

# Bringing Rights to Bear

## An Advocate's Guide to the Work of UN Treaty Monitoring Bodies on Reproductive and Sexual Rights

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## *I. International Human Rights Treaties: the Basics*

### **WHAT ARE INTERNATIONAL TREATIES?**

A treaty is a written agreement between nations—similar to a contract between businesses—that is governed by international law. Treaties are also referred to as "conventions" or "covenants."

A country becomes a "state party" to a treaty once its government signs and ratifies the agreement and adds it to its domestic laws. States parties are required to abide by the provisions of a treaty or, at the very least, make a "good-faith" effort to work toward compliance with the agreement.

Treaties can cover a broad range of topics, from the rules of global commerce to arms control and pollution. Treaties that cover human rights create duties and responsibilities for a government to protect, promote and fulfill the human rights of its people. The United Nations (UN), a multilateral decision-making organization comprised of 190 member nations, is the key international body responsible for safeguarding human rights worldwide. There are six major human rights treaties negotiated by the UN member states that expand upon rights first guaranteed in the landmark 1948 Universal Declaration of Human Rights (Universal Declaration).

Each of the six major UN human rights treaties has a committee that monitors governmental compliance with its provisions. These supervising committees, called treaty monitoring bodies, are composed of experts from countries that have ratified the

**A treaty is defined as "an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation." Advocates can use this definition to inform the government about the obligations that come with becoming a party to a treaty.**

treaty. Though these experts are nominated by their governments, they are required to serve independently.

**KEY HUMAN RIGHTS TREATIES AND THEIR MONITORING COMMITTEES**

<b>Committee</b>	<b>Human Rights Treaty</b>
<b>Committee against Torture (CAT)</b>	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture)
<b>Committee on the Elimination of Discrimination against Women (CEDAW Committee)</b>	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
<b>Committee on Economic, Social and Cultural Rights (CESCR)</b>	International Covenant on Economic, Social and Cultural Rights (Economic, Social and Cultural Rights Covenant)
<b>Committee on the Elimination of Racial Discrimination (CERD)</b>	International Convention on the Elimination of All Forms of Racial Discrimination (Convention against Racial Discrimination)
<b>Committee on the Rights of the Child (CRC)</b>	Convention on the Rights of the Child (Children's Rights Convention)
<b>Human Rights Committee (HRC)</b>	International Covenant on Civil and Political Rights (Civil and Political Rights Covenant)

***Generally, human rights treaties create two types of obligations for states parties:***

- Negative obligations, by which governments agree not to violate the rights specified by a treaty.
- Positive obligations, by which governments agree to take proactive steps to ensure or protect the rights specified by a treaty.

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### **HOW TREATIES BECOME "LAW"**

#### ***Signature***

After a treaty has been negotiated, a representative authorized by the government signs the document. Though the document is not yet binding, signatories to a treaty are obligated not to act contrary to the "spirit," or core meaning, of the agreement.

#### ***Ratification***

Once a treaty has been signed, the next step is known as "ratification." Legal obligations are created when a state ratifies a treaty and the state is now a "party." The ratification process varies from state to state. Whatever terminology is used—ratification, acceptance, approval or accession—each means that the state consents to be legally bound by the obligations specified in the treaty.

#### ***Reservations***

A state party may formally express reservations to select provisions of a multilateral treaty through a unilateral statement that "exclude[s] or . . . modify[ies] the legal effect of certain provisions of the treaty in their application to that state." Reservations to specific provisions, only apply to those provisions. A state party may not make a reservation to a provision that is fundamental to the "spirit" of the treaty.

States may also make "declarations" or "statements of understanding" to clarify their interpretation of specific treaty provisions. These declarations or statements do not constitute formal reservations.

#### ***Domestication***

After ratification, a state must ensure that its national laws do not conflict with its treaty obligations. The state decides how to "domesticate" a treaty, or make it locally applicable and enforceable. Some states' laws require them to pass legislation to incorporate their treaty obligations into national law. Others automatically consider international treaties that they have ratified to be part of their domestic laws.

**WHAT DO REPRODUCTIVE RIGHTS HAVE TO DO WITH HUMAN RIGHTS?**

Reproductive rights are embedded in international human rights principles, and therefore fall within the mandate of each of the six major human rights treaties. Consequently, each of the treaty monitoring committees has addressed the rights and concerns relating to reproductive and sexual health.

***Reproductive rights encompass two broad human rights principles:***

- **The right to reproductive health care**, which includes the right to regular access to safe, high-quality reproductive and sexual health care services; and
- **The right to reproductive self-determination**, which includes the right to plan one's family and make decisions about one's reproductive health; the right to physical integrity; and the right to be free from all forms of violence, discrimination, and coercion that affect a woman's sexual or reproductive life.

Reproductive rights require governments to ensure that information and services for reproductive and sexual health care are available, accessible and affordable, and that any existing legal or informal barriers to such access are removed.

***Grounding Reproductive Rights in Human Rights Principles***

Reproductive rights are supported by at least 11 internationally recognized human rights:

- 1 The right to life, liberty, and security;
- 2 The right to health, reproductive health, and family planning;
- 3 The right to decide the number and spacing of one's children;
- 4 The right to consent to marriage and to equality in marriage;
- 5 The right to privacy;
- 6 The right to be free from discrimination;
- 7 The right to modify traditions and customs that violate women's rights;
- 8 The right not to be subjected to torture or other cruel, inhuman, or degrading treatment or punishment;
- 9 The right to be free from sexual violence;
- 10 The right to education and information; and
- 11 The right to enjoy scientific progress and to consent to experimentation.

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### ENDNOTES

- 1 See Vienna Convention on the Law of Treaties, art 2(1)(a), 1155 U.N.T.S 331, U.S. No. 58 (1980), reprinted in 8 I.L.M. 679 (1969) (*entered into force* Jan. 27, 1980), available at <http://www.un.org/law/ilc/texts/treaties.htm>.
- 2 See *id.* art. 26.
- 3 See *id.* art. 2 (1)(a).
- 4 See *id.* art. 18.
- 5 See *id.* art. 2(1)(b).
- 6 See *id.* art. 2 (1)(d).
- 7 See *id.* art. 19.
- 8 See Universal Declaration of Human Rights, adopted Dec. 10, 1948, G.A. Res. 217A (III), art. 3, U.N. Doc. A/810 (1948) [hereinafter Universal Declaration]; International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 52, arts. 6.1, 9.1, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976) [hereinafter Civil and Political Rights Covenant]; Convention on the Rights of the Child, adopted Nov. 20, 1989, G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49, art. 6, U.N. Doc. A/44/49 (1989) (*entered into force* Sept. 2, 1990) [hereinafter Children's Rights Convention].
- 9 See International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 49, arts. 10.1, 12.1–12.2, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3 (*entered into force* Jan. 3, 1976) [hereinafter Economic, Social and Cultural Rights Covenant]; Convention on the Elimination of All Forms of Discrimination against Women, adopted Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, arts. 10(h), 12.1, 12.2, and 14.2(b), U.N. Doc. A/34/46, 1249 U.N.T.S. 13 (*entered into force* Sept. 3, 1981) [hereinafter CEDAW]; Children's Rights Convention, *supra* note 8, arts. 24.1–24.2; International Convention on the Elimination of All Forms of Racial Discrimination, adopted Dec. 21, 1965, G.A. Res. 2106 (XX), art. 5(e)(iv) (1965), 660 U.N.T.S. 195 (*entered into force* Jan. 4, 1969) [hereinafter Convention Against Racial Discrimination].
- 10 See CEDAW, *supra* note 9, art. 16.1(e).
- 11 See Universal Declaration, *supra* note 8, art. 16.1; Economic, Social and Cultural Rights Covenant, *supra* note 9, art 10.1; Civil and Political Rights Covenant, *supra* note 8, arts. 23.2–23.4; CEDAW, *supra* note 9, arts. 16.1–16.2.
- 12 See Civil and Political Rights Covenant, *supra* note 8, arts. 17.1–17.2; Children's Rights Convention, *supra* note 8, arts. 16.1–16.2.
- 13 See Universal Declaration, *supra* note 8, art. 2; Economic, Social and Cultural Rights Covenant, *supra* note 9, art. 2.2; CEDAW, *supra* note 9, arts. 1–2, 11.2; Children's Rights Convention, *supra* note 8, arts. 2.1–2.2.
- 14 See CEDAW, *supra* note 9, arts. 2(f), 5(a); Children's Rights Convention, *supra* note 8, art. 24.3.
- 15 See Universal Declaration, *supra* note 8, art. 5; Civil and Political Rights Covenant, *supra* note 8, art. 7; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted Dec. 10, 1984, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No 51, art. 1, U.N. Doc. A/39/51 (1984) (*entered into force* June 26, 1987)[hereinafter Convention Against Torture]; Children's Rights Convention, *supra* note 8, art. 37(a).
- 16 See CEDAW, *supra* note 9, art. 6; Children's Rights Convention, *supra* note 8, arts. 19.1, 34.
- 17 See Universal Declaration, *supra* note 8, art. 19; Civil and Political Rights Covenant, *supra* note 8, art. 19; Children's Rights Convention, *supra* note 8, arts. 13, 28–29; *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5–13, 1994, Principle 10, U.N. Doc. A/CONF.171/13/Rev.1 (1995) [hereinafter *ICPD Programme of Action*].
- 18 See Economic, Social and Cultural Rights Covenant, *supra* note 9, art 15.1; Civil and Political Rights Covenant, *supra* note 8, art. 7.

## ***II. Treaty Monitoring Bodies: The Basics***

United Nations (UN) treaty monitoring bodies, or committees, monitor governmental compliance with each of six major UN human rights treaties. While the committees are not judicial bodies, they influence governments by issuing specific observations about states' progress and compliance with human rights obligations. Ultimately, however, committees must rely on the good faith of a government to carry out the committees' recommendations. Committees meet two or three times a year at the UN offices in New York or Geneva. For specific details, refer to the following sections on each individual committee.

### **Review Steps**

- State party submits a written report.
- Within a few months to a couple of years, the committee schedules a time for an oral review.
- Prior to the oral review, the Committee may request the government to submit clarifications and additional information.
- During the oral review of the report, committee members engage in a dialogue with the country representative.
- Following the oral review, the committee issues its comments on the state party in the form of "concluding observations."

*Each committee employs two primary methods to ensure that states observe their human rights treaty obligations.*

### ***Issue General Comments or Recommendations***

Committees periodically and on an as-needed basis issue general comments or recommendations to clarify the broad rights and guarantees established by international treaties. The general comments are designed to help governments fulfill their reporting obligations by specifying the intent, meaning and content of treaty provisions. The general comments or recommendations provide a working interpretation of the rights in the treaty and apply to all states parties to that treaty.

General comments also allow committees to draw attention to persistent inadequacies in a large number of country reports. For example, a general comment can highlight that states often fail in their reporting duties when they neglect to disaggregate data by gender; or in implementing their treaty obligations when they fail to expand social services to rural areas.

**To view general comments issued by the treaty monitoring committees, visit <http://www.unhchr.ch/tbs/doc.nsf> and select the committee of interest.**

### ***Review State Protection of Human Rights***

Treaty monitoring bodies spend much of their time reviewing individual country reports. Once a committee has received the written country report, it schedules a committee session with the country's representatives. Following their examination of the report at the committee session, the committee issues "concluding observations," which are an official statement about the state's compliance with its obligations, with specific recommendations for improvement.

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States report to the committee every two to four years, depending on the treaty (for specific information, see the following sections on each individual committee). States are given advance notice of their review by the committees.

If a state fails to submit a report, committees are often limited to making note of the breach of duty. Some committees, however, have adopted more aggressive measures. The Human Rights Committee (HRC) will review a country even if it fails to submit a report or show up for its scheduled review.<sup>1</sup> Many countries delay or combine their periodic reports due to resource constraints.

A state that has signed but not ratified a treaty is not required to submit a report to the committee that oversees that treaty.

**For information on the reporting status of states parties, visit <http://www.unhchr.ch/html/menu2/r2002e.pdf>.**

Once a country report has been submitted and scheduled for review, the committee closely examines it, along with additional materials presented by non-governmental organizations (NGOs) or UN agencies. Committee members ask for additional or follow-up information if the report is unclear or incomplete, and they directly pose questions to the government representative presenting the report during the committee session.

After reviewing the country report, the committee publicizes its concluding observations and recommendations. These observations generally list areas of success and specific issues of concern; they also acknowledge the obstacles to implementation that governments may face and make recommendations for better compliance.

**To view concluding observations of treaty monitoring committees, visit <http://www.unhchr.ch/tbs/doc.nsf> and select the committee of interest.**

*Some committees have an additional mandate to utilize the following additional methods to hold governments accountable to human rights violations.*

### ***Examine Individual Complaints***

Some committees consider complaints from individuals or groups against a state party for violating or failing to protect its human rights obligations. A committee may review an individual complaint only if the state party explicitly agrees to recognize the committee's authority to hear individual complaints. The treaty itself may contain an optional provision on individual complaints, as is the case under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment<sup>2</sup> and the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>3</sup> Another avenue is for a state to ratify an additional, related treaty called an "optional protocol," allowing its citizens to register complaints against their government. Optional protocols establishing individual complaint mechanisms are in effect for the International Covenant on

Civil and Political Rights Covenant<sup>4</sup> and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>5</sup>

Generally, committees will only hear individual complaints after the individuals alleging a violation have gone through the national court system and have exhausted available “domestic remedies.” States are not required to ratify optional protocols, or to recognize a committee’s authority to hear individual complaints.

**For information on individual complaint mechanisms, visit <http://www.unhchr.ch/html/menu2/complain.htm> and select the relevant treaty under “procedures under treaty-monitoring bodies.”**

***Advocacy Point***

- The individual complaint process can provide relief to individual victims. It can also help draw attention to a particular issue at the international and national levels by mobilizing the media to highlight the severity or extent of a violation. Positive committee decisions can be used as persuasive evidence in domestic litigation, and to advocate for legal reform.

***Investigate Mass Violations***

Some committees, such as the Committee against Torture, have the power to initiate and conduct investigations into situations of possible grave human rights violations.<sup>6</sup> Other committees require a declaration by the state party that recognizes the committee’s power to initiate and conduct such investigations. The Committee on the Elimination of Discrimination against Women (CEDAW Committee), for example, only investigates mass violations in states that have ratified the Optional Protocol to CEDAW<sup>vii</sup> that allows these investigations.

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***Endnotes***

- 1 See Press Release, United Nations, Human Rights Committee Concludes 75th Session (July 26, 2002), available at <http://www.unhchr.ch/huricane/hurricane.nsf/view01/5734EE0B6807106FC1256C02004A5F58?opendocument> (last visited Oct. 16, 2002).
- 2 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No 51, art. 22, U.N. Doc. A/39/51 (1984) (*entered into force* June 26, 1987) [hereinafter *Convention against Torture*].
- 3 International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, arts. 14-16 (*entered into force* Jan. 4, 1969).
- 4 See Optional Protocol to the International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 59, U.N. Doc. A/6316, 999 U.N.T.S. 302 (*entered into force* Mar. 23, 1976).
- 5 See Optional Protocol to the Convention on the Elimination of Discrimination against Women, Oct. 6, 1999, G.A. Res. 54/4, U.N. GAOR, 54th Sess., U.N. Doc A/Res/54/4 (1999) (*entered into force* Dec. 22, 2000) [hereinafter *Optional Protocol to CEDAW*].
- 6 See *Convention against Torture*, *supra* note 3, art. 20.
- 7 *Optional Protocol to CEDAW*, *supra* note 5, arts. 8–10.

### **III. The Committee against Torture (CAT)**

CAT, established in 1987, monitors compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).<sup>1</sup>

#### **MANDATE**

The Convention against Torture codifies the ongoing commitment to eradicate all forms of torture and to ensure adequate protection for all persons against torture and other cruel, inhuman or degrading treatment or punishment, including gender-based violence.

CAT considers violence against women, especially rape and other forms of sexual violence, as gender-based acts of torture. In recent concluding observations, CAT has recognized trafficking of women as a form of violence against women within its mandate. It has also discussed the withholding of medical care in detention as a form of torture.

CAT could potentially recognize violations of the Convention against Torture in cases where the state party is actively preventing women from accessing reproductive health care or failing to address obstacles to access, particularly in light of extremely high rates of maternal mortality and morbidity.

#### **REPRODUCTIVE RIGHTS PROVISIONS IN THE CONVENTION AGAINST TORTURE**

**Article 1** establishes that torture is “severe physical or mental pain or suffering, inflicted intentionally by or with the acquiescence of a public official for such purposes as . . . any reason based on discrimination of any kind.”

**Article 3** prohibits states parties from returning or expelling a person to another state where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

**General Comment 1:** The Implementation of Article 3 of the Convention in the context of Article 22 (1996)<sup>2</sup> discusses the use of the individual complaint mechanism of Article 22 of the Convention against Torture to enforce states parties’ obligations to individuals who would be at risk of torture if returned to their country of origin. While the comment does not explicitly refer to gender, it could be applied to women at risk of gender-based violence or harmful traditional practices, or women who have been trafficked.

#### **MODEL CONCLUDING OBSERVATION**

*“The Committee expresses concern about reports of coercive and violent measures resorted to by some local officials in implementing the population policy of the State party, contrary to the relevant provisions of the Convention.”<sup>3</sup>*

**China (2001)**

## ***Basic Information***

### **FUNCTIONS**

#### **CAT HAS FOUR MAIN FUNCTIONS**

**Monitor and Review States Parties:** States must submit an initial report within one year of ratification. Subsequent reports are required every four years or at the request of the committee.

**Receive Individual Complaints:** If the state party has made a declaration under Article 22 of the convention, individuals may bring a claim of a violation of the provisions of the convention to the committee.

**Initiate Investigations:** CAT has the power to initiate and conduct inquiries concerning allegations of systematic practice of torture in the states parties.

**Report to the United Nations (UN):** CAT submits an Annual Report to the UN General Assembly.

### **STATES PARTIES**

130 states are party to the Convention against Torture (as of August 21, 2002).

**To find out if a country is party to the convention, visit <http://www.unhchr.ch/pdf/report.pdf>.**

51 states parties have recognized the competence of CAT to receive and process individual complaints under Article 22 of the convention.

**To find out if a country permits individual complaints, visit <http://www.unhchr.ch/html/menu6/2/fs17.htm#annexiii>.**

### **COMMITTEE MEMBERSHIP**

The committee is comprised of ten experts, elected by the states parties. Each expert serves for four years and is eligible for reelection, keeping in mind geographical diversity and legal experience.

### **COMMITTEE MEETINGS**

The committee meets twice a year in April/May and November in Geneva, Switzerland.

**For more information about the sessions, visit <http://www.unhchr.ch/html/menu2/6/cat/cats.htm>.**

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<b>SUBMISSION OF NGO REPORTS</b>	NGO reports should be submitted to the secretariat five weeks prior to the committee's session. English is the working language of seven of the ten committee members.
<b>COUNTRY RAPPORTEURS</b>	In advance of the committee's review of a state party's report, a committee member is appointed as "country rapporteur," or point person on that country. The rapporteur studies the state party's report, takes the lead in asking questions during the dialogue and produces a first draft of concluding observations.
<b>SECRETARIAT</b>	Carmen Rueda-Castañon Secretary Committee against Torture UNOG-OHCHR CH-1211 Geneva 10 Switzerland Phone: + 41 22 917 9288 Fax: + 41 22 917 9022 Email: crueda.hchr@unog.ch
<b>NGO PARTICIPATION</b>	NGOs have no formal opportunity to speak during the committee's review of a state party's report, but they may attend as observers. NGOs can meet informally with committee members between sessions.

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### **Endnotes**

- 1 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No 51, U.N. Doc. A/39/51 (1984) (*entered into force* June 26, 1987).
- 2 Committee against Torture, *General Comment 1: The Implementation of Article 3 of the Convention in the context of Article 22* (16th Sess., 1996), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 252, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- 3 Committee against Torture, *Conclusions and Recommendations of the Committee against Torture: China*, ¶ 122, U.N. Doc. A/55/44 (May 9, 2001).

## ***IV. Committee on the Elimination of Discrimination against Women (CEDAW Committee)***

The CEDAW Committee, established in 1982, monitors compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>1</sup>

### **MANDATE**

CEDAW addresses discrimination against women in all spheres of women's lives. It broadly defines discrimination against women as "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 . . . of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."<sup>2</sup>

CEDAW provides the strongest international legal support for women's reproductive rights by explicitly outlining the right to health and family planning.

The Optional Protocol to CEDAW,<sup>3</sup> entered into force in 2001, allows the CEDAW Committee to accept individual complaints and to investigate grave or systematic violations of women's rights protected by CEDAW.

In its concluding observations, the CEDAW Committee has urged states to ensure that all women and adolescents have access to safe and affordable methods of contraception, confidential family planning counseling and services, and sexual education. The committee has also requested states parties to review restrictive abortion laws—which are linked to high maternal mortality rates—and to ensure that abortion is safe and accessible where it is legal.

The CEDAW Committee has instructed states parties to enact laws criminalizing all forms of violence against women and to strictly enforce existing laws. The committee has also mandated that governments enact measures to change social norms that perpetuate traditional practices that are harmful and discriminate against women and girls.

### **REPRODUCTIVE RIGHTS PROVISIONS IN CEDAW**

**Articles 10(a) and 10(h)** require states parties to take all necessary steps to eliminate discrimination against women in education, and to provide women equal access to educational materials and advice on family planning.

**Article 11(2)** requires states parties to undertake appropriate measures to prohibit dismissal of women workers on the grounds of pregnancy, to introduce maternity leave, to promote the development of a network of child care and to provide pregnant women with special protection from work that may be harmful.

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**Article 12** requires states parties to provide women with appropriate services where necessary during the ante- and post-natal stages of pregnancy.

**Article 12(1)** requires states parties to eliminate discrimination against women in the area of health care and to ensure that men and women have equal access to health care services, including family planning services.

**Article 16** requires states parties to eliminate discrimination against women in all matters regarding marriage and family relations.

**General Recommendation 24: Women and Health (1999)**<sup>4</sup> affirms that “access to health care, including reproductive health, is a basic right under [CEDAW]”<sup>5</sup> and is fundamental to women’s health and equality. The recommendation says that states parties are responsible to “[e]nsure the removal of all barriers to women’s access to health services, education and information, including in the area of sexual and reproductive health,”<sup>6</sup> and to “[p]rioritize the prevention of unwanted pregnancy through family planning and sex education and reduce maternal mortality rates through safe motherhood services and prenatal assistance.”<sup>7</sup>

### **MODEL CONCLUDING OBSERVATION**

*“The Committee urges the Government to maintain free access to basic health care, to include a life-cycle approach to women’s health in its health policy, and to improve its family planning and reproductive health policy, including availability and accessibility of modern contraceptive means. It encourages the Government to include sex education systematically in schools, including vocational training schools. It encourages the Government to continue its cooperation with international organizations to improve the general health situation of women and girls in the Republic of Moldova. . . .”*<sup>8</sup>

**Republic of Moldova (2000)**

## ***Basic Information***

**FUNCTIONS** The CEDAW Committee has four main functions:

**Monitor and Review States Parties:** States are required to submit an initial report within one year of ratification. Subsequent reports are due every four years and brief update reports every two years.

**Receive Individual Complaints:** If the state has ratified the Optional Protocol to CEDAW, individuals who claim to be victims of gender discrimination may bring a complaint against the state.

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**Initiate Investigations:** Under the Optional Protocol to CEDAW, the committee can initiate inquiries into grave and systematic violations of women's rights. The protocol allows states to "opt out" of the inquiry procedure.

**Report to the UN:** The CEDAW Committee submits an annual report to the UN General Assembly through the Economic and Social Council.

**STATES  
PARTIES**

170 states are party to CEDAW (as of August 21, 2002).

**To find out if a country has ratified CEDAW, visit**  
<http://www.un.org/womenwatch/daw/cedaw/states.htm>.

43 states are party to the Optional Protocol to CEDAW, which allows individuals to make complaints against a state party (as of July 30, 2002).

**To find out if a country has ratified the CEDAW Optional Protocol, visit**  
<http://www.un.org/womenwatch/daw/cedaw/sigop.htm>.

**COMMITTEE  
MEMBERSHIP**

The CEDAW Committee is comprised of 23 independent experts, elected by secret ballot by states parties. Nominations must meet CEDAW's demands for equitable geographical representation and diversity of legal systems and cultural backgrounds. Each expert serves for four years, with half of the committee members replaced every two years.

**To see who is currently serving on the CEDAW Committee, visit**  
<http://www.un.org/womenwatch/daw/cedaw/members.htm>.

**COMMITTEE  
MEETINGS**

The CEDAW Committee meets twice a year, usually in January/February and June/July at the UN Headquarters in New York.

**For more information about the sessions,**  
visit <http://www.un.org/womenwatch/daw/cedaw/sessions.htm>.

**SUBMISSION OF  
NGO REPORTS**

Reports from non-governmental organizations (NGOs) should follow the country reporting guidelines, which are available at <http://www.un.org/womenwatch/daw/cedaw/reporting.htm>. NGO reports may be submitted in any of the committee's three working languages: English, French or Spanish. English is the working language of the majority of committee members.

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Supplementary information may be submitted up to the first day of the committee's session. However, to ensure that the committee has adequate time to review this information, shadow reports or letters should be submitted during the "pre-session," which takes place prior to the committee's formal review sessions.

A working group made up of several committee members closely examines country and supplemental reports to prepare a list of issues that will guide the full committee's review of the report. The list of issues is provided to states parties before their formal review to help them prepare additional information for the committee.

**The schedule for the CEDAW Committee's sessions is available at  
<http://www.un.org/womenwatch/daw/cedaw/sessions.htm>.**

### **COUNTRY RAPPORTEURS**

Prior to the committee's formal review of a state party's report, a committee member is appointed as a "country rapporteur," or point person on that country. The rapporteur gathers background information, introduces major issues and, along with the secretariat, produces a first draft of concluding observations on the country's compliance with CEDAW.

### **SECRETARIAT**

Jane Connors  
Chief, Women's Rights Unit  
Division on the Advancement of Women  
Department of Economic and Social Affairs  
Two UN Plaza, Room DC2-1226  
New York, NY 10017  
Tel: + 1 212 963 3162  
Fax: + 1 212 963 3463  
Email: [connorsj@un.org](mailto:connorsj@un.org)

### **NGO PARTICIPATION**

The CEDAW Committee sets aside one afternoon at the beginning of each session for NGO presentations.

**To find out when the NGO meeting is scheduled, visit  
<http://www.un.org/womenwatch/daw/cedaw/sessions.htm>  
and select the appropriate session.**

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NGOs have no formal opportunity to speak during the committee's review of a state party's report, but they may attend as observers. NGOs can meet informally with committee members between sessions, and may also schedule briefings for committee members. To schedule a briefing, contact the secretariat several weeks prior to the commencement of the session.

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**Endnotes**

- 1 Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, 1249 U.N.T.S. 13 (*entered into force* Sept. 3, 1981).
- 2 *Id.* art. 1.
- 3 Optional Protocol to the Convention on the Elimination of Discrimination against Women, Oct. 6, 1999, G.A. Res. 54/4, U.N. GAOR, 54th Sess., U.N. Doc A/Res/54/4 (1999) (*entered into force* Dec. 22, 2000).
- 4 Committee on the Elimination of Discrimination against Women, *General Recommendation 24: Women and Health* (20th Sess., 1999), *in* *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 244, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- 5 *Id.* ¶ 1.
- 6 *Id.* ¶ 31(b).
- 7 *Id.* ¶ 31(c).
- 8 Committee on the Elimination of Discrimination against Women, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Republic of Moldova*, ¶ 110, U.N. Doc. A/55/38 (June 27, 2000).

## ***V. Committee on Economic, Social, and Cultural Rights (CESCR)***

CESCR, which in its current form was established in 1985 by the United Nations (UN) Economic and Social Council, monitors compliance with the International Covenant on Economic, Social and Cultural Rights (Economic, Social and Cultural Rights Covenant).<sup>1</sup>

### **MANDATE**

The Economic, Social and Cultural Rights Covenant is the first human rights treaty to require states to recognize and progressively realize the right to health. It covers rights relating to an adequate standard of living, the highest attainable standards of physical and mental health, social protection, education and the enjoyment of the benefits of cultural freedom and scientific progress, and the right to work in just and favorable conditions.

In its concluding observations to states parties, CESCR has emphasized governmental responsibility to ensure that all women have access to affordable and comprehensive reproductive health care, especially contraception and family planning services and information. The committee has asked states to include reproductive and sexual health education in school curricula so that adolescents can help protect themselves from HIV/AIDS and other sexually transmissible infections (STIs), reduce teen pregnancy rates and freely access reproductive health care services. In response to the HIV/AIDS pandemic, CESCR has directed states parties to protect the rights of people living with HIV/AIDS in several ways: by improving their access to health services; by addressing the high cost of medicines; and by ensuring non-discrimination in health care. The committee has also emphasized the role of governments in preventing the spread of HIV/AIDS by asking states to take legislative and policy measures to combat its transmission.

### **REPRODUCTIVE RIGHTS PROVISIONS IN THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS COVENANT**

**Article 6** requires states parties to recognize the right to work, including the right to freely choose one's work.

**Article 7** protects the right of everyone to just and favorable conditions at work.

**Article 12** requires states parties to recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

**Article 12(2)(c)** requires states parties to take necessary steps to reduce the rate of stillbirths and infant deaths while improving conditions for the health and development of a child.

**Article 13** recognizes the right of everyone to an education.

**General Comment 14:** The Right to the Highest Attainable Standard of Health (2000)<sup>2</sup> has explicitly defined this right to “include the right to control one’s health and body, including sexual and reproductive freedoms.”<sup>3</sup> It asserted that states parties are required to take “measures to improve child and maternal health, sexual and reproductive health services, including access to family planning . . . emergency obstetric services and access to information, as well as to resources necessary to act on that information.”<sup>4</sup>

General Comment 14 also specifically states that “[t]he realization of women’s right to health requires the removal of all barriers interfering with access to health services, education and information, including in the area of sexual and reproductive health.”<sup>5</sup>

#### MODEL CONCLUDING OBSERVATION

*“The Committee notes with alarm that abortion is absolutely illegal and is considered a criminal offence, punishable by severe sentences, and cannot be carried out even when pregnancy is life threatening or the result of incest or rape. The Committee also regrets the fact that the reproductive and sexual health programmes are not implemented because of lack of financial resources. . . . The Committee urges the State party to take remedial action to address the problems of clandestine abortions, unwanted pregnancies and the high rate of maternal mortality. In this regard, the Committee urges the State party to reinforce reproductive and sexual health programmes, in particular in rural areas, and to allow abortion when pregnancies are life threatening or a result of rape or incest.”<sup>6</sup>*

Nepal (2001)

### **Basic Information**

#### **FUNCTIONS**

CESCR has two main functions

**Monitor and Review States Parties:** States parties must submit an initial report within two years of ratification. Subsequent reports are required every five years. If a report is not submitted, the committee may elect to review a state’s compliance with the convention without a report.

**Report to the UN:** The committee submits annual reports to the UN Economic and Social Council.

#### **STATES PARTIES**

145 states are party to the Economic, Social and Cultural Rights Covenant (as of August 21, 2002).

To find out if a country has ratified the Covenant, visit <http://www.unhchr.ch/pdf/report.pdf>.

## ***An Advocate's Guide to the Work of UN Treaty Monitoring Bodies on Reproductive and Sexual Rights***

**COMMITTEE MEMBERSHIP** CESCR is comprised of 18 experts, nominated by states parties, and elected by the UN Economic and Social Council. Each expert serves for four years and is eligible for reelection, if renominated.

**COMMITTEE MEETINGS** The committee meets twice a year in April/May and November/December in Geneva, Switzerland.

**For more information about the sessions and for a list of countries scheduled for review, visit <http://www.unhchr.ch/html/menu2/6/cescr/cescrs.htm>.**

**SUBMISSION OF NGO REPORTS** Alternative reports should discuss the implementation of the Economic, Social and Cultural Rights Covenant by a state party on an article-by-article basis. CESCR is particularly interested in information on the state party's family planning and reproductive health care programs, as well as issues of access to reproductive health care facilities for minorities and indigenous women.

NGO reports can be submitted up to one week prior to the commencement of the session. However, it is more effective if the report is submitted to the secretariat one week before the pre-sessional working group's meeting, which takes place six months to a year prior to the scheduled review of the state party's report.

Reports should include specific questions for the pre-sessional working group to consider for inclusion on the "List of Issues" provided to states parties for consideration prior to their formal review session.

**Information about the pre-sessional working groups and schedules for the review of country reports can be found at <http://www.unhchr.ch/html/menu2/6/cescrnote.htm>.**

NGO reports submitted in English will reach the widest audience because 14 of the 18 committee members work in or understand English. Where possible, submit a summary of the report in all the working languages of the committee: English, French, Spanish and Russian.

**COUNTRY RAPPORTEURS** Prior to the pre-sessional working group meeting, a committee member is appointed as a "country rapporteur." The country rapporteur is responsible for creating a preliminary list of issues to be discussed and finalized at the pre-sessional working group meeting and to draft the concluding observations that will be adopted by the committee. Information may be submitted directly to the country rapporteur for consideration.

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**SECRETARIAT** Alexandre Tikhonov  
Secretary  
Committee on Economic, Social and Cultural Rights  
UNOG-OHCHR  
CH-1211 Geneva 10  
Switzerland  
Phone: + 41 22 917 9321  
Fax: + 41 22 917 9046/9022  
Email: atikhonov.hchr@unog.ch

**NGO PARTICIPATION** NGOs are invited to give presentations during the first morning of the pre-sessional working group meeting, and at NGO hearings, which are held on the first afternoon of each session. To speak at either meeting, contact the secretariat in advance for accreditation.

NGOs have no formal opportunity to speak during the committee's review of a state party's report, but they may attend as observers. NGOs can also meet informally with committee members between sessions.

**OTHER INFORMATION** For more detailed information on NGO involvement with CESCR, consult the document entitled, NGO participation in the activities of the committee on Economic, Social and Cultural Rights, UN Doc. E/C.12/2000/6, which is available on the UN Treaty Bodies Database at: <http://www.unhchr.ch/tbs/doc.nsf>.

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**Endnotes**

- 1 International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3 (entered into force Jan. 3, 1976).
- 2 Committee on Economic, Social and Cultural Rights, *General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12)* (22nd Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 90, U.N. Doc. HRI/GEN/1/Rev.5 (2001).<sup>3</sup>
- 3 *Id.* ¶ 8.
- 4 *Id.* ¶ 14.
- 5 *Id.* ¶ 21.
- 6 Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Nepal*, ¶¶ 33, 55, U.N. Doc. E/C.12/1/Add.66 (Sept. 24, 2001).

## ***VI. Committee on the Elimination of Racial Discrimination (CERD)***

CERD, established in 1969, monitors state compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (Convention against Racial Discrimination).<sup>1</sup>

### **MANDATE**

The Convention against Racial Discrimination outlines the measures states must take to ensure the elimination of racial discrimination. States parties agree to ensure that neither governments, individuals, groups nor organizations engage in discrimination that violates individual human rights and freedoms on the basis of race, color, descent, national or ethnic origin.

In its recent concluding observations, CERD has identified coercive sterilization, sexual violence, and forced pregnancy resulting from rape as examples of combined gender and racial discrimination. Closely related examples of such discrimination include women's inability to access reproductive health care services, such as family planning information and services, sexual education and pregnancy-related care.

### **RELEVANT PROVISIONS OF THE CONVENTION AGAINST RACIAL DISCRIMINATION**

**Article 5(b)** guarantees the right to security of person and protection by the state against violence or bodily harm.

**Article 5(d)** defines several rights, including the right to marry and choose a spouse, the right to inherit, and the right to own property.

**Article 5(e)** defines several economic and social rights, including the right to public health, medical care, social security and social services; the right to education and training; and rights related to employment.

**General Recommendation XXV: Gender Related Dimensions of Racial Discrimination (2000)**<sup>2</sup> recognizes that racial discrimination "affects women in a different way" and "may have consequences that affect primarily or only women, such as pregnancy resulting from racial bias-motivated rape. . . ."<sup>3</sup>

### **MODEL CONCLUDING OBSERVATION**

*"The Committee is concerned that a disproportionately large number of Roma suffer higher mortality rates, have poorer nutrition levels, and low levels of awareness of maternal and child health. Moreover, the committee is concerned about poor access to clean drinking water, adequate sanitation, and high exposure to environmental pollution in Roma settlements. The Committee recommends that the State Party take all necessary measures to ensure that the Roma enjoy the full right to health and health*

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*care. The Committee recommends that the State Party prioritize and target social services for persons belonging to the most vulnerable groups."*<sup>4</sup>

Slovakia (2001)

**Basic Information**

**FUNCTIONS**

CERD has three main functions

**Monitor and Review States Parties:** States must submit an initial report within a year of ratification. Subsequent reports are due every four years and brief update reports every two years.

**Receive Individual Complaints:** Individuals or groups may bring a discrimination claim against the state, but only if the state party recognizes the authority of the committee to receive such complaints. To find out if a country permits individual complaints, visit [http://www.unhchr.ch/html/menu6/2/fs12.htm#n\\_5\\_](http://www.unhchr.ch/html/menu6/2/fs12.htm#n_5_).

**Report to the UN:** The committee submits an annual report to the UN General Assembly.

**STATES PARTIES**

162 states are party to the Convention against Racial Discrimination (as of August 21, 2002).

**To find out if a country is a party to the convention, visit <http://www.unhchr.ch/pdf/report.pdf>.**

39 states parties have recognized the competence of CERD to receive and process individual complaints.

**To find out if a country permits individual complaints, visit [http://www.unhchr.ch/html/menu6/2/fs12.htm#n\\_5\\_](http://www.unhchr.ch/html/menu6/2/fs12.htm#n_5_).**

**COMMITTEE MEMBERSHIP**

CERD is comprised of 18 experts who are elected by secret ballot by states parties. Each expert serves for four years, with half of the committee members replaced every two years.

**COMMITTEE MEETINGS**

The committee meets twice a year, for three weeks each in March and August in Geneva, Switzerland.

**For more information about the sessions and for a list of the countries scheduled for review, visit <http://www.unhchr.ch/html/menu2/6/cerd/cerds.htm>.**

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**SUBMISSION OF NGO REPORTS** Reports by NGOs to CERD should follow the committee's General Guidelines Regarding the Form and Contents of Reports to be Submitted by States Parties. The reporting guidelines are available in the CERD section of the UN Treaty Body Database at <http://www.unhchr.ch/tbs/doc.nsf>.

Reports can be submitted either electronically or in hard copy to the secretariat no later than one week prior to the commencement of the session. However, NGO reports are more likely to be taken into consideration by the committee if they are submitted to the country rapporteur (see further information below) several weeks prior to the session.

The report should be submitted in the working language of the country rapporteur, if possible, and/or English, French or Spanish. English is the working language of 12 committee members, and can be read by most of them.

**COUNTRY RAPPOREURS** Prior to the committee's review of a state party's report, a committee member is appointed as "country rapporteur," or point person on that country. The country rapporteur is responsible for elaborating a list of issues to be raised during the full committee's examination of the country report, and to draft the concluding observations that will be adopted by the committee.

The designated country rapporteurs are listed in CERD's Annual Report to the General Assembly, which is available in the UN Treaty Body Database at <http://www.unhchr.ch/tbs/doc.nsf>.

**SECRETARIAT** Ms. Nathalie Prouvez  
Secretary  
Committee on the Elimination of Racial Discrimination  
UNOG-OHCHR  
CH-1211 Geneva 10  
Phone: + 41 22 917 9309  
Fax: + 41 22 917 9022  
Email: [nprouvez.hchr@unog.ch](mailto:nprouvez.hchr@unog.ch)

**NGO PARTICIPATION** NGOs have no formal opportunity to speak during the committee's review of a state party's report, but they may attend as observers. NGOs can meet informally with committee members between sessions, and may also schedule lunchtime briefings with committee members. To schedule a briefing, contact the secretariat several weeks prior to the commencement of the session.

**Endnotes**

- 1 International Convention on the Elimination of All Forms of Racial Discrimination, *adopted* Dec. 21, 1965, G.A. Res. 2106 (XX) (1965), 660 U.N.T.S. 195 (entered into force Jan. 4, 1969).
- 2 Committee on the Elimination of Racial Discrimination, *General Recommendation XXV: Gender Related Dimensions of Racial Discrimination* (56th Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 194, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- 3 *Id.* ¶¶ 1-2.
- 4 Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on Racial Discrimination: Slovakia*, ¶ 14, U.N. Doc. CERD/C/304/Add.110 (May 1, 2001).

## ***VII. Committee on the Rights of the Child (CRC)***

CRC, established in 1991, monitors compliance with the Convention on the Rights of the Child (Children's Rights Convention).

### **MANDATE**

The Children's Rights Convention guarantees people under the age of 18 the right to non-discrimination, life, survival and development, and political participation. It specifically recognizes children's and adolescents' right "to the enjoyment of the highest standard of health and to facilities for the treatment of illness and rehabilitation of health."

Adolescent reproductive health and rights are an integral part of CRC's mandate under the Children's Rights Convention. The convention requires states parties to take appropriate measures "to develop family planning and education services." Further, the Children's Rights Convention explicitly recognizes sexual violence and abuse and harmful traditional practices as violations of the rights of young girls and adolescents.

In its concluding observations to states parties, CRC has consistently advocated for adolescents' access to sexual education, family planning information and confidential counseling, and comprehensive reproductive health care services. The committee has also asked states parties to take steps to eliminate practices that are harmful to girl children, particularly female circumcision/female genital mutilation (FC/FGM).

### **REPRODUCTIVE RIGHTS PROVISIONS IN THE CHILDREN'S RIGHTS CONVENTION**

**Article 2** sets forth prohibited grounds of discrimination, including sex or other status such as age.

**Article 6** ensures children's right to life and survival.

**Article 13** grants children the right to impart and receive information of all kinds.

**Article 24** places responsibility on the state to ensure proper health care for mothers, children, and families and guarantees children's right to the highest standard of health.

**Article 28** ensures every child's right to education.

**Article 32** protects children from economic exploitation and from work that would be hazardous or harmful to the child's development.

**Article 37** ensures the right to liberty and security of the person.

**MODEL CONCLUDING OBSERVATION**

*"The Committee expresses its concern at the high maternal mortality rate, the limited access by teenagers to reproductive and sexual health education and counseling services, including outside the school system, and the low level of contraceptive use. . . . The Committee recommends that the State party undertake a comprehensive and multidisciplinary study to determine the scope of adolescent health problems, including mental health, as a basis for promoting adolescent health policies and strengthening reproductive health education. The Committee also recommends that further efforts be undertaken for the development of child-friendly counseling services as well as care and rehabilitation facilities for adolescents."*

**Cambodia (2000)**

***Basic Information***

**FUNCTIONS**

CRC has two main functions

**Monitor and Review States Parties:** States must submit an initial report to the committee within two years of ratification. Subsequent reports are required every five years.

**Report to UN:** The committee submits a report to the UN General Assembly through the Economic and Social Council every two years.

**STATES PARTIES**

191 states are party to the Children's Rights Convention (as of August 21, 2002).

37 states are party to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (as of August 21, 2002).

36 states are party to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (as of August 21, 2002).

**To find out if a country has ratified the convention or its optional protocols, visit <http://www.unhchr.ch/pdf/report.pdf>.**

**COMMITTEE MEMBERSHIP**

CRC is comprised of ten independent experts representing a diversity of countries and legal systems. Each expert serves for four years, with half of the committee members replaced every two years. Experts are eligible for reelection, if renominated.

## *An Advocate's Guide to the Work of UN Treaty Monitoring Bodies on Reproductive and Sexual Rights*

**COMMITTEE MEETINGS** The committee meets three times a year, in January, May/June and September/October at the Office of the High Commissioner of Human Rights in Geneva.

**For more information on committee sessions, visit**  
<http://www.unhchr.ch/html/menu2/6/crc/crcs.htm>.

**SUBMISSION OF NGO REPORTS** NGO reports should be submitted three months prior to the pre-sessional working group meetings, which are held for one week after each session to prepare for the next session. While reports submitted up to the commencement of the session are transmitted to committee members, they are not used in the preparation of the country analysis or "List of Issues," and are not given the same weight.

NGO reports should follow the committee's General Guidelines regarding the Form and the Content of Initial Reports, which require that reports follow a specific thematic structure rather than an article-by-article approach. The guidelines are available at <http://www.unhchr.ch/html/menu6/2/fs10.htm>.

NGO reports should be no more than 30 pages, and should make concrete recommendations. Reports submitted in English will reach the widest audience, but reports can be submitted in any of the committee's other two working languages, French and Spanish. A short summary of the report in English should be provided if the report is submitted in French or Spanish.

**COUNTRY RAPPORTEURS** Prior to the pre-sessional working group meeting, a committee member is appointed as a "country rapporteur." Together with the secretariat, the rapporteur produces a first draft of the "List of Issues" and concluding observations.

**SECRETARIAT** Paulo David  
Secretary  
Committee on the Rights of the Child  
UNOG-OHCHR  
CH 1211 Geneva 10  
Switzerland  
Phone: + 41 22 917 9000  
Fax: + 41 22 917 9022  
Email: [pdavid.hchr@unog.ch](mailto:pdavid.hchr@unog.ch)

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**NGO  
PARTICIPATION**

NGOs may participate in the committee's pre-session working group meetings. Requests to participate should be made to the secretariat two months prior to the commencement of the meeting. CRC will issue written invitations to select NGOs that have submitted information that is particularly relevant to the committee's consideration of the state party report.

NGOs have no formal opportunity to speak during the committee's formal review of a state party's report, but they may attend as observers. NGOs can meet informally with committee members between sessions.

**OTHER  
INFORMATION**

The NGO Group for the Convention on the Rights of the Child acts as an official liaison between CRC and NGOs. NGO reports should be submitted directly to the NGO Group in both electronic and print form for distribution to committee members. The NGO Group can also provide additional support to NGOs.

The group has prepared a comprehensive guide to NGO participation in the activities of CRC, which is available at [www.crin.org/docs/resources/publications/NGOCRC/NGOCRC-Guide-en.doc](http://www.crin.org/docs/resources/publications/NGOCRC/NGOCRC-Guide-en.doc).

NGO Group for the Convention on the Rights of the Child  
P.O. Box 88  
1211 Geneva 20  
Switzerland  
Phone: + 41 22 740 4730  
Fax: + 41 22 740 1145  
Web Site: <http://www.crin.org/NGOGroupforCRC/>

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**Endnotes**

- 1 Convention on the Rights of the Child, *adopted* Nov. 20, 1989, G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (*entered into force* Sept. 2, 1990).
- 2 *Id.* art. 24(1).
- 3 *Id.* art. 24(2)(f).
- 4 Committee on the Rights of the Child: *Concluding Observations of the Committee on the Rights of the Child: Cambodia*, ¶¶ 52–53, U.N. Doc. CRC/C/15/Add.128 (June 28, 2000).

## **VIII. The Human Rights Committee (HRC)**

HRC, established in 1976, monitors compliance with the International Covenant on Civil and Political Rights (Civil and Political Rights Covenant-) and its two optional protocols.

### **MANDATE**

The Civil and Political Rights Covenant covers the right to life, liberty and security of the person and the right to privacy.

Because reproductive rights are an essential condition for women's equality, the articles on the right to life (Article 6) and non-discrimination (Articles 3 and 26) give rise to a governmental duty to ensure the full range of reproductive health services, including the means for preventing unwanted pregnancy. HRC has deemed countries in violation of the Civil and Political Rights Covenant when women have difficulty accessing contraceptive methods to prevent unwanted pregnancies.

HRC's mandate also explicitly addresses women's right to liberty (Article 9), physical integrity (Article 7) and privacy (Article 17). In its concluding observations to states parties the committee has urged states to promulgate laws providing effective protection against violence against women, including sexual violence. The committee has maintained that it violates the Civil and Political Covenant to require rape survivors to pursue charges against their aggressor instead of the state independently prosecuting the crime, as well as subjecting women who undergo abortion to criminal penalties (see Articles 3, 6, and 7). The committee has criticized legal provisions that exempt a rapist from punishment if he marries his victim, as well as laws that do not consider marital rape an offense. It has further commented that acts of discrimination, such as sexual harassment in the workplace, should be criminalized.

### **REPRODUCTIVE RIGHTS PROVISIONS OF THE CIVIL AND POLITICAL RIGHTS COVENANT**

**Article 3** ensures the equal right of men and women to enjoy the rights laid out in the covenant.

**Article 6** recognizes every person's right to life.

**Article 7** establishes that no one should be subjected to torture or to inhuman or degrading treatment or punishment.

**Article 9** establishes that all people have the right to liberty and security of person.

**Article 17** ensures the right to be free from arbitrary or unlawful interference with privacy and family.

**Article 26** protects individuals from discrimination on prohibited grounds.

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**General Comment 28:** Equality of Rights Between Men and Women (2000): Although the committee does not explicitly discuss women's right to reproductive health in General Comment 28, certain aspects of it are relevant to the provision of reproductive health services. For example, the General Comment specifically discusses women's equal right to privacy in relation to their reproductive functions. It also asks states parties to report on laws and public or private actions that interfere with women's equal enjoyment of the right to privacy and to take measures to eliminate such interference.

**MODEL CONCLUDING OBSERVATION**

*"The Committee notes with concern: (a) strict laws on abortion which lead to high numbers of clandestine abortions with attendant risks to life and health of women; (b) limited accessibility for women to contraceptives due to high prices and restricted access to suitable prescriptions; (c) the elimination of sexual education from the school curriculum; and (d) the insufficiency of public family planning programmes (Arts. 3, 6, 9 and 26). The State party should introduce policies and programmes promoting full and non-discriminatory access to all methods of family planning and reintroduce sexual education at public schools."*

**Poland (1999)**

**Basic Information**

**FUNCTIONS**

HRC has three main functions

**Monitor and Review States parties:** States must submit initial progress reports within one year of ratification. Subsequent reports must be submitted every five years or upon request.

**Receive Individual Complaints:** If the state has ratified the First Optional Protocol to the Civil and Political Rights Covenant, individuals may submit a claim of the state's violation of treaty provisions to the committee.

**Report to the UN:** The committee submits an annual report to the UN General Assembly through the Economic and Social Council.

**STATES PARTIES**

148 states are party to the Civil and Political Rights Covenant (as of August 21, 2002).

102 states are party to the First Optional Protocol to the Civil and Political Rights Covenant, which allows individuals to submit complaints against a state party directly to the committee (as of August 21, 2002).

## ***An Advocate's Guide to the Work of UN Treaty Monitoring Bodies on Reproductive and Sexual Rights***

47 states are party to the Second Optional Protocol to the Civil and Political Rights Covenant, which aims to abolish the death penalty (as of August 21, 2002).

**To find out if your state has ratified the covenant or its optional protocols, visit <http://www.unhchr.ch/pdf/report.pdf>.**

### **COMMITTEE MEMBERSHIP**

HRC is comprised of 18 independent experts, elected by states parties, taking into consideration equitable geographic distribution. Each expert serves a four-year term, with half of the committee replaced every two years. Experts are eligible for reelection, if renominated.

### **COMMITTEE MEETINGS**

The committee meets three times a year, generally in March at the UN headquarters in New York and in July and November at the UN Office in Geneva.

**For more information on the sessions, visit <http://www.unhchr.ch/html/menu2/6/hrc/hrcs.htm>.**

### **SUBMISSION OF NGO REPORTS**

Although NGO reports can be submitted up to the first day of the session, the committee has more opportunity to take them into consideration and include NGO concerns in their "List of Issues" for states parties when reports are submitted prior to the meeting of the pre-sessional working group. The pre-sessional working group meets for one week prior to the commencement of each session to prepare for the next consecutive session.

Reports submitted in English will reach the widest audience; however reports may be submitted in any of the committee's three working languages: English, French or Spanish.

NGO reports should provide an article-by-article analysis of the state party's implementation of the covenant. With regard to reproductive rights, the committee is particularly interested in:

- laws permitting or prohibiting abortion;
- traditional practices affecting the right to reproductive and sexual health, such as female circumcision/female genital mutilation (FC/FGM);
- equal and non-discriminatory access to health care and family planning;

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- discriminatory laws establishing different minimum ages for marriage of boys and girls, or allowing child marriages; and
- laws (or absence of laws) against trafficking.

**COUNTRY  
RAPPORTEURS**

Prior to the pre-sessional working group meeting, a committee member is appointed as "country rapporteur." The rapporteur produces a first draft of the list of issues for the pre-sessional working group meeting and concluding observations.

**SECRETARIAT**

Markus Schmidt  
Secretary  
Human Rights Committee  
UNOG-OHCHR  
CH-1211 Geneva 10  
Switzerland  
Ph: + 41 22 917 9249  
Fax: + 41 22 917 9006  
Email: mschmidt.hchr@unog.ch

**NGO  
PARTICIPATION**

NGOs have no formal opportunity to speak during the committee's review of a state party's report, but they may attend as observers. NGOs can meet informally with committee members between sessions, and may also schedule lunchtime or breakfast briefings for committee members. To schedule a briefing, contact the secretariat several weeks prior to the commencement of the session.

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**Endnotes**

- 1 International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).
- 2 Optional Protocol to the International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 59, U.N. Doc. A/6316, 999 U.N.T.S. 302 (entered into force Mar. 23, 1976); Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at Abolition of the Death Penalty, G.A. Res. 44/128, U.N. GAOR, 44th Sess., Supp. No. 49, at 207, U.N. Doc. A/44/49 (1989) (entered into force July 11, 1991).
- 3 Human Rights Committee, Concluding Observations of the Human Rights Committee: Poland, ¶ 11, U.N. Doc. No. CCPR/C/79/Add.110 (July 29, 1999).

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