the concluding observations by the State party.

NGOs can widely **disseminate and draw attention** to the concluding observations and other work of the treaty bodies at the national level, which contributes to raising the visibility and the status of the work of the treaty bodies around the world. This could be done in a variety of ways such as holding press conferences, distributing the concluding observations to civil society, courts and members of local government, and trying to get media attention for the concluding observations. Publishing short articles in newspapers or other public forums could also be a way of drawing the attention of the public to the recommendations of the treaty bodies.

NGOs can **lobby with governments** to implement the concluding observations. This could be done in a variety of ways, such as through holding meetings or conferences with government officials and NGOs, meeting members of parliament individually, and discussing the recommendations of the treaty bodies with the State delegation who will report back to the State party. NGOs should particularly emphasise those recommendations that have been prioritised and specifically identified for follow-up in 6 months or one year (depending on the practice of the relevant treaty body). Not only could the shorter time limit in addition to the prioritisation of the particular recommendations place additional pressure on the State party to implement them, but this would also help the State differentiate between long-term and short-term goals that it can and should devote its energies to achieving within a defined time period.

NGOs can work with their national governments in the actual **implementation** of the concluding observations and recommendations, and play an important role in promoting legislative or policy reforms. NGOs can also use the concluding observations and recommendations of the treaty bodies to guide their own work at the regional, national or local levels.

## **B. INDIVIDUAL COMMUNICATIONS**

NGOs can play a key role at the national level by providing **assistance to victims** who wish to submit a complaint to the treaty bodies, or even by submitting the complaint on behalf of the victim.<sup>15</sup> This is of particular importance where the complainant does not have access to legal counsel, and an NGO with legal expertise or specialised knowledge of the international system can be of valuable assistance.

Additionally, NGOs could also provide a vital service in **following up** on the implementation of the committee's decision on the communication and disseminating them within the relevant country.

## **C. SUBMISSION OF INFORMATION**

NGOs also play a vital role in the submission of information to the treaty bodies, at nearly every stage of their work, such as during an **inquiry procedure**, or as part of an **early-warning** or **urgent action** procedure. In cases where no State report has been presented and a State is being examined under the **review procedure**, NGO reports are of even more significance. The submission of information is a key way for NGOs to assist the work of the treaty bodies, especially since committee members rely on the submission of information in order to examine the human rights record of the concerned country as they do not conduct country visits to the respective State parties in order to gather their own information on a regular basis.

## **D. GENERAL COMMENTS/RECOMMENDATIONS**

Some treaty bodies convene **days of general discussion** in order to look at a particular theme or issue of concern. Such days of general discussion are usually open to the public or external participants such as UN organisations, State delegations, NGOs, and individual experts. A potential outcome of the discussion may be to assist the members of the treaty body in developing a general comment on a particular aspect of the treaty under their care. For example, in 2006 CESCR held a day of general discussion where it examined Article 9 of the ICESCR (on social security) with a view to drafting a general comment on the subject. CERD, on the other hand, regularly holds 'thematic discussions' - meetings where all concerned stakeholders including NGOs can express their views on an issue related to racial discrimination and the ICERD. NGOs may therefore influence the substantive work of the committees either through providing input into the need for or on the content of a general comment, or by drawing the attention of committee members to issues of concern through a thematic discussion.

There are also several *informal avenues* for NGO interaction with the members of the treaty bodies, such as through informal meetings with committee members during or prior to the main sessions of the treaty bodies, in addition to interaction through parallel events, other NGO meetings, or simply in the corridors of Palais Wilson where the treaty body sessions are usually held. The members of treaty bodies are usually very approachable and welcome opportunities to share information and ideas with NGO representatives.

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<sup>15</sup> For more information on how to submit a complaint to the treaty bodies, please refer to <http://www.ohchr.org/english/bodies/complaints.htm>.

## **E. OTHER**

**NGO coalitions** may also play a unique and vital role in assisting the work of the treaty bodies. NGO coalitions or NGO networks can play a key role in coordinating the drafting of shadow reports and other activities pertaining to the treaty bodies at the national or regional level.

The NGO Group for the CRC, for example, works together with over 60 international NGOs to promote the implementation of the CRC, coordinate NGO written submissions and to undertake other such specific tasks to assist the work of the Committee. Another international organisation, IWRAW-Asia Pacific, convenes training sessions for NGOs in parallel to the sessions of CEDAW in New York and also coordinates the submission of NGO reports to the Committee.

**NGO coordination** is vital to maximise the limited space and time given to NGOs to interact with the treaty bodies, and is also a way to give added weight to information submitted to them.

## CHAPTER IV

# TREATY BODIES & THE HUMAN RIGHTS COUNCIL

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The Human Rights Council, the main human rights body of the United Nations was created by General Assembly *Resolution 60/251*, which set down its mandate, activities and modalities of functioning. It is an inter-governmental, political body that replaced the Commission on Human Rights in 2006. While the treaty bodies and the Council are two very different types of bodies, the cross-fertilisation of their work is important for several reasons:

- The first is that the Council is an inter-governmental body, while the treaty bodies are composed of independent experts. The more input that the treaty bodies have into the work of the Human Rights Council, the more likely it is that political considerations of the member States of the Council will not supercede genuine human rights concerns that the treaty bodies can draw attention to in their work.
- Second, the treaty bodies monitor the main international human rights conventions that many States have voluntarily become a party to. This means that the work of the treaty bodies has the pre-eminent and clearly defined function of assessing the human rights records of individual States according to the particular obligations contained in the conventions, while the mandate of the Council is more generally to protect and promote human rights.<sup>16</sup> The work of the treaty bodies can thus give concrete form and direction to the work of the Council.
- Third, the treaty bodies can supply valuable information and recommendations regarding the implementation of the human rights obligations of States to the Council, and in return, the Council can provide a high profile and visible forum to strengthen the work of the treaty bodies.

The treaty bodies interact with the Council through two of its procedures – the newly created universal periodic review (UPR) and the special procedures mandate holders, which the Council inherited from the Commission on Human Rights. Interaction with both these mechanisms will be examined in more detail below.

### A. UNIVERSAL PERIODIC REVIEW MECHANISM

In General Assembly *Resolution 60/251* establishing the Council, paragraph 5(e) provided for the creation of a new mechanism known as the UPR. The general modalities of the UPR were adopted at the 5<sup>th</sup> session of the Council in June 2007. The formal procedures of the UPR have thus been established, but the concrete form that the process will take remains to be seen after the first cycle of reviews is completed.

The UPR, as its name suggests, is a process by which the human rights record of every State, whether members or non-members of the Council, will be examined by a working group, consisting of all the members of the Council, every four years. The main premise of the UPR process is to 'ensure universal coverage and equal treatment of all States', in order to avoid the allegations of 'selectivity' and 'politicisation' that infected the work of the former Commission on Human Rights. It is an inter-governmental process that is intended to complement and not duplicate the work of other human rights mechanisms.

Some of the stated objectives of the UPR process are an 'improvement of the human rights situation on the ground', fulfillment of the State's human rights obligations and commitments, assessment of positive developments and challenges faced by the State, and enhancement of the State's capacity and provision of technical assistance in consultation with the State concerned.

The basis of the review, as established by Human Rights Council *Resolution 5/1*, will be the following:

- UN Charter
- Universal Declaration of Human Rights (UDHR)
- **Human rights instruments to which the State is a party**
- Voluntary pledges and commitments made by States
- Applicable international humanitarian law

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<sup>16</sup> Even though the special procedures of the Human Rights Council are also independent experts, they focus on thematic or country-specific issues, and do not focus exclusively on a clinical assessment of the human rights obligations of a country under the different conventions.

The implementation of and compliance with human rights instruments, or treaties, to which the State is a party constitute the most effective and concrete basis on which to conduct the review process, and the UPR will be focused on how to implement the existing human rights obligations of the country concerned. The UPR process thus provides a valuable opportunity to strengthen the work of the treaty bodies by acting as a reinforcing mechanism to their own work of monitoring implementation. The main advantage offered by the UPR, keeping in mind its objectives stated above, will be that it can both give weight to the recommendations of the treaty bodies on how to implement a given State's human rights obligations, and can also provide the means by which to do so. This could be through the provision of technical assistance or capacity-building measures provided for by the UPR.

Assessment of the human rights records of the concerned country will be based on three sources of information, namely:

- Information prepared by the State concerned (not more than 20 pages)
- A compilation of information prepared by the OHCHR, summarising information contained in the **reports of the treaty bodies**, special procedures of the Council, and other UN documents that are relevant in examining the record of the concerned country (ten pages)
- Any other additional and credible information provided by other relevant stake-holders, which will be summarised by the OHCHR (not more than ten pages)

The information presented by the State is expected to conform to the **guidelines for the submission of information** to the UPR.<sup>17</sup> While it is up to the discretion of the State being reviewed as to the information provided in the State report (in conformity with the guidelines), it is encouraged to provide background information on the legislative and policy framework available in the country for the protection and promotion of human rights, in addition to implementation of international human rights obligations as well as the challenges faced in such implementation. This information clearly has relevance to the treaties to which the State is a party, both in terms of existing obligations, as well as the status of implementation of those obligations.

The second source of information directly pertains to information supplied by the treaty bodies on the human rights record of the concerned country to the UPR Working Group, as summarised by the OHCHR. Given that the UPR should not duplicate the work of the treaty bodies, it can provide added value to their work in two ways – by **following up** and **reinforcing recommendations** of the treaty bodies, and by providing **technical cooperation and financial assistance** as required in order to implement these recommendations. In terms of follow-up, the UPR process allows for the UPR Working Group to raise specific questions regarding the follow-up of the recommendations of the treaty bodies by the concerned State through the interactive dialogue. While follow-up is also undertaken by the treaty bodies themselves, the UPR raises the importance and visibility of treaty body recommendations by asking these questions in the Council plenary sessions. In conjunction with this, the UPR can provide technical assistance and financial resources to implement the recommendations in the concerned country.

The treaty bodies themselves have acknowledged the need to provide specific and concrete recommendations on implementation of obligations by the State party in their concluding observations, keeping in mind that this information will be considered by the UPR Working Group. It is particularly important to prioritise relevant recommendations in order that the main human rights concerns receive adequate attention, as has been highlighted by committee members.

Some treaty body members have also raised **concerns** regarding their role with regard to the UPR process. At a recent meeting,<sup>18</sup> committee members expressed the view that their role in the UPR process was 'not an explicitly formal one', meaning that their role was limited to the submission of information that would be summarised for the use of the UPR Working Group. Another concern that has been expressed was regarding the importance of maintaining their autonomy and independence with respect to the UPR process. This would be particularly relevant in cases where the recommendations of the treaty bodies differ from the recommendations of the UPR Working Group. It was expressed that a suitable way of resolving such a conflict in views must be explored.

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<sup>17</sup> The guidelines are available on the OHCHR Human Rights Council Extranet, which can be accessed through the OHCHR website. Please go to <http://www.ohchr.org/english/bodies/hrcouncil/form.htm> to fill in a form to receive the password to access the extranet.

<sup>18</sup> 9<sup>th</sup> joint meeting of chairpersons of human rights treaty bodies, special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures, 21 June 2007.

## B. COORDINATION WITH SPECIAL PROCEDURES

The **sharing of information** between the treaty bodies and the special procedures mandate holders of the Human Rights Council is a reciprocal and mutually beneficial process. Under the former Commission on Human Rights (CHR), while the OHCHR would provide thematic and country-specific information from the special procedures to the treaty bodies, such interactions between the treaty bodies and the special procedures were not systematic or regular, with the exception of coordination between CAT and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. In this particular case, the Special Rapporteur and the Committee would not only share country information derived from the reports of State parties, but also individual communications received by CAT. Other interactions between special procedures and the treaty bodies include special procedures attending sessions of the treaty bodies, either during annual thematic debates, or other regular meetings. For example, in August 2007, the Special Rapporteur on freedom of religion or belief, Ms. Asma Jahangir, engaged in a dialogue with CERD about contemporary challenges facing both her mandate and that of CERD due to discrimination based on both race and religion, and to discuss potential overlaps of both their mandates and how they could coordinate their efforts to address this pressing issue.<sup>19</sup>

Additionally, the **joint meeting** of chairpersons of human rights treaty bodies, special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures also allows for dialogue and interaction between the special procedures mandate holders and committee members so that they may discuss contemporary issues of mutual concern. For example, at the 9<sup>th</sup> joint meeting (21 June 2007), the facilitator of the Council's discussions on the **UPR** briefed the joint meeting on the Council's deliberations (see previous section for more details on the UPR). Special procedures mandate holders and the treaty bodies were thus not only able to interact with each other, but this meeting also allowed for further interaction between the treaty bodies and the Council. Additionally, it was also acknowledged at this meeting that the UPR would allow for closer coordination between the special procedures and the treaty bodies due to the need for country-specific information for the reviews of individual countries. It would be essential for information from special rapporteurs focussing on thematic and country issues and information from the treaty bodies to be used conjointly.

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<sup>19</sup> For a full summary of the dialogue between Ms. Asma Jahangir and CERD, please refer to the summary of the 71<sup>st</sup> session of CERD (30 July – 18 August 2007), available at [www.ishr.ch/hrm/tmb](http://www.ishr.ch/hrm/tmb).

## CHAPTER V

### DEVELOPING THE TREATY BODIES

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#### A. ANNUAL MEETINGS

In order to provide a forum for discussion about how to further develop the treaty bodies, committee members used to convene twice a year, in two separate meetings, often held consecutively.

Previously, the **annual meeting of chairpersons of the human rights treaty bodies** allowed for the chairpersons of all the treaty bodies to come together to discuss coordination of their activities and how to enhance the work of the treaty bodies individually and together. Streamlining of reporting procedures, harmonisation of methods of work, financial issues and other issues pertaining to the work of the treaty bodies were discussed at this meeting. Informal consultations with State parties and civil society were also held alongside the annual meetings in the past. This meeting has been discontinued as of 2007.

Additionally, the annual **inter-committee meeting** brought together the chairpersons of the treaty bodies with two additional members from each of the committees to discuss the harmonisation of working methods of the treaty bodies. At the 6<sup>th</sup> Inter-committee meeting held in Geneva (18 – 20 June 2007), it was agreed that it should convene **twice a year**, as many States parties and committee members were of the view that it was a 'useful forum for discussing matters of mutual concern', and that it should be held on a more regular basis.<sup>20</sup> The inter-committee meeting is expected to make recommendations for the improvement and harmonisation of working methods of the treaty bodies, and these recommendations would be adopted after consultation with all the treaty bodies.

#### B. PROPOSALS & AVENUES FOR REFORM

While **treaty body reform** has always been under discussion with relation to the improvement of the treaty body system, serious attention to this issue began to gather momentum when it was highlighted in the report of the UN Secretary-General entitled 'Strengthening of the United Nations: an agenda for further change'.<sup>21</sup> The report pointed out that the exclusive focus of each of the treaty bodies on the particular issues that fell under their respective treaties had resulted in imposing a heavy reporting burden on State parties. The phenomenon of 'non-reporting' and late reports therefore severely undermined the effectiveness of the work of the treaty bodies, by undercutting efforts to monitor implementation of States' human rights obligations.

This report also proposed two ways in which this problem could be addressed. First, it could be addressed through **increased coordination** among the activities of the different treaty bodies, and the **standardisation of the reporting requirements** across all the treaty bodies. Second, each State party should be allowed to produce a **single report** summarising its compliance with the full range of human rights treaties. While the latter suggestion for a single report was rejected, the Secretariat developed a set of 'harmonised guidelines' instead. These harmonised guidelines proposed that reports now contain an 'expanded common core document', a common section that could be submitted to all the treaties, accompanied by a shorter treaty-specific document to be submitted under each treaty.<sup>22</sup>

The report further recommended that the High Commissioner for Human Rights (the High Commissioner) should consult with the members of the treaty bodies to develop new 'streamlined reporting procedures' and submit recommendations regarding the same to the Secretary-General by September 2003. In another report that followed from the Secretary-General, entitled 'In larger freedom: towards development, security and human rights for all',<sup>23</sup> attention was specifically drawn yet again to the need for harmonised reporting guidelines across all the treaty bodies, so that they could function as a 'unified system' and thereby address the problem of chronic under-reporting by States parties, as well as address weak implementation of the recommendations of the treaty bodies.

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<sup>20</sup> For more information, please refer to the Report of the sixth inter-committee meeting of human rights treaty bodies, contained in the annex to document A/62/224, available at: <http://www.ohchr.org/english/bodies/icm-mc/documents.htm>. All the past reports of the annual chairpersons meeting as well as the inter-committee meetings are available at this location.

<sup>21</sup> A/57/387, presented at the 57<sup>th</sup> session of the General Assembly, 9 September 2002, paragraphs 52-54.

<sup>22</sup> For more information on the expanded core document and the new reporting guidelines, please return to Chapter II, A.1. (p.7).

<sup>23</sup> A/59/2005, presented at the 59<sup>th</sup> session of the General Assembly, 21 March 2005, paragraph 147.

In 2006, the High Commissioner put forward a proposal for a 'unified standing treaty body'.<sup>24</sup> In her proposal, the High Commissioner highlighted some of the major challenges facing the treaty bodies. They include the following:

- Failure of States to submit reports, or considerable delays in submission
- Increase in the workload of treaty bodies and increase in ratifications and treaties, thus creating a backlog in consideration of reports and individual complaints, and requiring more resources
- Duplication in the work of the treaty bodies
- Uneven expertise and independence of committee members, as well as inadequate geographical representation and gender balance
- Different working methods and limited coordination between different treaty bodies, making it difficult for States and others to engage with the system
- Infrequent use of individual complaint system
- Complex procedures that are not accessible to victims
- Limited use of inquiry and inter-State complaint procedures

The proposed 'unified treaty body' was presented as an answer to addressing many of these challenges. It was argued that some of the key features of this proposed body were as follows:

- The unified treaty body would reflect the crosscutting nature of human rights violations of victims, and would allow for a single reporting cycle for monitoring of all human rights obligations.
- It would allow for a comprehensive and holistic assessment of the implementation of human rights obligations to take place, with all recommendations and key concerns of the treaty bodies consolidated in one document.
- It would enable a more consistent approach to interpretation of the provisions of treaties, also allowing for complainants to invoke one or more provisions of several treaties when a violation has occurred.
- Treaty body members of the new body would be professional and remunerated full-time members available on a permanent basis.
- The unified body would allow for extended and more intensive dialogue with State parties.
- As a more authoritative body, it would raise the profile of the work of the treaty bodies and receive more visibility at the international and national levels.
- The proposed body would allow more flexibility with the venue and timing of sessions as it would be a single body and would not require coordination between seven separate committees.

However, this proposal did not receive broad support. Even though it offered some ideas on how to improve the treaty body system as a whole, it did not adequately address the key challenges that afflict the work of the treaty bodies, such as how to improve timely reporting by State parties and how to strengthen implementation of concluding observations. It also introduced many complex new issues that would be raised by the creation of a standing unified treaty body.<sup>25</sup> For example, NGOs and some States expressed concern at the potential loss of the specific focus maintained by each of the treaty bodies on particular vulnerable groups or clusters of rights if a single treaty body replaced the different treaty bodies. On the other hand, several NGOs and treaty bodies themselves were in favour of considering creation of a single body specifically to consider individual complaints under all of the treaties. Such a body would allow for the consistent interpretation and application of jurisprudence generated by the treaty bodies. Additionally, this body would also lift a substantial workload from the committee members who can use the substantial time they would have devoted to consideration of individual communications to consideration of the human rights obligations of concerned countries.

While the treaty body system continues to grow and develop, harmonisation of working methods and coordination between the treaty bodies remains a challenge to be addressed. Additionally, the quality of the work of the treaty bodies depends on the quality of the individual committee members, which until now, has been uneven, with members sometimes not exhibiting the requisite independence from their governments, or not having sufficient expertise in the particular areas of their work. Additionally, the lack of any limit on renewal of committee members has also led to the retention of some committee members for extended

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<sup>24</sup> HRI/MC/2006/2, *Concept Paper on the High Commissioner's Proposal for a Unified Standing Treaty Body*, 22 March 2006.

<sup>25</sup> For further information on the High Commissioner's proposal and its reception, please refer to Human Rights Monitor 06 (no 64/2006), available at [www.ishr.ch](http://www.ishr.ch).

periods of time. This would be of particular concern if the renewed members had insufficient expertise, were not independent, or were simply no longer effective as committee members. In order to strengthen the work of the treaty bodies, and thereby ensure the implementation of the human rights obligations of States parties, such issues will need to be addressed through the reform of the treaty bodies.

## GLOSSARY

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KEY WORDS & PHRASES	DEFINITION
Accession	When a State expresses its consent to be bound by the treaty without having signed it first.
Accreditation	The process by which an NGO that fulfils certain criteria is granted the 'credentials' to attend or participate in UN meetings by an authorising body.
Capacity-building	Refers to the activity of enhancing the skills or competencies of a State to address a particular problem. This could be achieved through providing financial or technical assistance.
Common core document	Refers to the document submitted by the State party to the treaty bodies containing general information about the country which is relevant to all of the treaties; it was employed to reduce repetition of information in States' reports to the various treaty bodies.
Concluding observations	The official observations and recommendations issued by a treaty body after consideration of a State report.
Constructive dialogue	The official exchange between committee members and the State party delegation at the plenary session, which allows for oral responses to questions and the exchange of additional information.
Country rapporteur	A designated committee member appointed to take the lead on the examination of a particular country, by taking primary responsibility to draft the list of issues, question the delegation, and formulate the concluding observations for that country.
Early warning procedures	A procedure that allows certain treaty bodies to act to prevent the further deterioration of the human rights situation in a country.
Entry into force	When a treaty becomes legally binding upon all States that have ratified it.
Exhaustion of domestic remedies	Refers to pursuing all available national mechanisms, such as local courts, to address a case of violation of human rights.
Follow-up	Monitoring through dialogue, reporting, question and answers, country visits or any other means, the extent to which a State party has implemented its obligations or any other recommendations that have been directed towards it.
General comment/recommendation	The official interpretation issued by a treaty body on the scope of a right contained in the convention which it is monitoring, to a broader thematic issue, or even regarding a procedural matter, that can provide guidance on the implementation of the particular treaty.

Human Rights Council	The main inter-governmental international human rights mechanism of the UN, and a subsidiary organ of the General Assembly, responsible for promoting and protecting human rights.
Independent expert	An individual with expertise in a particular area, who is not a State representative, and acts in his/her personal capacity; usually not remunerated and not considered UN staff.
Individual communication	A complaint on behalf of an individual who claims that his/her rights under one of the treaties have been violated by a State party; only some of the committees have the authority to consider these kinds of complaints.
Inquiry procedure	Procedure where a treaty body can investigate well-founded allegations of systematic violations of human rights by a State party.
Inter-governmental body	A political organisation whose membership is comprised of national governments.
International human rights obligations	Provisions of an international human rights treaty or international human rights treaties, which a State party is legally bound to respect, protect, and fulfil.
List of issues/questions	A list of issues/questions is formulated by the treaty body on the basis of the State report and information from specialised agencies, NGOs, etc; it is transmitted to the State party in advance of the session at which the treaty body will consider the State report.
Mandate	Refers to the collective objectives, powers and procedures that an individual or group is authorised to employ or undertake.
Optional Protocol	A separate treaty linked to a principal treaty, which imposes additional legal obligations on States that ratify them, such as individual communications procedures.
Oral submission	A formal statement made by an NGO representative at the plenary session of a treaty body or any other relevant UN body such as the Human Rights Council.
Parallel event	Event organised by one or more NGOs regarding a specific issue that is simultaneously held during plenary sessions of the treaty bodies or other relevant UN mechanisms such as the Human Rights Council.
Periodicity	Refers to the timetable for submission of reports by State parties to the treaty body; set out in accordance with the terms of the treaty.
Plenary session	Regularly scheduled main meeting of a treaty body (or other relevant mechanism) attended by all committee members.
Pre-sessional working group	A sub-committee convened before a plenary session, or prior to a subsequent session, in order to plan a committee's future work.
Ratification	A definitive, legal expression of consent that fully binds a State to the provisions of a treaty.

Reporting guidelines	Written guidelines produced by each treaty body giving advice on the necessary form and content of State reports.
Reservation	A declaration made by a State party, which excludes or alters the legal effect of certain provisions of a treaty in their application to the State.
Review procedure	A procedure by which a treaty body is mandated to consider the situation in a country in the absence of a report from the State party.
Shadow report/NGO report/alternative report/parallel report	Additional information provided by national or regional NGOs relating to the implementation of a treaty in a particular country.
Signature	A preparatory step indicating a State's intention to be fully bound by a treaty at a later date.
Special procedure/special rapporteur/mandate-holder	An independent expert appointed by the Human Rights Council to examine, monitor and publicly report on human rights situations in specific countries or on specific human rights and issues through reports, interactive dialogues and country missions.
State party	A State that has ratified or otherwise expressed its consent to be bound by an international treaty.
State party report/periodic report/State report	The report that each State party is required to submit regularly to the treaty body regarding steps it has taken to implement its obligations under the treaty.
Succession	An acknowledgement of being legally bound by a treaty; invoked after a State party has undergone a transformation which raises doubt as to whether the original expression of consent is still valid.
Technical assistance	A cooperative measure by which a State is provided the expertise, technology or any other form of appropriate technical capacity by the UN for the purposes of more effectively addressing a given problem or issue.
Treaty body or committee	A group of independent experts appointed to monitor implementation of an international human rights treaty.
Treaty/convention/covenant	An international legal instrument that imposes obligations on States that have ratified it.
Treaty specific document	A document that contains information on issues specifically related to the treaty concerned; submitted together with a core document (see above).
Universal periodic review	A new mechanism of the Human Rights Council, which comprehensively reviews the implementation of all the human rights obligations of a given State. The first cycle of the UPR will begin in 2008.
Working group	A group formed expressly for the purpose of addressing a specific issue.
Written submission	A formal statement on a particular issue submitted by an NGO to a treaty body, or any other relevant UN mechanism.

## **E-RESOURCES**

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### **Where can I find general information on the treaty bodies?**

OHCHR Fact Sheet No.30 - The United Nations Human Rights Treaty System:  
<http://www.ohchr.org/english/bodies/treaty/index.htm>

Other reference material (OHCHR):  
<http://www.ohchr.org/english/about/publications/reference.htm>

### **Where can I find basic documents on individual treaty bodies?**

OHCHR Fact-sheets on all the treaty bodies can be accessed at:  
<http://www.ohchr.org/english/about/publications/sheets.htm>

OHCHR extranet for information relating to CMW, HRC and CAT (new users must register to obtain password):  
<http://www.ohchr.org/english/bodies/hrcouncil/index.htm>

### **CERD**

General:  
<http://www.ohchr.org/english/bodies/cerd/index.htm>

General Comments:  
<http://www.ohchr.org/english/bodies/cerd/comments.htm>

State reports:  
<http://www.ohchr.org/english/bodies/cerd/sessions.htm>

### **CESCR**

General:  
<http://www.ohchr.org/english/bodies/cescr/index.htm>

General Comments:  
<http://www.ohchr.org/english/bodies/cescr/comments.htm>

State reports:  
<http://www.ohchr.org/english/bodies/cescr/sessions.htm>

### **HRC**

General:  
<http://www.ohchr.org/english/bodies/hrc/index.htm>

General Comments:  
<http://www.ohchr.org/english/bodies/hrc/comments.htm>

State reports:  
<http://www.ohchr.org/english/bodies/hrc/sessions.htm>

### **CAT**

General:  
<http://www.ohchr.org/english/bodies/cat/index.htm>

General Comments:  
<http://www.ohchr.org/english/bodies/cat/comments.htm>

State reports:  
<http://www.ohchr.org/english/bodies/cat/sessions.htm>

## **CEDAW**

General:  
<http://www.un.org/womenwatch/daw/cedaw/>

General recommendations:  
<http://www.un.org/womenwatch/daw/cedaw/recommendations/index.html>

State reports:  
<http://www.un.org/womenwatch/daw/cedaw/reports.htm>

## **CRC**

General:  
<http://www.ohchr.org/english/bodies/crc/index.htm>

General Comments:  
<http://www.ohchr.org/english/bodies/crc/comments.htm>

State reports:  
<http://www.ohchr.org/english/bodies/crc/sessions.htm>

## **CMW**

General:  
<http://www.ohchr.org/english/bodies/cmw/index.htm>

State reports:  
<http://www.ohchr.org/english/bodies/cmw/sessions.htm>

## **Which country has ratified which treaty?**

Ratification and reservations by country:  
<http://www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet>

Reports submitted by country:  
<http://www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet>

All reports by treaty or convention:  
<http://www.unhchr.ch/tbs/doc.nsf/RepStatfrset?OpenFrameSet>

Reports due by country:  
<http://www.unhchr.ch/tbs/doc.nsf/newhvduebycountry?OpenView>

Reports overdue by country:  
<http://www.unhchr.ch/tbs/doc.nsf/newhvoverduebycountry?OpenView>

## **Where can I search for concluding observations, recommendations and other information generated by the treaty bodies?**

Treaty Bodies Database (OHCHR):  
<http://tb.ohchr.org/default.aspx>

Universal Human Rights Index:  
<http://www.universalhumanrightsindex.org/>

To sign up for free email notification of treaty body recommendations (OHCHR):  
<http://www.ohchr.org/english/bodies/treaty/subscribe.htm>

### **Where can I find summaries of the past sessions of the treaty bodies?**

Treaty Body Monitor (ISHR):

<http://www.ishr.ch/hrm/tmb>

### **How can NGOs engage with the treaty bodies?**

Working with OHCHR: A Handbook for NGOs, Chapter 6: Treaty Bodies (OHCHR):

<http://www.ohchr.org/english/about/ngohandbook.htm>

### **How can I contact the treaty bodies?**

Info-Pack (ISHR):

[www.ishr.ch/hrm/Infokit/Infopack\\_1st Semester\\_2007.pdf](http://www.ishr.ch/hrm/Infokit/Infopack_1st_Semester_2007.pdf)

### **How can I submit a complaint to the treaty bodies?**

For information on the complaints procedure (OHCHR):

<http://www.ohchr.org/english/bodies/petitions/index.htm>

### **Where can I find reports of the meetings of the treaty bodies?**

Reports of the annual meetings of the treaty bodies (OHCHR):

<http://www.ohchr.org/english/bodies/icm-mc/documents.htm>

Summaries of meetings of the treaty bodies (ISHR):

[www.ishr.ch](http://www.ishr.ch)

### **Where can I find information on treaty body reform?**

Enhancing the human rights treaty body system (OHCHR):

<http://www.ohchr.org/english/bodies/treaty/reform.htm>

Guidelines, reports and notes by various UN bodies on the treaty body reform (OHCHR):

<http://www.ohchr.org/english/bodies/icm-mc/documents-system.htm>

Reform of the treaty bodies (Amnesty International)

<http://web.amnesty.org/pages/treaty-reform-eng>