



ISHR GUIDE ON UN TREATY BODIES

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The International Service for Human Rights (ISHR) is an independent, international non-governmental organisation (NGO) which promotes and protects human rights by supporting human rights defenders and strengthening human rights standards and systems. We achieve this through a strategic combination of research, advocacy, monitoring, coordination and capacity building.

This Simple Guide to the UN Treaty Bodies is a tool for those interested in better understanding the UN human rights treaty body system and the opportunities it presents for civil society engagement.



For more information on Treaty Bodies and how to engage, you can visit the ISHR Academy, our e-learning space, helping human rights defenders strengthen their advocacy skills with the UN for greater impact on the ground. The Academy is available in different languages and accessible on mobile phones.

<https://academy.ishr.ch/learn/treaty-bodies>



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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 Convention 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
CRPD	Convention on the Rights of Persons with Disabilities
ICPED	Convention for the Protection of All Persons from Enforced Disappearance
ICCPR-OPI	Optional Protocol to ICCPR (on individual complaints)
ICCPR-OP2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
OP-CAT	Optional Protocol to CAT
OP-ICESCR	Optional Protocol to ICESCR
OP-CRC-AC	Optional Protocol to CRC on children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on sale of children, child pornography and child prostitution
OP-CRC-IC	Optional Protocol to CRC on a communications procedure

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 CTTE	Human Rights Committee
CRPD	Committee on the Rights of Persons with Disabilities
CED	Committee on Enforced Disappearances

Other

ECOSOC	Economic and Social Council
NGO	Non-governmental organisation
NHRI	National human rights institution
OHCHR	Office of the High Commissioner for Human Rights



What are treaties?

Adopted in 1948, the **Universal Declaration of Human Rights (UDHR)** 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 binding treaties – 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 focused 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 which substantively complement and expand upon particular rights guaranteed in the International Bill of Rights.

A **'treaty', 'convention' or 'covenant'** is an international legal instrument. A treaty imposes binding legal obligations upon a State that is a party to that treaty. A State can become party to a treaty by ratifying it, which means the State voluntarily decides to be bound by its provisions. The State therefore becomes **obligated under international law to uphold and implement the provisions of the 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 it has ratified. If the reservation to the relevant article is deemed admissible, then the State is no longer considered bound to fulfil 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.

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

- *International Convention 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)
- *Convention on the Rights of Persons with Disabilities* (CRPD)
- *Convention for the Protection of All Persons from Enforced Disappearance* (ICPED)

The ratification status of these treaties on a country-by-country basis is available on the OHCHR website: <http://indicators.ohchr.org>.

Mandate of the treaty bodies?

The **treaty bodies** were created to monitor and encourage States to uphold and implement their international obligations under the above-mentioned international human rights treaties.

The treaty bodies are international committees of independent experts who monitor State parties' implementation of each of the nine core human rights treaties and their optional protocols

The implementation of each of the international treaties is monitored by its own committee based on reports from State parties and information from non-governmental organisations (NGOs) and other relevant sources (refer to **Table I**). At present, there are ten treaty bodies monitoring the implementation of the nine core international human rights treaties and one optional protocol. Treaty bodies can examine violations of the rights enshrined in their corresponding treaty. They can make recommendations, examine individual cases, and monitor situations over time. What really sets the Treaty Bodies apart is the level of scrutiny and focus they bring. Of all UN human rights mechanisms, they are able to go right into the detail of an issue and propose solutions based on binding international human rights norms.

TABLE I INTERNATIONAL CONVENTIONS AND THEIR TREATY BODIES

TREATY BODY	MANDATING CONVENTION	WEBPAGE (OHCHR)	E-MAIL / PHONE
Committee on the Elimination of Racial Discrimination (CERD)	<u>Convention on the Elimination of All Forms of Racial Discrimination</u>	https://www.ohchr.org/en/hrbodies/cerd/pages/cerdiindex.aspx	E-mail: cerd@ohchr.org Tel: +41 22 917 97 57
Human Rights Committee (CCPR)	<u>International Covenant on Civil and Political Rights</u>	https://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx	E-mail: ccpr@ohchr.org Tel: +41 22 917 92 61
Committee on Economic, Social and Cultural Rights (CESCR)	<u>International Covenant on Economic, Social and Cultural Rights</u>	https://www.ohchr.org/EN/HRBodies/CESCR/pages/cescriindex.aspx	E-mail: cescr@ohchr.org Tel: +41 22 917 90 00
Committee on the Elimination of Discrimination Against Women (CEDAW)	<u>Convention on Elimination of All Forms of Discrimination Against Women</u>	https://www.ohchr.org/EN/HRBodies/CEDAW/page/cedawindex.aspx	E-mail: cedaw@ohchr.org Tel: +41 22 917 94 43
Committee Against Torture (CAT)	<u>Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment</u>	https://www.ohchr.org/EN/HRBodies/CAT/pages/catindex.aspx	E-mail: cat@ohchr.org Tel: +41 22 917 97 06
Committee on the Rights of the Child (CRC)	<u>Convention on the Rights of the Child</u>	https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx	E-mail: crc@ohchr.org Tel: +41 22 917 91 41
Committee on Migrant Workers (CMW)	<u>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</u>	https://www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx	E-mail: cmw@ohchr.org Tel: +41 22 917 93 35
Committee on the Rights of Persons with Disabilities (CRPD)	<u>Convention on the Rights of Persons with Disabilities</u>	https://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx	E-mail: crpd@ohchr.org Tel: +41 22 917 97 03
Sub-Committee on Prevention of Torture (SPT)	<u>Optional Protocol to the Convention Against Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT)</u>	https://www.ohchr.org/en/hrbodies/opcat/pages/opcatindex.aspx	E-mail: opcat@ohchr.org Tel: +41 22 917 97 44
Committee on Enforced Disappearances (CED)	<u>International Convention for the Protection of All Persons from Enforced Disappearance</u>	https://www.ohchr.org/en/hrbodies/ced/pages/cedindex.aspx	E-mail: ced@ohchr.org Tel: +41 22 917 91 89

The Office of the High Commissioner for Human Rights (OHCHR) assists the work of all Committees, effectively acting as a secretariat for each of the Treaty Bodies.

Each Treaty Body receives direct support by teams of staff within the Human Rights Treaty Division of the OHCHR in Geneva. If you plan to engage with a particular Treaty Body, it is useful to know who is the head of the Secretariat for that Treaty Body within the Division, as they can provide useful information.

The OHCHR Human Rights Treaty Body Division provides the Treaty Body with support in several areas, such as legal expertise, research, and analytical assistance. They help to conduct research for reports, process and draft individual communications, and issue press releases. They also provide assistance in organising the logistics and agenda of any meeting of the Treaty Bodies.

The OHCHR team's resources are limited. For example, the OHCHR Petitions and Urgent Action Section which deals with individual communications and requests for urgent actions has less than 20 staff for the eight Treaty Bodies which accept communications. This has contributed to a backlog of over 1500 individual complaints pending review, with an annual capacity to review only 250 individual communications.

For regular updates on Treaty Body sessions, including calls and deadlines for submission of information, you can sign up to the OHCHR Civil Society Weekly Update which includes the [OHCHR Treaty Bodies Weekly Update](#).

You can also follow the OHCHR on [social media](#).

Composition of the treaty bodies

The members of the treaty bodies are independent experts who should be of recognised competence in the field of human rights and 'of high moral standing' or 'of acknowledged impartiality', as stipulated by the relevant treaties.¹ It is important to note that even though the members of the treaty bodies are elected by States, they are meant to serve in their personal capacity and to 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.

¹ For more information: www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx

The Addis Ababa Guidelines on the independence and impartiality of members of the human rights treaty bodies² set out a series of principles and practical steps for ensuring the neutrality of committee members. It is up to each of the treaty bodies to implement the Guidelines. Many have adopted them or incorporated them into their rules of procedure.

The number of members on each treaty body committee varies from ten to 25 (refer to [Table II](#) below). Members 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 take place every two years. Three of the treaty bodies (SPT, CED, CRPD) limit membership to a maximum of two terms, while the other treaty bodies currently place no limit on the re-election of committee members.³

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.⁴

Members of treaty bodies are unpaid but they receive an allowance or per diem from the United Nations for the meetings of the committees.

The treaty bodies

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

• *Committee on the Elimination of Racial Discrimination*

CERD was the first treaty body to be established, in 1970, and oversees 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 States in 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 The Addis Ababa Guidelines, HRI/MC/2012, were developed in 2012 at the 24th meeting of treaty body chairpersons.

3 <https://www.ohchr.org/en/treaty-bodies/electing-treaty-body-members>

4 ECOSOC Resolution 1985/17.

• *Committee on Economic, Social and Cultural Rights*

CESCR monitors the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR). It is composed of 18 experts, who meet twice a year for three weeks at a time.

Unlike the other treaties, ICESCR did not provide for the creation of a committee to oversee its implementation. Instead, the Economic and Social Council (ECOSOC⁵), 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 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 to 'rectify' the legal status of CESCR to make it more like the other treaty bodies. In 2014, the General Assembly recommended that ECOSOC consider replacing the existing process of electing members through ECOSOC with a meeting of States parties, as is the case with the other treaty bodies⁶

The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) was unanimously adopted by the UN General Assembly on 10 December 2008. This Optional Protocol allows CESCR to receive and consider communications from individuals or groups of individuals, under the jurisdiction of a State party, claiming to be victims of a violation of any of the rights protected by the Covenant. It also creates an inquiry procedure.

Previously, CESCR did not have a complaints procedure (for more information on complaints procedures please refer to [Chapter 2](#)). The adoption of OP-ICESCR is a significant victory after decades of campaigning and advocacy by human rights groups and academics. The Optional Protocol to ICESCR opened for signature and ratification in March 2009 and came into force on 5 May 2013, having been ratified by ten States.

5 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'

6 General Assembly Resolution 68/268. For information on previous discussions to rectify the legal status of CESCR refer to ISHR's Daily Update of 10 December 2007, published during the 6th session of the Human Rights Council www.escr-net.org/sites/default/files/1_december_2007_0.pdf

- *Human Rights Committee*

The HR Cttee (or HR Cttee⁷) 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-OPI). It was created in 1976 and consists of 18 members who meet three times a year for up to four weeks at a time. The Committee currently holds its sessions in Geneva.

- *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). The Committee has 23 members, who meet for three weeks, three times a year. Currently, CEDAW meets in Geneva.

- *Committee against Torture*

CAT, 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 four weeks at a time. It is mandated to receive individual complaints and can also conduct confidential inquiries into serious, grave or systematic violations of CAT.

- *Subcommittee on Prevention of Torture*

The 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. It is mandated to conduct visits to places of detention within the territories of all State parties to the OP-CAT, after which it will submit confidential reports containing recommendations to the State party. The SPT is further mandated to advise and assist in the establishment and functioning of National Preventive Mechanisms in all State parties. It is composed of 25 independent experts from the various fields relevant to the administration of justice or detention, including legal professionals and forensic scientists. The SPT started meeting in 2007.

7 The acronym HR CTTE ought to be avoided as it's become primarily used to refer to the wholly distinct UN Human Rights Council, which is not a Treaty Body.

- *Committee on the Rights of the Child*

CRC, created in 1990, monitors the implementation of the International Convention on the Rights of the Child (CRC). The Committee is comprised of 18 members, who meet three times a year for four weeks at a time – three weeks for the Committee session plus an additional week-long 'pre-session working group' to prepare the lists of issues and questions for the following session.

The optional protocol to the CRC establishing an individual complaint procedure came into force on 14 April 2014.

- *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). It held its first session in March 2004. It presently holds two sessions per year, and is composed of 14 independent experts.

- *Committee on the Rights of Persons with Disabilities*

The Convention on the Rights of Persons with Disabilities, adopted by the General Assembly in 2006, created a Committee on the Rights of Persons with Disabilities mandated to monitor the implementation of human rights obligations under the Convention. It does so through the consideration of periodic reports submitted by State parties. The Optional Protocol to the Convention allows the Committee to receive and consider complaints on behalf of individuals and groups, and provides for the Committee to conduct confidential investigations of allegations regarding grave or systematic violations of the Convention. Investigations may be carried out through country visits with the consent of the State. The Convention and the Optional Protocol entered into force on 3 May 2008. The first meeting of the Committee, which is comprised of 18 members, took place in February 2009.

- *Committee on Enforced Disappearances*

The International Convention for the Protection of All Persons from Enforced Disappearance (ICPED), adopted in 2006, created the Committee on Enforced Disappearances (CED). The CED is composed of ten members. It has a mandate to consider periodic reports and individual complaints, and can also undertake field inquiries and bring situations of widespread and systematic enforced disappearance to the attention of the General Assembly. It meets twice a year.



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TABLE II COMPOSITION AND SESSIONS*

TREATY BODY	COMPOSITION	NUMBER AND DURATION OF SESSIONS	SESSIONS	
			PERIOD	LOCATION
CERD	18	2 sessions per year of 3 weeks' duration each	February & August	Geneva
HR CTTE	18	3 sessions per year of up to 4 weeks' duration each	March, July & October	Geneva
CESCR	18	2 sessions per year of 3 weeks' duration each 1 week for pre-sessional working group immediately after each session to prepare lists of issues and questions for following session	May & November	Geneva
CEDAW	23	3 sessions per year of 3 weeks' duration each OP-CEDAW prior to each session for 3-5 days Pre-sessional working group for 1 week immediately after each session, to prepare lists of issues and questions for following session	February, July & October	Geneva
CAT	10	2 sessions per year of 4 weeks' duration each	May & November	Geneva
SPT	25	3 sessions per year of 1 week's duration each	February, June & November	Geneva
CRC	18	3 sessions per year of 3 weeks' duration each Pre-sessional working group for 1 week immediately after each session to prepare lists of issues and questions for following session	January, June & September	Geneva
CMW	14	2 sessions per year, of 2 weeks' duration in April and 1 week's duration in September	April & September	Geneva
CRPD	18	2 sessions per year, the first of 3.5-4 weeks and the second of 3 weeks' duration Pre-sessional working group for 1 week immediately after each session to prepare lists of issues and questions for following session	March/April & August/September	Geneva
CED	10	2 sessions per year of 2 weeks' duration each	March & September	Geneva



CHAPTER 2 WHAT DO THE TREATY BODIES DO?

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):

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

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

- 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 III](#) at the end of this chapter.

Consideration of reports

All Treaty Bodies (except SPT) are mandated to undertake periodic reviews of State parties. When States become party to one of the international human rights treaties, they are obliged to submit an **initial report**, followed by **periodic reports** to the treaty body in question. CED is the only committee that has no provision for receiving periodic reports. A periodic report is a report that a State party is required to submit at regular intervals of time, as prescribed by the relevant treaty.

The main purpose of the reporting process is for the treaty bodies to examine the level of the State's implementation of its obligations under the treaties.

Ideally, the preparation of the State report should also serve as an opportunity to assess and debate human rights issues in the country and identify problems and areas that may require further attention.

Ideally, the preparation of the State report should also serve as an opportunity to assess and debate human rights issues in the country and identify problems and areas that may require further attention.

Starting with the Human Rights Committee in 2019, the treaty bodies have gradually moved towards the adoption of Fixed and Predictable Review Cycles⁸. The purpose of the process is to provide much needed visibility and predictability as to when states parties are due to be reviewed, as is the case with the Universal Periodic Review. In June 2022, all treaty bodies agreed to establish a predictable schedule of reviews.

The Committees that have periodic reviews (CESCR, HR Cttee, CERD, CEDAW, CAT, CRC, CRPD and CMW) will establish an eight-year review cycle for full reviews with follow-up reviews in between⁹. It is yet to be seen how the implementation of the cycle will work out in practice, notably given the lasting disruptions on the reporting cycles induced by the global Covid pandemic, and the increasing amount of States requesting reviews to be postponed during and after the pandemic.

Monitoring State obligations through the reporting process follows several stages (although not all treaty bodies follow all the stages):

- Preparation of the **State report** at the national level
- **Pre-sessional preparations** by the treaty bodies for the examination of the report
- **Consideration of the report** in a public meeting through a constructive dialogue with the State party
- Issuing of **concluding observations** and recommendations
- **Follow-up on implementation** of the concluding observations

*These stages are examined in detail below.

8 <https://www.ohchr.org/en/treaty-bodies/ccpr/predictable-review-cycle>

9 Conclusions of the 34th meeting of the Chairs of the treaty bodies (30 May to 3 June 2022). Available at: <https://tbinternet.ohchr.org/layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCHAIRPERSONS%2fMCO%2f34%2f34020&Lang=en>

Preparation of the State report

The preparation of the State report at the national level is a government process often involving input from various ministries and public authorities. However, the report should also be prepared in broad consultation with national human rights institutions (NHRIs), NGOs and civil society in order to make it as comprehensive and as inclusive a process as possible.

A comprehensive report ideally contains 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 State's intentions to improve implementation.

OHCHR has been requested by the General Assembly¹⁰ to provide advisory services, technical support, and capacity building to States to help them implement their treaty obligations, including their reporting obligations as part of a dedicated programme which has contributed to enable some states to submit their reports in a timely manner¹¹.

Reporting guidelines and format for the State report:

Although the requirements of the State report vary according to the stipulations of each of the respective treaties, the basic format of all the reports is similar. However, there are usually different guidelines for the submission of initial vs. periodic reports. As part of the GA established capacity building programme for states mentioned above, the OHCHR offers a detailed training package on reporting to the treaty bodies, available online¹². The treaty bodies have devised guidelines for both the format and the substantive content of the State reports. The main aims of having guidelines to assist in the preparation of State reports are to ensure the uniformity and completeness of reports, and to obtain a comprehensive overview of the human rights situation in the country.

Different treaty bodies have developed differing guidelines in this regard. For example:

- Reporting according to each article of the relevant treaty
- Reporting according to clusters of related articles

¹⁰ General Assembly Resolution 68/268 (2014)

¹¹ See more about the OHCHR capacity building programme at: <https://www.ohchr.org/en/treaty-bodies/treaty-body-capacity-building-programme>

¹² <https://www.ohchr.org/en/publications/ohchr-training-package-reporting-united-nations-human-rights-treaty-bodies ng-programme>

- Reporting according to clusters of related articles
- Reporting according to pre-submitted questions prepared by the committee.
- Asking more detailed questions under particular articles
- Leaving the information to be submitted up to the State

General information regarding a country, such as basic facts and figures, its political and legal system, and other relevant information, is required in reports to all of the treaty bodies. In order to ease the reporting burden on States and assist in limiting the length of State reports, the treaty bodies allow States to submit a core document common to all the treaty bodies. The **‘common core document’** – limited to 42,400 words – contains information relevant to all treaty bodies, and forms the first part of the State report. It is the State party’s responsibility to ensure that the common core document is kept up-to-date.

The common core document contains the following information:

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

The common core document is submitted along with the treaty-specific State report to the respective treaty bodies. The treaty-specific report provides the relevant information under the articles of the respective treaty. It should be noted that in recent years, common core documents have gradually come to be lesser used.

Pre-sessional preparation

All the treaty bodies carry out certain activities in preparation for the examination of State reports.

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, CESCRC, CRC, CRPD) for upcoming sessions.

The pre-sessional working groups are usually held in private, with the exception of that of CESCRC, which is public and open to NGO participation.

NGOs that have made written submissions on States due for review may be invited to participate in the pre-sessional working group of the CRC, while in the case of CEDAW and CRPD, NGOs working on the countries for whom lists of issues will be adopted can brief committee members during the pre-session.

- Reporting according to each article of the relevant treaty
- Reporting according to clusters of related articles
- Reporting according to pre-submitted questions prepared by the committee.
- Asking more detailed questions under particular articles
- Leaving the information to be submitted up to the State

List of issues and questions:

All the treaty bodies (except SPT) prepare lists of issues (LOIs) and questions to States being examined prior to their sessions. The LOIs (called list of themes by CERD) are a set of questions around specific human rights issues relevant to that particular State, and generally follows the structure of the relevant treaty. LOIs help to guide the State in preparing for the review, as it indicates the nature and focus of questions that will be raised during the Treaty Body's examination of the report. Practices for developing the list and the use of the list vary across the different treaty bodies.

The list may also indicate to the State the nature and focus of questions that will be raised during the treaty body's examination of the report. States are asked to submit a written response to the list of issues and questions before the consideration of the report by all treaty bodies except CERD.

The State responses to the list of issues can serve as a supplemental source of information, particularly if significant information is missing from the State report. For example, it may take a year or more after its submission before a State report is considered, and some of the information provided may be out of date. The list of issues and questions can provide an opportunity for the treaty body to receive relevant and more detailed information absent in 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.

List of Issues Prior to Reporting (LOIPR):

Some Treaty Bodies offer a new optional simplified reporting procedure to deal with the backlog of reviews and the delay in State reporting. First introduced by CAT in May 2007, the reporting procedure is commenced by the Treaty Body preparing a list of issues prior to reporting (LOIPR) before a State submits its report.

The LOIPR is an optional reporting procedure. The aim of this procedure is to streamline the reporting process by removing the need for States both to submit a report and subsequently respond to a list of issues. In the case of LOIPR, the periodic report is the state's response to the LOI. It enables states who agree to opt for this option to submit one (response to LOIPR) instead of two documents (report + response to LOI). LOIPRs encourage States to produce more focused reports that respond to their reporting obligations under the treaties. The LOIPR is developed on the basis of previous concluding observations adopted by the committee as well as other available information including UN and NGO reports.

The CCPR, CESCR, CEDAW, CAT, CRC, CMW, and CRPD offer the option of a simplified reporting procedure. For some of them, this option applies to periodic reports which are submitted after a State has filed its initial report under a particular Treaty. CERD offers the simplified reporting procedure to those States whose reports are overdue by more than 5 years, prioritising those overdue by 10 years or more.

Since 2019, the CCPR has adopted the simplified reporting procedure by default for all States under review. States can opt out of this procedure if they wish. For all other Treaty Bodies, States must opt into the simplified reporting procedure in order for it to apply.

Role of country rapporteurs:

CERD, CMW, CESCR, CEDAW and CRPD appoint one country rapporteur per State report. CRC appoints up to two country rapporteurs per report, CAT appoints two, and CED appoints two or more. The HR Cttee and CRC appoint a 'country task force' of three to six members for each State report, one of whom is the country rapporteur who has overall responsibility for drafting the list of issues. 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 to submit to the State party. They will play a lead role in questioning the State delegation when it presents the report to the treaty body, and are often also responsible for preparing the first draft of the concluding observations.

Additional sources of information

In addition to the State report and replies to the list of issues and questions, the treaty bodies receive information from other sources such as NHRIs, national, regional or international NGOs, and other civil society actors.

There is no requirement of UN accreditation for NGOs to submit information to the treaty bodies. A detailed overview of how NGOs can submit information is provided in Chapter 3.

Reports from national NGOs 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 themes may choose to focus their reports on issues within their areas of specialisation, NGO reports often follow the format of the State report and provide in-depth and comprehensive information on every article of the relevant treaty. This makes such reports easy and useful tools for the work of treaty body members, who can cross-check 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 and other sources.

Further information, generally of a confidential nature, may be submitted by the UN specialised agencies such as the UN Children's Fund (UNICEF), the UN High Commissioner for Refugees (UNHCR), the International Labour Organization (ILO), and the World Health Organization (WHO).

Dialogue with the concerned country

The plenary sessions of the treaty bodies held in Geneva usually take place at Palais Wilson, which houses the OHCHR. The consideration of the country report by the treaty body in a public session provides an opportunity for a constructive (or interactive) 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 in 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 State report, but also the list of issues and questions that has been sent to the State in advance of the review (where the standard reporting procedure has been followed), along with the State's responses.

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In preparation for the constructive dialogue, the Secretariat of the relevant Treaty Body (OHCHR) may prepare a compilation report containing relevant information on the situation in the concerned country from various sources, including the UN system, NHRIs, NGO submissions, and (generally confidential) information from inter-governmental agencies, such as UNICEF, UNHCR, ILO and WHO. The OHCHR Secretariat of the relevant treaty body also prepares a country dossier, containing all available relevant information on the situation in the concerned country from within the UN system and other sources.

The State party usually sends a delegation to be present at the consideration of its report by the treaty body, or they may participate online. This delegation may consist of representatives of the permanent mission in Geneva and/or ministers or government officials. Since the Covid global pandemic starting in 2020, the practice of online participation of states parties, and NGO representatives, has considerably expanded across all treaty bodies. Nevertheless, treaty body periodic reviews can only be adequately undertaken when members are in session in person in Geneva. 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 delegation then introduces the State report.

Following this introduction, committee members, usually headed by the country rapporteur or the country task force, make their comments or observations, and ask questions to the delegation. The structure of the constructive dialogue is based on the individual practices of each of the treaty bodies.

- The HR Cttee asks delegations to respond to the first half of the list of issues covering the first half of the ICCPR, 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 covering the remaining part of the ICCPR and so on.
- In the case of CERD, following the introductory remarks of the State delegation, the country rapporteur 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.

- CED also proceeds by allowing all committee members to ask questions followed by the responses by the delegation.
- 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. The treaty body may examine the extent of implementation on the basis of information received from other sources such as NGOs, UN agencies, etc. It will formulate a list of questions and issues for the State delegation to answer during the main 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 for a State to submit its periodic report to the relevant committee shortly after it has been informed that it will otherwise be considered under the review procedure.

Issuing concluding observations and recommendations

The consideration of the State report by the treaty bodies culminates in the development of concluding observations and recommendations to the State¹³. The country rapporteur is normally in charge of drafting the concluding observations, which are debated and adopted by the treaty body in a private meeting¹⁴.

The concluding observations are intended as a guide for furthering implementation of human rights obligations, but they are not legally binding. They may include the following:

- **Acknowledgement of positive steps taken** by the State to achieve its obligations
- **Identification of problematic areas that require further action**
- **Practical steps** that the State can take in order to improve its implementation of human rights standards
- **Follow-up on implementation** of the concluding observations

¹³ The concluding observations of all the treaty bodies can be accessed at: <https://uhri.ohchr.org/en/>

¹⁴ The concluding observations must respect a limit of 10,700 words (General Assembly Resolution 68/268)

The concluding observations or COBs often recommend changes in law, policy and programmes, establishment of institutions or organs to ensure implementation, and any other relevant measures.

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

The adoption of the concluding observations marks the end of the examination of the report. They are usually made public through the OHCHR website at the end of the treaty body session, or soon after, but are typically shared with the concerned country before being made public.

The implementation of human rights obligations is an evolving process, and the subsequent periodic reports provide an opportunity for the State to inform the treaty bodies of how they have followed up on the previous concluding observations and recommendations.

Follow-up of concluding observations and recommendations

Follow-up to the concluding observations and recommendations of the treaty bodies is essential to improving the human rights situation on the ground in a particular country. States bear the primary responsibility for implementing the human rights obligations. However, other actors, including NGOs, also play an important role in this process.

Treaty bodies have developed different procedures for monitoring the implementation of their recommendations by States. **At the time of writing, all treaty bodies had agreed to a predictable review cycle as part of which periodic reviews would take place every 8 years, with a follow up in between after four years. It is yet to be seen how the implementation will work out in practice¹⁵.**

Until the adoption of predictable review cycles, which implementation in practice is yet to be seen, all the Treaty Bodies (except the SPT) requested that States submit follow up reports within 12 to 24 months after the review.

15 Conclusions of the 34th meeting of the Chairs of the treaty bodies (30 May to 3 June 2022). Available at: <https://tbinternet.ohchr.org/layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCHAIRPERSONS%2fMCO%2f34%2f34020&Lang=en>

They requested that States provide information on the extent to which it has complied with the review recommendations, focusing on those that have been identified as 'priority' or urgent (between two to five of the concluding observations from the review)."¹⁶

The number of recommendations selected for follow-up varies between treaty bodies and between country reviews but usually a minimum of two and up to five recommendations are identified. Priority (or urgent) COBs are identified in the penultimate paragraph.

Many treaty bodies have tasked one or more members with specific responsibilities relating to follow-up. They have appointed a follow-up rapporteur, a follow-up coordinator or allocated follow-up responsibilities to the respective country rapporteurs responsible for the review of a State. This person is generally mandated to monitor measures taken by the State to implement the recommendations of the treaty body and to report on the activities and implementation of the follow-up procedure in the annual report of the treaty body. Further, the HR Ctte, CAT, CERD, CEDAW, CRPD, and CED have dedicated follow-up sections on their webpages¹⁷. Some treaty bodies, most notably the HR Ctte, undertake follow up visits to foster the national domestication and follow up of recommendations upon invitation from actors like NGOs¹⁸.

Assessment of implementation

The Committee will analyse the degree of implementation of its concluding observations, taking account any information received from civil society. State action is given a 'grade' - ranging from the highest level of compliance to lowest level of compliance, or even contrary to the recommendations of the Committee.

Some Treaty Bodies use grades ranging from A to E, with A being the highest level of compliance. Others use an assessment of "partially implemented", "fully implemented", or "not implemented".

Other tools to ensure follow-up

The treaty bodies can use various strategies for placing pressure on States to follow up and implement their recommendations.

16 For more information on follow up and grading of state compliance with COBs, see: https://academy.ishr.ch/upload/resources_and_tools/TBs_Tips_Treaty_Body_Follow_up_and_Grading_System.pdf

17 <https://www.ohchr.org/en/treaty-bodies/follow-concluding-observations>

18 For more information, see Vincent Ploton "The implementation of UN treaty body recommendations" SUR international journal of human rights, July 2017. Available at: <https://sur.conectas.org/en/implementation-un-treaty-body-recommendations/>

. For instance, the treaty bodies are the only UN human rights mechanisms who have a grading system as with which they assess the level of state compliance with their recommendations, and publicly report about it. The grades can be found in the follow up letters to states parties available online. National NGOs can disseminate these grades, especially where they demonstrate failures from states parties to comply with the recommendations. The grades can be disseminated in national media, social media, or used as part of advocacy towards fellow mechanisms such as the Universal Periodic Review or regional human rights mechanisms.

Some treaty bodies may request a meeting with a State representative in the event that no information is submitted as part of the follow up. CAT can undertake special reviews when the national situation is so dire that it warrants exceptional scrutiny.

Individual communications

Eight treaty bodies can receive **complaints**, also called **communications** or **'petitions'** regarding violations of a right or rights under the relevant treaties¹⁹.

The **procedure for submission** of individual complaints may either be contained within an article of the treaty, or it may be established by a separate optional protocol to the treaty (see **Table III**). For example, the HR Cttee, CESCR, CRPD, CEDAW, and the CRC can consider complaints through their respective optional protocols. In the case of CAT, CERD, and CED, individual communications can be considered when States have made the required declaration under Article 22 of CAT, Article 14 of ICERD, and Article 31 of ICPED. 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. You can find out if your State has ratified a particular Treaty through the OHCHR UN Treaty Body Database. Find your country and see the ratification status for your State, as well as status of acceptance of individual complaints procedures and inquiry procedures.

¹⁹ All treaty bodies can do except the SPT, and the CMW, which complaint mechanism has not yet entered into force.

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

- The State must have **ratified the relevant treaty**, and/or
- The State must 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

In addition, some treaty bodies may stipulate a formal **time limit** within which submission of complaints must be completed²⁰. CERD, for example, will deem a complaint inadmissible if it is submitted after six months have lapsed between the exhaustion of domestic or international remedies and the submission of the complaint. Even when there are no formal time limits announced, it is advisable that a complaint be submitted as soon as possible after the exhaustion of domestic remedies.

Where a State 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 party on behalf of an individual who has either given their written consent or who is incapable of doing so. In some cases, complaints can also be submitted on behalf of **groups of individuals** (CESCR, CERD, CEDAW, CRPD or CRC) whose rights have been violated.

The State party is expected to implement the recommendations of the treaty bodies and provide an appropriate remedy to the complainant. There are no mechanisms to ensure that States comply with the decisions and views adopted by the Treaty Bodies, or with the recommendations made by them. However, studies show that a significant number of recommendations provided to States by Treaty Bodies lead to at least some follow up, and nearly a quarter of Treaty Body decisions on individual complaints are implemented by States²¹.

20 See individual treaty body procedures on individual complaints at: <https://www.ohchr.org/en/treaty-bodies/individual-communications>.

21 Kate Fox Principi "Implementation of decisions under treaty body complaints procedures – Do states comply? How do they do?" January 2017. Available at: <https://hr.un.org/sites/hr.un.org/files/Editors/u4492/Implementation%20of%20decisions%20under%20treaty%20body%20complaints%20procedures%20-%20Do%20states%20comply%20-%20202015%20Sabbatical%20-%20Kate%20Fox.pdf>

TABLE III COMPLAINTS PROCEDURES

TREATY BODY	COMPLAINTS PROCEDURE
HRC CTTE	First Optional Protocol to ICCPR (ICCPR-OPI)
CERD	Article 14 of ICERD
CAT	Article 22 of CAT
CEDAW	Optional Protocol to CEDAW (OP-CEDAW)
CMW	Article 77 of ICRMW (not yet in force)
CRPD	Optional Protocol to CRPD (OP-CRPD)
CESCR	Optional Protocol to ICESCR (OP-ICESCR)
CRC	Optional Protocol to the CRC (OP-CRC-IC)
CED	Article 31 of the Convention

Criteria for admissibility

In order to submit an individual communication, it has to fulfil certain formal criteria for admissibility, which vary across the different treaty bodies.

The following is a general overview of the admissibility criteria set out in the treaties (please consult the relevant treaty for the applicable criteria):

- The complainant, if not the same person as 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 but you can ask the OHCHR to only publish initials of the victims, rather than the full name.
- 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 are some exceptions to this rule, if a complainant can prove that pursuing domestic remedies would be unduly prolonged or ineffective in the specific case.

- Similarly, the complaint cannot be pending consideration by any other international or regional settlement mechanism, such as the African Commission on Human and Peoples' Rights or the Inter-American Commission on Human Rights. Some treaty bodies may further specify that the complaint must not have already been considered by an international mechanism, although this does not preclude the submission of a communication to UN Special Procedures, as those are not judicial processes

Form and content of the communication

Treaty bodies consider complaints submitted in written form, and do not use oral or audio-visual evidence. Communications should generally also be submitted in one of the official UN languages: **Arabic, Chinese, English, French, Russian and Spanish**. The OHCHR may request petitioners to submit documents or summaries in English. All treaty bodies now require petitioners to use a single unified individual complaints form, which comes with a guidance note²².

- **Complaint form:** <https://www.ohchr.org/sites/default/files/Documents/HRBodies/PUAS-online-form-E.docx>
- **Guidance note:** <https://www.ohchr.org/sites/default/files/Documents/HRBodies/Guidance-note-for-complaints-form-E.docx>

The general **content of a complaint** should include the following pieces of information:

- Facts of the case describing the basis of the complaint
- Basic personal information about the complainant
- Proof of consent of the victim, if the complainant is a third party
- Steps taken to exhaust domestic remedies in the concerned country
- 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 if in non-UN language or if the OHCHR requests)

22 <https://www.ohchr.org/en/documents/tools-and-resources/form-and-guidance-submitting-individual-communication-treaty-bodies>

TIPS FOR SUBMISSION OF INDIVIDUAL COMMUNICATIONS

- 1** Communications to Treaty Bodies cannot be anonymous; the identity of the victims and the petitioner must be included and these are usually communicated to the State party. However, if you are concerned about potential reprisals, the victim or petitioner may request that their identity not be publicly disclosed, and the Committee will use acronyms to designate the victim in public documents.
- 2** You can use the text from general comments to draft your individual communications or complaints to Treaty Bodies, as well as your submissions to periodic reviews.
- 3** It is advisable to get legal advice prior to submitting an individual communication to a Treaty Body, as it is a quasi-judicial process and legal expertise is useful.
- 4** NGOs have an important role to play at the national level in 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. This is of particular importance if the complainant does not have access to legal counsel and NGOs have legal expertise or specialised knowledge of the international human rights system.
- 5** Individual communications should be submitted in one of the official UN languages: Arabic, Chinese, English, French, Russian or Spanish. The OHCHR may request petitioners to submit documents or summaries in English.

Remember! To submit the individual communication as soon as possible!

PROCEDURE FOR CONSIDERATION OF INDIVIDUAL COMMUNICATIONS

1 The Treaty Body receives an individual communication, and checks if it fulfils the admissibility criteria.

2 If the communication is deemed **admissible**, the Treaty Body submits the complaint to the State party and seeks information/clarification from the State regarding the complaint.

If the communication is deemed **inadmissible**, this is communicated to the complainant and the State, and the process comes to an end. No appeals to the Committee are possible.

3 If the communication is deemed **admissible**, the Treaty Body is likely to ask for **additional information** from both the complainant and the State party – these exchanges can be a long process. Sometimes cases are resolved at this stage, without a decision of the Treaty Body.

4 The Treaty Body then proceeds to examine the **merits** of the case in a closed session.

5 If the Treaty Body considers that there is a **violation** of a right or rights under the relevant treaty, the Committee will send its decision (also called 'views' or 'recommendations' or 'findings') to the State party and call upon it to implement the decision within three to six months.

If the Treaty Body considers that **no violation** has occurred, this decision will be communicated to both State and complainant simultaneously, and the process ends.

Reporting guidelines and format for the State report:

Each Treaty Body has its own procedure to follow-up on States' implementation of its decisions or views on individual communications (except for the SPT which does not receive individual communications).

Treaty Bodies generally appoint a Special Rapporteur or a Working Group with responsibility for coordinating follow-up to the decisions.

Subsequently, the complainant may be requested to comment on the information provided by the State, and based on this, the Treaty Body will analyse the degree of implementation of its decision.

Similar to the grading system adopted by Treaty Bodies in the follow up of its concluding observations (under a review), all Treaty Bodies (except for CED) have adopted a procedure to assess State compliance with their views and decisions on individual communications. Part of this follow up process involves the adoption of grades which reflects the level of State compliance with Treaty Body decisions. The Treaty Body's assessment of State compliance with their decisions can be found in their follow up reports, as well as in their annual reports – which are available on the webpage of the respective Treaty Body. In addition, the OHCHR may publicise the decision or view of a particular Treaty Body on an individual complaint²³.

Third party interventions

Third Party Interventions (TPIs) provide useful information for those dealing with human rights cases (judicial or quasi-judicial mechanisms) that helps them reach legally-sound decisions. **TPIs can have a significant impact on process, resulting in just outcomes and the advancement of international human rights law.** Current and former members of the United Nations Human Rights Treaty Bodies (UNTBs) have acknowledged the extent to which TPIs can be helpful, particularly on subjects where limited jurisprudence exists, and for legal matters that could benefit from additional context, research, and analysis.

For more information about TPIs, see the dedicated ISHR resource:

- Resource page: <https://ishr.ch/defenders-toolbox/resources/guide-for-tpis-before-untbs/>
- Video: <https://youtu.be/GEwUkMR6zNc>
- Guide on TPIs to UN treaty bodies: https://ishr.ch/wp-content/uploads/2022/03/2022-ISHR-TPI-Publication-english_web.pdf
- Similar provisions relating to substantive rights of relevance to all the treaty bodies

23 For more information on follow up and grading by the treaty bodies, and how to engage, see:
June 2022). Available at:
https://academy.ishr.ch/upload/resources_and_tools/TBs_Tips_Treaty_Body_Follow_up_and_Grading_System.pdf

Friendly settlements

Some Committees envisage the possibility to reach a friendly settlement between petitioners and states parties. Such provisions can be found either or both in the foundational document (e.g. the Optional Protocol) and/or in the working methods or rules of procedures on individual communications.

Rules for friendly settlements:

- CAT: Fact Sheet No.17, The Committee against Torture, p.4. Available at: <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet17en.pdf>
- CEDAW: working methods of the Committee (November 2020), para D. Available at: <https://www.ohchr.org/Documents/HRBodies/CEDAW/WorkingMethods.docx>
- CESCR: article 7 of the Optional Protocol; Rules of procedure under the Optional Protocol (rule 20). UN Doc E/C.12/5
- CRC: article 9 of the Optional Protocol

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. The basis of State-to-State complaints varies slightly across the different treaty bodies. In the 50 plus-year history of the treaty bodies, only three inter-state or state-to-state complaints have been registered (admissibility accepted on its merits) by the treaty bodies, all of them in 2018 by the Committee on the Elimination of Racial Discrimination (CERD).

- State of Qatar vs. Kingdom of Saudi Arabia
- State of Qatar vs. United Arab Emirate
- State of Palestine vs. State of Israel

For more information on the above cases, including various documents and decisions adopted by the Committee, see the [CERD webpage on inter-state complaints](#).

Under the ICCPR (Article 41), ICERD (Article 11), CAT (Article 21), ICRMW (Article 76), OP-ICESCR (Article 10), CRC OPIC (Article 12), CED (Article 32) complaints can be made regarding a State that is not giving full effect to the provisions of the treaty in question. The concerned State's recognition of the competence of the committee in this regard is a pre-requisite for the use of this procedure.

Inquiry procedure

CAT, CEDAW, CRPD, CESC, and the CRC can also 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. As in the case of individual complaints, treaty bodies can only initiate such an inquiry if the State party has recognised its competence to do so²⁴.

If CAT, CEDAW, CRPD, CESC, CED or CRC receive reliable information regarding the systematic violation of rights by a State party (or in the case of CESC by a State party that has issued a declaration under Article 1 of OP-ICESC) they may first invite the State to cooperate by submitting observations regarding the information the committee has received. On the basis of this information, the committee may decide to deploy one or more of its members to conduct a confidential inquiry and submit an urgent report. Committee members may also conduct country visits, with the consent of the concerned State.

The findings and recommendations of the committee are submitted to the concerned State. A six-month deadline is established for the State to respond and inform the committee of 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.

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

Early warning and urgent action procedure

Through early warnings and urgent actions, Treaty Bodies can act to prevent the further deterioration of a human rights situation in a country.

Early warnings are used to prevent the occurrence of an imminent or possible violation of the treaty, and are typically adopted prior to the occurrence of a human rights violation.

Urgent actions are used to remedy an urgent human rights situation or violation of the treaty, and are adopted after the violation has occurred.

24 When a State ratifies CAT, OP-CEDAW, OP-CRPD, OP-ICESC, ICPE, or OP- CRC-IC it recognises the competency of the respective committees to initiate inquiry procedures at any time. This is automatic under Article 6 of OP-CRPD and Article 33 of ICPE. However, others contain a provision to allow States to 'opt out' of provisions, which allows 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, Article 10 of OP-CEDAW, or Article 13 of OP-CRC-IC. OP-ICESC under Article 11 allows a State to opt in simply by declaring that it recognises the competency of the Committee in this regard.

Early warnings – CERD and CRPD each have a specific mandate and an established early warning procedure that aims to prevent urgent human rights issues from escalating.

Urgent actions - CERD, CRPD and CED each have a specific mandate and an established urgent action procedure.

The findings and recommendations of the committee are submitted to the concerned State. A six-month deadline is established for the State to respond and inform the committee of 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.

- In the case of CERD, the purpose of the urgent action procedure is to respond to issues requiring immediate attention to prevent or limit the scale of serious violations of ICERD.
- Similarly, for CRPD, early-awareness and urgent action procedures are aimed to prevent existing problems from escalating into full-fledged conflicts or preventing the revival of pre-existing human rights issues. Their purpose is also to consider issues that may require immediate attention to avoid grave violations of the Treaty or to reduce the number or degree of such violations.
- For CED, an urgent action is a request from the Treaty Body to the State party to immediately take all necessary measures to search and locate a disappeared person and investigate their disappearance.

The CAT and CCPR have on very rare occasions undertaken “special reviews” when violations of treaty provisions are rife and widespread.

At the time of writing (June 2022), CRPD has not yet used either the early warning or urgent action procedure.

Examples of early warnings and urgent actions:

- [CERD: List of early warnings and urgent actions adopted by the Committee](#)
- [CED: List of urgent actions registered by the Committee \(as at June 2022\)](#): List of disappeared persons with regard to whom CED has requested the State party concerned to take measures to locate and protect them.

CAT and HR Cttee Special Reviews

The CAT and CCPR have on rare occasions undertaken ad hoc, special reviews in cases of urgent and widespread violations of human rights, such as torture, arbitrary detentions, and summary executions, including in Israel (CAT, 1998), Syria (CAT, 2012), and Burundi (CAT, 2016).

- [Conclusions and recommendations of CAT in consideration of a special report on Burundi \(2016\)](#)
- [Consideration by CAT of the implementation of the treaty in the absence of a special report on Syria \(2012\)](#)
- [Report of CAT including conclusions and recommendations based on second periodic report of Israel \(1998\)](#)

General comments/ recommendations

All Treaty Bodies except SPT produce **general comments** - sometimes referred to as **general recommendations** - which serve as authoritative guides on the interpretation of the particular Treaty that they are monitoring.

General comments can provide substantive guidance on specific provisions of a treaty, or may provide more general guidance, such as what information should be submitted by States on their reports to the Treaty Bodies. General comments also deal with wider, cross-cutting issues, such as the role of national human rights institutions, the rights of persons with disabilities, violence against women, and the rights of minorities.

General comments and recommendations not only assist State parties to implement the treaties, but can also be used by human rights defenders to monitor and advocate for full treaty implementation, thus strengthening the enjoyment of specific rights by rights holders. General comments may vary in length and complexity, and can sometimes take the form of 'commentaries' on particular provisions of a treaty. They may also be revised or replaced as the experience of the Treaty Bodies increase, or as new developments emerge within a particular area. General comments and recommendations may also be produced jointly by more than one Treaty Body.

The process for developing and adopting general comments or recommendations includes three stages: consultation, drafting, and adoption. Treaty Bodies normally choose to incorporate expert advice from various stakeholders, including NGOs, into the drafting of general comments.

General comments and general recommendations of the Treaty Bodies can be found in a database on the [OHCHR website](#), as well as on the individual webpages of the Treaty Bodies.



TABLE IV ACTIVITIES OF THE TREATY BODIES

ACTIVITIES & FUNCTIONS OF TREATY BODIES	TREATY BODIES										NGO INPUT
	CERD	CESCR	CCPR	CEDAW	CAT	SPT	CRC	CMW	CRPD	CED	
Examination of State reports	■	■	■	■	■		■	■	■	■	Through consultations regarding preparation of State reports Through submission of NGO reports both in relation to the adoption of list of issues and the actual examination
Concluding observations	■	■	■	■	■		■	■	■	■	Through providing draft recommendations to treaty body members and the secretariats
Individual communications	■	■	■	■	■		■	■	■	■	By assisting victim to submit a complaint By submitting complaint on behalf of the victim
Inter-State complaints	■		■		■		■	■		■	N/A
General Comments or General Recommendations	■	■	■	■	■		■	■	■	■	By raising relevant issues during general days of discussion By submitting information and comments for the drafting process
Inquiry procedure through country visits to investigate well-founded allegations of systematic violations of human rights		■		■	■	■	■		■	■	Through submission of relevant information
Follow-up procedure	■	■	■	■	■	■	■	■	■	■	By providing information on progress of implementation and follow-up Supporting and monitoring State implementation of recommendations of treaty body
Early-warning or urgent action procedure	■								■	■	Submitting information on violations



Time and again, members of the treaty bodies have affirmed the importance of NGO input and actively encouraged the participation of NGOs in their work

Treaty Bodies are easily accessed by human rights defenders. Your organisation does not need ECOSOC consultative status to engage with the Treaty Bodies, nor do you need to be in Geneva. You can submit information to Treaty Bodies without any UN accreditation, and you do not need to be a legal expert to engage with them. There are a number of ways in which civil society can contribute to the work of the treaty bodies, both in formally institutionalised ways and informally. Many of the treaty bodies have specific guidelines for NGO participation in their work²⁵.

In order to take full advantage of the opportunities available, NGOs should view their engagement with the work of the treaty bodies in as constructive and non-adversarial a manner as possible, especially since this is how the committees themselves engage with States. Such an approach is more likely to yield tangible results by allowing genuine engagement with States and encouraging them to fulfil 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](#)). These are discussed in further detail below.

Consideration of reports

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

Preparation of the State report

NGOs may be invited to participate in national consultations preceding the drafting of the State report, if the State concerned encourages the participation of all stakeholders. This can provide valuable information and recommendations for the State's report preparation. Unfortunately, not all States make the effort to include the participation of NGOs in national consultations, and NGO perspectives are often excluded from the State party report.

25 Check out individual webpages of treaty bodies

NGO submissions and reports

Whether or not they are involved in the preparation of the State report, **NGOs and any individuals or institutions can submit a report of their own to the treaty bodies**, based on their findings and views on the national implementation of the relevant treaty. Such reports can help committee members to achieve a more comprehensive picture of the human rights situation in a country and are therefore very important. If an NGO does not have the time or resources to submit a comprehensive report prior to the relevant treaty body session, it should consider at least sending a brief submission highlighting key issues that deserve the attention of the committee. In addition, NGO reports can contain suggested questions and recommendations that the treaty bodies can use in their examination of the State report.

NGOs can also submit written information to assist the Committee in drawing up the **list of issues** for each State, and, for those treaty bodies that offer it, in relation to the LOIPR. Since these lists can influence the focus of the review, this is a valuable opportunity for NGO input.

Mali – NGO written inputs prior to and participation in the review by the CESC

The review of Mali in 2018 by the Committee on Economic, Social and Cultural Rights (CESC) was the first opportunity in the 40 years since Mali ratified the Treaty for NGOs to participate in the review, as Mali has not engaged directly with the CESC in its previous reviews.

The NGO Coalition Malienne des Défenseurs des Droits Humains (COMADDH) made written submissions to the CESC before its review, and participated in the session. COMADDH's suggested recommendation on human rights defenders was identified by CESC as a priority recommendation, meaning that Mali had a limited amount of time to implement that specific recommendation and that the Committee would undertake a follow up review to assess its implementation.

This is a good example of how the combination of written inputs by an NGO ahead of the review, participation in the review of the State, and interaction with members of the CESC contributed significantly to the adoption of a dedicated recommendation on human rights defenders.

- [Submission of the Mali Coalition of Human Rights Defenders to CESCR \(2018\) \(French\)](#)
- [ISHR Press release \(2018\) \(French and English\)](#)
- [Concluding observations of the CESCR \(2018\) \(French\)](#)

Mexico – NGO alternative report to the Committee Against Torture (CAT)

A coalition of over 100 NGOs submitted an alternative report to the CAT during its seventh periodic review of Mexico in 2019. This shadow report was based on inputs from a wide range of national and international NGOs. Working through a coalition meant that NGOs covered a broad range of issues – resulting in a comprehensive report covering all provisions of the Treaty. This report directly contributed to the adoption by the Committee of a range of targeted recommendations in its concluding observations.

- [Executive summary of alternative report \(2019\)](#)
- [OMCT press release \(2019\)](#)
- [CAT concluding observations \(2019\)](#)
- [Mexican NGO coalition alternative report to CAT \(2019\)](#)

All the treaty bodies have deadlines for submission of written information (see Table V). The deadlines can differ depending on whether the information is in relation to the country review, the list of issues, or the LOIPR. NGOs are required to submit information in electronic format to the secretariat (hard copies are no longer required). CESCR and CRC have dedicated online platforms for the submission of NGO reports, the former hosted by OHCHR²⁶ and the latter by the NGO Child Rights Connect²⁷.

NGO information will be included in the relevant country file, prepared by OHCHR for each of the committee members before consideration of the concerned State. Information provided to the treaty bodies is generally considered public and made available on OHCHR's website, unless they are requested to keep it confidential.

26 <https://cescrsubmissions.ohchr.org/Account/Login.aspx?ReturnUrl=%2f>

27 <https://childrightsconnect.org/upload-session-reports/>

TABLE V DEADLINES FOR SUBMITTING WRITTEN INFORMATION

TREATY BODY	PERIODIC REVIEWS - DEADLINES FOR SUBMITTING INFORMATION
CERD	For country reviews: three weeks prior to the session For lists of themes: eight weeks prior to the session For requests for Early Warning or Urgent Action: three weeks prior to the session
CESCR	For country reviews: six weeks prior to the session For lists of issues: ten weeks prior to the pre-sessional working group
CCPR	For country reviews: four weeks prior to the session For the LOIPR: twelve weeks prior to the session
CEDAW	For country reviews: three weeks before the Committee's session For lists of issues/LOIPR: six weeks prior to the pre-sessional working group
CAT	For country reviews: two weeks prior to the session For LOIPR: ten weeks before the session For lists of issues: ten weeks before the session
CRC	For country reviews: two weeks prior to the review For the list of issues: three months before the relevant pre-sessional working group
CRPD	For country reviews: one month before the Committee's session For the list of issues: one month before the session
CMW	For country reviews: two weeks before the Committee's session For the LOIPR: two weeks before the session For the list of issues: two weeks before the session
CED	For country reviews: two weeks before the Committee's session For the list of issues: ten weeks before the session

Attending the treaty body session

Generally, NGO representatives may attend the plenary sessions of the treaty bodies as observers. To do so, they are required to obtain accreditation from the secretariat of the relevant committee in advance. NGOs cannot participate in the formal dialogue between the treaty body and the concerned State.

Attending the treaty body sessions allows NGO representatives to brief committee members, either during formal or informal meetings, and to observe the discussion, including the issues raised, the government's replies and the recommendations made by the treaty body.

There are also several informal avenues for NGO interaction with the members of the treaty bodies. NGOs may hold informal meetings with committee members during or prior to the main sessions, in addition to interacting through parallel events, other NGO meetings, or simply in the corridors around where the treaty body sessions are held, usually Palais Wilson or Palais des Nations. Committee members are usually approachable and welcome opportunities to share information and ideas with NGO representatives.

Webcasts

All sessions of a Treaty Body are broadcast live and recordings kept on the [UN Web TV website](http://webtv.un.org/). Each Treaty Body has its own webpage on the UN Web TV website with recordings organised by session.

All public meetings of the United Nations are broadcast live and recordings available at: <http://webv.un.org/>

Briefings

NGOs can participate in briefings that take place before or during the treaty body sessions. These briefings may either be informal or part of the treaty bodies' formal sessions. For example, CESCR holds a pre-sessional briefing that is open to NGOs, who can present oral or written submissions. Most the treaty bodies allow for NGO representatives to brief committee members orally during their formal sessions, in private sessions with interpretation²⁸. In the case of some treaty bodies, NGOs can also request OHCHR to hold 'lunchtime' briefings, which committee members are invited to attend²⁹.

28 All treaty bodies who undertake reviews offer this possibility, except the CRC which has dedicated pre-sessions for interaction with civil society

29 The HR Ctte, CRPD, CERD, CESCR, CEDAW, CED, and CMW

TABLE VI DEADLINES FOR SUBMITTING WRITTEN INFORMATION

TREATY BODY	PERIODIC REVIEWS - OPPORTUNITIES TO ENGAGE DURING TREATY BODY SESSIONS
CERD	<ul style="list-style-type: none"> • NGOs may brief the Committee at meetings held on the first day of each week of the session • NGOs may organise lunchtime briefings on States being reviewed, immediately prior to the review commencing in the afternoon
CESCR	<ul style="list-style-type: none"> • Oral briefing during the first day of the pre-sessional working group (for LOI/LOIPR), by NGOs that have submitted written information • Afternoon of the first day of session is devoted to NGO oral briefings from those that have submitted written information (for reviews) • NGOs that have submitted written information may organise informal lunchtime briefings the day before the review
HR CTTE	<ul style="list-style-type: none"> • Oral briefings for half an hour per State, on the first day of each week of the session • NGOs may organise lunchtime briefings on States being reviewed, immediately prior to the review commencing in the afternoon
CEDAW	<ul style="list-style-type: none"> • Oral briefings for one hour per State, on the day prior to the state review
CAT	<ul style="list-style-type: none"> • Private NGO briefings of the Committee can be convened for NGOs that have submitted written information
CRC	<ul style="list-style-type: none"> • NGOs who submit information are invited to participate in the pre-sessional working group, which unlike other Committees is not dedicated to the adoption of LOI/LOIPR but to interaction between non state actors and the Committee
CRPD	<ul style="list-style-type: none"> • Oral briefings usually on the first day of each week of the session • NGOs may organise informal 'coffee' and 'lunchtime' briefings or side events
CMW	<ul style="list-style-type: none"> • Oral briefings on the first day of the session • NGOs may organise one-hour informal lunchtime briefings

NGO coalitions and coordination

NGO coalitions or networks play a key role in the coordination and drafting of NGO reports and other activities pertaining to the treaty bodies.

Child Rights Connect, for example, works with over 60 international NGOs to promote the implementation of the CRC, coordinate NGO written submissions, and undertake other 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 Geneva and also coordinates the submission of NGO reports to the Committee. The Centre for Civil and Political Rights can assist NGOs interested in making submissions to the HR Ctte, and organises in-country workshops with NGOs to facilitate coordination of stakeholder reports to the HR Ctte. The International Disability Alliance and the International Movement Against Discrimination and Racism play similar roles for CRPD and CERD respectively.

NGO coordination is vital to maximising the limited space and time given to NGOs for interacting with the treaty bodies, and is also a way to give added weight to information submitted to those treaty bodies.

Follow-up of recommendations

NGOs can follow-up the recommendations of treaty bodies in several ways. They 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 or informally.

Producing a follow-up report is a key means by which an NGO can help a treaty body assess the level of implementation of the concluding observations by the State party.

NGOs can also help to widely disseminate and draw attention to the concluding observations and other work of the treaty bodies at the national level, thus raising the visibility of the work of the treaty bodies.

This can be done in a variety of ways, such as by holding press conferences and otherwise seeking media attention, and by distributing the concluding observations to civil society, courts and members of local government. Securing publicity for the issues through short articles in newspapers or other public forums can draw public attention to the recommendations of the treaty bodies.

Members of civil society can also lobby governments to implement the concluding observations. This may include 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 delegates. NGOs should particularly emphasise those recommendations that have been prioritised and specifically identified for follow-up within six months or a year (depending on the practice of the relevant treaty body).

The shorter time limit coupled with prioritisation of the particular recommendations can help place additional pressure on the State to implement them, and also help the State to identify long-term and short-term goals.

Finally, there is a role for NGOs in working with their governments in the implementation of the concluding observations and recommendations, and 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.

Individual communications

NGOs have an important role to play at the national level in 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.

This is of particular importance if the complainant does not have access to legal counsel. In such cases, an NGO with legal expertise or specialised knowledge of the international human rights system can provide valuable assistance.

Additionally, NGOs can 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. NGOs should keep the treaty bodies informed of how their views and recommendations on individual communications have been implemented.

Submission of information to other procedures

NGOs can submit information to the treaty bodies 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.

General comments/ recommendations

Some treaty bodies convene 'days of general discussion' to examine a particular theme or issue of concern.

Such days of general discussion are usually open to the public as well as external participants such as UN organisations, State delegations, NGOs, and experts.

A potential outcome of the discussion may be to assist the members of the treaty body in developing a general comment. CESCER has held a series of days of general discussion since 1992, many of which have resulted in general comments. 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.

CED holds similar discussions on aspects of enforced disappearance. 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.

Reprisals

Submitting information or contributing to a periodic review by Treaty Bodies could lead to reprisals by your government. Sadly, national authorities often target and retaliate against organisations and individuals who cooperate with the Treaty Bodies. There are a range of preventive and remedial measures that you can take including:

- Request that your submission be kept confidential and not published on the OHCHR website
- Request confidential and private discussions with the relevant Treaty Body members. Such requests can be made directly to the Treaty Body Secretariat at the OHCHR, and/or with support from TB-Net members for Treaty Bodies which receive support from their members.
- Report immediately any instances of threats or intimidation, including unwanted pictures or films by State delegations during reviews, to the Treaty Body focal point on reprisals through the OHCHR Secretariat.
- For more information on reprisals, including contact information to report an act of intimidation or reprisal against anyone who has cooperated with the UN Treaty Bodies, see the dedicated webpage of the Treaty Bodies on reprisals⁵⁰.

50 <https://www.ohchr.org/EN/HRBodies/Pages/Reprisal.aspx>

The San José Guidelines

The San Jose Guidelines provide practical guidance to enhance the efficiency and effectiveness of treaty body action to prevent and address reprisals and set out the functions of the focal points/rapporteurs:

- 1) ensure consistence across treaty body system;
- 2) receive and assess allegations of acts of intimidation;
- 3) determine the most appropriate course of action;
- 4) be part of a network of focal points/rapporteurs on reprisals to share information, facilitate supportive action, and align approaches; and
- 5) compile information on good practices.

Most treaty bodies have endorsed the [San José Guidelines](#) and are addressing cases of intimidation and reprisals within that framework. In addition, the [Committee on Elimination of Discrimination against Women](#) (CEDAW), the [Committee on Enforced Disappearances](#) (CED), the [Committee on the Elimination of Racial Discrimination](#) (CERD), the [Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (SPT), the [Committee against Torture](#) (CAT), the [Committee on the Rights of Persons with Disabilities](#) (CRPD) and the [Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) (CMW) have guidelines or information on how to report reprisals posted on their web pages.



The Human Rights Council, the main human rights body of the United Nations, was created by General Assembly Resolution 60/251, which set down the Council's mandate and responsibilities. It is an inter-governmental, political (as opposed to expert) body, established in 2006.

While the treaty bodies and the Council are two very different types of bodies, the cross-fertilisation of their work is important. The treaty bodies interact with the Council through two of its procedures – the Universal Periodic Review (UPR) and the special procedures.

Universal Periodic Review

In General Assembly Resolution 60/251, which established the Council, paragraph 5(e) provided for the creation of a new mechanism known as the Universal Periodic Review (UPR). The UPR, as its name suggests, is a process by which the human rights records of all UN member States are examined by a working group, consisting of all the members of the Council, every four-and-a-half years. The main premise of the UPR process is to 'ensure universal coverage and equal treatment of all States'⁵¹. 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', fulfilment 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 to fulfil its obligations 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, is the following:

- UN Charter
- Universal Declaration of Human Rights (UDHR)

51 That is, in order to avoid the allegations of 'selectivity' and 'politicisation' that infected the work of the former Commission on Human Rights.

- **Human rights instruments to which the State is a party**
- Voluntary pledges and commitments made by States
- Applicable international humanitarian law

The implementation of and compliance with human rights instruments, or treaties, to which the State is a party, constitutes the most effective and concrete basis on which to conduct the review process, and the UPR focuses 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, is that it can both give weight to the recommendations of the treaty bodies and provide the means by which to do so. It can do this 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 (not more than 20 pages)
- A compilation of information prepared by 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 stakeholders, which will be summarised by 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. While it is up to the discretion of the State being reviewed as to the information provided in the national report (in conformity with the guidelines), it is encouraged to provide background information on the legislative and policy framework for the protection and promotion of human rights, and information on implementation of international human rights obligations and the challenges faced in this regard.

The second source of information directly pertains to that supplied by the treaty bodies to the UPR Working Group, as summarised by OHCHR, on the human rights record of the concerned country.

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 to implement these recommendations. In terms of follow-up, the UPR process allows for the UPR Working Group to raise questions, during the interactive dialogue, regarding the State's follow-up of the recommendations of the treaty bodies.

The treaty bodies themselves have acknowledged the importance of providing specific and concrete recommendations on the State's implementation of obligations in their concluding observations, since this information will be considered by the UPR Working Group. It is particularly important that these recommendations be prioritised in order that the main human rights concerns receive adequate attention.

Coordination with special procedures

The special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The **sharing of information** between the treaty bodies and the special procedures is a reciprocal and mutually beneficial process.

Information from the special procedures is made available to the treaty bodies for their examination of State reports, and some of the treaty bodies coordinate closely with particular special procedures. For example, CAT and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment share country information and information on individual communications received by CAT, and meet formally once per year. CESCR has developed close relations with the special procedures on the right to housing, the right to education, and the rights of indigenous peoples. CED regularly coordinates and meets with the Working Group on Enforced or Involuntary Disappearances, so does CRPD with the Special Rapporteur on the rights of persons with disabilities, CMW with the Special Rapporteur on the rights of migrants, and CEDAW with the Special Procedures dedicated to women's rights⁵².

52 Working Group on Discrimination against Women, Special Rapporteur on Violence against Women, Special rapporteur on trafficking.

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, CEDAW has interacted with the Special Rapporteur on violence against women and the Special Rapporteur on the right to health. CMW has interacted in particular with the Special Rapporteur on migrants.

Although the coordination between special procedures and treaty bodies mostly works well on a thematic basis, it is not always the case on a country basis, and exchange of information between these mechanisms is not systematised on issues such as special procedures providing information relevant to countries coming up for treaty body reviews, or in relation to communications made to both mechanisms.



CHAPTER 5 STRENGTHENING THE TREATY BODY SYSTEM

The Treaty Body strengthening process refers to an ongoing review by the United Nations of the functioning of the 10 human rights Treaty Bodies.

The review aims to examine the streamlining of reporting procedures, harmonising methods of work, financial matters, and other issues relating to the work of the Treaty Bodies.

The chairpersons of all the Treaty Bodies come together at their annual meeting to discuss the coordination of their activities and how to enhance the work of the Treaty Bodies individually and collectively. Informal consultations with States and civil society are also held in parallel.

Background

The growth of the Treaty Bodies over the last 50 years has resulted in significant enhancement of human rights protection, but has also generated major challenges, such as the growing backlog of State reports, individual communications, and urgent actions; lack of predictability of state reviews; poor state compliance with reporting and implementation obligations; low visibility of Treaty Bodies and their recommendations (notably at the national level); multiplicity and complexity of working procedures; and limited coordination or complementarity with other UN human rights bodies, especially the Universal Periodic Review (UPR).

There have been attempts to tackle these challenges, but a number of issues remain unresolved:

- The 2020 review of treaty bodies, which included a governmental [co-facilitation](#) process, and concluded in 2020 with [a report and recommendations](#). The main impact was the gradual shift towards the adoption of predictable review cycles across the treaty bodies⁵³.

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At the time of writing, it was still too early to gauge the extent to which the June 2022 pledge of the treaty body chairs will work out in practice. The adoption of a predictable cycle of reviews by the HR Cttee in 2019 has been faced with considerable hurdles, primarily due to the Covid 19 pandemic, and the global restrictions on travel it induced, resulting in considerable delays in the scheduling of periodic reviews. See section on "Consideration of reports" above for more details. Also see "Chaotic scheduling of UN Treaty Body reviews continues to deeply hamper NGO engagement", ISHR, February 2022, available at: <https://ishr.ch/latest-updates/chaotic-scheduling-of-un-treaty-body-reviews-continues-to-deeply-hamper-ngo-engagement/>

- [The Treaty Body strengthening process \(2009-2014\)](#), which led to the adoption of [GA Resolution 68/268](#)

Previous proposals:

- [Reports by independent expert Philip Alston \(1988-1996\)](#)
- [UN Secretary-General's proposal of a single report \(2002-2006\)](#)
- [High Commissioner Arbour's proposal of a unified standing treaty body \(2006\)](#)

Where are we at now?

- [Gradual shift towards the adoption of predictable cycles of reviews by all treaty bodies \(June 2022\)](#)
- [OHCHR webpage on treaty body strengthening](#)

How can you engage?

- The NGO Network on [UN Treaty Bodies \(TB-Net\)](#) includes seven INGOs, each of which have a dedicated relationship with one Treaty Body. Various joint initiatives are undertaken through this coalition and other NGO networks.
- You can also participate directly at the annual meeting of the Treaty Body chairs – there is usually space in the agenda for interaction with NGOs. Details on the annual meeting of Treaty Body chairs, including agenda and OHCHR contact details are available on the [OHCHR webpage](#).
- Other opportunities for NGO engagement as part of the Treaty Body strengthening process are mentioned on the dedicated [OHCHR webpage](#) and in updates in the [OHCHR weekly newsletter](#).

GLOSSARY

Key words & phrases

Definition

Accession	When a State becomes party to a treaty that has already entered into force.
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.
Alternative report	See 'NGO report'.
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 has been introduced to reduce repetition of information in State 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 or task force	Designated committee member(s) appointed to take the lead on the examination of a particular State, by taking primary responsibility to draft the list of issues, question the delegation, and formulate the concluding observations for that State.
Early warning and urgent action procedures	A procedure that allows CERD to act to prevent the further deterioration of the human rights situation in a country. CED also has an urgent action procedure.
Entry into force	When a treaty becomes legally binding upon all States that have ratified it.
Exhaustion of domestic remedie	Refers to pursuing all available national mechanisms, such as local courts or other complaint procedures, to seek redress for violations 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 and recommendations that have been directed towards it by the treaty bodies.

General comment/ recommendation	The official interpretation issued by a treaty body on the scope of a right contained in the treaty which it is monitoring, on 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 UN inter-governmental human rights mechanism and a subsidiary organ of the General Assembly, responsible for promoting and protecting human rights.
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.
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.
List of Issues Prior to Reporting (LOIPR)	A simplified reporting procedure whereby a list of issues is formulated by the treaty body before the State submits its report, and the responses from the State to the list of issues constitute the State's report.
Mandate	Refers to the collective objectives, powers and procedures that an individual or group is authorised to employ or undertake.
NGO report	Information provided by NGOs relating to the implementation of a treaty in a particular country. Also known as an 'alternative report'.
Optional Protocol	A separate treaty linked to a principal treaty, which imposes additional legal obligations on States that ratify it, such as individual communications procedures.
Oral submission	A formal statement made by an NGO representative at the plenary session of a treaty body.

Parallel event	Event organised by one or more NGOs regarding a specific issue that is held in parallel to the sessions of the treaty bodies (also known as a 'side event').
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.
Side event	See 'parallel event'.
Signature	A preparatory step indicating a State's intention to be fully bound by a treaty at a later date.
Simplified reporting procedure (SRP)	See 'List of issues prior to reporting'.
Special procedures	The group of independent experts appointed by the Human Rights Council to examine, monitor and publicly report on human rights situations in specific countries or on specific human rights themes 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 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. Also known as a 'national report'.
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 or bilaterally by another State 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 binding legal obligations on States that have become party to it.
Treaty specific document	A document that contains information on issues specifically related to the treaty concerned; submitted together with a common 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.
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.

GLOSSARY

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E-RESOURCES

Where can I find general information on the treaty bodies?

‘Working with the United Nations Human Rights Programme: A Handbook for Civil Society?’ (OHCHR):

www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf

OHCHR Fact Sheet No.30 – The United Nations Human Rights Treaty System:

www.ohchr.org/Documents/Publications/FactSheet30Rev1.pdf

OHCHR treaty body webpage:

www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx

Other reference material (OHCHR):

www.ohchr.org/EN/PublicationsResources/Pages/Publications.aspx

Where can I find basic documents on individual treaty bodies?

OHCHR fact-sheets on all the treaty bodies can be accessed at:

www.ohchr.org/EN/PublicationsResources/Pages/FactSheets.aspx

CERD

General:

www.ohchr.org/en/hrbodies/cerd/pages/cerdindex.aspx

General Recommendations:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=6&DocTypeID=11

State reports:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=6&DocTypeID=29

Information for NGOs:

www.ohchr.org/EN/HRBodies/CERD/Pages/CivilSociety.aspx

CESCR

General:

www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx

General Comments:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11

State reports:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=29

Information for NGOs:

www.ohchr.org/EN/HRBodies/CESCR/Pages/NGOs.aspx

HR Ctte (CCPR)

General:

www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx

General Comments:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11

State reports:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=45&DocTypeID=29

Information for NGOs:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&SymbolNo=CCPR/C/104/3

CAT

General:

www.ohchr.org/EN/HRBodies/CAT/Pages/CATIndex.aspx

General Comments:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=1&DocTypeID=11

State reports:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=1&DocTypeID=45&DocTypeID=29&DocTypeCategoryID=1

Information for NGOs:

www.ohchr.org/EN/HRBodies/CAT/Pages/NGOsNHRIs.aspx#section3

CEDAW

General:

www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx

General Recommendations:

www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx

State reports:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=29

CRC

General:

www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx

General Comments:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

State reports:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&TreatyID=10&TreatyID=11&DocTypeID=29&DocTypeCategoryID=1

Information for NGOs:

www.ohchr.org/EN/HRBodies/CRC/Pages/InfoPartners.aspx

CMW

General:

www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx

General comments:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11

State reports:

http://tbinternet.ohchr.org/_layouts/Treatybodyexternal/TBSearch.aspx?Lang=en&treatyid=7&doctypeid=45&doctypeid=29

CRPD

General:

www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx

General comments:

www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx

State reports:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=4&DocTypeID=29

Information for NGOs:

www.ohchr.org/EN/HRBodies/CRPD/Pages/NoteonCivilSocietyParticipation.aspx

CED

General:

www.ohchr.org/EN/HRBodies/ced/Pages/CEDIndex.aspx

State reports:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=2&DocTypeID=29

Information for NGOs:

www.ohchr.org/EN/HRBodies/CED/Pages/CivilSociety.aspx

Where can I search for ratification status, documents due, reports submitted, or reviews scheduled?

UN treaty body database:

<http://tbinternet.ohchr.org/SitePages/Home.aspx>

Ratification status by country or by treaty:

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx

Reports submitted by country:

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx

All documents by treaty, by country or by document type:

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/TBSearch.aspx?Lang=en

Documents due by country, by treaty body, or by document type:

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx

Documents overdue by country or by treaty body:

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/LateReporting.aspx

Reviews scheduled by country or by treaty body:

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx?Type=Session&Lang=En

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

Treaty Bodies Database (OHCHR):

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en

Universal Human Rights Index:

<http://uhri.ohchr.org/>

To sign up for free email notification of treaty body recommendations (OHCHR):

<http://visitor.constantcontact.com/manage/optin/ea?v=0015de0J6wWFJ4-CxbRgTKZbQ%3D%3D>

Where can I find summaries and other records of the past sessions of the treaty bodies?

Select summary records in the search fields:

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/TBSearch.aspx?Lang=en

Treaty body webcast archives:

www.treatybodywebcast.org/category/webcast-archives/

How can NGOs engage with the treaty bodies?

Working with the United Nations Human Rights Programme: A Handbook for Civil Society, Chapter IV: Treaty Bodies (OHCHR):

www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf

How can I contact the treaty bodies?

Working with the United Nations Human Rights Programme: A Handbook for Civil Society, Chapter IV: Treaty Bodies (OHCHR):

www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf

How can I submit a complaint to the treaty bodies?

For information on the complaints procedure (OHCHR):

www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx

Where can I find information on treaty body strengthening?

Enhancing the human rights treaty body system (OHCHR):

www.ohchr.org/EN/HRBodies/HRTD/Pages/TBStrengthening.aspx

For reports on latest developments:

www.ishr.ch/news/treaty-bodies

The outcome of the General Assembly's treaty body strengthening process: an important milestone on a longer journey:

www.universal-rights.org/wp-content/uploads/2015/02/URG_Policy_Brief_web_spread_hd.pdf

NGOs that may be able to provide expert advice or support

CESCR

Global Initiative on Economic, Social and Cultural Rights

www.globalinitiative-escr.org

HR Ctte (CCPR)

Centre for Civil and Political Rights

www.ccprcentre.org

CAT

World Organisation Against Torture

www.omct.org

CEDAW

IWRAW Asia Pacific

www.iwraw-ap.org

OP-CAT

Association for the Prevention of Torture

www.apt.ch

CRC

Child Rights Connect

www.childrightsconnect.org

CRPD

International Disability Alliance

www.internationaldisabilityalliance.org

For more information about our work
or any of the issues covered in this
publication, please visit our website:

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