



Information Note

National Human Rights Institutions (NHRIs) interaction with the UN Treaty Body System

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NHRIs and the Treaty Bodies

1. Introduction

One of the objectives of the Office of the High Commissioner for Human Rights (OHCHR) is to assist in the establishment and strengthening of national human rights institutions (NHRIs) as independent institutions that comply with the Paris Principles. OHCHR also encourages and supports the participation of such institutions in international human rights fora, including the UN human rights Treaty Body system and the Human Rights Council, in order to enhance effective monitoring and implementation of international human rights norms at the national level.

OHCHR- National Institutions and Regional Mechanism Section (NIRMS) together with the respective Treaty Body secretariats, work cooperatively to facilitate the interaction of NHRIs with the United Nations Treaty Bodies, including by ensuring that Treaty Body working methods and rules procedure include NHRI participation; by providing information to NHRIs on the reporting schedules of Treaty Bodies; inviting NHRIs to participate and provide information; and conducting training seminars. NIRMS also provides information to Treaty Bodies, on the NHRI in the country whose report is being considered in a given session.

This Information Note is intended to provide practical information to NHRIs wishing to access the Treaty Body system. It provides a brief overview of the United Nations Treaty Body system and the different opportunities for NHRI interaction with the Treaty Bodies, in order to enhance the protection and promotion of human rights at the national level. The working methods and rules of procedure of Treaty Bodies that are relevant to the participation of NHRIs are also included to give guidance to NHRIs wishing to participate in, or submit information to, the Treaty Bodies sessions.

2. The international human rights framework



With the establishment of the United Nations in 1945, in the aftermath of the Second World War, *“promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion”* became one of the pillars of the international community.



The Charter of the United Nations of 1945 proclaims that one of the purposes of the United Nations is to promote and encourage respect for human rights and fundamental freedoms for all. With the energetic support of Eleanor Roosevelt, alongside figures such as René Cassin, Charles Malik, Peng Chun Chang and John Humphrey, States, for the first time, sought to set out in a single document the range of fundamental rights and freedoms that belonged to all by virtue of their status as human beings. These efforts resulted in the Universal Declaration of

Human Rights, adopted unanimously by the General Assembly on 10 December 1948, henceforth Human Rights Day. This document, expressed as “a common standard of achievement for all peoples and all nations”, sets out a wide span of rights covering all aspects of life. Its first article famously describes the idea of fundamental human rights: “All human beings are born free and equal in dignity and rights.”

The UDHR was followed by two Covenants that turned into hard law the precepts of the Declaration. Adopted as international treaties, therefore with binding legal force, the Covenants

specify and extend the rights contained in the Declaration. The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) were adopted by the General Assembly in 1966.

The Declaration, together with the two Covenants, is often referred to as the “*International Bill of Human Rights*”.

The international Bill of Rights is complemented by a number of specific binding instruments that address specific situations of human rights.

There are nine [core international human rights treaties](#), these are:

- (i) The International Covenant on Civil and Political Rights (ICCPR- adopted 1966; entry into force 1976)
- (ii) The International Covenant on the Elimination of All Forms of Racial Discrimination (CERD – adoption in 1965; entry into force in 1969);
- (iii) The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW – adoption in 1979; entry into force in 1981);
- (iv) International Covenant on Economic, Social and Cultural Rights (ICESCR- adoption 1966, entry into force 1976)
- (v) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT – adoption in 1984; entry into force in 1987);
- (vi) The Convention on the Rights of the Child (CRC – adoption in 1989; entry into force in 1990);
- (vii) The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW – adoption in 1990; entry into force in 2003);
- (viii) International Convention on the Rights of Persons with Disabilities (CRPD- adoption 2006; entry into force 2008)
- (ix) International Convention for the Protection of All Persons from Enforced Disappearance (ICPED -adoption 2006, entry into force 2010)

Human rights treaties create legal obligations for States parties to promote and protect human rights at the national level. When a country accepts one of these treaties through ratification, accession or succession, it assumes a legal obligation to implement the rights set out in that treaty. Implementation of the nine core human rights treaties is monitored by the ten human rights treaty-monitoring bodies. The treaty bodies are the committees of independent experts which monitor implementation of the provisions of the core human rights treaties by States parties. Each Committee is composed of independent experts (ranging from 10 to 25 members) of recognized competence in the field of human rights, who are nominated and elected for fixed, renewable terms of four years by State parties. The following are the core Treaty Body committees:

1. The Human Rights Committee (HRCttee);
2. The Committee on the Elimination of Racial Discrimination (CERD);
3. The Committee on the Elimination of Discrimination Against Women (CEDAW);
4. The Committee on Economic, Social and Cultural Rights (CESCR);
5. The Committee Against Torture, and its Subcommittee on Prevention (CAT);
6. The Subcommittee on Prevention of Torture (SPT)
7. The Committee on the Rights of the Child (CRC);
8. The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW);

9. The Committee on the Rights of Persons with Disabilities (CRPD);
10. The Committee on Enforced Disappearances (CED);

“The treaty bodies perform a number of functions aimed at monitoring how the treaties are being implemented by States parties. All treaty bodies, with the exception of the SPT, are mandated to receive and consider reports submitted periodically by State parties detailing their implementation of the treaty provisions in the country concerned. They issue guidelines to assist States with the preparation of their reports, elaborate general comments interpreting the treaty provisions and organize discussions on themes related to the treaties”¹.

The Treaty Bodies generally meet at the United Nations Office at Geneva, although the Human Rights Committee and CEDAW usually hold one of their sessions in New York. All of the treaty bodies receive support from the Human Rights Treaties Division of OHCHR in Geneva.

OHCHR has developed fact sheets with detailed information on some of the treaty bodies mentioned above; further the information provided above is elaborated in more detail in UN Fact Sheet n.o 30, The United Nations Human Rights Treaty System: An introduction to the core human rights treaties and the Treaty Bodies.

3. Treaty Bodies and NHRIs

One of the key roles of NHRIs, as outlined in the Paris Principles, is the interaction with international human rights mechanisms and the promotion of ratification of human rights treaties². National Human Rights Institutions have a duty to contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence³.

The Paris Principles draw on a number of provisions outlining what NHRIs could do at the international level, such as encouraging States to ratify relevant treaties, the promotion and protection of human rights at the national level; contributing to reporting procedures; and co-operating with international and regional bodies. Therefore, the Paris Principles draw a set of guidelines concerning NHRI engagement with the international human rights system as this engagement is essential for the appropriate performance of the protective mandate of National Institutions.

The International Coordinating Committee of NHRIs, at the recommendation of its Sub Committee on Accreditation adopts General Observations which are intended to provide further guidance to NHRIs concerning the implementation of the Paris Principles. One General Observation is of significant important to UN human rights Treaty Bodies and reads as follows:

1.4 Interaction with the International Human Rights System: The Sub-Committee (...) highlights the importance for NHRIs to engage with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures Mandate Holders) and the United Nations Human Rights Treaty Bodies. This means generally NHRIs making an input to, participating in these human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system. (...).

¹ UN Fact Sheet n. 30, *The United Nations Human Rights Treaty System: An introduction to the core human rights treaties and the Treaty Bodies*, p. 27.

² GA Resolution 48/134, paragraph 3(d).

³ GA Resolution 48/134, item 3(d).

Therefore, NHRIs and Treaty Bodies engage in a symbiotic relationship, as Treaty Bodies issue recommendations aimed at strengthening NHRIs, while NHRIs participate in the reporting process and provide relevant information for the treaty monitoring bodies. NHRIs also play a significant role in the follow-up to Treaty Body recommendations, helping strengthen the international system and the domestic implementation of international standards.

Currently, the status granted to NHRIs and the nature and scope of their participation in the work of the Treaty Bodies varies. Each Treaty Body has its own rules of procedure, working methods, general comments or established practices. Currently, three committees have general comments on NHRIs: the Committee on the Rights of the Child⁴, the Committee on Economic, Social and Cultural Rights⁵ and the Committee on the Elimination of Racial Discrimination⁶. The CERD formalized the participation of NHRIs in its working methods and rules of procedure⁷.

In general NHRIs should contribute to the State parties reports, including through consultation and comments to the State official report; drafting a shadow /NHRI report ; making oral presentations in the pre-sessional working groups of Treaty Bodies, in addition to providing written information prior to the formal examination of a State party report. The Treaty Bodies receive information on States' parties implementation of treaty provisions from NHRIs, NGOs and UN agencies.

Some opportunities for NHRI interaction with the Treaty Bodies can be summarized as follows:

Although there are variations in the procedures adopted by each committee in considering a states report, the following basic stages are common to all Treaty Bodies. It would be useful for NHRIs to be familiar with them, prior to interacting with a Treaty Body, in order to determine at what point to participate in the process.

3.1 Reporting to Treaty Bodies

A number of States have overdue reports to the Treaty Bodies. NHRIs may encourage States to comply with their reporting obligations. Indeed, recent studies have shown that countries with NHRIs have ratified one-third more international human rights treaties than states without NHRIs. Furthermore, states with NHRIs tend to submit more reports to human rights Treaty Bodies, with a reporting rate 20% higher than states without NHRIs⁸.

NHRIs should familiarize themselves with the Treaty Body reporting guidelines and assist governments in understanding and following them when developing their periodical reports. In this sense, NHRIs may also provide training for state officials regarding reporting procedures, collection of data for reports and other relevant issues relating to the reporting process

The State party must submit a comprehensive initial report on a treaty one year after its entry into force of the treat. (2 years for the CRC and ICESCR) and then periodically, as set out in the relevant treaty. For example, the reporting periodicity set out in the ICCPR, CEDAW, and CAT is of every four years, whereas the CMW usually establishes a periodicity of 5 years.

⁴ GC n. 2, http://www2.ohchr.org/english/bodies/crc/docs/GC2_en.doc

⁵ GC n. 10, <http://www2.ohchr.org/english/bodies/cescr/comments.htm>

⁶ GC n. 17, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/4872085cc3178e3bc12563ee004beb99?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/4872085cc3178e3bc12563ee004beb99?Opendocument)

⁷ <http://www2.ohchr.org/english/bodies/cerd/workingmethods.htm#B> and

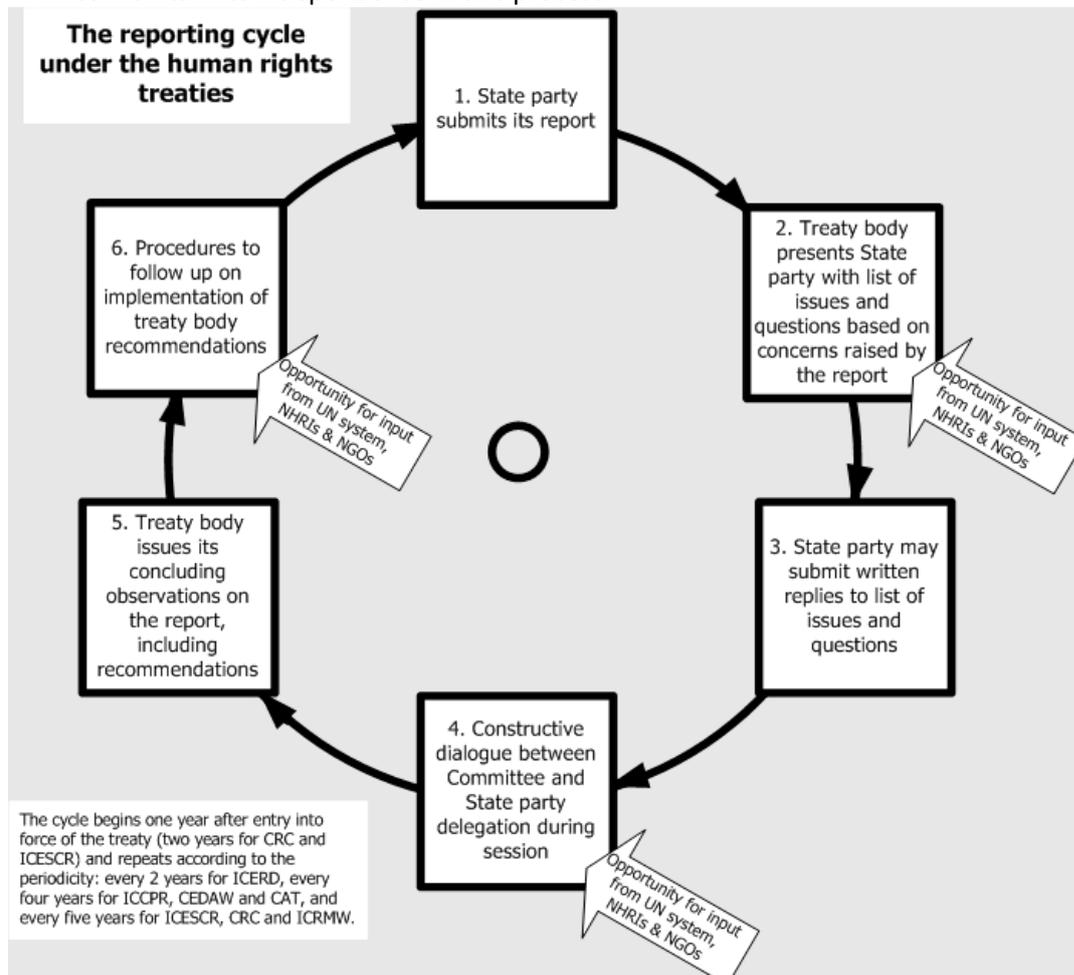
[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/cb35dcd69a1b52a3802564ed0054a104?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/cb35dcd69a1b52a3802564ed0054a104?Opendocument)

⁸ CARDENAS, Sonia. *Adaptive States: The Proliferation of National Human Rights Institutions*. The Carr Center for Human Rights Policy Working Paper T-01-04, p. 19.

At the national level, NHRIs may participate in discussions and consultation with various stakeholders including NGOs and States parties in preparing a State party report. Consultation can take different forms. The State party may also invite a NHRI and NGOs to a consultation meeting or request for a written input or comments. NHRIs could participate in the consultation to provide feedback to the State report and ensure that inputs provided during the consultation process are well included in the final report; NHRIs may have information and statistics from research done on the human rights situations. However NHRIs should always maintain their independent status during this process.

What to do:

- Be aware of the reporting schedule of the relevant Treaty Body. The National Institutions and Regional Mechanisms Section regularly sends out information on this, and it also be found on the OHCHR website: www.ohchr.org.
- Be familiar with the reporting procedure of the relevant Treaty Body and also refer to the “Harmonized guidelines on reporting under the international human rights treaties including guidelines on a common core document and treaty-specific targeted documents”. (<http://www.ohchr.org>).
- Be familiar with general comments of the Treaty Body and concluding observations from previous reviews on the country webpage.
- Review a draft State report and make comments according to the report format indicated in the reporting guidelines. If your NHRI was requested to provide an opinion in writing you may consider publicizing or consulting with other stakeholders. It is important for an NHRI to maintain its independence in this process.



3.2 Submission of Written Information

NHRIs, with their expertise from the field, are in a good position to evaluate their governments' compliance with international human rights treaties. In their working methods Treaty Bodies welcome the submission of reports or independent information by NHRIs in order to have reliable information upon which to consider States' reports." *Treaty Bodies that develop indicators for the reporting process could draw on knowledge and expertise in NHRIs on the appropriateness and quality of an indicator for a given country*⁹.

Depending on when the information is submitted, issues raised by these organizations may be incorporated in a list of issues or inform the questions posed by members when meeting the state delegation. In light of the information available the committee examines the report.

On many occasions when the State report does not reflect the comments and inputs from NHRIs and NGOs nor include adequate information on the human rights situations, relevant to the treaty of the country, NHRIs could submit a parallel/NHRI report to the relevant Treaty Body, independently or with the participation civil society.

What to do:

- Consult the OHCHR website to get the State party report.
- For an NHRI report, it is recommended to use the same format and chronology as the State report. This makes the report more comprehensible.
- NHRIs may send their reports to the secretariat of the Treaty Body and copy it to NIRMS. Some Treaty Bodies provide a deadline for the submission of a parallel report, others do not. It is recommended that that reports are to be submitted in advance of the review, allowing Treaty Body members to have enough time to look through the report.

3.3 Contribution to the list of issues prior to reporting

Before the session at which a committee will consider a State party's report(s), the committee prepares a list of issues, which is transmitted to the State party. A State party will usually submit its responses to this list in writing; these answers are posted on the OHCHR website.

The list of issues provides an opportunity for the Committee to request from the State party any additional information which may have been omitted in the report or which members consider necessary for the Committee to assess the state of implementation of the treaty in the country concerned. The list of issues also allows the Committee to begin the process of questioning the State party in more detail on specific issues raised by the report which are of particular concern to members. This allows for the State party delegation to prepare itself for the dialogue with the Committee. Depending on the Treaty Body, lists of issues are drafted either in a pre-sessional working group convened immediately before or after a regular session or during the plenary session. The State party may submit its responses to the list of issues and questions in written form. The written responses form a supplement to the report, and are especially important where there has been a long delay between the date the original report was submitted and the date the committee is finally able to take up the report. NHRIs may comment on the list of issues at the time they are sent to the state party NHRIs can attend and make an oral or written submission to the list of issues to Treaty Body.

⁹ *The Role of National Human Rights Institutions in the United Nations Treaty Body Process*. Publication by the German Institute for Human Rights, 2007, p. 39.

CERD has adopted the so-called list of themes to which no responses are required. The Country Rapporteur will send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report.

What to do:

- Consult the relevant Treaty Body website with the list of issues and other relevant information;
- You will normally be sent an email or official letter from the Treaty Body secretariat inviting you to submit information with a link to the list of issues;
- If you would like to attend or participate please inform the Treaty Body secretariat and NIRMS so that they can assist with the accreditation;
- Send information to the Treaty Body on time (deadlines vary with each Treaty Body).

The CEDAW), the CESCR and the CRC each convene a one-week, pre-sessional working group to prepare lists of issues and questions with respect to the reports of the States parties that they will consider in the immediate future. The Human Rights Committee assigns this to its country report task forces, which meets during a session prior the one at which the given State's report will be examined. Most committees appoint one of their members as country rapporteur to take the lead in drawing up the list of issues for a specific country.

For example the CESCR, the CEDAW and the CRC welcome written information from NHRIs and civil society at their pre-sessional working groups for the preparation of lists of issues. The CRC requires written information to be submitted two months before its pre-sessional working group. Civil society actors, including NHRIs, academic institutions and professional associations, can also submit written information to the country rapporteurs of the Committee against Torture as well as to the country report task forces of and the Human Rights Committee. The secretariat of the Human Rights Committee requests such information to be provided two and half months prior to the session in which list of issues will be adopted to ensure that this information will be taken into accounts.

3.4 Formal consideration of the report: constructive dialogue between the treaty body and the State party

All treaty bodies have developed the practice, of inviting States parties to send a delegation to attend the session at which the committee is considering their report in order to allow them to respond to members' questions and provide additional information on their efforts to implement the provisions of the relevant treaty. This procedure is not adversarial and the committee does not pass judgment on the State party. Rather the aim is to engage in a constructive dialogue in order to assist the state in its efforts to implement the treaty as fully and effectively as possible

Some Treaty Bodies may proceed with consideration of a state party report in the absence of a delegation; others require it to be present.

CERD and CMW have taken the approach of involving NHRIs in their official sessions. NHRIs have the opportunity to make the statement during the official examination of their state's report if the state parties delegation has no objections. This opportunity is not given to NGOs. With CERD the rules of procedure indicate that A-status NHRIs may address the committee in official meetings, in an independent capacity, and with a separate seating, on issues related to the dialogue between the Committee and the state party.

Other Treaty Bodies allow NHRIs to attend as observers but not to formally interact at the formal session, but interact at a pre-session or in informal or private meetings. Time is usually set aside on a Treaty Body agenda for this.

What to do:

- For NHRIs submitting information or making a statement prior to the meeting, consult the OHCHR website to get the state party report and familiarize yourself with the contents.
- Contact the concerned Treaty Body secretariat regarding accreditation to attend the meeting and have a specific speaking time allocated. Letters inviting NHRIs to participate are usually sent in advance by Treaty Bodies.

3.5 Oral presentation to the Committee through the ICC Geneva Representative:

The International Coordinating Committee of NHRIs (ICC) has recruited a representative based in Geneva to represent NHRIs with A-status in sessions of the Treaty Bodies or Human Rights Council, if the respective NHRI can not attend in their individual capacity. If an NHRI would like the ICC Geneva Representative to make a presentation on its behalf, the NHRI should contact the ICC Geneva representative /NIRMS. They would then contact the Treaty Body secretariat and the ICC Geneva Representative to make an arrangement for the NHRI. The NHRI should send a written statement to the ICC Geneva Representative before the session (see contact details pg21).

3.6 Inquiry procedure

Five of the treaty bodies—the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities, the Committee on Enforced Disappearances and the Committee on Economic, Social and Cultural Rights (when the relevant Optional Protocol enters into force) may, on their own initiative, initiate inquiries if they have received reliable information containing well-founded allegations of serious, grave or systematic violations of the conventions in a State party.

Inquiry procedures may only be carried out if the State recognizes the competence of the relevant committee in this regard. NHRIs should, therefore, encourage States that have not accepted the inquiry procedures to do so and provide information once an inquiry procedure is established.

Treaty Bodies, such as CAT (art. 20) and CEDAW (art 8-10 of OP-CEDAW), have set the inquiry procedure in the Convention and its optional protocols:

“If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practiced in the territory of a State Party, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned (art. 20-1 of CAT).”

“If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate (...)” (art.8-1 of OP-CEDAW).

“Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory (art. 8-2 of OP-CEDAW).”

The procedure is optional for State parties: a treaty body cannot consider complaints relating to a State party unless the State has expressly recognized the competence of the treaty body in this regard, either by a declaration under the relevant treaty article or by accepting the relevant optional protocol.

What to do:

- Check whether a State has made declarations with regard to the competence of Treaty Bodies to receive individual communications and/or to conduct an inquiry through the Treaty Bodies’ database (<http://www.unhchr.ch/tbs/doc.nsf>). If your State has not yet recognized the competence of Treaty Bodies regarding communications and/or inquiry, lobby the State to declare its consent with the competences of Treaty Bodies.
- Be familiar with the communications procedure of Treaty Bodies concerned
- NHRIs could widely publicize the inquiry procedure of Treaty Bodies.

3.7 Complaints Procedure

Eight of the treaty bodies (HRC, CERD, CAT, CEDAW, , CRPD, CED, CESC and CMW– (though the respective instruments for the latter two treaty bodies have not yet entered into force) may consider complaints or communications lodged by individuals who claim their rights have been violated by a State party. The procedure is optional, so States have to expressly recognize the Committee’s competence to receive complaints. NHRIs should encourage States to recognize the Committee’s competence to process complaints. Individual complaints or petitions are referred to as the “Communications Procedure.”

NHRIs can advise victims on the procedures and sensitize them. NHRIs may also lodge a complaint on behalf of individual groups.

The communications procedure set out in these conventions and their optional protocols is conditional on the following:

- The individual must first exhaust local remedies. In other words, the individual must have explored the available legal remedies in the State concerned, including appeal to the highest court. This requisite can be mitigated when: (i) there is no legal process in that country to protect the rights alleged to have been violated; (ii) access to remedies through the local courts has been denied or prevented; (iii) there has been an unreasonable delay locally in hearing the complaint; (iv) a consistent pattern or gross violations of human rights makes any prospect of remedies meaningless; and (v) the remedies are unlikely to bring effective relief to the victim.
- The communication must not be anonymous or abusive;

- The communication must allege violations of rights as stipulated in the treaty in concern;
- The communication must come from an individual who lives under the jurisdiction of a State which is party to the treaty in concern;
- The communication must not be under current or past investigation in another international procedure;
- The allegation set out in the communication must be substantiated

Since the final decisions of a the communications procedure indicate how Treaty Bodies translate the Conventions and define human rights stipulated in their respective Convention, NHRIs with quasi-judicial functions may rely on the jurisprudence of Treaty Bodies when issuing their findings.

What to do

- NHRIs could advise victims on the procedures and sensitize them. NHRIs may also lodge a complaint on behalf of individual groups.
- NHRIs can follow up on Treaty Body assessments of complaints and monitor related State party action. Moreover, NHRIs could follow up on interim orders of Treaty Bodies when there is risk of irreparable harm.

3.8 Dissemination of Concluding Observations and follow-up

NHRIs are important actors for the dissemination and implementation of Treaty Bodies' recommendations on the ground. They should disseminate Concluding Observations as widely as possible within their domestic constituencies and encourage governments to translate them into local languages.

Monitoring the implementation of Concluding Observations is another important activity for NHRIs. *NHRIs should be encouraged to do their own follow-up of UN procedures, both as regards concluding observations and individual complaints, and to keep track of what has been done by governments in this respect¹⁰. NHRIs, due to their special status, make their interventions more palatable to governments, therefore facilitating accountability and compliance. This role is intensified and extremely relevant in dire situations where there is a breakdown in communication between governments and civil society¹¹.* In that sense, NHRI participation is crucial. They may: (i) submit parallel or shadow reports and individual communications; (ii) bring expertise from the field; (iii) provide a linkage between the national and the international levels.

Some Treaty bodies have follow-up procedures, where NHRIs can encourage States to submit information or even provide supplemental information. NHRIs may still engage with follow-up rapporteurs (for the Treaty Bodies that have appointed them) and discuss the appropriate course of action to encourage implementation by States.

NHRIs could support and host follow-up meetings to concluding observations and recommendations of Treaty Bodies with the participation of Parliament, Ministries, public authorities, NGOs and other relevant actors of civil society. NHRIs could also engage with members of Parliament, Ministries and other relevant public authorities regarding the implementation of observations and recommendations.

¹⁰ *The impact of United Nations Human Rights Treaties on the Domestic Level*. The Hague: Kluwer Law International, 2002, p. 42.

¹¹ *Exploring the Theory and Practice of the Relationship between International Human Rights Law and Domestic Actors*. In: Leiden Journal of International Law, n. 22, 2009, p. 187.

NHRIs may use the Concluding Observations to guide their own work and advocacy, as they provide a rich framework on the most fundamental human rights challenges of a country. NHRIs can also use Treaty Bodies recommendations and general comments to strengthen their own thematic work. Many observations address NHRIs directly and NHRIs should use them to strengthen their own capacities as well.

What to do

- Once the State party report has been reviewed by treaty bodies, check on the OHCHR website for the Concluding Observations. These are normally provided in the official UN languages. You may also subscribe to the mailing list to receive them periodically.
- NHRIs could hold meetings at the national level to discuss follow up activities and implementation of the concluding observations with national stakeholders.

3.9 Enhancing engagement with the Treaty Bodies – the Draft Harmonized Approach

Participants from National Human Rights Institutions (NHRIs), Treaty Bodies and civil society met in Berlin, Germany on 23 and 24 November 2006 to discuss the interaction between NHRIs and Treaty Bodies. The participants adopted a draft harmonized approach for NHRIs engagement with Treaty Bodies, highlighting what NHRIs and treaty bodies could do. Below is the specific section related to what NHRIs could do and summarizes the information provided above:

DRAFT HARMONIZED APPROACH TO NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIs) ENGAGEMENT WITH TREATY BODY PROCESSES

Enhancing engagement with the Treaty Bodies - a common approach:

Reporting:

- 1) NHRIs should endeavour to provide information to Treaty Bodies used in the drafting of the list of issues.
- 2) NHRIs should become familiar with, and assist government in understanding, the new Treaty Body reporting guidelines.
- 3) NHRIs should contribute in an appropriate manner in the preparation of State party reports in accordance with the Paris Principles, including through consultation or commenting on the State party report.
- 4) NHRIs should seek opportunities to make oral presentations in the pre-sessional working groups of Treaty Bodies, in addition to providing written information, prior to the formal examination of a State party report.
- 5) Petitions, enquiry procedure:
- 6) NHRIs should consider facilitating or assisting victims' petitions to Treaty Bodies in accordance with the procedures of the Treaty Bodies.
- 7) NHRIs should lobby their States to assent to the respective individual complaint mechanisms of the Treaty Bodies.
- 8) NHRIs should follow up to Treaty Bodies' assessments of complaints to monitor State party action undertaken in relation to it.
- 9) NHRIs should follow up on interim orders of Treaty Bodies given to State parties in relation to complaints where irreparable harm is envisaged.
- 10) NHRIs should engage with Treaty Body enquiry procedures, in an appropriate manner, including through briefings and the provision of information.

Follow up:

- 11) NHRIs should monitor state dissemination of information to all relevant actors on concluding observations and recommendations of Treaty Bodies and support public awareness thereon.
- 12) NHRIs should support and host follow up meetings to concluding observations and recommendations of Treaty Bodies with the participation of Parliament, Ministries and public authorities, NGOs and other relevant actors of civil society.
- 13) NHRIs should monitor the effective implementation of the concluding observations and recommendations of Treaty Bodies and provide guidance on possible courses of action.
- 14) NHRIs shall engage with members of Parliament and Ministries and other public authorities regarding the implementation of concluding observations and recommendations.
- 15) International Human Rights Instruments:
- 16) NHRIs should, in accordance with the Paris Principles, encourage ratification of international human rights instruments and accession to these instruments.
- 17) NHRIs should publicise and disseminate information concerning the respective international human rights instruments and undertake advocacy and educational campaigns.
- 18) NHRIs should assist governments and other stakeholders in understanding, conceptualising and contextualising international instruments.
- 19) NHRIs should inform Parliaments about State party obligations regarding international human rights instruments.
- 20) NHRIs should encourage the removal of State party reservations to the respective treaties including through public awareness campaigns.

Thematic engagement

- 21) NHRIs should through their thematic work proactively engage Treaty Bodies and call for thematic discussions with them including in relation to General Comments and Recommendations.

Training

- 22) NHRIs should support the capacity building of state officials regarding reporting procedures, collection of data for reports and other relevant issues relating to the reporting process.

4. Practical Information on the Treaty Bodies

4.1. The Human Rights Committee (HRCttee): was created in 1976 to monitor implementation of the International Covenant on Civil and Political Rights. The Committee meets three times a year for three-week sessions, normally in March at United Nations Headquarters in New York and in July and October/November at the United Nations in Geneva. In item VIII of its Working Methods, the HRCttee stipulates that in order to ensure that it is as well informed as possible; the Committee invites non-governmental organizations and NHRIs to provide reports containing country-specific information on States parties whose reports are before them. Such information should be submitted in writing, preferably well in advance of the relevant session. The Committee sets aside the first morning meeting of each plenary session to enable representatives of non-governmental organizations and NHRIs to provide oral information. In addition to this, lunch-time briefings are organized to allow non-governmental organizations and NHRIs to provide further information to Committee members before the examination of the State report by the Committee.

For more information about the work of the Human Rights Committee, read the Civil and Political Rights: The Human Rights Committee fact sheet. (PDF):

<http://www.ohchr.org/Documents/Publications/FactSheet15rev.1en.pdf>.

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4.2. The Committee on Economic, Social and Cultural Rights (CESCR): was created in 1987 to carry out the monitoring mandate of the Economic and Social Council (ECOSOC) under the International Covenant on Economic, Social and Cultural Rights. The Committee convenes twice a year for three-week sessions with a one-week pre-session working group, normally in May and November at the United Nations in Geneva. In its General Comment 10 on the role of National Human Rights Institutions in the protection of Economic, Social and Cultural Rights, the Committee calls upon States to include details of the mandates and main activities of NHRIs in the reports submitted to the Committee. Also, under its working methods (item VII); the Committee provides opportunities for NHRIs to submit relevant information to it. They may do this in writing at any time prior to the consideration of a given State party's report. The Committee's pre-session working group is also open to the submission of information in person or in writing from NHRIs provided that it relates to matters on the agenda of the working group. In General Comment n. 10, the CESCR highlights the importance of NHRIs in promoting and ensuring the indivisibility and interdependence of all human rights. The Committee also

suggests activities that NHRIs may undertake in the promotion and protection of Economic, Social and Cultural.¹²

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4.3. The Committee on the Elimination of Racial Discrimination (CERD): the first treaty body to be established has monitored implementation of the International Convention on the Elimination of All Forms of Racial Discrimination since 1969. The Committee meets at the United Nations in Geneva and holds two three-week sessions in February and August each year. According to the Committee's rules of procedure (rule 40) NHRIs, *accredited to take part in the deliberations of the Human Rights Council may, with the consent of the concerned State party, address the Committee in official meetings, in an independent capacity and from a separate seating, on issues related to the dialogue between the Committee and a State party, the report of which is being considered by the Committee.*

NHRIs may also provide information on issues relating to the consideration of reports of States parties, in formal or informal meetings outside the Committee's working hours, to members of the Committee wishing to attend such meetings, as well as respond to requests to clarify or supplement such information. The secretariat will inform NHRIs about the Committee's programmed work for the respective session and will provide them with copies of the reports due to be considered by the Committee. In General Comment XXVIII, paragraph 2 (a), the CERD recommended that NHRIs assist their respective States to comply with their reporting obligations and closely monitor the follow-up to the concluding observations and recommendations of the Committee¹³.

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¹² GC n. 10, <http://www2.ohchr.org/english/bodies/cescr/comments.htm>

¹³ « The follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance ».

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4.4. The Committee on the Elimination of Discrimination against Women (CEDAW): has monitored implementation of the Convention on the Elimination of All Forms of Discrimination against Women by its States parties since 1982. The Committee meets two to three times a year, in both Geneva and New York, for three-week sessions that are usually supplemented by a one-week pre-sessional working group. Since its early sessions, the Committee has encouraged non-governmental organizations to follow its work. In order to ensure that it is as well informed as possible, the Committee encourages representatives of NHRIs to provide country-specific information on States parties whose reports are before it. NHRIs may also provide country-specific information to the pre-session working group on those States parties whose reports are before the group. The Committee sets aside time for representatives of national human rights institutions to present information to the Committee. For each session and pre-session, the Committee updates an info note on the participation of NGOs and NHRIs, in which it encourages them to provide country-specific information on issues relevant to the implementation of the Convention by the State parties under consideration and provides useful practical information. The info note can be found on the CEDAW website for the relevant session: <http://www2.ohchr.org/english/bodies/cedaw/sessions.htm>.

At its forty-first session in July 2008, the Committee decided to introduce a follow-up procedure whereby it identifies a number of priority concerns and recommendations in its concluding observations. States parties are requested to provide, within one or two years, information on the measures taken to give effect to these recommendations. NGOs and NHRIs may also submit to the Committee written information on the implementation by the State party of these specific recommendations.

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4.5. The Committee against Torture (CAT), created in 1987, monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee meets in Geneva and normally holds two sessions a year consisting of four weeks in May and four weeks in November. The Committee receives information from NHRIs: Written information for the list of issues; written information for the consideration of the State party's report; In-session oral briefings prior to the consideration of the State party's report; written information for the follow-up procedure; and the country rapporteurs and relevant members of the Committee will meet with the NHRIs. This briefing takes place prior to the examination of the State party's report.

In May 2003, the Committee adopted a follow-up procedure, which specifically identifies a number of concerns and recommendations in the concluding observations that are serious, protective and can be achieved within one year. States parties are asked to provide information on the measures taken to give effect to these follow-up recommendations. Information submitted by States parties under the follow-up procedure is made public, as are the letters from the Committee's Rapporteur for follow-up. NGOs and NHRIs may also submit written information to the Committee under this follow-up procedure on the implementation of these recommendations by the State party.

In May 2007, the Committee against Torture adopted a new optional reporting procedure which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report (such lists are known as list of issues prior to reporting - LOIPR). This new procedure will not be applied neither to States parties' initial reports nor to periodic reports already submitted and awaiting consideration before the Committee and will be applied for all periodic reports, according to the mentioned criteria. These LOIPR will be prepared and adopted, depending on the respective due date of each State party's report, and transmitted to the State party concerned, at least one year in advance of the due date.

The State party's response to the LOIPR will constitute its report under article 19 of the Convention. The Committee is of the view that this procedure will assist States parties to prepare and submit more focused reports. These LOIPR, transmitted to States parties prior to the submission of their reports, will guide the preparation and content of their periodic report, facilitate the reporting process of States parties and strengthen their capacity to fulfill their reporting obligation in a timely and effective manner.

After the submission of the State party's response to the LOIPR, no further list of issues will be submitted to the States party before the consideration of its report. In addition, reports received under this procedure will be scheduled by the Committee for consideration as a matter of priority. NGOs and NHRIs may also submit written information to the Committee under this procedure.

The Committee encourages NGOs and NHRIs to present their information organized under the respective articles of the Convention and/or thematic issues, including relevant concerns and recommendations. The information submitted by NGOs and NHRIs must be sent electronically to the Secretariat. More information about NHRIs participation in the CAT can be obtained at: http://www2.ohchr.org/english/bodies/cat/follow_up_ngo.htm.

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4.5. The OPCAT- Sub-Committee on the Prevention of Torture (SPT): held its first session in February 2007. The mandate of the SPT is twofold: to visit all places of detention in States parties and to provide assistance and advice to both States parties and independent national bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, the National Preventive Mechanisms (NPMs).

The Subcommittee convenes three times a year for sessions of one week's duration at the United Nations in Geneva. It also undertakes regular visits to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the "Optional Protocol") provides considerable, detailed guidance concerning the establishment of a National Preventive Mechanism ("NPM"), including its mandate and powers. NHRIs may be designated as the National Preventive Mechanism under OP-CAT. Currently, 12 NHRIs are designated as the official NPMs.

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4.6. The Committee on the Rights of the Child (CRC):), since 1990, has monitored implementation of the Convention on the Rights of the Child by its States parties, as well as two optional protocols relating to the involvement of children in armed conflict (CRC OPAC) and to the sale of children, child prostitution and child pornography (CRC OPSC).

The Committee convenes three times a year for sessions of three weeks' duration and three one-week pre-session working groups, in January, May and September at the United Nations in Geneva. The Committee has systematically encouraged NHRIs, including child ombudspersons to submit written information/ documentation in order to provide it with a comprehensive picture on how the Convention is being implemented in a particular country.

NHRIs may also participate in formal, informal meetings and pre-session working groups of the CRC. NHRIs and other competent bodies may request a private meeting with the Committee. This is highlighted in the CRC working methods documents Article VIII. The Committee consistently issues recommendations regarding NHRIs; requiring States to furnish information on any "independent body established to promote and protect the rights of the child" (refer to General Comment no. 2 of 2002).¹⁴

¹⁴ ¹⁴ GC n. 2, http://www2.ohchr.org/english/bodies/crc/docs/GC2_en.doc

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4.7. The Committee on Migrant Workers (CMW): held its first session in March 2004 and monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The Committee meets in Geneva and normally holds two sessions a year, usually in April and the autumn. Article 74(4) of the Convention on Migrant Workers and their Families, the Committee invites NHRIs to submit, for consideration by the Committee, written information on matters dealt with in the Convention and that fall within their scope of activities. NHRIs may attend the sessions and brief the Committee in private if they so wish during the preparation of the list of issues. NHRIs may also brief the Committee in the public session when the State-party report is under consideration. In its annual report of 2006, the CMW indicated its decision to grant NHRIs from States whose reports are under examination, the opportunity to make a statement during the official session.¹⁵

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4.8. The Committee on the Rights of Persons with Disabilities (CRPD): The Committee on the Rights of Persons with Disabilities was established in November 2008 held its first inaugural session in February 2009. s convenes twice a year for sessions of one week, normally in February and October at the United Nations Office in Geneva. The Committee may invite specialized agencies and organs of the United Nations, as well as intergovernmental organizations, national human rights institutions (particularly national monitoring bodies

¹⁵ See for full text of report. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/436/66/PDF/G0643666.pdf?OpenElement>.

established under articles 16, paragraph 3 and 33, paragraph 2, of the Convention), non-governmental organizations, including those that represent persons with disabilities, and other bodies or individual experts to submit, for consideration by the Committee, written information on such matters dealt with in the Convention as fall within the scope of their activities. According to article 51 of the Rules of Procedure, NHRIs may be invited by the Committee to make oral or written statements and provide information or documentation in areas relevant to the Committee's activities under the Convention to meetings of the Committee.¹⁶

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4.9. The Committee on Enforced Disappearances (CED): The Committee shall meet in Geneva and normally hold two sessions per year. The convention came into force on in December 2010. More information will be provided as it becomes available.

4.10. The Inter-Committee Meeting: The annual Meeting of Chairpersons of the Human Rights Treaty Bodies provides a forum for members of the nine human rights Treaty Bodies to discuss their work and consider ways to enhance the effectiveness of the Treaty Body system as a whole. Issues addressed at these meetings have included, among other things, the streamlining and overall improvement of human rights reporting procedures, harmonization of the Committee's methods of work, follow-up to World Conferences, and financial issues. Since 2002, an Inter-Committee Meeting, consisting of the chairpersons and two members of each of the committees, has also been convened to discuss these issues. Since 2008, the Inter-Committee Meeting has convened twice annually to, inter alia, make recommendations for the improvement and harmonization of working methods of the human rights Treaty Bodies. During the nineteenth Inter-Committee meeting it was highlighted increased cooperation between the Treaty Bodies and NHRIs is needed (Report of the Nineteenth meeting of chairpersons of the human rights Treaty Bodies, HRI/MC/2007/ 2, para 19). The Inter-Committee meeting also emphasized the important role played by national human rights institutions and civil society, including NGOs, in respect of follow-up at the national level (report of the chairpersons of human rights Treaty Bodies on their twenty-first meeting, held at Geneva on 2 and 3 July 2009, paragraph 17). The ICC Chairperson and Geneva Representative have participated in these meetings, lobbying for enhanced and harmonized procedures for NHRI interaction with Treaty Bodies.

¹⁶ For the Committee's rules of procedure, please check: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/414/27/PDF/G0441427.pdf?OpenElement>.

5. General Contact Information

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Useful Information related to NHRIs and Treaty Bodies, refer to the following websites:

www.nhri.ohchr.org

under the Treaty Bodies section.

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The OHCHR website

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