

**Office of the United Nations  
High Commissioner for Human Rights**



# **The United Nations Human Rights Treaty System:**

**An introduction to the core human rights treaties  
and the treaty bodies**

**Fact Sheet No. 30**



# CONTENTS

	<i>Page</i>
ABBREVIATIONS .....	v
Introduction .....	1
Part I - Developing human rights standards: the treaties and their optional protocols .....	3
Universal Declaration of Human Rights (1948) .....	3
International Convention on the Elimination of All Forms of Racial Discrimination (1965).....	5
The International Bill of Human Rights .....	6
International Covenant on Civil and Political Rights (1966)...	7
International Covenant on Economic, Social and Cultural Rights (1966) .....	8
Convention on the Elimination of All Forms of Discrimination against Women (1979) .....	9
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).....	10
Convention on the Rights of the Child (1989) .....	11
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)	13
Reading the treaties as a whole .....	14
Part II - Monitoring implementation of human rights standards: the treaty bodies .....	15
What are the treaty bodies? .....	15
What do the treaty bodies do? .....	16
Consideration of States parties' reports by the treaty bodies	17
The State's obligation to report .....	17
The purpose of reporting .....	18
How does each treaty body examine a State party's report? .....	19
The importance of follow-up to treaty body recommendations .....	23
What happens if States do not report? .....	24

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Consideration of complaints from individuals claiming that their rights have been violated by a State party .....	25
Who can complain? .....	26
How do I go about complaining? .....	26
Inquiries.....	26
Which States may be subject to inquiries? .....	26
Inquiry procedure .....	26
OPCAT and the Subcommittee on Prevention .....	27
State-to-State complaints.....	28
Resolution of inter-State disputes concerning interpretation or application of a convention .....	28
General comments .....	29
Days of general discussion/thematic debates.....	29
Meetings of States parties and meetings with States parties .....	29
Coordination between the treaty bodies .....	30
Annual meeting of chairpersons .....	30
The inter-committee meeting.....	30
Part III - Further development of the United Nations human rights treaty system .....	31
Expansion of the human rights treaty system: drafting new instruments.....	31
Enhancing the effectiveness of the treaty system .....	32
(1) Increasing coordination between the treaty bodies ...	32
(2) Development of the treaty reporting system .....	33
The role of the human rights treaty system in strengthening human rights protection systems at the national level .....	34
More information about the United Nations human rights treaty system .....	36
Technical terms related to the treaty bodies.....	37
How a State becomes a State party to a treaty .....	47

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## Abbreviations

### The 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 Members of Their Families
CRC-OPAC	Optional Protocol to the CRC on the involvement of children in armed conflict
CRC-OPSC	Optional Protocol to the CRC on the sale of children, child prostitution and child pornography
ICCPR-OP1	Optional Protocol to the ICCPR (on individual complaints)
ICCPR-OP2	Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty
OPCAT	Optional Protocol to the Convention against Torture

### The treaty bodies

CAT	Committee against 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

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## **United Nations bodies**

CHR	Commission on Human Rights
DAW	Division for the Advancement of Women
DESA	Department of Economic and Social Affairs
ECOSOC	Economic and Social Council
FAO	Food and Agriculture Organization of the United Nations
ILO	International Labour Office or Organization
OCHA	Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UN-HABITAT	United Nations Human Settlements Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
WHO	World Health Organization

## **Other**

Art.	Article
MDGs	Millennium Development Goals
NGOs	Non-governmental organizations
NHRIs	National human rights institutions

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# INTRODUCTION

This Fact Sheet provides a general introduction to the core international human rights treaties and the committees, or “treaty bodies”, that monitor their implementation by States parties.<sup>1</sup> The seven core human rights treaties set international standards for the protection and promotion of human rights to which States can subscribe by becoming a party to each treaty. Each State party has an obligation to take steps to ensure that everyone in the State can enjoy the rights set out in the treaty. The treaty body helps them to do this by monitoring implementation and recommending further action. Although each treaty is a separate legal instrument, which States may or may not choose to accept, and each treaty body is a committee of experts, independent from the other committees, the booklet presents the United Nations human rights “treaty system”. The extent to which the treaties and the treaty bodies can function together as a system depends on two factors: first, States need to accept all of the core international human rights treaties systematically and put their provisions into operation (universal and effective ratification); and, second, the treaty bodies need to coordinate their activities so as to present a consistent and systematic approach to monitoring the implementation of human rights at the national level.

OHCHR has published specific Fact Sheets on each of the seven core treaties, each of which includes information on their respective treaty bodies. Those interested in a particular treaty or treaty body should refer to these publications, which are listed on page 52. The present Fact Sheet takes a more general approach, surveying all of the treaties and the treaty bodies, with the aim of seeing to what extent they can and do function together as a single, holistic and integrated system for the promotion and protection of human rights.

Part I presents the seven core human rights treaties currently in force. These treaties are the product of more than half a century of continuous elaboration since the unanimous adoption of the Universal Declaration of Human Rights by the United Nations General Assembly in 1948.

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<sup>1</sup> It has become accepted to describe the committees established under the treaties as the human rights “treaty bodies”, even though the provisions of each treaty refer exclusively to its “Committee”. It should be noted that the CESCR is not technically a treaty body, since it was not established directly under the terms of the Covenant but was created by an ECOSOC resolution. Nevertheless, as a matter of convenience, the term “treaty body” is adopted for present purposes to describe each of the seven committees that monitor implementation of human rights treaties.

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Part II presents the work of the seven human rights treaty bodies established under the terms of the treaties. These treaty bodies monitor implementation of the rights set out in the treaties by the States that have accepted them. The treaty body system constitutes a key instance in which States are obliged to engage, at an international forum, in a rigorous, but constructive, dialogue on the state of human rights implementation in their countries. All of the treaty bodies are considered together, concentrating on the common elements that exist in their mandates and working methods; individual differences in practice can be found in the relevant specific fact sheet.

Part III surveys the challenges facing the human rights treaty system. It considers efforts to enhance the effectiveness of the system, in particular through streamlining of the State reporting procedures. The implications for the treaty system of the new emphasis on creation and support of national level protection systems are also discussed.

A glossary of technical terms employed in relation to both the treaties and their treaty bodies is also provided in order to assist readers with the terminology used in relation to the treaties and the treaty bodies.

The Universal Declaration of Human Rights makes it clear that all human rights are indivisible and interrelated, and that equal importance should be attached to each and every right. All States have a commitment to promote respect for the rights and freedoms set out in the Declaration and to take measures, both at the national and international levels, to secure their universal and effective recognition and observance. The seven human rights treaties elaborate a comprehensive legal framework within which States can, with the support of the treaty bodies, meet their commitment to the promotion and protection of universal human rights.



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## PART I

### Developing human rights standards: the treaties and their optional protocols

During the early years of the twentieth century, the protection of human rights had begun to develop as an issue of concern to the international community. Under the League of Nations established at the conclusion of the First World War, attempts were made to develop an international legal framework to protect minorities, along with international monitoring mechanisms. The horrors perpetrated during the Second World War motivated the international community to ensure that such atrocities would never be repeated and provided the impetus for the modern movement to establish an international system of binding human rights protection.

#### Universal Declaration of Human Rights (1948)

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

##### **The Declaration as Customary Law?**

It is widely accepted that some of the Declaration's provisions are now rules of customary international law. Examples include the bans on torture and on racial discrimination. These are norms which, while not set out in a treaty, have through the practice of States come to be seen as legally binding rules. Indeed, some commentators argue that the entire Declaration possesses this status.

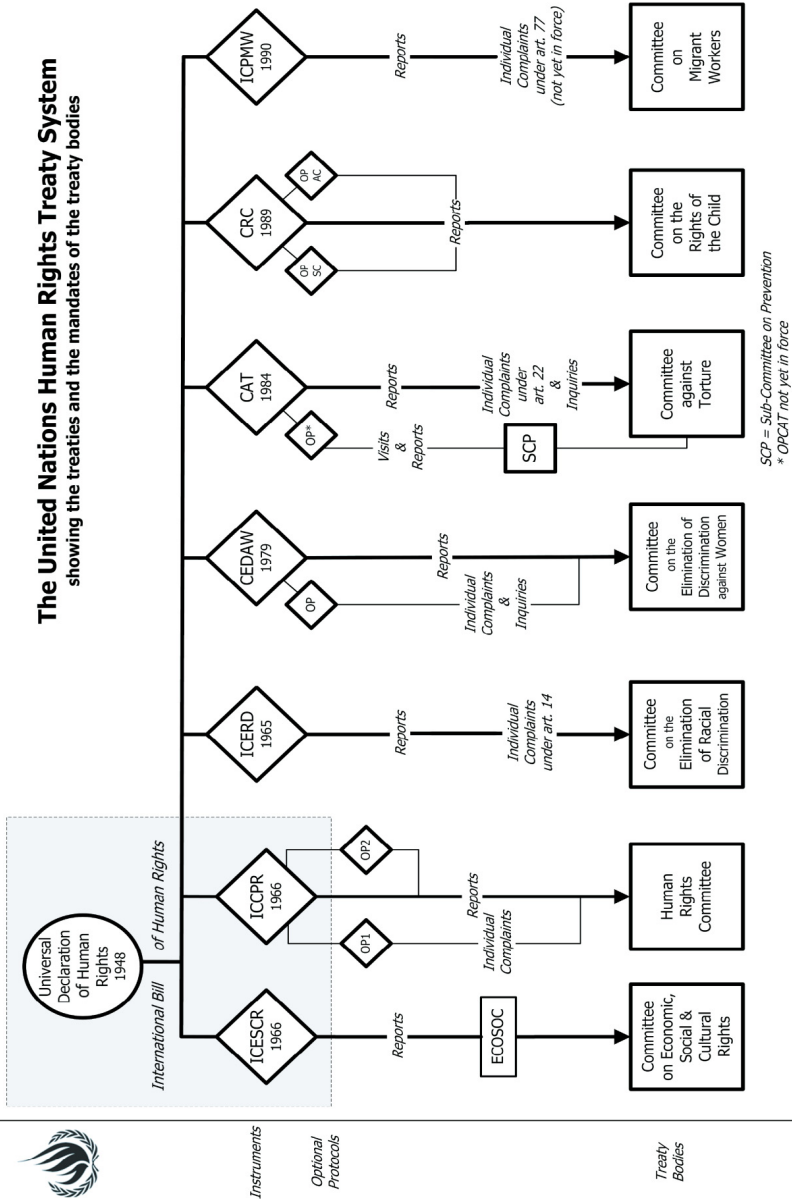
Malik, Peng Chun Chang and John Humphrey, States, for the first time, sought to set out in a single document the range of fundamental rights and freedoms that belonged to all by virtue of their status as human beings. These efforts resulted in the Universal Declaration of Human Rights, adopted unanimously 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 United Nations Human Rights Treaty System

showing the treaties and the mandates of the treaty bodies



After setting out a general prohibition of discrimination, the Declaration enumerates specific groups of rights: civil, cultural, economic, political and social. Articles 3 to 21 describe classic civil and political rights (including the right to asylum and the right to property). Articles 22 to 28 guarantee a range of economic, social and cultural rights, with the important recognition in article 28 that: "Everyone has the right to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized."

**Non-discrimination in enjoyment of human rights**

All of the core human rights treaties reflect the general principle adopted by the UDHR that the rights set out in the treaties should be enjoyed without distinction of any kind. Article 2 UDHR sets out a non-exhaustive list of prohibited grounds for discrimination:

- Race or colour;
- Sex;
- Language;
- Religion;
- Political or other opinion;
- National or social origin;
- Property, birth or other status.

The same list is included in articles 2 of both Covenants. Subsequent treaties have expanded the list further.

Two treaties, ICERD and CEDAW, are specifically aimed at eliminating certain forms of discrimination: racial discrimination and discrimination against women respectively.

While the Declaration is, as its name suggests, not a directly legally binding treaty, its importance should not be underestimated. It is of high moral force, representing as it does the first internationally agreed definition of the rights of all people, adopted in the shadow of a period of massive violations of the rights there described. The Declaration also laid in a direct fashion the groundwork for the treaty structure to be erected in the decades to come. Not least, the Declaration

through its comprehensive drawing together of the different types of rights emphasizes the commonality, interrelatedness and interdependence of all rights, a point of basic importance reaffirmed many years later in the 1993 Declaration of the Vienna World Conference on Human Rights.

*More information on the Universal Declaration of Human Rights can be found in OHCHR Fact Sheet No. 2: The International Bill of Rights.*

**International Convention on the Elimination of All Forms of Racial Discrimination (1965)**

When the UDHR was adopted, broad agreement already existed that the rights it contained should be translated into legal form as treaties, which would directly bind States which agreed to their terms. This led to extended negotiations in the Commission on Human Rights, a political body composed of State representatives, which meets annually in Geneva to discuss

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a wide variety of human rights issues. Given the political imperatives of the day arising from the apartheid regime of South Africa, the first treaty to be agreed dealt with the specific phenomenon of racial discrimination: the International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly in December 1965.

After defining racial discrimination, which prohibits distinctions based on race, colour, descent and national and ethnic origin, the Convention sets

**What is racial discrimination?**

“any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” (article 1)

out in six detailed articles the obligations of States parties to combat this scourge. As well as the obvious requirements that the State, at all levels, itself refrain from such acts, the Convention also requires a State to take appropriate measures against racial discrimination rooted in society, including the propagation of racial ideas advocated by groups and organizations. The

Convention also sets out an extensive series of specific human rights – both in the civil and political and economic, social and cultural spheres and most of which are enumerated in the Declaration – that must be guaranteed without distinction on racial grounds. Finally, the Convention establishes as a basic right an effective remedy, whether through the courts or other institutions, against acts of racial discrimination.

The Convention, in Part II, requires all States parties to report regularly to the Committee on the Elimination of Racial Discrimination, which it establishes to monitor implementation of the treaty’s provisions. Under article 14, States may also choose to recognize the Committee’s competence to consider complaints from individuals (art. 14).

*More information on the Convention can be found in OHCHR Fact Sheet No. 12: The Committee on the Elimination of Racial Discrimination.*

## **The International Bill of Human Rights**

At the same time that ICERD was being agreed, negotiations were continuing on two major treaties: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The process of drafting a legally binding instrument enshrining the rights of the UDHR had started immediately after the Declaration’s adoption in 1948. Initially, a single covenant encompassing all human rights was envisaged. However, after long discussion, the General Assembly requested the Commission on Human Rights to

elaborate two separate covenants, specifying that the two instruments should contain as many similar provisions as possible in order to “emphasize the unity of the aim in view”.<sup>2</sup> The two Covenants were ultimately adopted by the General Assembly in December 1966 and entered into force in 1976. Together with the Universal Declaration, the Covenants are referred to as the “International Bill of Human Rights”.

The two Covenants have a similar structure and, in some articles, adopt the same, or very similar, wording. The preambles of both instruments recognize the interdependence of all human rights, stating that the human-rights ideal can only be achieved if conditions are created whereby everyone may enjoy their economic, social, cultural, civil and political rights. Part I of both Covenants, on the right of all peoples to self-determination and to freely dispose of their natural wealth and resources, are identical. In both, Part II sets out general provisions prohibiting discrimination (art. 2(1), ICCPR and art. 2(2), ICESCR), and asserting the equal rights of men and women (art. 3 of both Covenants), with regard to the enjoyment of Covenant rights as well as permissible limitations upon such enjoyment. Part III of each Covenant contains the substantive provisions, which elaborate on rights contained in the UDHR.

### **International Covenant on Civil and Political Rights (1966)**

The International Covenant on Civil and Political Rights elaborates the civil and political rights set out in the Declaration, with the exception of the right to property as well as the right to asylum (which was covered separately in the 1951 Convention on the Status of Refugees). It also includes additional rights, such as rights of detainees in article 10, and protection of minorities in article 27.

In addition to articles 2(1) and 3 on non-discrimination (which are mirrored in ICESCR), article 26 ensures equality before the law and non-discriminatory protection of the law generally in force in a State. In addition, like the ICERD, article 2 provides for the right to an effective remedy for violations of Covenant rights, including an independent and impartial forum before which allegations of such violations can be advanced. The Covenant then covers a long catalogue of key civil and political rights and freedoms. Article 25 contains the guarantee of political rights: the right freely to take part in public affairs, particularly through fair and periodic elections.

The Covenant, in Part IV, requires all States to report regularly to the Human Rights Committee, which is established to monitor implementation of the Covenant’s provisions.

<sup>2</sup> Resolution 543 (VI), para. 1.

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Two optional protocols supplement the Covenant, allowing States to accept additional obligations. The First Optional Protocol of 1966 provides for a right of individual petition to the Human Rights Committee; the Second Optional Protocol of 1989 promotes abolition of the death penalty.

*More information on the ICCPR can be found in OHCHR Fact Sheet No. 15: Civil and Political Rights: The Human Rights Committee.*

## **International Covenant on Economic, Social and Cultural Rights (1966)**

The Covenant on Economic, Social and Cultural Rights, like the ICCPR, develops the corresponding rights in the Universal Declaration in considerable detail, specifying the steps required for their full realization. Thus, for example, on the right to education, ICESCR mirrors the language of the UDHR, but devotes two articles (arts. 13 and 14) to its different dimensions, specifying the obligation to

### **Key Economic, Social and Cultural Rights:**

- Right to non-discrimination
- Right to work
- Just and favourable conditions of work
- Trade union rights
- Right to social security
- Protection of the family
- Right to adequate standard of living
- Right to health
- Right to education
- Right to participate in cultural life

secure compulsory primary education free of charge and to take steps towards achieving free secondary and higher education. The right to health, which the UDHR covers as an aspect of an adequate standard of living, is given its own article in the Covenant: article 12 recognizes the right to the highest attainable standard of physical and mental health, and includes specific health-related

issues such as environmental hygiene and epidemic and occupational diseases. Article 6 on the right to work is complemented by article 7 elaborating the right to just and favourable conditions of work, providing for health and safety at work, equal promotion opportunities and remuneration for public holidays.

One notable difference between the two Covenants is the principle of progressive realization in Part II of the Covenant on Economic, Social and Cultural Rights. Article 2(1) specifies that a State party “undertakes to take steps, [...] to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in [the Covenant]”. The principle of progressive realization acknowledges the constraints States parties may face due to the limits of available resources. However, it also imposes an immediate obligation to take deliberate,

concrete and targeted steps towards the full realization the rights of the Covenant. The Covenant also recognizes the wider role of the international community (arts. 2(1), 11(2), 15(4), 22 and 23) building on the principles in articles 22 and 28 of the UDHR.

Part IV requires all States parties to report regularly to the Economic and Social Council. In 1985, the Council created the Committee on Economic, Social and Cultural Rights to carry out the function of monitoring implementation of the Covenant's provisions (ECOSOC Res. 1985/17).

*More information on the ICESCR can be found in OHCHR Fact Sheet No. 16: The Committee on Economic, Social and Cultural Rights.*

### **Convention on the Elimination of All Forms of Discrimination against Women (1979)**

In 1979, the international community adopted a new treaty which addressed a specific phenomenon: discrimination against women on the basis of sex. Sex discrimination, like racial discrimination, is proscribed under the two Covenants in general terms. However, the CEDAW sets out in more detail what is meant by the prohibition of sex discrimination from the perspective of equality between women and men. It addresses a range of programmatic and policy aspects of the specific problem.

The Convention adopts a format modelled on ICERD, but contains a number of innovations reflecting developments in the 15 years since that Convention had been adopted. Like ICERD, the Convention begins by defining discrimination on the basis of sex. The initial articles oblige States

#### **What is discrimination against women?**

“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” (article 1)

both to refrain from sex-based discrimination in their own dealings and take measures towards achieving factual as well as legal equality in all spheres of life, including by breaking down discriminatory attitudes, customs and practices in society. Article 6 explicitly requires States to suppress all forms of trafficking in women and exploitation of prostitution, even though these phe-

nomena may implicitly fall within the prohibitions of slavery and forced labour contained in other instruments. Articles 7 and 8 detail obligations to ensure equal participation of women with men in public and political life. Articles 9 and 10 expand on equality in nationality and education,

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while articles 11, 12 and 13 elaborate on women's rights to employment, health and other areas of economic and social life. Applying general principles to a particular phenomenon, article 14 is the only provision in the treaties to address the particular problems faced by women in rural areas. Articles 15 and 16 expand upon rights to equality before the law and in the area of marriage and family relations.

The Convention, in Part V, requires all States parties to report regularly to the Committee on the Elimination of Discrimination against Women, which it established to monitor implementation of the treaty's provisions.

*More information on the CEDAW can be found in OHCHR Fact Sheet No. 22: Discrimination against Women: the Convention and the Committee.*

### **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)**

In 1984, another treaty was adopted dealing with a specific phenomenon: torture and other ill-treatment. Article 7 of the ICCPR contains a ban on torture and cruel, inhuman or degrading treatment or punishment, but the Convention of the same name goes much further to develop a legal scheme aimed at both the prevention and punishment of these practices. After defining torture, the Convention makes clear that no circumstances of any kind, including orders from a superior, can justify an act of torture

#### **What is torture?**

"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" (article 1)

– the ban is absolute. Closely related to this is the key prohibition contained in article 3 concerning "non-refoulement": if there are substantial grounds for believing that an individual will be tortured in a country, that person cannot be extradited, deported or otherwise returned to that country. A State party must criminalize torture and punish it appropriately.

As the necessity to punish torture reaches across national boundaries, articles 4 to 9 establish a

scheme whereby a State in which torture is committed, or whose nationals are involved as perpetrators or victims has jurisdiction over the crime. Such a State can ask for the extradition of the alleged offender from any



other country, which—if the extradition is refused—must itself submit the alleged offender for prosecution. The aim of these provisions is to ensure that there is no hiding place for the perpetrators of the acts prohibited by the treaty. Articles 10 and 11 cover education of law enforcement personnel and review of their methods. Instead of the general “right to an effective remedy” for violations contained in other treaties, CAT sets out, in articles 12 to 14, rights to prompt and impartial investigations of allegations of torture, with fair and adequate compensation as well as full rehabilitation being due to a victim. According to article 15, evidence gathered through torture cannot be used in court. Finally, article 16 requires States to prevent acts of cruel, inhuman or degrading treatment or punishment not rising to the level of torture.

The Convention, in Part II, requires each State party to report regularly to the Committee against Torture, established to monitor implementation of the treaty’s provisions. Under articles 21 and 22, States may also choose to accept the Committee’s competence to consider complaints from other States parties or individuals.

An optional protocol to the Convention was approved in 2002 and will enter into force when 20 States have accepted it. It provides for a system of regular visits by international and national bodies to places of detention with the aim of preventing torture and other ill-treatment.

*More information on the CAT can be found in OHCHR Fact Sheet No. 4: Combating Torture and Fact Sheet No. 17: The Committee against Torture.*

## **Convention on the Rights of the Child (1989)**

The first treaty to deal comprehensively with the rights of a specific group of people was the Convention on the Rights of the Child. While children, as human beings under 18 years of age, of course enjoy all of the human rights set out in the other treaties, the restatement of these rights with emphasis on the particular circumstances of children in a single comprehensive document provided an opportunity to develop additional provisions relevant to children.

Both article 24 of the ICCPR and article 10 of the ICESCR had provided that children are entitled to any special measures of protection that they require as children. The CRC sets out these measures in much greater detail. Thus, for example, particular provisions cover the child’s right to identity (arts. 7 and 8), separation from parents (art. 9), family reunification (art. 10), illicit transfer of children (art. 11), protection from abuse (art. 19) and adoption (art. 21). Article 22 addresses the particular situation of child refugees. Recognizing the particular vulnerabilities of children, protection from

economic exploitation (art. 32), drug abuse (art. 33), sexual exploitation (art. 34) and their abduction, sale or trafficking (art. 35) are explicitly set out. Article 23 provides particularly for care of children with disabilities.

**Four “General Principles” for implementing children’s rights**

The Committee on the Rights of the Child has identified four general principles contained in the Convention which should guide the way States implement child rights:

1. **Non-discrimination:** the obligation of States to respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind (art. 2);
2. **The best interests of the child:** that the best interests of the child should be a primary consideration in all actions concerning the child (art. 3);
3. **The right to life, survival and development:** the child’s inherent right to life and States parties’ obligation to ensure to the maximum extent possible the survival and development of the child (art. 6);
4. **The views of the child about his or her own situation:** the child’s right to express his or her views freely in “all matters affecting the child”, those views being given due weight “in accordance with the age and maturity of the child” (art. 12).

For more information, see CRC general comment No. 5 (CRC/GC/2003/5).

Article 38 reasserts States’ obligations in armed conflict under international humanitarian law, and requires them neither to recruit nor, where possible, utilize children under 15 years of age as soldiers in conflict.

Beyond the provisions which assert child rights in terms of protection, the CRC also broke new ground by elaborating the children’s perspective with regard to the classic civil and political rights contained in the ICCPR, and economic, social and cultural rights set out in the ICESCR. Thus, for example, children have full rights to freedom of expression (art. 13), to freedom of thought, conscience and religion (art. 14), to free association and peaceful assembly (art. 15) and to privacy (art. 16), access to information (art. 17), as well as to health (art. 24), social security (art. 26) and to an adequate standard of living (art. 27), notwithstanding their age and immaturity.

The problems of involvement of children in armed conflict, and of sale of children, child prostitution and child pornography, are covered in more detail in two optional protocols to the Convention, adopted in 2000.

The Convention, in Part II, requires all States parties to report regularly to the Committee on the Rights of the Child, which it established to monitor implementation of the treaty’s provisions.

*More information on the Convention on the Rights of the Child can be found in OHCHR Fact Sheet No. 10: The Rights of the Child.*

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## **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)**

The most recent human rights treaty is the Migrant Workers Convention, addressing the rights of a particular group in need of protection: all migrant workers and members of their families. The Convention applies to the entire migration process, including preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or of habitual residence. The majority of the rights are relevant to the receiving State, though there are also obligations specifically placed upon the sending State.

The Convention begins with the familiar prohibition of discrimination in the enjoyment of the Convention's rights. The Convention then sets out in two separate parts the rights, firstly, of *all* migrant workers and members of their families, irrespective of their migration status and, secondly, the additional rights of *documented* migrant workers and their families. In defining the civil and political rights of migrant workers, the Convention follows very closely the language of the ICCPR. Some articles restate the rights taking into account the particular situation of migrant workers, such as consular notification rights upon arrest and specific provisions concerning breaches of migration law and destruction of identity documents and prohibition of collective expulsion. In addition, the right to property, originally protected in the Declaration but not contained in the ICCPR, is specifically enumerated for migrant workers.

The Convention defines the economic, social and cultural rights of migrant workers in the light of their particular situation. Thus, for example, at a minimum, urgent medical care must be provided, as it would be provided to a national, and the children of migrant workers have the basic right of access to education irrespective of legal status. Additional rights exist for workers who are properly documented, and to particular classes of migrant workers such as frontier, seasonal, itinerant and project-tied workers.

The Convention, in Part VII, requires all States parties to report regularly to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, established to monitor implementation of the treaty's provisions. Articles 76 and 77 also provide for a right of complaint by other States parties or individuals, provided the State party accepts the Committee's competence in this regard.

*More information on migrant workers and the Convention can be found in OHCHR Fact Sheet No. 24: The Rights of Migrant Workers.*

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## Reading the treaties as a whole

To fully understand a State's obligations under these treaties, it is necessary to read all the human rights treaties to which a State has become party together as a whole. Rather than being separate, free-standing treaties, the treaties complement each other, with a number of principles binding them together. Each includes explicitly or implicitly the basic principles of non-discrimination and equality, effective protection against violations of rights, special protection for the particularly vulnerable and an understanding of the human being as being an active and informed participant in public life of the State in which he or she is located and in decisions affecting him or her, rather than a passive object of authorities' decisions. All of the treaties, based on these common principles, are interdependent, interrelated and mutually reinforcing, with the result that no rights can be fully enjoyed in isolation, but depend on the enjoyment of all other rights. This interdependence is one reason for crafting a more coordinated approach by the human rights treaty bodies to their activities, in particular by encouraging States to see implementation of the provisions of all of the treaties as part of a single objective.

These seven United Nations treaties do not purport to be a definitive catalogue of a State's human rights obligations. Many States, beyond their participation in the United Nations human rights treaty system, are also party to regional human rights instruments, which may further expand the protection offered to persons within the State's jurisdiction. In addition, other treaties, including the Convention on the Status of Refugees and the ILO Conventions, such as ILO Convention 182 on prohibition of the worst forms of child labour, or ILO Convention 169 on the rights of indigenous peoples, are instruments with obvious and important human rights dimensions. All of these international legal obligations should be considered together when evaluating a State's responsibility to protect human rights.

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## PART II

### Monitoring implementation of human rights standards: the treaty bodies

The treaty bodies are the committees of experts which monitor implementation of the provisions of the core human rights treaties by States parties. Part II sets out to explain the work of the treaty bodies and why their work is relevant to the lives of people around the world.

#### What are the treaty bodies?

The seven core international 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. But this is only the first step, because recognition of rights on paper is not sufficient to guarantee that they will be enjoyed in practice. When the first treaty was adopted, it was recognized that States parties would require encouragement and assistance in meeting their international obligations to put in place the necessary measures to ensure the enjoyment of the rights provided in the treaty by everyone within the State. Each treaty therefore creates an international committee of independent experts to monitor, by various means, implementation of its provisions.

Implementation of the seven core human rights treaties is monitored by the seven human rights treaty-monitoring bodies.

1. 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.
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.
3. The **Human Rights Committee (HRC)** was created in 1976 to monitor implementation of the International Covenant on Civil and Political Rights.

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.
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.
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 child soldiers and child exploitation.
7. The **Committee on Migrant Workers (CMW)** held its first session in March 2004 and will monitor implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Each committee is composed of independent experts (ranging in number from 10 to 23 members) of recognized competence in the field of human

<b>Composition of the treaty bodies</b>	
CERD:	18 members
HRC:	18 members
CESCR:	18 members
CEDAW:	23 members
CAT:	10 members
CRC:	18 members
CMW:	10 members

Members are elected for four-year terms. Elections for half of the members are held every two years.

rights, who are nominated and elected for fixed, renewable terms of four years by States parties. CEDAW meets at United Nations Headquarters in New York; the other treaty bodies generally meet at the United Nations Office at Geneva, although the Human Rights Committee usually holds its March session in New York. All of the treaty bodies receive support from the Treaties and Commission Branch of OHCHR in Geneva, with

the exception of CEDAW, which is serviced by the Division for the Advancement of Women (DAW) in New York.

### **What do the treaty bodies do?**

The treaty bodies perform a number of functions aimed at monitoring how the treaties are being implemented by States parties. All treaty bodies are mandated to receive and consider reports submitted regularly 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. Some, but not all, of the treaty bodies also perform a number of additional functions aimed at strengthening the implementation of the treaties by their States parties. Some treaty bodies may consider complaints or communications from individuals alleging that their rights have been violated by a State party, provided the State has opted into this procedure. Some may also conduct inquiries.

The following surveys the activities undertaken by the treaty bodies in accordance with their individual mandates. Although the seven treaty bodies are presented together as part of a coordinated treaty monitoring system, it should be noted however that each treaty body is an independent committee of experts which has a mandate to monitor implementation of a specific treaty. Although the treaty bodies continue their efforts to coordinate their activities, procedures and practices may differ from committee to committee as a result of variations in each committee's mandate under the relevant treaty and optional protocols.<sup>3</sup>

### **Consideration of States parties' reports by the treaty bodies**

The primary mandate, common to all of the committees, is to monitor implementation of the relevant treaty by reviewing the reports submitted periodically by States parties in accordance with the treaty provisions. Within this basic mandate, the treaty bodies have developed practices and procedures that have proved remarkably effective in scrutinizing how far States have met, and encouraging further implementation of, their obligations under the human rights treaties to which they are party. The following presents the essential common features of the process of consideration of State reports by the treaty bodies:

#### *The State's obligation to report*

In addition to their obligation to implement the substantive provisions of the treaty, each State party is also under an obligation to submit regular reports to the relevant treaty body on how the rights are being implemented.

The idea of monitoring human rights through review of reports originated in a 1956 resolution of the Economic and Social Council which requested United Nations Member States to submit periodic reports on progress made in the advancement of human rights.<sup>4</sup> The model was incorporated

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<sup>3</sup> Those interested in the precise procedures of a specific treaty body are advised to consult the relevant fact sheet for that committee.

<sup>4</sup> E/Res/624 B (XXII), 1 August 1956.

### Reporting periodicities under the treaties

Treaty	Initial report within	Periodic reports every
ICERD	1 year	2 years
ICESCR*	2 years	5 years
ICCPR	1 year	4 years†
CEDAW	1 year	4 years
CAT	1 year	4 years
CRC	2 years	5 years
ICRMW	1 year	5 years
CRC-OPSC	2 years	5 years or with next CRC report
CRC-OPAC	2 years	5 years or with next CRC report

\* Article 17 of the Covenant does not establish a reporting periodicity, but gives ECOSOC discretion to establish its own reporting programme.

† Article 41 of the Covenant gives the Human Rights Committee discretion to decide when periodic reports shall be submitted. In general, these are required every four years.

into the 1965 ICERD, the two International Covenants of 1966, and every other core international human rights convention since.

In order to meet its reporting obligation, each State party must submit a comprehensive initial report usually within one year of the treaty entering into force for that State (two years in the case of ICESCR and CRC). It must then continue to report periodically in accordance with the provisions of the treaty (usually every four or five years) on further measures taken to implement the treaties. The reports must set out the legal, administrative and judicial measures taken by the State to give effect to the treaty provisions, and should also mention any factors or difficulties that have been encountered in implementing the rights. In order to ensure that reports contain adequate information to allow the committees to do their work, each treaty body issues guidelines on the form and content of State reports. These guidelines are issued in a compilation document (HRI/GEN/3) which is updated regularly. The treaty bodies are in the process of considering draft harmonized guidelines on reporting under the international human rights treaties (see page 43).

### *The purpose of reporting*

States parties are encouraged to see the process of preparing their reports for the treaty bodies, not only as the fulfilment of an international obligation, but also as an opportunity to take stock of the state of human rights



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protection within their jurisdiction for the purpose of policy planning and implementation. The report preparation process offers an occasion for each State party to:

- (a) Conduct a comprehensive review of the measures it has taken to harmonize national law and policy with the provisions of the relevant international human rights treaties to which it is a party;
- (b) Monitor progress made in promoting the enjoyment of the rights set forth in the treaties in the context of the promotion of human rights in general;
- (c) Identify problems and shortcomings in its approach to the implementation of the treaties;
- (d) Assess future needs and goals for more effective implementation of the treaties; and
- (e) Plan and develop appropriate policies to achieve these goals.<sup>5</sup>

Seen in this way, the reporting system is an important tool for a State in assessing what has been achieved, and what more needs to be done, to promote and protect human rights in the country. The reporting process should encourage and facilitate, at the national level, popular participation, public scrutiny of government policies and programmes, and constructive engagement with civil society conducted in a spirit of cooperation and mutual respect, with the aim of advancing the enjoyment by all of the rights protected by the relevant convention. Some States incorporate comments and criticism from NGOs in their reports; others submit their reports to parliamentary scrutiny before it is finally submitted to the Secretary-General of the United Nations for consideration by the relevant treaty body.

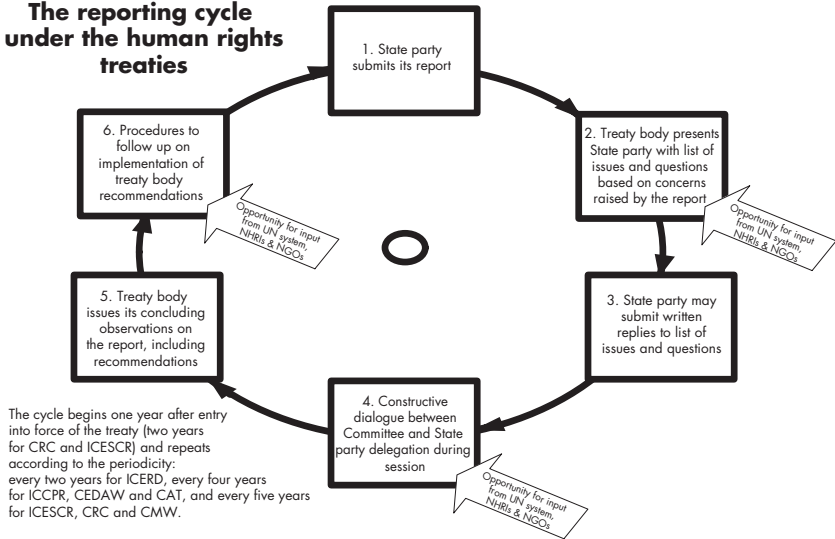
### *How does each treaty body examine a State party's report?*

Although there are variations in the procedures adopted by each committee in considering a State party's report, the following basic stages are common to all treaty bodies. More precise information relating to a specific treaty body's procedures can be found in the relevant fact sheet for that committee. Most committees also set out their working methods in their annual reports, which are available from the OHCHR website.

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<sup>5</sup> These objectives are taken from document HRI/MC/2004/3. A full explanation of the objectives of reporting can be found in CESCR's general comment No. 1.

## The reporting cycle under the human rights treaties



### 1. Submission of the initial report

The report must be submitted to the Secretary-General in one of the six official languages of the United Nations. It is then processed by the Secretariat, and translated into the committee's working languages.

There can be considerable variation in the form in which reports are presented. Many reports are long, raising the question of whether page limits can and should be imposed.

Once processed, the report is scheduled for consideration by the committee at one of its regular sessions. There may be some delay before a report can be considered, as some treaty bodies face a backlog of up to two years' worth of reports awaiting consideration. Most committees try to give priority to initial reports or to reports from States that have not reported for a long time.

#### What is a core document?

Some of the information—basic facts and statistics about the country, its constitutional and legal system, and so on—presented in States' reports to each treaty body is relevant to all of the treaties. In order to avoid States having to repeat the same information in each report, the treaty bodies decided in 1991 to allow States to submit a "core document" which would form a common initial part of each report to any of the treaty bodies. This helps to reduce the volume of States' reports, but States must make sure that the information in their core document is up to date or else they must submit a new one. The treaty bodies are currently considering a proposal to expand the scope of the core document to include substantive rights information relevant to more than one treaty (see page 33 below).

## 2. List of issues and questions

In advance of the session at which it will formally consider the report, the committee draws up a list of issues and questions, which is submitted to the State party. 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

### **Official language and working language**

The official languages of the United Nations are Arabic (A), Chinese (C), English (E), French (F), Russian (R) and Spanish (S).

The treaty bodies have all adopted the six languages as their official languages, except that CERD does not use Arabic, and CAT uses neither Arabic nor Chinese. Five of the committees have also adopted a more limited number of working languages as follows: CESCR: A, E, F, R & S; CERD and CAT: E, F, R & S; HRC and CRC: E, F & S.

Committee documents are generally only translated into the working languages, unless the committee expressly decides that a document should be made available in all official languages.

raised by the report which are of particular concern to members. Many States parties find the list of issues a useful guide to the line of questioning they are likely to face when their report is formally considered. This allows the State party delegation to prepare itself and makes the dialogue between it and the committee more constructive, informed and concrete.

Lists of issues are drafted prior to the session at which the report will be considered. 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.

Most committees appoint one of their members to act as country rapporteur to take a lead in drafting the list of issues for a specific country.

## 3. Written response to list of issues

Sometimes 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.

## 4. Other sources of information available to the committee

In addition to the State party's report, the treaty bodies may receive information on a country's human rights situation from other sources, including United Nations agencies, other intergovernmental organiza-

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tions, non-governmental organizations (both international and national), academic institutions and the press. Most committees allocate specific plenary time to hearing submissions from United Nations agencies and most also receive NGOs. Depending on when the information is submitted, issues raised by these organizations may be incorporated in the list of issues or inform the questions posed by members when meeting the State delegation. In the light of all the information available, the committee examines the report.

A number of the treaties provide for a special role for specific United Nations bodies in the report consideration process. Article 45 of the CRC specifically mentions the role of the United Nations Children's Fund (UNICEF), along with other United Nations agencies and bodies. Article 74 of ICRMW similarly provides for the participation of the International Labour Office/Organization (ILO).

#### 5. Formal consideration of the report: constructive dialogue between the treaty body and the State party

All treaty bodies have developed the practice, pioneered by CERD, 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 judgement on the State party. Rather the aim is to engage in a constructive dialogue in order to assist the Government in its efforts to implement the treaty as fully and effectively as possible. The notion of constructive dialogue reflects the fact that the treaty bodies are not judicial bodies, but were created to monitor the implementation of the treaties and provide encouragement and advice to States. States are not obliged to send a delegation to attend the session, although they are strongly encouraged to do so. Some treaty bodies may proceed with consideration of a State party's report in the absence of a delegation; others require a delegation to be present.

#### 6. Concluding observations and recommendations

The examination of the report culminates in the adoption of "concluding observations" (called "concluding comments" by some committees) intended to give the reporting State practical advice and encouragement on further steps to implement the rights contained in the treaty. In their concluding observations, the treaty bodies acknowledge the positive steps taken by the State, but also identify areas where more needs to be done to give full effective to treaty provisions. The treaty bodies seek to make their recommendations as concrete and practicable as possible. States are

asked to publicize the concluding observations within the country so as to inform public debate on how to move forward with human rights implementation.

## 7. Implementation of concluding observations and submission of the next periodic report

The adoption of the concluding observations by the committee concludes the formal consideration of the report; but the process does not end there. Since the point at which it can be declared that the provisions of a treaty have been implemented absolutely can never be reached, the process of implementation of the rights contained in the treaties requires continuous effort on the part of States. After the submission of the initial report, States are required to submit further reports to the treaty bodies at regular intervals. These are referred to as “periodic reports”. Periodic reports are normally not as long as the more comprehensive initial report, but must contain all information necessary to allow the committee to continue its work of monitoring the ongoing implementation of the treaty in the country concerned. An important element of any periodic report will be reporting back to the committee on the steps taken by the State party to implement the treaty body’s recommendations in the concluding observations on the previous report, bringing the reporting cycle back to its starting point.

### *The importance of follow-up to treaty body recommendations*

Treaty bodies have no means of enforcing their recommendations. Nevertheless, most States take the reporting process seriously, and the committees have proved successful in raising concerns relating to the implementation of the treaties in many States.

#### **Follow-up workshops**

Regional workshops involving representatives of States whose reports have recently been considered by a treaty body, as well as representatives of NHRIs, the judiciary, NGOs and other interested bodies, have been organized in a number of countries to establish dialogue for follow-up to concluding observations.

The first such workshop was held in Quito, Ecuador, in August 2002 on concluding observations of the Human Rights Committee. Two workshops focused on concluding observations of the Committee on the Rights of the Child have taken place in Damascus, Syrian Arab Republic, and Bangkok, Thailand. The reports of these workshops are available on the OHCHR website.

Further workshops are in preparation for other treaty bodies.

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In order to assist States in implementing their recommendations, the treaty bodies have begun to introduce procedures to ensure effective follow-up to their concluding observations. Some committees request in their concluding observations that States report back to the country or follow-up rapporteur within an agreed time frame on the measures taken in response to specific recommendations or “priority concerns”. The rapporteur then reports back to the committee.

Some members of treaty bodies have undertaken visits to countries, at the invitation of the State party, in order to follow up on the report and implementation of concluding observations.

### *What happens if States do not report?*

Reporting to the treaty bodies can be a considerable challenge for States parties. A State which has ratified all seven core human rights treaties is expected to produce more than 20 human rights reports over a ten-year period: that is one every six months. States must also produce responses to

**The “Review Procedure” – consideration of implementation in a country in the absence of a report**

According to this procedure, the relevant committee may proceed with examination of the state of implementation of the relevant treaty by the State party even though no State report has been received. The committee may formulate a list of issues and questions for the State party, which is invited to send a delegation to attend the session. Information may be received from UN partners and non-governmental organizations and, on the basis of this information and the dialogue with the State party, the committee will issue its concluding observations, including recommendations. The review may proceed even if the State party declines to send a delegation to the session. The review procedure is used only in exceptional cases; in very many cases, notification by the committee that it intends to consider the situation in a country in the absence of a report is sufficient to persuade the State party to produce a report within a short deadline.

lists of issues and prepare to attend treaty body sessions, and then perhaps will need to submit further reports on follow-up to concluding observations. This adds up to a considerable reporting burden, so it is perhaps not surprising that States can fall behind in their reporting schedules, or in some cases fail to report altogether.

The treaty bodies recognize the difficulties faced by many States in meeting their reporting obligations, and have been considering ways of facilitating their task (see Part III below). Nevertheless, the obligation to report, like the other obligations arising from ratification of the treaties, is an international legal obligation, freely entered into by the State. The treaty bodies seek to encourage States to report in a timely manner. States may seek technical assistance from OHCHR and DAW

where they face particular difficulties. But, in the case of States that have failed to report over a long period and have not responded to the committees' requests to report, the treaty bodies have adopted the procedure of considering the situation in the country in the absence of a report—sometimes referred to as the “review procedure”.

### **Consideration of complaints from individuals claiming that their rights have been violated by a State party**

Four of the treaty bodies (HRC, CERD, CAT and CEDAW) may, under certain circumstances, consider complaints or communications from individuals who believe their rights have been violated by a State party:

- The HRC may consider individual communications brought against States parties to the First Optional Protocol to the ICCPR;
- The CEDAW may consider individual communications brought against States parties to the Optional Protocol to CEDAW;
- The CAT may consider individual communications brought against States parties that have made the requisite declaration under article 22 of CAT; and
- The CERD may consider individual communications brought against States parties that have made the requisite declaration under article 14 of ICERD.
- The Convention on Migrant Workers also contains provision for allowing individual communications to be considered by the CMW; these provisions will become operative when 10 States parties have made the necessary declaration under article 77.<sup>6</sup>

The procedure is optional for States 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. Although in some respects the procedure is “quasi-judicial”, the committee’s decisions cannot be enforced. In many cases, however, States parties have implemented the Committee’s recommendation and granted a remedy to the complainant.

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<sup>6</sup> An optional protocol to ICESCR is currently under consideration and may result in the CESC being given a mandate to consider individual communications with regard to that Covenant.

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### *Who can complain?*

Any individual who claims that her or his rights under the covenant or convention have been violated by a State party to that treaty may bring a communication before the relevant committee, provided that the State has recognized the competence of the committee to receive such complaints. Complaints may also be brought by third parties on behalf of individuals provided they have given their written consent or where they are incapable of giving such consent.

### *How do I go about complaining?*

Detailed information about the treaty bodies' individual complaints procedures, including advice and instructions on how to complain, can be found in Fact Sheet No. 7: Complaint Procedures or on the OHCHR website.

## **Inquiries**

Two of the treaty bodies—the Committee against Torture and the Committee on the Elimination of Discrimination against Women—may, on their own initiative, initiate inquiries if they have received reliable information containing well-founded indications of serious, grave or systematic violations of the conventions in a State party.

### *Which States may be subject to inquiries?*

Inquiries may only be undertaken with respect to States parties that have recognized the competence of the relevant committee in this regard. States parties to CAT may opt out, at the time of ratification or accession, by making a declaration under article 28; States parties to the CEDAW Optional Protocol may similarly exclude the competence of the Committee by making a declaration under article 10. Any State which opts out of the procedure may decide to accept it at a later stage.

### *Inquiry procedure*

Article 20 of the convention against Torture and articles 8 to 10 of the Optional Protocol to CEDAW set out the following basic procedure for the relevant committee to undertake urgent inquiries:

1. The procedure may be initiated if the committee receives reliable information indicating that the rights contained in the convention are being systematically violated by the State party. In the case of CAT, the information should contain well-founded indications that torture is being



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systematically practised in the territory of the State party; in the case of CEDAW, the information should indicate grave or systematic violations of the rights set forth in the Convention by a State party;

2. The first step requires the committee to invite the State party to cooperate in the examination of the information by submitting observations;
3. The committee may, on the basis of the State party's observations and other relevant information available to it, decide to designate one or more of its members to make a confidential inquiry and report to it urgently. The CEDAW procedure specifically authorizes a visit to the territory of the State concerned, where warranted and with the State's consent; visits are also envisaged under the CAT procedure;
4. The findings of the member(s) are then examined by the committee and transmitted to the State party together with any appropriate comments or suggestions/recommendations;
5. The CEDAW procedure sets a six-month deadline for the State party to respond with its own observations on the committee's findings, comments and recommendations and, where invited by the Committee, to inform it of the measures taken in response to the inquiry;
6. The committee may decide, in consultation with the State party, to include a summary account of the results of the proceedings in its annual report.

In both cases, this procedure is confidential and the cooperation of the State party must be sought throughout the proceedings.

### **OPCAT and the Subcommittee on Prevention**

The Optional Protocol to the Convention against Torture (OPCAT), which will come into force when it has 20 States parties, introduces a new mechanism to further the objectives of the Convention to prevent torture and other forms of ill-treatment. OPCAT will establish a system of regular visits to places of detention carried out by complementary international and national independent bodies. A new international body, the "Subcommittee on Prevention", consisting initially of 10 independent practitioners in the field of administration of justice or detention, may conduct visits to places of detention in all States parties. The Subcommittee will submit confidential reports, containing recommendations, to the State party. Alongside this international body, States parties must establish independent national preventive mechanisms (such as an

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NHRI, an ombudsman, or parliamentary commission) which will conduct regular visits to places of detention in accordance with the Protocol.

*For more information on OPCAT and the Subcommittee on Prevention, see OHCHR Fact Sheet No. 17: The Committee against Torture.*

### **State-to-State complaints**

Although this procedure has never been used, four of the human rights treaties contain provisions to allow for States parties to complain to the relevant treaty body about alleged violations of the treaty by another State party. Article 21 of CAT and article 76 of ICRMW set out a procedure for the relevant committee itself to consider complaints from one State party which considers that another State party is not giving effect to the provisions of the convention. This procedure requires domestic remedies to be exhausted first and applies only to States parties that have made a declaration accepting the competence of the committee in this regard. Articles 11-13 of ICERD and articles 41-43 of ICCPR set out a more elaborate procedure for the resolution of disputes between States parties over a State's fulfilment of its obligations under the relevant convention/covenant through the establishment of an ad hoc conciliation commission. This procedure also requires domestic remedies to be exhausted first. The procedure normally applies to all States parties to ICERD, but applies only to States parties to the ICCPR that have made a declaration accepting the competence of the Committee in this regard.

#### *Resolution of inter-State disputes concerning interpretation or application of a convention*

Article 29 of CEDAW, article 30 of CAT and article 92 of ICRMW provide for disputes between States parties concerning interpretation or application of the convention to be resolved in the first instance by negotiation or, failing that, by arbitration. One of the States involved may refer the dispute to the International Court of Justice if the parties fail to agree arbitration terms within six months. States parties may exclude themselves from this procedure by making a declaration at the time of ratification or accession, in which case, in accordance with the principle of reciprocity, they are barred from bringing cases against other States parties. This procedure, like the inter-State complaint procedure, has never been used.

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## **General comments**

Each of the treaty bodies publishes its interpretation of the provisions of the human rights treaty it monitors in the form of general comments (CERD and CEDAW used the term “general recommendations”). The general comments of the treaty bodies cover a variety of subjects, ranging from comprehensive interpretation of substantive provisions, such as the right to life or the right to adequate food, to general guidance on the information that should be submitted in State reports relating to specific articles of the treaties. General comments have also dealt with wider cross-cutting issues, such as the role of national human rights institutions, the rights of persons with disabilities, violence against women and rights of minorities.

A compilation of general comments and general recommendations adopted by the treaty bodies is produced and updated regularly (see latest revision of document HRI/GEN/1).

## **Days of general discussion/thematic debates**

A number of the treaty bodies hold days of general discussion on a particular theme or issue of concern to the treaty body. These thematic discussions are usually open to external participants, such as United Nations partners, delegations from States parties, non-governmental organizations and individual experts. The outcome of the discussion may assist the treaty body in the drafting of a new general comment.

## **Meetings of States parties and meetings with States parties**

Each treaty (except ICESCR) provides for a formal meeting of States parties to be held every two years, usually at United Nations Headquarters, in order to elect half of the members of the treaty body.

Article 50 of the CRC provides for a conference of States parties to be convened to vote on any proposed amendments to the Convention.

Most committees have also adopted the practice of holding regular informal meetings with the States parties to their treaty to discuss matters of mutual concern related to the implementation of the treaty and the work of the treaty body.

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## Coordination between the treaty bodies

### *Annual meeting of chairpersons*

The need for coordination between the human rights treaty bodies was recognized by the General Assembly in 1983, when it called on the chairpersons of human rights treaty bodies to meet in order to discuss how to enhance their work. The first meeting of chairpersons took place in 1984. Since 1995, the chairpersons of the treaty bodies have met annually.

The meeting provides a forum for the chairpersons of the seven 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: the streamlining and overall improvement of human rights reporting procedures; harmonization of the committees' methods of work; follow-up to World Conferences; and financial issues.

Informal consultations with States parties as well as United Nations partners and NGOs have also been a feature of the meeting of chairpersons. Since 1999, the chairpersons have met with special procedures mandate holders (both thematic and country mandates) of the Commission on Human Rights. Their discussions have focused on technical questions, such as increasing the exchange of information between treaty bodies and special procedures. Substantive issues, including the effect of globalization on the enjoyment of human rights (2003) and counter-terrorism measures and human rights (2004), have also been discussed.

### *The inter-committee meeting*

Since 2002, the annual chairpersons' meeting has been complemented by an "inter-committee meeting", which includes the chairpersons and two additional members from each of the committees. Harmonization of working methods among committees was the main focus of the first inter-committee meeting. The institution of the inter-committee meeting has been welcomed by States parties. The increased level of participation of each of the committees allowed for more detailed discussion of recommendations on issues relating to working methods than had been possible in the chairpersons' meeting.

The inter-committee meeting and the meeting of chairpersons are usually chaired by the same person, who is one of the chairpersons of the human rights treaty bodies chosen on a basis of rotation.

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## **PART III**

### **Further development of the United Nations human rights treaty system**

Although the Universal Declaration of Human Rights was drafted over fifty years ago, and the process of drafting the International Bill of Human Rights (the UDHR plus the two Covenants) was completed by 1966, the international human rights treaty system has continued to grow with the adoption of new instruments and the creation of new treaty bodies. The broad range of instruments and bodies has ensured greater protection of human rights in a number of specific areas of concern to the international community, but has also presented the system with an important challenge: how best to ensure that the different elements of the expanding system work effectively together for the promotion and protection of human rights.

#### **Expansion of the human rights treaty system: drafting new instruments**

Since 2000, a number of new human rights instruments have been agreed or have entered into force. In May 2000, the two optional protocols to the Convention on the Rights of the Child were adopted, on the sale of children, child prostitution and child pornography (CRC-OPSC) and on the involvement of children in armed conflict (CRC-OPAC). Both entered into force in 2002. In December 2002, the Optional Protocol to the Convention against Torture (OPCAT) was adopted. It will enter into force when it has twenty States parties. The ICRMW entered into force in July 2003 and the Committee on Migrant Workers held its first session in March 2004.

Further international human rights instruments are being discussed by States and may be adopted in coming years. An ad hoc committee of the General Assembly was established in 2002 with the aim of drafting “a comprehensive and integral international convention on the protection and promotion of the rights and dignity of persons with disabilities”. The Ad Hoc Committee aims to adopt a convention, which will include a monitoring mechanism, by the end of 2005. In 2002, the Commission on Human Rights decided to establish “an open-ended working group with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights”.<sup>7</sup> Such an optional protocol could give the Committee on

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<sup>7</sup> Commission resolutions 2002/24 and 2003/18.

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Economic, Social and Cultural Rights competence to consider individual complaints and conduct inquiries. A working group on a draft instrument on enforced disappearances may also result in a new instrument.

### **Enhancing the effectiveness of the treaty system**

With this continuing expansion in the number of international human rights instruments, it is important that the complementarity among them is emphasized and that the treaties, and the bodies set up to monitor their implementation, work effectively together as an integrated system for the promotion and protection of human rights. In his 2002 report, "Strengthening the United Nations: an agenda for further change",<sup>8</sup> the Secretary-General of the United Nations identified further modernization of the treaty system as a key element in the United Nations goal of promoting and protecting human rights. He called on the human rights treaty bodies to consider two measures: first, to craft a more coordinated approach to their activities and standardize their varied reporting requirements; and second, to allow each State to produce a single report summarizing its adherence to the full range of human rights treaties to which it is a party. The treaty bodies responded by initiating a process of consultation and reform aimed at addressing the two areas of concern raised by the Secretary-General's proposals: (1) increased coordination between the treaty bodies, including streamlining of working methods; and (2) development of the treaty reporting process, including harmonization of reporting requirements.

#### *(1) Increasing coordination between the treaty bodies*

The treaty bodies have been successful in pursuing their mandates, in particular by engaging States in open and frank discussion on the problems of implementing human rights treaties through the reporting process. Nevertheless, until fairly recently, each treaty body has tended to approach its work independently of the other treaty bodies, even though in many respects their activities overlap. The ad hoc way in which each committee was created under its own treaty meant that they have been free to develop their own procedures and practices, and, although there are broad similarities in the way in which the treaty bodies function, there are also considerable variations; this has sometimes led to confusion and lack of coherence.

The treaty bodies have been continuously engaged in seeking ways to enhance their effectiveness through streamlining and harmonization of working methods and practices for many years. The Secretary-General's suggestions have given this process new impetus. Proposals in such areas

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<sup>8</sup> A/57/387.

as standardization of terminology and document symbols have been discussed in the inter-committee and chairpersons' meetings, and each individual committee has been reviewing its working methods with a view to adopting the best practice of other committees. At the same time, it is recognized that some variations in practice are justified, or even required in strict accordance with the provision of the relevant treaty.

## *(2) Development of the treaty reporting system*

The main focus of efforts to ensure more effective implementation of the human rights treaties in recent years has been State reporting. As the system has grown, challenges have emerged from delays in submission and/or consideration of reports, late and non-reporting, and duplication of reporting requirements among treaty bodies. Improving the effectiveness of the human rights treaty system has been an ongoing concern of individual treaty bodies, the meeting of chairpersons, the Commission on Human Rights and the General Assembly.

In response to the Secretary-General's call for harmonized reporting requirements and the possibility of submitting a single report, the treaty bodies have begun drafting harmonized guidelines on reporting under all seven core human rights treaties. These guidelines encourage States parties to consider the complete range of human rights treaty obligations to which they have subscribed as part of one coordinated system, rather than taking each treaty separately. Reports compiled in accordance with the guidelines will provide a uniform reporting framework within which the committees can work by avoiding unnecessary duplication and setting a standard for reporting which is consistent for all committees.

After extensive consultations with States parties, United Nations agencies, NGOs and other interested actors, the treaty bodies concluded that a single report would present an enormous challenge to States parties and would not necessarily meet the objectives which motivated the Secretary-General's suggestion. They opted instead to expand the scope of the core document to include a full presentation of the legal framework for the promotion and protection of human rights in general within the State, as well as information on implementation of substantive human rights provisions which are congruent between more than one of the treaties. This expanded core document would be submitted to all of the treaty bodies along with a targeted report for each treaty body containing information specific to the relevant treaty. States' reports to the treaty bodies would therefore consist of a common document presenting a holistic view of human rights implementation and a treaty-specific document focusing on matters of particular concern to each committee with regard to its treaty.

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## **The role of the human rights treaty system in strengthening human rights protection systems at the national level**

The human rights treaties are legal instruments which set international standards for promoting and protecting human rights worldwide. By ratifying the treaties, States subscribe to these standards and commit themselves to implementing the rights at the national level. The treaty bodies encourage and support States in this effort. This human rights treaty system may seem focused on the international level; yet, clearly, it is at the national level that the promotion and protection of human rights matters most. The internationally agreed standards set out in the treaties require effective national-level implementation in order to ensure that they are enjoyed by all men, women and children in each country.

As the bodies established to oversee the implementation of the international human rights standards set out in the treaties, the treaty bodies have an important role in supporting efforts to strengthen the protection of human rights at the national level. Firstly, the process of reporting to the treaty bodies is itself an important part of the development of a national human rights protection system. Secondly, the output of the treaty bodies provides States with practical advice and assistance on how best to implement the treaties.

### *Importance of the reporting process at the national level*

Efforts to encourage States to take a holistic approach to reporting by looking at the complete range of obligations to which they have subscribed are not solely aimed at making it easier for States to report to the international treaty bodies. Although the reports are required by an international body, the process which produces each report is very important at the national level. In meeting their reporting obligations under the treaties, States engage in a process of self-assessment in order to gauge the extent to which human rights are effectively protected in their country. The process of gathering information on human rights implementation at the national level provides an important tool to help Governments plan and put in place rights-based development programmes. Many States are engaged in parallel processes of treaty reporting, formulation of a national human rights action plan, and implementation of national development plans. Linking these processes can ensure that human rights are placed at the heart of national strategic planning, thereby guaranteeing more effective implementation of human rights standards nationally. The reporting process, from the preparation of the report, through the international process of consideration of the report, to the national response to the treaty body's recommendations, can also serve to stimulate national debate on human rights within civil society and create new human rights constituencies.



## *Practical advice and assistance from the treaty bodies*

The output of the treaty bodies can provide States, as well as UN country teams and donors, with useful guidance on where more action is required

### **The Millennium Development Goals & Human Rights**

In 2000, the UN Member States agreed eight objectives—or Millennium Development Goals (MDGs)—which all nations, both developed and developing, would work together to achieve by 2015. All eight MDGs may be linked to human rights treaty provisions or treaty bodies' general comments (GCs).

**Goal 1** to eradicate extreme poverty and hunger: ICESCR (art. 11 & GC 12); CRC (arts. 24(2) & 27(3));

**Goal 2** to achieve universal primary education: ICESCR (arts. 13 & 14, & GC 11), CRC (art. 28(a) & GC 1), CERD (arts. 5 & 7);

**Goal 3** to promote gender equality and empower women: CEDAW; ICESCR (arts. 3 & 7(a)(i)); ICCPR (arts. 3, 6(5) & 23(2)); CRC (art. 2); CERD (GC 25);

**Goal 4** to reduce child mortality: CRC (arts. 6 & 24(2)(a)); ICESCR (art. 12(2)(a) & GC 14);

**Goal 5** to improve maternal health: CEDAW (arts. 10(h), 11(f), 12(1), 14(b), & GC 24); CERD (art. 5 e iv); ICESCR (GC 14); CRC (art. 24 (d));

**Goal 6** to combat HIV/AIDS, malaria and other diseases: International guidelines on HIV/AIDS and human rights; ICESCR (GC 14); CRC (art. 24(c) & GC 3);

**Goal 7** to ensure environmental sustainability. Safe drinking water: ICESCR (GCs 15 & 14). Slum dwellers: ICESCR (GCs 4 & 7); CRC (art. 24(c));

**Goal 8** to develop a global partnership for development: UN Charter (art. 1 (3)), ICESCR (art. 2), CRC (art. 4).

to strengthen protection of human rights. Once a State party's reports have been produced and considered by the treaty bodies, practical and targeted concluding observations and recommendations provide precise advice on specific areas which may require attention. The opinions expressed by the committees in response to individual complaints are another source of specific guidance, focused on particular problem areas where action is needed. The general comments of the treaty bodies provide additional information of a more elaborated nature on how the treaties should be implemented.

Treaty body output can have a significant impact within a State, helping to ensure more effective implementation of the treaties through, for example, the proposal of new legislation or the provision of better human rights training to State officials. The extent of the impact depends not only on the Government, but also on other actors capable of influencing the way in which human rights are protected and promoted within the country, including national and regional parliaments, NHRIs, judges and lawyers as well as civil society.

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## **More information about the United Nations human rights treaty system**

For more information about the treaties and the treaty bodies, visit the OHCHR website and click on "human rights bodies". The site contains information on the State reporting process, including reporting status by country. Treaty body documents, including State party reports and concluding observations, can be downloaded from the site.

OHCHR publishes the following Fact Sheets relating to the work of the treaty bodies:

*Complaint Procedures* (No. 7);

*The Rights of the Child* (No. 10);

*The Committee on the Elimination of Racial Discrimination* (No. 12);

*Civil and Political Rights: the Human Rights Committee* (No. 15);

*The Committee on Economic, Social and Cultural Rights* (No. 16);

*The Committee against Torture* (No. 17);

*Discrimination against Women: the Convention and the Committee* (No. 22); and

*The Rights of Migrant Workers* (No. 24).

These Fact Sheets are available free of charge from the OHCHR publications office, or online at <http://www.ohchr.org/english/about/publications/sheets.htm>.

### **E-mail notification of treaty body recommendations**

If you are interested in the work of the treaty bodies and would like to be kept informed about their activities, why not subscribe to the free treaty bodies "listserv"? You will receive regular notification by e-mail of treaty body recommendations, including concluding observations issued after examining States parties' reports, general comments interpreting the respective treaties, decisions taken on individual complaints (where applicable), and other activities. To subscribe, visit the OHCHR website at <http://www.ohchr.org/english/bodies/treaty/subscribe.htm>.

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## Technical terms related to the treaty bodies

### Backlog

Despite the problems of late and non-reporting by States parties, some treaty bodies have found it difficult to keep abreast of the number of reports that they have to consider each year. An excessive backlog of reports awaiting consideration by a committee can mean a delay of up to two years from the date of submission of the report by the State party to the time that the committee begins to examine the content of the report. The need to request updated information is one reason why the practice of issuing lists of questions has been adopted by most of the treaty bodies. More efficient working methods can reduce the backlog, and some committees have proposed innovative approaches. The CRC, for example, will meet in two parallel chambers to consider reports from 2005.

### Bureau

The bureau usually consists of the chairperson, the vice-chairpersons, the rapporteur or any other designated member of the committee, and meets to decide procedural and administrative matters related to the committee's work.

### Chairperson

Each treaty body elects, for a term of two years, one of its members to act as chairperson. He or she chairs each meeting in accordance with the agreed rules of procedure. The chairpersons of the treaty bodies meet on an annual basis to coordinate the activities of the treaty bodies, and also participate along with two other members of their committees in the inter-committee meeting.

### Common document

An alternative name for the "expanded core document".

### Concluding comments

See "concluding observations".

### Concluding observations

The observations and recommendations issued by a treaty body after it has considered a State party's report. Concluding observations refer both to positive aspects of a State's implementation of the treaty and areas where the treaty body recommends that further action needs to be taken by the State. The treaty bodies are committed to issuing concluding observations which are concrete, focused and implementable, and are paying increasing attention to measures to ensure effective follow-up to their concluding observations. Also referred to as "concluding

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comments” by some committees in accordance with the wording of their treaties.

### **Consideration of a country situation in the absence of a report**

See “review procedure”.

### **Constructive dialogue**

The practice, adopted by all treaty bodies, of inviting States parties to send a delegation to attend the session at which their report is being considered 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. The notion of constructive dialogue emphasizes the fact that the treaty bodies are not judicial bodies (even if some of their functions are quasi-judicial), but are created to monitor the implementation of the treaties.

### **Core document**

A document submitted by a State party to the Secretary-General containing information of a general nature about the country which is of relevance to all of the treaties, including information on land and people, the general political structure and the general legal framework within which human rights are protected in the State. The core document was introduced in 1991 by the meeting of chairpersons as a way of reducing some of the repetition of information found in States’ reports to the various treaty bodies. It constitutes a common initial part of all reports to the treaty bodies.

### **Country rapporteur**

Most committees appoint a member as country rapporteur for each State party report under consideration. The country rapporteur usually takes a lead in drafting the list of issues, in questioning the delegation during the session, and in drafting concluding observations to be discussed and adopted by the committee.

### **Country report task force**

The Human Rights Committee has assigned the preparatory work on consideration of reports previously done in its pre-sessional working group to country report task forces, meeting during the plenary session. The country report task force consists of between four and six members, nominated by the Chairperson, one of whom is the country rapporteur, who has overall responsibility for the drafting of the list of issues.

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## **Declaration**

A State may choose or be required to make a declaration concerning a treaty to which it has become a party. There are several types of declaration, as follows:

### ***Interpretative declarations***

A State may make a declaration about its understanding of a matter contained in, or the interpretation of, a particular provision in a treaty. Interpretative declarations of this kind, unlike reservations, do not purport to exclude or modify the legal effects of a treaty. The purpose of an interpretative declaration is to clarify the meaning of certain provisions or of the entire treaty.

### ***Optional and mandatory declarations***

Treaties may provide for States to make optional and/or mandatory declarations. These declarations are legally binding on the declarants. Thus, for example, under art. 41, ICCPR, a State may make an optional declaration that it accepts the HRC's competence to consider inter-State complaints. Similarly, States parties to the CRC Optional Protocol on the involvement of children in armed conflict are required under art. 3(2) to make a binding declaration setting out the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced.

## **Derogation**

A derogation is a measure adopted by a State party which partially suspends application of one or more of the provisions of the treaty, at least on a temporary basis. Some of the human rights treaties allow States parties, in the case of a public emergency which threatens the life of the nation, to derogate exceptionally and temporarily from a number of rights to the extent strictly required by the situation. The State party, however, may not derogate from certain specific rights and may not take discriminatory measures. States are generally obliged to inform other States parties of derogations, giving reasons for the derogation, and to set a date on which the derogation will expire. (See HRC general comment No. 29)

## **Division for the Advancement of Women (DAW)**

Situated within the Department of Economic and Social Affairs (DESA), DAW is based at United Nations Headquarters in New York and provides support for CEDAW, as well as the Commission on the Status of Women.

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## **Expanded core document**

The idea of expanding the scope of the core document arose during the consultation process which the treaty bodies undertook in response to the Secretary-General's suggestion that States be allowed to submit a single report to all treaty bodies. A single report was considered to be difficult to produce and unwieldy, and there were concerns that the specificity of information found in the separate treaty reports would be lost in a large summarizing report. The expanded core document would aim to further reduce repetition of information across the reports by including information on substantive rights provisions common to all or several treaties. It was envisaged that expanded core document would be submitted to each treaty body along with a more focused treaty-specific report.

## **Follow-up**

The procedures put in place to ensure that States parties act upon the recommendations contained in the concluding observations of treaty bodies or their decisions in cases brought under the complaints procedures. Some committees have adopted formal follow-up procedures and all committees require States to address follow-up in their periodic reports. Parliaments, NHRIs, NGOs and civil society have an important role to play in follow-up.

## **General comment**

A treaty body's interpretation of the content of human rights provisions, either related to a specific article or to a broader thematic issue. General comments often seek to clarify the reporting duties of States parties with respect to certain provisions and suggest approaches to implementing treaty provisions. Also called "general recommendation" (CERD and CEDAW).

## **General recommendation**

See "general comment".

## **Individual communication**

See "individual complaint".

## **Individual complaint**

A formal complaint, from an individual who claims that her or his rights under one of the treaties have been violated by a State party, which some of the treaty bodies have competence to consider. The right to consider individual complaints must be expressly conceded by the State party concerned by making a declaration under the relevant treaty article (for CERD and CAT) or by ratifying or acceding to the optional protocol to the treaty providing for a right of individual complaint (ICCPR-OP1 and CEDAW-OP).

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The provisions relating to individual complaints under ICRMW are not yet in force. There is currently no right of individual complaint under ICESCR or CRC.

### **Late reporting**

Each treaty envisages regular submission of reports; in practice many States have difficulty in keeping up with their reporting obligations in strict conformity with the periodicity for the treaties to which they are parties. The problem of late reporting has been identified as one of the main challenges facing the treaty reporting system, and the treaty bodies have been seeking ways to make it easier for States to report, for instance through streamlining the reporting process with the introduction of an expanded core document.

*Information on the reporting status of the States parties of each treaty is available from the treaty bodies database on the OHCHR website or in document HRI/GEN/4, which is updated annually.*

### **List of issues and/or questions**

A list of issues or questions, formulated by a treaty body on the basis of the State party report and other information available to the treaty body (information from United Nations specialized agencies, NGOs, etc.), which is transmitted to the State party in advance of the session at which the treaty body will consider the report. The list of issues provides the framework for a constructive dialogue with the State party's delegation. Some committees encourage the State party to submit written responses in advance, allowing the dialogue to move more quickly to specificities. The list of issues provides a source of up-to-date information for the committee with regard to a State whose report may have been awaiting consideration for as much as two years.

### **National human rights institutions (NHRIs)**

Many countries have created national human rights institutions to promote and protect human rights. Such institutions are increasingly recognized as an important part of any national human rights protection system, provided their independence from government control can be assured. A set of international standards, known as the Paris Principles, has been agreed to gauge the independence and integrity of NHRIs.

*For more information on NHRIs, see OHCHR Fact Sheet No. 19: National Institutions for the Promotion and Protection of Human Rights.*

### **Non-governmental organizations (NGOs)**

Non-governmental organizations may be involved in promoting human rights, either generally or with a focus on a specific issue. A framework

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exists for participation of NGOs in many United Nations human rights mechanisms, such as the granting of consultative status with ECOSOC which allows them to participate in the Commission on Human Rights. Both international and national NGOs follow the work of the treaty bodies closely and most of the treaty bodies provide an opportunity for them to input into the reporting process through the submission, for example, of additional information relating to the implementation of the treaties in a particular country (sometimes referred to as “shadow” or “parallel reports”). There are differences in the way in which the treaty bodies treat this information. This may depend on whether the organization has ECOSOC consultative status.

International and national NGOs also have an important role in following up on implementation of recommendations contained in treaty body concluding observations at the national level and in motivating national public debate on human rights implementation during the report writing process and afterwards. NGOs have also made an important contribution to promoting the ratification of the human rights treaties worldwide.

### **Non-reporting**

Some States, despite having freely assumed the legal obligations attached to the human rights treaties that they have ratified, fail to submit their reports to the treaty bodies. There may be many reasons why States fail to report, ranging from war and civil strife to limited resources. Technical assistance is available from OHCHR and DAW to assist States in meeting their reporting obligations. The treaty bodies have also adopted procedures to ensure that implementation of the treaties by non-reporting States parties is reviewed, where the State has not responded to a treaty body’s requests for information. In particular, committees are prepared to consider the situation in a country in the absence of a report.

*Information on the reporting status of the States parties to each treaty is available from the treaty bodies database on the OHCHR website or in document HRI/GEN/4, which is updated annually. The website also provides information on the technical assistance available to States parties.*

### **Optional protocol**

An international instrument which is linked to a principal instrument and imposes additional legal obligations on States that chose to accept them. Optional protocols may be drafted at the same time as the main treaty, or drafted after the main treaty has entered into force. Optional protocols to the human rights treaties have been adopted for a number of reasons: to allow States parties to sign up to additional obligations relating to international monitoring of implementation (ICCPR-OP1, CEDAW-OP, OPCAT); to



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allow States to assume additional obligations where these were not included in the main treaty (ICCPR-OP2); or to address particular problems in more detail (the two CRC optional protocols).

### **Periodicity**

The timetable for regular submission of initial and periodic reports by States parties to the treaty bodies set out in each treaty or decided by the committee in accordance with the terms of the treaty. An initial report is required within a fixed period after the treaty enters into force for the State concerned; periodic reports are then required at regular intervals. The periodicity differs from treaty to treaty. See table on page 18.

### **Petitions**

A collective term embracing the various procedures for bringing complaints before competent treaty bodies. Petitions may consist of complaints from individuals or from States parties alleging violation of the treaty provision by a State party.

### **Pre-sessional working group**

A working group convened by some treaty bodies before or after each plenary session in order to plan their work for future sessions. The work undertaken during the pre-sessional working group differs from committee to committee: some committees draft lists of issues and questions in the working group to be submitted to each State party in advance of consideration of its report; some committees with competence to consider individual complaints use the working group to make initial recommendations on cases and other matters related to the complaints procedures. Pre-sessional working groups are usually held in closed session.

### **Recommendation**

A formal recommendation or decision issued by a treaty body. The term has been used inconsistently, being used to describe formal decisions on specific matters, or resolutions of a more general nature, such as those resulting from a day of general discussion. Concluding observations contain specific recommendations, and the term “treaty body recommendation” is sometimes used synonymously with “concluding observation”. CERD and CEDAW also refer to their general comments as “general recommendations”.

### **Reporting guidelines for States parties**

Written guidelines produced for States parties by each treaty body, giving advice on the form and content of the reports which States are obliged to submit under the relevant treaty. The current guidelines vary in approach: some committees provide detailed guidance on an article-by-article basis

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whereas others give more general guidance (see Compilation of Reporting Guidelines HRI/GEN/2/Rev.2). The Secretary-General, in his second reform report (A/57/387), called on the treaty bodies to adopt harmonized guidelines on reporting. Draft harmonized guidelines are under consideration by the committees.

### **Reservation**

A reservation is a statement made by a State by which it purports to exclude or alter the legal effect of certain provisions of a treaty in their application to that State. A reservation may enable a State to participate in a multilateral treaty in which it would otherwise be unable or unwilling to do so. States can make reservations to a treaty when they sign, ratify, accept, approve or accede to it. When a State makes a reservation upon signing, it must confirm the reservation upon ratification, acceptance or approval.

Reservations are governed by the Vienna Convention on the Law of Treaties, and cannot be contrary to the object and purpose of the treaty. States may accordingly, when signing, ratifying, accepting, approving or acceding to a treaty, make a reservation unless (a) the reservation is prohibited by the treaty; or (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made. Other States parties may lodge objections to a State party's reservations. Reservations may be withdrawn completely or partially by the State party at any time.

### **Review procedure**

A procedure by which a treaty body will consider the situation in a country in the absence of a report from the State party. The procedure is used in cases where the report has been overdue for an excessive period and the State party has not responded to the treaty body's requests for a report. In many cases, States parties submit their reports to avoid the review procedure; in other cases, States choose to send a delegation to the treaty body's session and answer questions from the treaty body experts even though they have not been able to submit a report. The review procedure was first adopted by CERD in 1991. Other committees use the expression "consideration of a country's situation in the absence of a State report". Some committees forward a list of issues to the State party, notwithstanding the absence of a report. Most committees produce concluding observations at the end of the process, although these may be kept confidential for an interim period in case the State party wishes to submit its report.

## **Rules of procedure**

The formal rules adopted by a treaty body to govern the way in which it undertakes its business. Each committee is empowered by the relevant treaty to adopt its own rules of procedure. The rules of procedure usually cover such matters as election of officers and procedures for adopting decisions especially where no consensus can be reached. Rules of procedures are related to, but distinct from, working methods.

## **Secretary/Secretariat**

Each treaty requires the Secretary-General of the United Nations to provide secretariat support for its treaty body. Every treaty body has a secretariat, consisting of a secretary and other international civil servants, based within the United Nations Secretariat, who manage the agenda of the committee and coordinate its programme of work. The CEDAW secretariat is part of DAW within DESA, based in New York. The secretariats of the other treaty bodies are based in Geneva at OHCHR.

## **Specialized agencies, funds and programmes**

The various specialized agencies, funds and programmes of the United Nations system that carry out much of the work of the United Nations, including promoting and protecting human rights. All treaty bodies permit the formal participation of United Nations agencies in the report consideration process through the provision of additional country information in the context of a particular State report. Some specialized agencies also provide technical assistance to States, both in the implementation of treaty obligations and in the writing of reports for the treaty bodies. United Nations specialized agencies, funds and programmes involved in the human rights treaty system include FAO, ILO, OCHA, UNAIDS, UNDP, UNESCO, UNFPA, UN-HABITAT, UNHCR, UNICEF, UNIFEM and WHO.

## **State party report**

The report that each State party to a human rights treaty is required, under the provisions of that treaty, to submit regularly to the treaty body, indicating the measures adopted to implement the treaty and the factors and difficulties encountered. Each treaty requires a comprehensive initial report within a fixed time after ratification, followed by subsequent periodic reports at regular intervals.

## **Targeted or focused report**

See “treaty-specific report”.

## **Treaties and Commission Branch (TCB)**

Within OHCHR, TCB provides secretariat support to all of the treaty bodies except CEDAW. It is based in Palais Wilson, Geneva. TCB also provides

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support for the Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights, and the United Nations Voluntary Fund for the Victims of Torture. Formerly called "Support Services Branch" (SSB).

### **Treaty, convention, covenant or instrument**

Legally, there is no difference between a treaty, a convention or a covenant. All are international legal instruments which legally bind, in international law, those States that chose to accept the obligations contained within them.

### **Treaty body or committee**

A committee of independent experts appointed to monitor the implementation by States parties of each of the core international human rights treaties. The treaties use the term "committee" throughout, but the committees are widely known as the "treaty bodies" because each is created in accordance with the provisions of the treaty which it oversees. In many important respects, they are independent of the United Nations system, although they receive support from the UN Secretariat and report to the General Assembly. Sometimes also called "treaty-monitoring body".

### **Treaty-specific reports/document**

The proposed expanded core or common document would be submitted to each treaty body in tandem with a targeted treaty-specific document focusing on issues related specifically to the treaty concerned. Although often referred to as a "treaty-specific report", the report to each treaty body would in fact consist of a common document for all committees and a treaty-specific document for each specific treaty body. The two documents, read together, would constitute the State party's report.

### **Working methods**

The procedures and practices developed by each treaty body to facilitate its work. Such practices are not always formally adopted in the rules of procedure. Each treaty body's working methods change in response to the workload and other factors. In recent years, there has been a move, through the annual meeting of chairpersons, to streamline and harmonize the working methods, especially where the different approaches of the committees cause confusion and inconsistency.

### **Written responses/replies to list of issues**

A State party's written replies to the treaty body's list of issues and questions submitted in advance of the session at which its report will be considered by the committee. Written responses to a list of issues constitute a supplement to, or update of, the State party report.

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## How a State becomes a State party to a treaty

The following explains the process by which a State binds itself by the provisions of a treaty in international law as a State party. Further details may be obtained from the United Nations Office of Legal Affairs (<http://untreaty.un.org>).

### State party

A State party is a State which has agreed to be bound by a treaty under international law. In order to become a party, the State must have (1) expressed its consent to be bound by a treaty through an act of **ratification, acceptance, approval or accession**, and (2) the **date of entry into force** of the treaty for that particular State must have passed. Some treaties, such as the human rights treaties, are only open to States, whereas others are also open to other entities with treaty-making capacity. Both Covenants and ICERD are open to signature and ratification by "any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations". The other core human rights treaties are open to all States. The optional protocols are all restricted to States parties to the parent treaty except the CRC Optional Protocol on the involvement of children in armed conflict, to which any State may accede.

### How does a State become a party to a treaty?

Each human rights treaty contains provisions setting out, first, how States must proceed to bind themselves by the substantive provisions of the treaty and, second, when the treaty will enter into force.

In order to become a party to a multilateral treaty, a State must demonstrate, through a concrete act, its willingness to undertake the legal rights and obligations contained in the treaty. In other words, it must express its consent to be bound by the treaty. A State can express its consent to be bound in several ways, in accordance with the final clauses of the relevant treaty. The human rights treaties allow for consent to be expressed either through **signature** followed by **ratification, acceptance or approval**, or through **accession**. Under certain circumstances, a State may also bind itself through **succession**.

Many treaties require a minimum number of States parties before they can enter into force in international law.

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## Signature

Multilateral treaties, like the human rights treaties, usually provide for signature subject to **ratification, acceptance or approval**. In such cases, the act of signing does not impose positive legal obligations on the State. However, signature does indicate the State's intention to take steps to be bound by the treaty at a later date. In other words, signature is a preparatory step on the way to ratification of the treaty by the State. Signature also creates an obligation, in the period between signature and ratification, acceptance or approval, to refrain in good faith from acts that would defeat the object and purpose of the treaty.

Providing for signature subject to ratification allows States time to seek approval for the treaty at the domestic level and to enact any legislation necessary to implement the treaty domestically, prior to undertaking the legal obligations under the treaty at the international level.

## Ratification, acceptance or approval

Ratification, acceptance and approval all refer to the definitive act undertaken at the international level, whereby a State establishes its consent to be bound by a treaty *which it has already signed*. It does this by depositing an "instrument of ratification" with the Secretary-General of the United Nations. To ratify a treaty, the State must have first signed the treaty; if a State expresses its consent to be bound without first having signed the treaty, the process is called **accession** (see below). Upon ratification, the State becomes legally bound by the treaty as one of its States parties.

Generally, there is no time limit within which a State is requested to ratify a treaty which it has signed. Once a State has ratified a treaty at the international level, it must give effect to the treaty domestically.

Ratification at the international level, which indicates to the international community a State's commitment to undertake the obligations under a treaty, should not be confused with ratification at the national level, which a State may be required to undertake in accordance with its own constitutional provisions before it expresses consent to be bound internationally. Ratification at the national level is inadequate to establish a State's intention to be legally bound at the international level. The required actions at the international level must also be undertaken.

## Accession

Accession is the act whereby a State that has not signed a treaty expresses its consent to become a party to that treaty by depositing an "instrument of accession" with the Secretary-General of the United Nations. Accession

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has the same legal effect as **ratification, acceptance or approval**. However, unlike ratification, which must be preceded by **signature** to create binding legal obligations under international law, accession requires only one step, namely, the deposit of an instrument of accession.

The conditions under which accession may occur and the procedure involved depend on the provisions of the relevant treaty. Accession is generally used by States wishing to express their consent to be bound by a treaty where the deadline for signature has passed. However, many modern multilateral treaties provide for accession even during the period during which the treaty is open for signature.

### **Succession**

Succession takes place only in cases where a State, which is party to a treaty, has undergone a major constitutional transformation which raises some doubt as to whether the original expression of consent to be bound is still valid. Such circumstances may include independence (for example, through decolonization), dissolution of a federation or union, and secession of a State or entity from a State or federation. Under such circumstances, the successor State may choose to ratify or accede to the treaty concerned in its own capacity, or alternatively it may express its consent to continue to be bound by the legal obligations assumed by the original State party with respect to the same territory through an act of succession. In such cases, the State concerned will notify the United Nations Secretary-General of its intention to succeed to the legal obligations.

### **Distinction between ratification/accession and entry into force**

The act by which a State expresses its consent to be bound by a treaty is distinct from the treaty's entry into force. A State demonstrates its willingness to undertake the legal rights and obligations under a treaty through the deposit of an instrument of ratification, acceptance, approval or accession. Entry into force of a treaty with regard to a State is the moment the treaty actually becomes legally binding for the State party. The treaty does not enter into force immediately: there is usually a delay, specified in the treaty, between the date of deposit of instrument and the date of entry into force.

### **Entry into force**

Entry into force of a treaty is the moment when a treaty becomes legally binding on the parties to the treaty. The provisions of the treaty determine the moment of its entry into force, usually after a short delay of a month or so. There are two types of entry into force: definitive entry into force of the treaty as an international legal instrument; and specific entry into force for a particular State.

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## **Definitive entry into force**

Definitive entry into force is when a new treaty becomes a legally binding instrument for those States which have already expressed their consent to be bound by its provisions. Most treaties stipulate that they will enter into

### **Why is the date of entry into force important?**

It is the date on which the rights set out in the treaty becoming binding on the State in international law. Anyone wishing to bring a complaint against a State party before a treaty body under the terms of a treaty or optional protocol needs to make sure that the instrument has entered into force for the State concerned. This date also determines the dates on which States must submit reports to the treaty bodies.

How do I find out whether a treaty is in force for a particular State?

The definitive source is the UN Depository, which maintains a register of multilateral treaties deposited with the Secretary-General. Its website is <http://untreaty.un.org>. A list of ratifications of the main human rights treaties is available on the OHCHR website.

force after a specified number of ratifications, approvals, acceptances or accessions have been deposited with the Secretary-General. Until that date, the treaty cannot legally bind any State, even those that have ratified or acceded to it (although they would be obliged to refrain in good faith from acts that would defeat its object and purpose).

## **Entry into force for a State**

Once a treaty has entered into force generally, additional provisions determine when the treaty will enter into force for any additional State or international organization that wishes to be bound by it.

## **Dates**

A consequence of the above is that there may be several dates attached to a treaty in relation to a given State:

*Date of definitive entry into force of the treaty:* the date, set in the treaty, at which the treaty enters generally into force in international law and becomes binding on States that have already taken the necessary measures.

*Date of signature:* the date on which a State signs the treaty. This has no legal effect other than to oblige the State to refrain from actions that would defeat the object and purpose of the treaty.

*Date of deposit of instrument of ratification or accession:* the date on which the United Nations treaty depository receives the legal instrument which expresses the State's consent to be bound by the treaty.



*Date of entry into force for a State:* the date, established in the treaty, on which the treaty becomes formally binding on the State in international law. Most treaties require a set period to elapse after the date of deposit of instrument before the treaty becomes binding. The precise period varies according to the treaty.

### Calculation of date of entry into force of the treaties

<i>Treaty</i>	<i>Adopted</i>	<i>Entered into force on</i>	<i>Enters into force for States parties</i>
ICERD	21 December 1965	4 January 1969	on 30th day after date of deposit
ICESCR	16 December 1966	3 January 1976	3 months after date of deposit
ICCPR	16 December 1966	23 March 1976	3 months after date of deposit
CEDAW	18 December 1979	3 September 1981	on 30th day after date of deposit
CAT	10 December 1984	26 June 1987	on 30th day after date of deposit
CRC	20 November 1989	2 September 1990	on 30th day after date of deposit
ICRMW	18 December 1990	1 July 2003	on 1st day of month following a period of three months after date of deposit
ICCPR-OP1	16 December 1966	23 March 1976	three months after date of deposit
ICCPR-OP2	15 December 1989	11 July 1991	three months after date of deposit
CEDAW-OP	6 October 1999	22 December 2000	three months after date of deposit
CRC-OPSC	25 May 2000	18 January 2002	one month after date of deposit
CRC-OPAC	25 May 2000	12 February 2002	one month after date of deposit
OPCAT	18 December 2002	Not yet in force (20 States parties required)	on 30th day after date of deposit

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- No. 3 Advisory Services and Technical Cooperation in the Field of Human Rights (Rev.1)
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\* Fact Sheets Nos. 1, 5 and 8 are no longer issued.



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Inquiries should be addressed to:

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Office of the United Nations High Commissioner for Human Rights  
United Nations Office at Geneva  
8-14, Avenue de la Paix  
1211 Geneva 10  
Switzerland

New York Office:  
Office of the United Nations High Commissioner for Human Rights  
United Nations  
New York, NY 10017  
United States of America