SIMPLE GUIDE TO THE UN TREATY BODIES

ISHR | INTERNATIONAL SERVICE FOR HUMAN RIGHTS

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Abbreviations

International treaties and optional protocols

UDHR	Universal Declaration of Human Rights
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
ICCPR	International Covenant on Civil and Political Rights
ICERD	International 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 (not yet in force)
ICCPR-OP1	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-CEDAW	Optional Protocol to CEDAW
OP-CRPD	Optional Protocol to CRPD
OP-ICESCR	Optional Protocol to ICESCR (not yet in force)

Treaty bodies

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

Other

ECOSOC	Economic and Social Council
NGOs	Non-governmental organisations
NHRIs	National human rights institutions
OHCHR	Office of the High Commissioner for Human Rights

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Chapter I What are the treaty bodies?

A. What are treaties?

The *Universal Declaration of Human Rights* (UDHR), adopted in 1948, elaborated upon and systematised for the first time the idea of 'human rights' derived from the United Nations (UN) Charter. The UDHR enumerated a variety of civil, political, economic, social and cultural rights, that were subsequently separated and incorporated into two 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 a 'covenant' is an international legal instrument. A treaty imposes binding legal obligations upon a State who is a party to that treaty. A State can become party to a treaty by ratifying it, which means that the State voluntarily decides to be bound by the provisions of the relevant treaty. When a State becomes party to a treaty, it is obligated under international law to uphold and implement the provisions of the relevant treaty. This implies that the domestic legislation of the State party must be in conformity with the provisions of the treaty and cannot contradict them in any way. In some cases, a State may declare a reservation to a particular article of a treaty that it has ratified. If the reservation to the relevant article is deemed admissible, then the State 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 eight 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)

One new convention is presently open for ratification. It will enter into force after the requisite number of States has ratified it. This new treaty is:

- *Convention for the Protection of All Persons from Enforced Disappearance* (ICPED)[1]

[1] This Convention will enter into force 30 days after at least 20 States have ratified it (Article 39). Currently, 18 States have ratified the Convention, last updated 4 July 2010.

B. Mandate of the treaty bodies

The treaty bodies were created in order 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 eight 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 nine treaty bodies monitoring the implementation of the eight core international human rights treaties and one optional protocol. They are:

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

All the treaty bodies receive secretariat support from the Treaties and Follow-up Unit of the Treaties and Council Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR).[2]

[2] For more information: www2.ohchr.org/english/bodies/treaty/index.htm.

Table I: International conventions and their treaty bodies

Treaty	Related treaty body
ICERD	Committee on the Elimination of Racial Discrimination (CERD)
ICCPR	Human Rights Committee (HRC)
ICESCR	Committee on Economic, Social and Cultural Rights (CESCR)
CEDAW	Committee on the Elimination of Discrimination against Women (CEDAW)
CAT	Committee against Torture (CAT)
OP-CAT	Subcommittee on Prevention of Torture (SPT)
CRC	Committee on the Rights of the Child (CRC)
ICRMW	Committee on the Protection of Migrant Workers (CMW)
CRPD	Committee on the Rights of Persons With Disabilities (CRPD)
ICPED	Committee on Enforced Disappearances

ICPED is not yet in force and the Committee on Enforced Disappearances has therefore yet to be established.

C. Composition of the treaty bodies

The members of the treaty bodies are independent experts who are of recognised competence in the field of human rights, and 'of high moral standing', or 'of acknowledged impartiality', as stipulated by the relevant treaties. The most important point to note is that even though the members of the treaty bodies are elected by States, they are meant to serve in their personal capacity and 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. As a measure to provide explicit protection of their independence, for example, CERD specifies that its members cannot be dismissed or replaced without their consent.

The number of members of each treaty body varies from ten to 23 (refer to Table II below). Members of the treaty bodies are nominated and elected by State parties to the relevant treaty from among their own nationals for fixed and renewable terms of four years each. Elections of half the membership of a committee take place every two years. There is no limit on the re-election of committee members, with the exception of the Subcommittee on Prevention of Torture (SPT), whose members can be re-nominated only once. This rule was instituted in response to the re-election of committee members in several of the treaty bodies for extended periods of time.

Equitable geographical distribution in addition to adequate representation of different legal systems and cultures is to be maintained in the selection of members of all treaty bodies. However, CESCR is the only treaty body that has a formalised geographical quota.

Members of treaty bodies are unpaid but they receive a small allowance from the United Nations for the meetings of the committees.

D. The treaty bodies

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

1. Committee on the Elimination of Racial Discrimination (CERD)[3]

The Committee on the Elimination of Racial Discrimination (CERD) was the first treaty body to be established in 1970, and is the committee overseeing the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD). Provision for the creation of a committee to monitor implementation of the Convention was made under ICERD, due to the conviction of 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.

3 For more information: www2.ohchr.org/english/bodies/cerd/index.htm.

2. Committee on Economic, Social and Cultural Rights (CESCR)[4]

The Committee on Economic, Social and Cultural Rights (CESCR) monitors the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR). CESCR is composed of 18 experts, who meet twice a year for three weeks at a time. Unlike the case of the other treaty bodies, ICESCR did not provide for the creation of a committee to oversee its implementation. Instead, the Economic and Social Council (ECOSOC)[5], 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 at the Human Rights Council to 'rectify' the legal status of CESCR to make it more like the other treaty bodies.[6]

On 10 December 2008, the General Assembly unanimously adopted the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR). This Optional Protocol will allow CESCR to receive and consider communications. 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.B). The adoption of OP-ICESCR is a significant victory after decades of campaigning and advocacy by human rights groups and academics.

4 For more information: www2.ohchr.org/english/bodies/cescr/index.htm.

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

The Optional Protocol to ICESCR opened for signature and ratification in March 2009 and will come into force once ratified by ten States.[7]

3. Human Rights Committee (HRC)[8]

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

4. Committee on the Elimination of Discrimination against Women (CEDAW)[9]

The Committee on the Elimination of Discrimination against Women (CEDAW), established in 1982, monitors the implementation of the International Convention on the Elimination of Discrimination against Women (CEDAW) and is mandated to receive complaints under its Optional Protocol (OP-CEDAW). CEDAW has 23 members, who meet for three weeks twice a year. As of 2008, CEDAW meets twice a year in Geneva, and once a year in New York.

5. Committee against Torture (CAT)[10]

The Committee against Torture, established in 1987, monitors the implementation of the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). CAT is composed of ten independent experts who meet twice a year for three weeks at a time. It is mandated to receive individual complaints and can also conduct confidential inquiries into serious, grave or systematic violations of CAT.

7 Currently, 32 States have signed the Optional Protocol and only one State has ratified it so far. Last updated 4 July 2010.

8 For more information: www2.ohchr.org/english/bodies/hrc/index.htm.

9 For more information: www2.ohchr.org/english/bodies/cedaw/index.htm.

10 For more information: www2.ohchr.org/english/bodies/cat/index.htm.

Subcommittee on Prevention of Torture (SPT)[11]

The Subcommittee on Prevention of Torture (SPT) was established by the Optional Protocol to CAT (OP-CAT) in order to complement the aim of CAT to prevent torture, and is a separate treaty body. SPT is mandated to conduct visits to places of detention within the territories of all State parties 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. The SPT is currently composed of ten independent experts from the various fields relevant to the administration of justice or detention including legal professionals and forensic scientists. In 2010, the SPT will increase its membership to 25 following the fiftieth ratification deposited by Switzerland in September 2009. The SPT started meeting in 2007.

6. Committee on the Rights of the Child (CRC)[12]

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

An optional protocol to the CRC is currently under negotiation. It would establish an individual complaint procedure.

7. Committee on Migrant Workers (CMW)[13]

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

11 For more information: www2.ohchr.org/english/bodies/cat/opcat/index.htm.
12 For more information: www2.ohchr.org/english/bodies/cat/opcat/index.htm.
13 For more information: www2.ohchr.org/english/bodies/cmw/index.htm.

8. Committee on the Rights of Persons with Disabilities (CRPD)[14]

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, 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 as well as groups, and also 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 took place in February 2009. The Committee is currently composed of 12 members but its membership will expand to 18 in 2011.

E. Creation of new treaty bodies

1. Committee on Enforced Disappearances (CED)

The *International Convention for the Protection of All Persons from Enforced Disappearance* (ICPED), adopted in 2006, provides for the creation of a Committee on Enforced Disappearances (CED). The CED will be composed of ten members. It will have a mandate to consider periodic reports and individual complaints, and will also be able to undertake field inquiries and bring situations of widespread and systematic enforced disappearance to the attention of the General Assembly. Between four and six years after the entry into force of the ICPED, the States Parties will meet to evaluate the functioning of the Committee and to determine whether they will transfer the monitoring of CED to another treaty body.

14 For more information: www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx.

Table II: Composition and sessions[15]

Treaty body	Composition	Number and duration of sessions	Sessions	
			Period	Location
CERD	18	2 sessions per year, of 3 weeks duration each	February and August	Geneva
HRC	18	3 sessions per year, of 3 weeks duration each	March, July and October	New York, Geneva, 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 and 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	January, July and October	Geneva*, New York, Geneva
CAT	10	2 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	May and November	Geneva
SPT	10**	3 sessions per year, of 1 week duration each	February, June and 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, May and September	Geneva
CMW	10 ***	Approximately 2 sessions per year, of around 1 week duration each	April and November/ December	Geneva
CRPD	12 ****	2 sessions per year, presently for 1 week duration each	February and October	Geneva

* CEDAW began meeting in Geneva in January 2008.
** SPT will expand to 25 members in 2010 following the 50th ratification by Switzerland in September 2009.
***Membership of CMW will increase to 14 when the Convention has 41 State parties.
**** Membership of CRPD will increase to 18 members in 2011.

[15] This information may be subject to change. Some of the treaty bodies have been granted additional meeting time by the General Assembly to deal with their heavy workloads and the backlog in examination of State reports. For the latest information on meeting times, please see the webpages of the relevant committees (see the list of e-resources at the back of this publication).

Chapter 2

What do the treaty bodies do?

Introduction

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 State parties in implementing their obligations
- Develop general comments/recommendations interpreting provisions of their respective treaties both substantively as well as procedurally

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

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

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

A. Consideration of reports

When States become party to one of the international human rights treaties, they are obliged to submit an initial report, followed by periodic reports to the treaty body in question (refer to Table III for periodicity of reporting). A periodic report is a report that a State party is required to submit at regular intervals of time, as prescribed by the relevant 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.

Table III: Periodicity of reporting

Treaty	Periodicity of State reports	
	Initial report	Periodic reports
ICERD	1 year	Every 2 years (but in practice generally every 4 years as two combined periodic reports)
ICESCR	2 years	Every 5 years
ICCPR	1 year	Generally every 4 years, but the HRC varies the periodicity in accordance with its follow-up procedure
CEDAW	1 year	Every 4 years, or whenever requested by CEDAW
CAT	1 year	Every 4 years, but varies due date for next periodic report
CRC	2 years	Every 5 years
CMW	1 year	Every 5 years, and whenever requested by CMW
CRC-OPSC	2 years	Every 5 years or with next CRC report
CRC-OPAC	2 years	Every 5 years or with next CRC report
CRPD	2 years	Every 4 years

The process of monitoring States' 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 various stages are examined in detail below.

1. Preparation of the State report

While the preparation of the State report at the national level is essentially a Government process often involving input from various ministries and public authorities, 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 intentions of the State concerned to improve implementation.

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. There may also be different guidelines for the submission of initial or periodic reports. Additionally, the treaty bodies have devised guidelines for both the format and the substantive content of the State reports.[16] 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
- Reporting according to pre-submitted questions prepared by the Committee
- Asking more detailed questions under particular articles
- Or leaving the information to be submitted up to the State

16 The guidelines issued by the treaty bodies for preparation of State reports are compiled and contained in HRI/GEN/2/Rev.6 (June 2009).

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 decrease the length of State reports, the treaty bodies have decided to allow States to submit a core document common to all the treaty bodies. The 'common core document' 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 as current and up to date as possible.

The common core document contains the following information:

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

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.

Submission of reports

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

17 The guidelines for the common core document are also contained in HRI/GEN/2/Rev.6 (June 2009).

Submission of a combined report by a State party is requested by the relevant treaty body in its concluding observations.
ICERD requires States to report every two years, but the Committee allows for the submission of two reports every four years to ease the reporting burden on States, while at the same time firmly calling for the periodic assessment by the State of the implementation of its obligations under the treaty.

2. 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, CESCR, CRC) for the next session, or to consider individual communications (the HRC, CAT). The pre-sessional working groups are usually held in private, with the exception of the pre-sessional working group of CESCR, which is public and open to NGO participation.

List of issues and questions

All the treaty bodies (except SPT) prepare lists of issues and questions to States being examined prior to their sessions, which generally follow the structure of the relevant treaty. However, practices for developing the list and the use of the list vary across the different treaty bodies. The responses to the list of issues can serve as a supplemental source of information from the State party, particularly if significant information is missing from the State report. For example, it may take a year or more 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.

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. Sometimes States are asked to submit a written response to the list of issues and questions before the consideration of the report. CEDAW, CESCR, the HRC and CRC require State parties to submit a written reply to the list of issues, whereas in the case of CERD and CAT there is no formal requirement to do so.

In May 2007, CAT introduced a new optional reporting procedure based on the list of issues. States may choose to submit replies to a list of issues instead of their periodic report. This option only applies to reports to be submitted after the initial report. The aim of this new procedure is to encourage States to produce more focused reports, in the hope that the list of issues will serve as a better guide for discharging their reporting obligations under CAT. While still in a development phase, there are certain indications of how this procedure will function in practice. Lists of issues will be adopted between one to two years prior to the reporting deadline. Once the replies are submitted, the actual review in Geneva will be scheduled at the earliest possible time (likely to be at least one year after the submission of the replies). The Human Rights Committee decided in March 2010 to start using the same procedure and is working on developing guidelines for it.

Role of country rapporteurs

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

3. Additional sources of information

In addition to the State report and replies to the list of issues and questions, the treaty bodies also receive additional information from other sources such as 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 thematic issues 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 crosscheck and compare information with that supplied by the State party.

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

Additional information, generally of a confidential nature, may also 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).

4. Dialogue with the concerned country

The plenary sessions of the treaty bodies that have their sessions in Geneva are usually held at Palais Wilson, which houses the OHCHR. The consideration of the country report by the treaty body in a public session provides an opportunity for a constructive dialogue between the experts of the treaty body and the State in question to identify issues, solutions, best practices, further areas for implementation, and other means to implement the rights

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 periodic report, but also the list of issues and questions that has been sent to the State party in advance of the review, along with the State's responses. Additionally, the treaty bodies may consider information from other UN bodies, including UN field presences, NGO reports, NHRI reports, and any other relevant information that is available prior to the plenary session.

The process is as follows. The State party usually sends a delegation to be present at the consideration of that State's report by the treaty body, which may consist of representatives of the permanent mission of the country in Geneva and/or ministers or government officials from the concerned country. Usually, the process commences with a formal welcoming statement by the chairperson of the treaty body, followed by an opening statement from the head of the State delegation. The head of the State delegation 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 HRC, for example, 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, on the other hand, 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. CEDAW, CESCR and CRC ask delegations to respond to questions based on clusters of articles under their respective conventions, and the delegation must provide answers to each cluster before moving to the next.

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

5. Issuing concluding observations and recommendations

The outcome of the consideration of the State report by the treaty bodies culminates in the development of concluding observations and recommendations to the State party.[18] The country rapporteur is often in charge of drafting the concluding observations for that particular country. The concluding observations are debated and adopted by the treaty body in a private meeting.

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

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

18 The concluding observations of all the treaty bodies can be accessed at http://tb.ohchr.org/default.aspx or at www.universalhumanrightsindex.org.

The concluding observations 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 ensure their implementation by all relevant actors within the State. Civil society and other actors can play an important role in supporting the efforts of the State to fulfil its human rights obligations.

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

6. 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. The following provides an overview of these procedures.[19]

All the treaty bodies issue general requests to States to provide information on follow up to concluding observations and recommendations as a part of the State's next report.

19 For a detailed description of the follow-up procedures of different treaty bodies, please refer to Follow-up to Concluding Observations – Overview of follow-up procedures, HRI/ICM/2009/6.

In order to strengthen the effectiveness of this request, five treaty bodies have developed more rigorous follow-up procedures.[20] Four of the treaty bodies utilise the practice of stipulating a fixed time period (usually one to two years) within which the State must report back regarding implementation of selected priority concluding observations.[21] The criteria for selecting these priority recommendations vary. The HRC and CERD mainly focus on recommendations requiring immediate action. CEDAW concentrates on issues that constitute an obstacle to the implementation of the Convention as a whole and which can be feasibly implemented within the follow-up period (one to two years). CAT will look at the gravity of the issue, the protective nature of the proposed measure, and the feasibility of implementation within the follow-up period (one year). The number of recommendations selected for follow-up varies between treaty bodies and between country reviews but it seems that a minimum of three recommendations are generally identified. CESCR does not focus on specific recommendations. However, it may request additional information from the State party to be provided before the submission of the next periodic report.

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 regularly on the activities and implementation of the follow-up procedure in the annual report of the treaty body. Further, the HRC and CAT have dedicated follow up sections on their webpages.[22]

20 The HRC, CERD, CAT, CEDAW, and CESCR. The CRC no longer uses a written follow-up procedure due to the backlog of State reports facing it and the role played by UNICEF in follow up at the national level. CRPD and CMW have yet to establish formal follow-up procedures.

21 The HRC, CERD, CAT and CEDAW.

22 The HRC, see www2.ohchr.org/english/bodies/hrc/followup-procedure.htm; and CAT, see www2.ohchr.org/english/bodies/cat/follow-procedure.htm.

Assessment of implementation

There is very limited information available about how implementation of follow-up recommendations is evaluated in the follow-up procedure. As with most other activities of the treaty bodies, the basis of this evaluation is information supplied by the State, NHRIs, NGOs, and other relevant actors such as UN agencies.

CERD has issued a set of guidelines to follow up on concluding observations and recommendations, elaborating upon ways in which the country can implement the above, such as dissemination of the concluding observations, regular reporting on progress in implementation, and coordinating with NHRIs and NGOs.[23] CAT will undertake a substantive analysis of the follow-up information provided and this might result in requests for further clarification. CESCR considers the follow-up information in a pre-sessional working group, which can recommend specific action by the Committee. The HRC has recently adopted a new procedure for a qualitative assessment of follow-up information provided by States. The Committee will analyse and classify the information under five categories: satisfactory, incomplete, recommendations not implemented, receipt acknowledged, or no response.[24] It remains to be seen how this assessment will work in practice.

Other tools to ensure follow-up

One of the main weaknesses of the treaty body system is the lack of enforcement mechanisms available to the treaty bodies when States do not abide by their obligations. In response the treaty bodies have devised certain strategies for placing some pressure on States to follow up and implement their recommendations. The treaty bodies are increasingly publishing all information pertaining to the follow-up procedure including reminder letters, progress reports and all information provided by the State and NGOs. Publicity about the non-cooperation of a State might help facilitate increased engagement.

23 Guidelines to follow up concluding observations and recommendations, www2.ohchr.org/english/bodies/cerd/docs/CERD.C.68.Misc.5.Rev.1.pdf.

24 Paper of the special rapporteur for follow-up on concluding observations, CCPR/C/95/3.

CERD has a procedure by which it can request further information or even an additional report from State parties regarding the implementation of its recommendations. CAT is limited to requesting clarification on specific issues through public letters submitted to the State party. The HRC may request a meeting with a State representative in the event that no information is submitted. CESCR may utilise a number of different pressure mechanisms in order to ensure a satisfactory response to its recommendations. As a reaction to information submitted by the State, the Committee may adopt additional concluding observations, request further information, or decide to address specific issues during the Committee's next session. In the event that the State does not submit information, the Committee may either pursue the matter with the State or request permission from the State to conduct a technical assistance mission. These practices are rarely used. In situations where the State does not accept technical assistance missions, the Committee may make appropriate recommendations to the Economic and Social Council.

B. Individual communications

Several of the treaty bodies can receive complaints, communications or 'petitions' regarding violations of a right or rights under the relevant treaties, provided that the State concerned has recognised the competence of the treaty body to consider complaints against it by ratifying the relevant optional protocol or making the required declaration under the relevant article of the treaty.

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 IV below). For example, the HRC, CESCR, CRPD, and CEDAW can consider complaints through their respective optional protocols. In the case of CAT and CERD however, individual communications can be considered when States have made the required declaration under Article 22 of CAT, and Article 14 of ICERD. The complaint procedures for each of the treaty bodies may vary slightly, and detailed information about each of the procedures is available on the OHCHR website.[25]

25 The procedures for individual complaints or communications for each of the treaty bodies can be accessed through www2.ohchr.org/english/bodies/petitions/index.htm.

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
- The State party has to have explicitly recognised the competence of the treaty body through ratifying the optional protocol or through making the required declaration under the appropriate article of the respective convention

Some treaty bodies may stipulate a formal time limit within which submission of complaints must be completed. CERD, for example, will deem a complaint inadmissible if it is submitted after six months have lapsed between the exhaustion of domestic or international remedies and the submission of the complaint. But even when there are no formal time limits announced it is advisable that a complaint is submitted as soon as possible after the exhaustion of domestic remedies. In general, it can take more than a year before a complaint reaches the attention of a treaty body.

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

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

Table IV: Complaints procedures

Treaty body	Complaints procedure
HRC	First Optional Protocol to ICCPR (ICCPR-OP1)
CERD	Article 14 of ICERD
CAT	Article 22 of CAT
CEDAW	Optional Protocol to CEDAW (OP-CEDAW)
CMW	Article 77 of ICRMW
CRPD	Optional Protocol to CRPD (OP-CPRD)

CESCR and CED will be able to consider individual communications once OP-ICESCR and ICPED (Article 31) enter into force. During the March 2010 session of the Human Rights Council, a Working Group was established to commence the drafting of an Optional Protocol to the CRC, which would provide for an individual communications procedure under that convention.

Criteria for admissibility

In order to submit an individual communication, it has to fulfil certain formal criteria for admissibility, which are the procedural requirements that need to be fulfilled in order to be able to submit the complaint. The criteria for the admissibility of individual communications vary across the different treaty bodies. The following gives a general overview of the admissibility criteria set out in the relevant 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
- 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. In addition to this prerequisite, some treaty bodies may further specify that the complaint must not have already been considered by an international mechanism[26]
- If the State party has declared a reservation to the particular article of the relevant treaty applicable to the case, then a complaint alleging violation of that particular article will not be admissible
- The complaint should not constitute an abuse of the complaints procedure, that is, through the submission of frivolous complaints or otherwise inappropriate use of the procedure
- Some treaty bodies state that the complaint must not be 'manifestly ill-founded', meaning that it is insufficiently substantiated
- The incident that is the subject of the complaint must have occurred after the entry into force of the relevant treaty with regard to the concerned State party. However, if the incident occurred prior to the entry into force of the treaty but its effects have continued to be felt after the date of entry, then a complaint may be submitted on this basis

Form and content of the communication

Usually, 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 working languages: English, French or Spanish.

26 However, this does not preclude also submitting a communication to one of the special procedures of the Human Rights Council, as a communication to the special procedures is not only a non-judicial process but also involves no consideration of the merits of the case.

Several of the treaty bodies have provided a 'model complaint questionnaire' on their individual web pages in order to guide complainants on what information should be contained within the complaint.[27] 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)

Tips for submission of individual communications

- Check if the concerned country has ratified the relevant optional protocol, or made the requisite declaration under the relevant article of the treaty, recognising the competency of the committee to consider an individual communication regarding the concerned country. Make sure that the State has not submitted a reservation to any relevant articles of the treaty
- Check that domestic remedies in the concerned country have been exhausted
- Check that the complaint is not pending before another international or regional body
- Check that the complaint falls under the scope of the relevant convention

Submit the complaint as soon as possible!

27 Model complaints questionnaires for each of the treaty bodies are available at www2.ohchr.org/english/bodies/question.htm.

Procedure for consideration of individual communications

The general procedure of the complaints process is as follows. The complainant checks to the best of his or her abilities that the complaint fulfils the admissibility criteria, and submits an individual communication to the treaty body via the petitions unit of OHCHR.

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

The Special Rapporteur on new communications will then decide based on the summary of the case from the petitions unit whether there is sufficient information to proceed with registering the communication. If sufficient information is found, the case is assigned a number and added to the docket of communications of the relevant treaty body. If there is insufficient information, then the communication is not registered and is simply archived. A reply is also sent to the complainant stating why the process could not continue. This process takes around four months.

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

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

If the treaty body decides that the complaint is inadmissible, then it will communicate this to the complainant and the State party, and the procedure will come to an end.

If the complaint is deemed admissible, the committee will send the complaint to the State party, asking for clarification or a response by the State regarding the complaint, usually within six months. The State should respond with information regarding the case. If the State does not reply, the committee's decision will be based just on the complaint.

The committee will then consider the merits of the case in closed session, based on the response of the State and the original complaint submitted by the complainant. To examine the 'merits of the case' means that the committee will consider whether the complaint substantively falls under the scope of the relevant treaty. The General Comments or General Recommendations (see Section F below) provide a good guide to what the treaty bodies consider to fall within the scope of the relevant treaty and how they interpret its provisions.

If the committee considers that there has been a violation of the rights of the complainant under the relevant treaty, it will submit its findings to both the State party and the complainant. It will call upon the State to give effect to these findings and recommendations within three months. If the committee finds that no violation has taken place, this decision is communicated to both the State party and the complainant and the procedure comes to an end.
In special circumstances requiring urgent attention, a treaty body may issue a request to the State to take interim measures in order to prevent irreparable harm to the victim. This may apply, for example, in a case where an order of execution is to be carried out, or an individual who may face the threat of torture is about to be deported. If the complainant wishes for the committee to make the request for interim measures, it is advisable that this be explicitly stated in the complaint.

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

Procedure for consideration of individual communications

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

Follow-up procedure to decisions on individual communications

Four of the treaty bodies have developed a procedure to follow-up on the State party's implementation of their decisions,[28] and these procedures are largely similar.[29]

All four treaty bodies have appointed a Special Rapporteur or a Working Group with the formal responsibility for coordinating follow-up. In their decisions, the treaty bodies will stipulate a period of either 90 days (CAT and CERD) or 180 days (the HRC and CEDAW), within which the State party is requested to provide information regarding implementation of the relevant decision. Subsequently, the complainant will be requested to comment on the information provided by the State party and based on this, the committee will analyse the degree of implementation of its decision.

28 The HRC, CAT, CEDAW and CERD.
29 Follow-up to decisions, HRI/ICM/2009/7.

All follow-up information is considered public information and will be included in the annual reports of the respective committees.

The treaty bodies generally have very limited measures available to ensure compliance with their decisions. The key measures available are publicity, reminder letters, meetings with State representatives, and follow-up during the regular examination of State reports. In addition, the HRC and CAT have undertaken follow-up visits to facilitate implementation of their decisions. This measure has only been used in very few cases.

C. State-to-State complaints

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

Under CAT (Article 21), ICRMW (Article 76), and OP-ICESCR (Article 10) complaints can be made regarding a State that is not giving full effect to the provisions of the treaty in question. Again, the exhaustion of domestic remedies and the recognition of the competence of the committee in this regard are pre-requisites for the use of this procedure. Under ICERD (Articles 11-13) and the ICCPR (Articles 41-43) a procedure for the resolution of State-to-State complaints has been established through the creation of an ad hoc conciliation commission.

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

D. Inquiry procedure

CAT, CEDAW and CRPD can also initiate inquiries into well-founded allegations of 'serious, grave or systematic' human rights violations by a State party. CESCR will also have this power once OP-ICESCR enters into force. 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 so. When a State ratifies CAT, OP-CEDAW, OP-CRPD or OP-ICESCR it recognises the competency of the respective committees to initiate inquiry procedures at any time. This is automatic under Article 6 of OP-CRPD. 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 or Article 10 of OP-CEDAW. OP-ICESCR under Article 11 allows a State to opt in simply by declaring that it recognises the competency of the Committee in this regard.

If CAT, CEDAW, CRPD or CESCR receives reliable information regarding the systematic violation of rights by a State party, or in the case of CESCR by a State party that has issued a declaration under Article 11 of OP-ICESCR, the relevant committee may first invite the State party to cooperate by submitting observations regarding the information that has been received. On the basis of this information, the treaty body may decide to deploy one or more members of the committee to conduct a confidential inquiry and submit an urgent report. All also allow for committee members to conduct country visits, with the consent of the concerned State.

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

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

E. Early warning and urgent action procedure

CERD is the only treaty body to have established an early warning and urgent action procedure.[30] The early warning procedure aims at preventing existing problems from escalating into new conflict or resumption of conflict. The urgent action procedure is aimed at responding to issues requiring immediate attention to prevent or limit the scale of serious violations of ICERD.

The procedures can be initiated by CERD itself or by NGOs and other stakeholders. CERD has adopted guidelines for the procedures setting out criteria and indicators for action and possible measures to be taken.[31] CERD has established a five-member working group on early warning and urgent action.

F. General comments/ recommendations

All the treaty bodies produce general comments or general recommendations that are meant to serve as authoritative guides for States on how to implement and interpret the conventions to which they are a party. Such general comments can provide substantive guidance on specific articles of the convention, or may provide more general guidance for State parties, on topics such as how to prepare their reports to the treaty bodies. For example, the HRC has developed general comments not only on substantive provisions of the ICCPR, such as on the rights of minorities or the right to life, but also on reporting guidelines and the reporting obligations of the State. Information regarding the general comments of the treaty bodies can be found on the OHCHR website.[32]

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

The modalities for developing and adopting the general comments include three basic stages – consultations, drafting, and adoption. Some committees may choose to incorporate expert advice from various stakeholders and NGOs into the drafting of the general comments.

30 For more information, see www2.ohchr.org/english/bodies/cerd/early-warning.htm.
31 A/62/18, Annex III.
32 Available at: www.ohchr.org/english/bodies/treaty/comments.htm.

Table V: Activities of the treaty bodies

Activities and functions of treaty bodies	Treaty bodies										NGO input
	CERD	CESCR	HRC	CEDAW	CAT	SPT	CRC	CMW	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	✓	✓	✓	✓	✓		✓	✓	✓	✓	N/A
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 State implementation of recommendations of treaty body

Submitting information on violations* The communications procedure has yet to enter into force. It will do so when OP-ICESCR is ratified by the requisite number of States.
** ICPED has yet to enter into force and the Committee will only be established then.

Chapter 3

How can NGOs engage with the treaty bodies?

Introduction

Time and again, members of the treaty bodies have affirmed the importance of NGO input and actively encouraged the participation of NGOs in the work of the treaty bodies. Generally, NGOs working in the field of human rights can interact with the treaty bodies, and do not require ECOSOC accreditation in order to do so.[33] There are a number of ways in which NGOs and other civil society actors can have input into the work of the treaty bodies, in formally institutionalised ways as well as informally. Several of the treaty bodies, such as CESCR and CRC, have specific guidelines for NGO participation in their work.[34]

In order to take full advantage of the opportunities available to them, 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 treaty bodies themselves engage with States. Such an approach is more likely to yield tangible results by allowing genuine engagement with States and encouraging them to 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 at the end of the previous chapter). These are discussed in further detail below.

33 There may be some cases where NGOs are required to have ECOSOC accreditation in order to participate in a session of a treaty body. Please consult with the OHCHR website for up to date information.

34 For CESCR see E/C.12/2000/6, and for CRC see CRC/C/90, annex VII.

A. Consideration of reports

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

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

2. NGO submissions and reports

Whether or not they are involved in the preparation of the State report, NGOs and other stakeholders can submit a report of their own to the treaty bodies based on their own research, findings and views on the implementation of the relevant treaty at the national level. Such a report can help committee members achieve a more comprehensive picture of the human rights situation in a country and is therefore essential to examining the record of a State party. If an NGO does not have the time or resources to submit a comprehensive report prior to the session of the relevant treaty body, it should consider at least sending a 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 generally make written submissions to the relevant treaty body through the secretariat at any time. Generally, NGOs are encouraged to make their submissions after the State report has been submitted and before its consideration. Some treaty bodies have established guiding deadlines for submission of NGO reports to ensure that the information can be given the most appropriate attention (see Table VI below). It is in the interest of NGOs to submit information as early as possible before the examination of the State report to ensure that the information that they supply is taken into account by the committee when it examines the State party. Additionally, if NGOs submit their reports well in advance of the session, committee members have the opportunity to examine the questions or information presented in those reports more thoroughly. NGOs may also send updated information closer to the time of examination to ensure that new developments are addressed by the treaty body. NGOs are generally required to submit information in both electronic and hard copy to the secretariat.[35]

The treaty body can and often does use the information presented in NGO reports to raise specific questions both in the list of issues and questions to be sent to the State in advance of the main session and during the constructive dialogue. Since the list of issues provides a certain framing of the focus of the review it is important for NGOs to consider submitting information during this stage of the process. This is particularly relevant in relation to the new reporting procedure adopted by CAT where the Committee does not have a State report to refer to when it adopts the list of issues.

Also, if the information is provided in advance of the plenary session, it will be included in the relevant country file prepared by OHCHR for each of the committee members before consideration of the concerned country. The 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.

35 For details on where to submit NGO reports and how many hard copies to provide, please see OHCHR 'Working with the United Nations Human Rights Programme: A Handbook for Civil Society', www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf.

Table VI: Deadlines for submitting written information

Treaty body	Deadlines for submitting information
CERD	At any time, but preferably two months prior to the relevant session
CESCR	At any time, but preferably at least one week before the Committee's main session or that of the pre-sessional working group
HRC	For the list of issues: six weeks prior to the meeting of the country task force (which usually meets during the preceding session) At any time, but preferably two weeks before the relevant session
CEDAW	For the list of issues: at any time, but preferably two weeks prior to the pre-sessional working group meeting At any time, but preferably two months before the Committee's session
CAT	For the list of issues: three months before finalisation of the list (usually during the session preceding the one at which the State report will be examined) At any time, but preferably six weeks before the session
CRC	Two months before the relevant pre-sessional working group
CRPD	To be determined
CMW	At any time

3. Attending the treaty body session

Generally, NGOs may attend the plenary sessions of the treaty bodies as observers. In order to attend a session of a treaty body, NGOs 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 allow NGOs to brief committee members either during formal or informal meetings and to observe the dialogue, thus gaining first-hand knowledge of 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 of the treaty bodies, in addition to interacting through parallel events, other NGO meetings, or simply in the corridors around where the treaty body sessions are held. The members of treaty bodies are usually very approachable and welcome opportunities to share information and ideas with NGO representatives.

4. Briefings

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

Table VII: NGO briefings for treaty bodies

Treaty body	Type of briefing
CERD	NGOs do not brief during the Committee's formal session NGOs may organise lunch-time briefings on States being reviewed
CESCR	Oral briefing by NGOs during the first day of the pre-sessional working group First day of session devoted to NGO oral briefings
HRC	First day of session devoted to NGO oral briefings on all States that will be examined during that session Lunch-time briefings with NGOs for country-specific information
CEDAW	Oral briefing by NGOs during pre-sessional working group (usually during the first day) Oral briefings on the first day of each week of the session Informal briefings may be organised in consultation with the secretariat
CAT	Private NGO oral briefing of the Committee during its formal session on the day before State report is considered
CRC	Oral briefing by NGOs during pre-sessional working group (please note that request to participate should be sent two months prior) May allow NGOs to brief Committee during session NGOs can request private meetings with the Committee
CRPD	To be determined
CMW	Briefings by NGOs at the preceding session NGOs that have submitted information are invited to orally brief the Committee in a public meeting before the examination of the State report

5. NGO coalitions and coordination

NGO coalitions often play a vital role in assisting the work of the treaty bodies. These coalitions or NGO networks play a key role in organising the coordination and drafting of NGO reports and other activities pertaining to the treaty bodies.

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

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.

6. Follow-up of recommendations

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

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

NGOs can lobby governments to implement the concluding observations. This may be done in a variety of ways, such as through holding meetings or conferences with

government officials and NGOs, meeting members of parliament individually, and discussing the recommendations of the treaty bodies with the State delegation who will report back to the State party. NGOs should particularly emphasise those recommendations that have been prioritised and specifically identified for follow-up with six months or one 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 party to implement them, and also help the State identify long-term and short-term goals.

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

B. Individual communications

NGOs can play a key role at the national level by providing assistance to victims who wish to submit a complaint to the treaty bodies, or even by submitting the complaint on behalf of the victim.[36] This is of particular importance where 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.

C. Submission of information to other procedures

NGOs also play a vital role in the submission of information to the treaty bodies, at nearly every stage of their work, such as during an inquiry procedure, or as part of an early-warning or urgent action procedure.

[36] For more information on how to submit a complaint to the treaty bodies, please refer to www.ohchr.org/english/bodies/complaints.htm.

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.

D. 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 (discussed above). For example, in 2006 CESCR held a day of general discussion where it examined Article 9 of ICESCR (on social security) with a view to drafting a general comment on the subject. CERD, on the other hand, regularly holds 'thematic discussions' - meetings where all concerned stakeholders including NGOs can express their views on an issue related to racial discrimination and the ICERD. NGOs may therefore influence the substantive work of the committees either through providing input into the need for, or on the content of, a general comment, or by drawing the attention of committee members to issues of concern through a thematic discussion.

Chapter 4

Collaboration with other UN mechanisms

Introduction

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 recently created universal periodic review (UPR) and the special procedures.[37] Interaction with both of these mechanisms will be examined in more detail below.

A. Universal periodic review mechanism

In General Assembly *Resolution 60/251* establishing the Council, paragraph 5(e) provided for the creation of a new mechanism known as the UPR. The general modalities of the UPR were adopted in June 2007.[38]

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

Some of the stated objectives of the UPR process are an 'improvement of the human rights situation on the ground', 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)
- 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 concerned (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)

37 Special procedures refers to the Council's mechanisms established to address either specific country situations or thematic issues in all parts of the world. For more information, see www2.ohchr.org/english/bodies/chr/special/index.htm

38 Human Rights Council *Resolution 5/1*.

- 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.[39] 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, information on implementation of international human rights obligations, and on the challenges faced in such implementation.

The second source of information directly pertains to information supplied by the treaty bodies on the human rights record of the concerned country to the UPR Working Group, as summarised by OHCHR. Given that the UPR should not duplicate the work of the treaty bodies, it can provide added value to their work in two ways – by following up and reinforcing recommendations of the treaty bodies, and by providing technical cooperation and financial assistance as required to implement these recommendations. In terms of follow-up, the UPR process allows for the UPR Working Group to raise specific questions regarding the follow-up of the recommendations of the treaty bodies by the concerned State through the interactive dialogue.

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

39 The guidelines are available at www.ohchr.org/EN/HRBodies/UPR/Pages/NgosNhris.aspx.

B. Coordination with special procedures

The sharing of information between the treaty bodies and the Council's special procedures is a reciprocal and mutually beneficial process. As mentioned above, information from the special procedures is made available to the treaty bodies for their examination of State reports. 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.

Other interactions between special procedures and the treaty bodies include special procedures attending sessions of the treaty bodies, either during annual thematic debates, or other regular meetings. For example, in August 2007, the Special Rapporteur on freedom of religion or belief, Ms Asma Jahangir, engaged in a dialogue with CERD about contemporary challenges facing both her mandate and that of CERD due to discrimination based on both race and religion, and to discuss potential overlaps of both their mandates and how they could coordinate their efforts to address this pressing issue.[40] 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.

Additionally, the annual joint meeting of treaty bodies and the special procedures also allows for dialogue and interaction between the special procedures mandate holders and committee members so that they may discuss contemporary issues of mutual concern.

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

Chapter 5 Strengthening the treaty body system

A. Enhancing the effectiveness of the treaty bodies

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

The annual meeting of chairpersons of the human rights treaty bodies allows for the chairpersons of all the treaty bodies to come together to discuss coordination of their activities and how to enhance the work of the treaty bodies individually and collectively. Streamlining of reporting procedures, harmonisation of methods of work, financial issues and other issues pertaining to the work of the treaty bodies are discussed at this meeting. Informal consultations with State parties and civil society are also held alongside the annual meetings.

Additionally, the bi-annual Inter-Committee Meeting brings together the chairpersons of the treaty bodies with two additional members from each of the committees to discuss the harmonisation of working methods of the treaty bodies. At the 6th Inter-Committee Meeting it was agreed that it should convene twice a year, as many States parties and committee members were of the view that it was a 'useful forum for discussing matters of mutual concern', and that it should be held on a more regular basis. At the 7th and 8th Inter-Committee Meetings the focus has been on making recommendations for the improvement and harmonisation of working methods of the treaty bodies. During the 9th and 10th Inter-Committee Meetings in 2009, the focus was mainly on harmonisation of follow-up procedures, an issue which now has its own Working Group that will meet for the first time in late 2010.

B. Treaty body reform

Discussions of treaty body reform gathered momentum after the issue was highlighted in the report of the UN Secretary-General entitled 'Strengthening of the United Nations: an agenda for further change'. The report pointed out that the exclusive focus of each of the treaty bodies on the particular issues that fell under their respective treaties had resulted in the imposition of a heavy reporting burden on State parties. The phenomenon of 'non-reporting' and late reports therefore severely undermined the effectiveness of the work of the treaty bodies, by undercutting efforts to monitor implementation of States' human rights obligations.

This report also proposed two ways in which this problem could be addressed. First, it could be addressed through increased coordination among the different treaty bodies, and the standardisation of the reporting requirements across all the treaty bodies. Second, each State party should be allowed to produce a single report summarising its compliance with the full range of human rights treaties. While the latter suggestion for a single report was rejected, the Secretariat developed a set of 'harmonised guidelines' instead. These harmonised guidelines proposed that States report under an 'expanded common core document', that could be submitted to all the treaty bodies, accompanied by a shorter treaty-specific document to be submitted under each treaty. The report further recommended that the High Commissioner for Human Rights (the High Commissioner) should consult with the members of the treaty bodies to develop new 'streamlined reporting procedures' and submit recommendations regarding the same to the Secretary-General by September 2003.

In another report that followed from the Secretary-General, entitled 'In larger freedom: towards development, security and human rights for all', attention was specifically drawn yet again to the need for harmonised reporting guidelines across all the treaty bodies, so that they could function as a 'unified system' and thereby address the problem of chronic under-reporting by States parties, as well as address weak implementation of the recommendations of the treaty bodies.

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

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

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

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

However, this proposal did not receive broad support and the idea has been abandoned. Even though it offered some ideas on how to improve the treaty body system as a whole, it did not adequately address the key challenges that afflict the work of the treaty bodies, such as how to improve timely reporting by State parties and how to strengthen implementation of concluding observations. The creation of a standing unified treaty body would also raise many complex new issues. For example, NGOs and some States expressed concern at the potential loss of the specific focus maintained by each of the treaty bodies on particular vulnerable groups or clusters of rights if a single treaty body replaced the different treaty bodies. On the other hand, several NGOs and treaty bodies themselves were in favour of considering creation of a single body to consider individual complaints under any of the treaties. Such a body would allow for the consistent interpretation and application of jurisprudence generated by the treaty bodies. Additionally, this body would also lift a substantial workload from the treaty bodies that could then devote more time to examining State reports.

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

Furthermore, the lack of any term limit on the re-election of committee members has also meant the retention of some committee members for extended periods of time. This would be of particular concern if the renewed members had insufficient expertise, were not independent, or were simply no longer effective as committee members. In order to strengthen the work of the treaty bodies, and thereby ensure the implementation of the human rights obligations of States parties, such issues will need to be addressed through any reform of the treaty bodies.

The most recent development related to reform of the treaty body system took place in Dublin on 18 and 19 November 2009. At the initiative of the University of Nottingham, over 20 present and former members of the treaty bodies were invited to consider how best to move forward in strengthening the treaty body system following the last attempt by the former High Commissioner in 2006. The Dublin meeting was also attended by the current High Commissioner, who presented her views on what she saw as the two challenges of resources and coherence, and she considered that treaty body experts were 'optimally placed to initiate such reflection and achieve the requisite balance between specificity of tasks and coherence of outcome'.

The outcome of the meeting was the 'Dublin Statement on the Process of Strengthening of the United Nations Human Rights Treaty Body System', which was signed by the participants to the meeting, and subsequently endorsed also by other treaty body members. The statement recognises the need for strengthening the treaty body system beyond simply harmonising working methods in order to enhance protection of human rights at the national level. It noted that reform needed to be a continual process involving all stakeholders at multiple levels, and that the treaty bodies act as a 'central anchor'. It also called on States and NGOs to multilaterally consider reform proposals. It finally invited the High Commissioner to 'facilitate consultation among them with a view to devising a process to develop specific proposals for the strengthening of the treaty body system'.

OHCHR convened a briefing for NGOs in Geneva on 15 December 2009 'to exchange views on the process to strengthen the treaty body system', although no summary was provided of the content of the Dublin meeting or the statement. The Head of the Treaty Bodies Branch, Mr Ibrahim Salama, explained that OHCHR would act as a repository for proposals deriving from future consultations conducted by all stakeholders. He did, however, consider that collected information may be presented to the Inter-Committee Meeting as the appropriate forum for decisions on reform. Although the next steps in this process are still unclear, NGOs have been requested to provide their views on treaty body reform to the High Commissioner.

Glossary

Key words and phrases	Definition
Accession	When a State expresses its consent to be bound by the treaty without having signed it first.
Accreditation	The process by which an NGO that fulfils certain criteria is granted the 'credentials' to attend or participate in UN meetings by an authorising body.
Capacity-building	Refers to the activity of enhancing the skills or competencies of a State to address a particular problem. This could be achieved through providing financial or technical assistance.
Common core document	Refers to the document submitted by the State party to the treaty bodies containing general information about the country which is relevant to all of the treaties. It 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. For more information: www2.ohchr.org/english/bodies/cerd/early-warning.htm
Entry into force	When a treaty becomes legally binding upon all States that have ratified it.
Exhaustion of domestic remedies	Refers to pursuing all available national mechanisms, such as local courts 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. For more information: www2.ohchr.org/english/bodies/hrcouncil/
Individual communication	A complaint on behalf of an individual who claims that his/her rights under one of the treaties have been violated by a State party; only some of the treaty bodies have the authority to consider these kinds of complaints.
Inquiry procedure	Procedure where a treaty body can investigate well-founded allegations of systematic violations of human rights by a State party.
Inter-governmental body	A political organisation whose membership is comprised of national governments.
International human rights obligations	Provisions of an international human rights treaty or international human rights treaties, which a State party is legally bound to respect, protect, and fulfil.
List of issues/questions	A list of issues/questions is formulated by the treaty body on the basis of the State report and information from specialised agencies, NGOs etc; it is transmitted to the State party in advance of the session at which the treaty body will consider the State report.

Mandate	Refers to the collective objectives, powers and procedures that an individual or group is authorised to employ or undertake.
Optional Protocol	A separate treaty linked to a principal treaty, which imposes additional legal obligations on States that ratify 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 inparallel to the sessions of the treaty bodies.
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.
NGO report	Information provided by NGOs relating to the implementation of a treaty in a particular country.
Signature	A preparatory step indicating a State's intention to be fully bound by a treaty at a later date.

Special 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. For more information: www2.ohchr.org/english/bodies/chr/special/index.htm
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.
Technical assistance	A cooperative measure by which a State is provided the expertise, technology or any other form of appropriate technical capacity by the UN for the purposes of more effectively addressing a given problem or issue.
Treaty body or committee	A group of independent experts appointed to monitor implementation of an international human rights treaty.
Treaty/convention/covenant	An international legal instrument that imposes binding legal obligations on States that have ratified it.
Treaty specific document	A document that contains information on issues specifically related to the treaty concerned; submitted together with a 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. For more information: www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx
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.

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:
www2.ohchr.org/english/bodies/treaty/index.htm

OHCHR treaty body webpage:
www2.ohchr.org/english/bodies/treaty/index.htm

Other reference material (OHCHR):
www2.ohchr.org/english/about/publications/reference.htm

Where can I find basic documents on individual treaty bodies?

OHCHR fact-sheets on all the treaty bodies can be accessed at:
www2.ohchr.org/english/about/publications/sheets.htm

OHCHR extranet for information relating to CMW, the HRC and CAT (new users must register to obtain password):
www2.ohchr.org/english/bodies/hrcouncil/index.htm

CERD

General:
www2.ohchr.org/english/bodies/cerd/index.htm

General Comments:
www2.ohchr.org/english/bodies/cerd/comments.htm

State reports:
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CESCR

General:
www2.ohchr.org/english/bodies/cescr/index.htm

General Comments:
www2.ohchr.org/english/bodies/cescr/comments.htm

State reports:
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HRC

General:
www2.ohchr.org/english/bodies/hrc/index.htm

General Comments:
www2.ohchr.org/english/bodies/hrc/comments.htm

State reports:
www2.ohchr.org/english/bodies/hrc/sessions.htm

CAT

General:
www2.ohchr.org/english/bodies/cat/index.htm

General Comments:
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State reports:
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Information for NGOs:
www2.ohchr.org/english/bodies/cat/follow_up_ngo.htm

CEDAW

General:
www2.un.org/womenwatch/daw/cedaw/

General Recommendations:
www2.un.org/womenwatch/daw/cedaw/recommendations/index.html

State reports:
www2.un.org/womenwatch/daw/cedaw/reports.htm

Information for NGOs:
www2.ohchr.org/english/bodies/cedaw/docs/NGO_Participation.final.pdf

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General:
www2.ohchr.org/english/bodies/crc/index.htm

General Comments:
www2.ohchr.org/english/bodies/crc/comments.htm

State reports:
www2.ohchr.org/english/bodies/crc/sessions.htm

Information for NGOs:
www2.ohchr.org/english/bodies/crc/partners.htm

CMW	General: www2.ohchr.org/english/bodies/cmw/index.htm State reports: www2.ohchr.org/english/bodies/cmw/sessions.htm
CRPD	General: www2.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx
Which country has ratified which treaty?	Ratification and reservations by country: www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet Reports submitted by country: www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet All reports by treaty: www.unhchr.ch/tbs/doc.nsf/RepStatfrset?OpenFrameSet Reports due by country: www.unhchr.ch/tbs/doc.nsf/newhvduebycountry?OpenView Reports overdue by country: www.unhchr.ch/tbs/doc.nsf/newhvoverduebycountry?OpenView
Where can I search for concluding observations, recommendations and other information generated by the treaty bodies?	Treaty Bodies Database (OHCHR): http://tb.ohchr.org/default.aspx Universal Human Rights Index: www.universalhumanrightsindex.org/ To sign up for free email notification of treaty body recommendations (OHCHR): www2.ohchr.org/english/bodies/treaty/subscribe.htm
Where can I find summaries of the past sessions of the treaty bodies?	Treaty Body Monitor (ISHR): www.ishr.ch/treaty-body-monitor

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): www2.ohchr.org/english/bodies/petitions/index.htm
Where can I find reports of the Inter-Committee Meetings of the treaty bodies?	Reports of the annual meetings of the treaty bodies (OHCHR): www2.ohchr.org/english/bodies/icm-mc/documents.htm Summaries of meetings (ISHR): www.ishr.ch/treaty-body-monitor/other-reports/inter-committee-meetings
Where can I find information on treaty body reform?	Enhancing the human rights treaty body system (OHCHR): www2.ohchr.org/english/bodies/treaty/reform.htm Guidelines, reports and notes by various UN bodies on the treaty body reform (OHCHR): www2.ohchr.org/english/bodies/icm-mc/documents-system.htm Reform of the treaty bodies (Amnesty International): www.amnesty.org/en/united-nations/treaty-bodies/reform

The International Service for Human Rights (ISHR) is an international non-governmental organisation based in Geneva, at the heart of the United Nations human rights system, with a small branch office in New York.

Over 25 years of existence, we have established ourselves in supporting and facilitating the work of human rights defenders with the United Nations system, at national, regional, and international levels.

Our vision is a world where the UN and regional human rights systems effectively promote and protect the human rights of all and where everyone defending human rights enjoys protection of their rights.

Our mission is to support the engagement of human rights defenders with the UN and regional human rights systems. In turn, ISHR also aims to make these systems more effective, more accessible to human rights defenders, and more responsive to their concerns.

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KINGDOM OF BELGIUM
Federal public service
Foreign Affairs,
Foreign Trade and
Development Cooperation

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Contact details:
ISHR Geneva Office
Rue de Varembé 1
5th floor | P.O.Box 16 | CH-1211 Geneva 20 CIC | Switzerland

ISHR New York Office
777 UN Plaza, 8th floor | New York | NY 10017 | USA