

International human rights treaty bodies: A guide for non-lawyers

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The Universal Declaration of Human Rights adopted in 1948 set the foundation for the development of modern international human rights law. Human rights and State obligations are defined in a series of international treaties and instruments and their implementation is supported and monitored through the system of international human rights treaty bodies. This briefing note is designed to provide an overview of the human rights treaty body system.

STATE OBLIGATIONS

- 1 When a State ratifies or accedes to an international human rights treaty (the process by which States formally agree to become a party to a treaty and to be bound by its provisions), it accepts obligations under international law to respect, protect and fulfil the human rights contained in the treaty. This means that States are required to refrain from interfering with or restricting human rights (the obligation to respect human rights); to protect individuals and groups from human rights abuses (the obligation to protect human rights); and to take positive steps to allow individuals to exercise and enjoy their human rights (the obligation to fulfil human rights). By ratifying an international human rights treaty, a State Party commits itself to implement its standards at the national level and to put in place domestic laws, policies and other measures consistent with its obligations to respect, protect and fulfil the human rights guaranteed in the treaty.

HUMAN RIGHTS TREATY BODIES

- 2 International human rights treaty bodies are committees of independent experts who monitor the implementation of international human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). There are currently 10 international treaty bodies.¹ Individual members of treaty bodies are nominated and elected for fixed renewable 4-year terms by State parties. The CEDAW Committee currently consists of 23 experts on women's rights from around the world.² The treaty bodies meet in Geneva, Switzerland.

¹ There are nine human rights international treaties, and one optional protocol, from which 10 treaty bodies have been established. In addition to monitoring the 4 treaties mentioned above (ICCPR, ICESCR, CEDAW and CERD), treaty bodies monitor the implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (with a separate body to monitor its Optional Protocol), the Convention on the Rights of the Child, the International Convention on the Rights of Persons with Disabilities, the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

² Membership of the Committee on the Elimination of Discrimination against Women as of 1 January 2019 until 31 December 2021 is accessible via <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Membership.aspx>

GENERAL COMMENTS OR RECOMMENDATIONS

- 3** Each of the human rights treaty bodies provides guidance to States Parties on the interpretation and implementation of the substantive provisions of its respective treaty through “general comments” or “general recommendations.”³ These include comprehensive explanations on the meaning of core human rights, such as the right to life, equality before the law, the right to education; thematic or cross-cutting issues, such as violence against women, the right to healthcare, the rights of minorities; and general guidance on the information that should be submitted in State reports to the treaty body. The CEDAW Committee has adopted 37 general recommendations⁴ and is in the process of agreeing a new general recommendation on trafficking.
- 4** Human rights treaty bodies use a range of mechanisms to monitor States’ adherence to their human rights obligations, including reporting procedures, consideration of individual complaints of human rights violations and conducting inquiries.

STATE PARTY REPORTING PROCEDURE

- 5** When a State ratifies an international human rights treaty, in addition to its obligations to implement the provisions of the treaty, the State also undertakes to submit periodic reports to the relevant treaty body describing the measures that it is taking to implement the treaty and give effect to the human rights guaranteed in it. A State Party is required to submit an initial report within one year after entry into force of the treaty for that State and after that, to submit periodic reports every four years, or whenever the Committee requests it to report as part of its follow-up procedure. In addition to receiving State Party reports from governments, treaty bodies also receive ‘shadow’ reports from NGOs and civil society organisations. By submitting a shadow report, NGOs are able to highlight issues not raised by their governments or point out where the government may be misleading the committee or may not be meeting its obligations under the treaty.
- 6** The treaty body examines the State Party’s report in the presence of a delegation of the State Party and asks questions regarding implementation of the treaty and specific legislative action and other measures that the State Party is taking. Following this dialogue between the treaty body and the State Party, the treaty body issues a report identifying any areas of concern and setting out recommendations for the State Party to help it improve implementation of its obligations under the treaty. This report is referred to as the ‘Concluding Observations’ of the treaty body. The CEDAW Committee considered the 8th periodic report of the United Kingdom in February 2019 and published its Concluding Observations in March 2019.⁵

INDIVIDUAL COMPLAINTS

- 7** Currently, eight of the nine human rights treaty bodies may receive and consider individual complaints or communications from individuals.⁶ If a State is a party to a treaty and has accepted a treaty body’s competence to examine individual complaints, any individual who claims that their rights under the treaty have been violated by the State Party may bring a complaint to the relevant treaty body. The practice of treaty bodies is to consider complaints on the basis of written information supplied by the alleged victim(s) (or the person submitting the complaint on their behalf) and the State Party.
- 8** Before submitting a complaint (communication) to a treaty body, an individual must exhaust domestic legal remedies. This means that the individual should use all options available to them at the domestic level to remedy the violation of their rights, such as filing a case in a domestic court and using any appeals process available, before they make a complaint to a treaty body.

³ A compilation of the General Comments adopted by all human rights treaty bodies can be accessed via <https://ohchr.org/EN/HRBodies/Pages/TBGeneralComments.aspx>.

⁴ As of August 2020. CEDAW Committee general recommendations are accessible via <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx>.

⁵ The CEDAW Committee’s Concluding Observations are accessible via https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGBR%2fCO%2f8&Lang=en

⁶ The individual complaint mechanism under article 77 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has not yet entered into force.

- 9 When considering an individual complaint, a treaty body first registers the case and then refers the complaint to the State Party to give it an opportunity to make comments (observations), which must be submitted within six months. Once the State replies to the complaint, the individual who submitted the complaint is also offered an opportunity to comment. The two major stages in the case are known as the “admissibility” stage and the “merits” stage, although as a general rule, the treaty bodies consider admissibility jointly with the merits. The **“admissibility”** of a case refers to the formal requirements that a complaint must satisfy before the relevant treaty body can consider its substance, such as whether the complaint is by or on behalf of the alleged victim, whether the complaint relates to a relevant treaty right and whether all domestic remedies have been exhausted. The **“merits”** of the case are the substance, on the basis of which the treaty body decides whether or not the alleged victim’s rights under a treaty have been violated by the State Party. There is no appeal against Committee decisions. Once a treaty body concludes that a violation has taken place, the State is invited to provide information, within 180 days, on the steps it has taken to implement the recommendations. The State’s response is then shared with the individual who made the complaint for comment. If the State Party fails to take appropriate action, the case is kept under consideration by the treaty body under the follow-up procedure.

INQUIRIES

- 10 Six of the 10 treaty bodies may on their own initiative, initiate inquiries if they receive reliable information of serious or systematic violations of a treaty by a State Party.⁷ When a treaty body initiates the inquiry procedure, it will invite the State Party to co-operate in the process and submit comments for consideration by the treaty body. The inquiry process is confidential and may involve country visits to the relevant State by treaty body members. The treaty body will consider all relevant information before submitting its findings to the concerned State Party, with recommendations for action. Like the individual complaints procedure, the State Party is invited to submit its comments on the Committee’s findings and recommendations, usually within six months.

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⁷ Treaty body committees monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, the International Convention on the Rights of Persons with Disabilities, the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of the Child may initiate inquiries.