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**Government of Pakistan  
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**PAKISTAN'S INTERNATIONAL  
HUMAN RIGHTS REPORTING OBLIGATIONS**

**TRAINING PACKAGE**

**MODULE 2**

**Understanding the International  
Human Rights Treaty Body System**

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## 1. INTRODUCTION TO THE MODULE

### **About:**

This Training Module provides sequentially presented instructional units designed to support participants' absorption of substantive and procedural information on the International Human Rights Treaty Body System. The module provides information, concepts and reference to the Pakistani context that enables target trainees and instructors to emerge from the training with not just information but a keen appreciation for its application within both Pakistan and the international human rights system.

### **Scope and usage:**

The training module has been designed to facilitate participant-trainees during training workshops conducted by the EU-funded Promotion of Human Rights in Pakistan Program (Huqooq-e-Pakistan). A digital copy of the training module will also be provided to the training participants. The training module covers each topic area extensively, enabling participant-trainees to go beyond the training sessions, and educate themselves about the topic areas extensively. Each section of the training module is followed by a small exercise so that learners can test their own knowledge retention. The modules have been specifically tailored with respect to the Pakistani context. Extensive referencing and pointers for additional reading ensure that the training modules can serve as definitive reference materials on the topic areas that they cover.

### **Beneficiaries:**

The primary beneficiaries of the training modules are the participant trainees of the H-e-P Training & Capacity Development Program, which include officials from the Federal Ministry of Human Rights, Provincial Human Rights Departments and Treaty Implementation Cells.

These modules can also be used by National Human Rights Institutions (NHRIs), Civil Society Organisations (CSOs), UN Agencies, donor-funded technical assistance initiatives and educational institutions in Pakistan to deliver trainings on the subject-area as and when required. Any individual, whether or not s(he) has a role to play in the reporting process, can benefit from these training modules as they are standalone documents which are designed to be self-explanatory for individual learning.

## 2. INTRODUCTION TO HUMAN RIGHTS TREATY BODIES

The treaty bodies are international committees comprising of independent experts who monitor State parties' implementation of each of the nine core human rights treaties and their optional protocols (See Module 1).

As specified in Module 1, when a State becomes a party to a treaty, it assumes a legal obligation to implement the rights set out therein. In order to track the progress that State parties make in meeting their human rights obligations, each of the nine core international human rights treaties establishes an oversight mechanism. In addition, the Optional Protocol to the Convention against Torture establishes the Subcommittee on Prevention of Torture, with a specific mandate on torture prevention.

These oversight mechanisms — often referred to as 'committees' — monitor and encourage States to uphold and implement their international obligations under the relevant treaties to which they are signatory to. The implementation of each of the international treaties is monitored by its own, specific committee. This is based on reports submitted by State parties periodically along with additional information submitted from non-governmental organisations (NGOs) and National Human Rights Institutions (NHRIs) other relevant sources.

At present, the UN Human Rights Treaty Body System consists of ten Treaty Bodies, as outlined in Table 1, which monitor the implementation of the nine core international human rights treaties and the Optional Protocol to the Convention against Torture. All the treaty bodies receive secretariat support from the Treaties and Follow-up Unit of the Treaties and Council Branch of the UN Office of the High Commissioner for Human Rights (OHCHR). Pakistan is under the obligation to report to 7 out of these 10 treaty bodies, as outlined in the table below:

*Table 1: The 10 UN Human Rights Treaty Bodies*

Human Rights Treaties		Year of Adoption	Related Treaty Body	Pakistan's Reporting Obligation
International Convention on the Elimination of All Forms of Racial Discrimination	ICERD	1965	Committee on the Elimination of Racial Discrimination (CERD)	✓
International Covenant on Civil and Political Rights	ICCPR	1966	Human Rights Committee (HRCtee/HRC)	✓
International Covenant on Economic, Social and Cultural Rights	ICESCR	1966	Committee on Economic, Social and Cultural Rights (CESCR)	✓
Convention on the Elimination of All Forms of Discrimination against Women	CEDAW	1979	Committee on the Elimination of Discrimination against Women (CEDAW)	✓
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	CAT	1984	Committee against Torture (CAT)	✓
Convention on the Rights of the Child	CRC	1989	Committee on the Rights of the Child (CRC)	✓

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	ICRMW	1990	Committee on Migrant Workers (CMW)	x
Optional Protocol of the Convention against Torture	OPCAT	2002	The Subcommittee on Prevention of Torture (SPT)	x
International Convention on the Rights of Persons with Disabilities	CRPD	2006	Committee on the Rights of Persons with Disabilities (CRPD)	✓
International Convention for the Protection of All Persons from Enforced Disappearance	ICPPED	2006	Committee on Enforced Disappearances (CED)	x

## 2.1. Test Your Knowledge



### 1) What is the function of human rights treaty bodies?

- a) Ensure that states sign treaties.
- b) Monitor and encourage States to uphold and implement their international human rights obligations.
- c) Impose sanctions on states that do not uphold international human rights obligations.
- d) None of the above

### 2) Pakistan has reporting obligations to how many Treaty Bodies?

- a) 4
- b) 9
- c) 7
- d) 5

### 3) Pakistan does not have any reporting obligations under any of the Optional Protocols.

- a. True
- b. False

### 3. COMPOSITION OF TREATY BODIES

The Treaty Bodies are composed of independent experts who are of recognised competence in the field of human rights, ‘high moral standing’ and ‘of acknowledged impartiality’, as specified by the relevant human rights treaties.

The number of members on each treaty body committee varies from 10 to 25 (*See Table 2*). Members are nominated and elected by State parties to the relevant treaty from among their own nationals for fixed and renewable terms of four years each. To ensure continuity in membership, elections are staggered — States parties hold elections for half the membership every two years. States which are party to human rights treaties generally elect treaty body members at meetings of States parties, mostly at the UN Headquarters in the New York and at times at the UN Office at Geneva<sup>1 2</sup>.

Three of the treaty bodies limit membership to a maximum of two terms (SPT, CED, CRPD), while the other treaty bodies currently place no limit on the re-election of committee members. Equitable geographical distribution in addition to adequate representation of different legal systems and cultures is to be maintained in the selection of members of all treaty bodies. However, CESCR is the only treaty body that has a formalized geographical quota.

*Table 2: Number of members of Human Rights Treaty Bodies*

Treaty	Treaty Body	Number of Members
ICERD (1965)	Committee on the Elimination of Racial Discrimination (CERD)	18
ICCPR (1966)	Human Rights Committee (HRCtee/HRC)	18
ICESCR (1966)	Committee on Economic, Social and Cultural Rights (CESCR)	18
CEDAW (1979)	Committee on the Elimination of Discrimination against Women (CEDAW)	23
CAT (1984)	Committee against Torture (CAT)	10
CRC (1989)	Committee on the Rights of the Child (CRC)	18
ICRMW (1990)	Committee on Migrant Workers (CMW)	14
OPCAT (2002)	The Subcommittee on Prevention of Torture (SPT)	25
CRPD (2006)	Committee on the Rights of Persons with Disabilities (CRPD)	18
ICPPED (2006)	Committee on Enforced Disappearances (CED)	10

<sup>1</sup> The elections under the Convention against Torture and its Optional Protocol are held in Geneva.

<sup>2</sup> The elections of the Committee on the Rights of Persons with Disabilities take place during a Conference of States Parties (COSP), a meeting attended by States, Civil Society Organizations (CSOs) and other stakeholders during which various aspects of the implementation of the Convention are also discussed. For the Committee on Economic, Social and Cultural Rights, elections take place at a meeting of the United Nations Economic and Social Council.

### 3.1. Criteria for nomination & election of members

The treaties set out various criteria to guide States parties in the nomination and election of treaty body members. Additionally, the General Assembly, in its resolution 68/268, encourages States Parties, in the election of treaty body members, to give due consideration to:

- equitable geographical distribution,
- representation of the different forms of civilization and the principal legal systems,
- balanced gender representation
- the participation of experts with disabilities in the membership of the treaty bodies.

To facilitate this, OHCHR includes in the documentation prepared for elections an information note on the current situation with respect to the composition of the treaty body. The note reflects the balance in geographical distribution and gender representation, professional background and different legal systems, as well as the tenure of current members.

In order to be eligible for election, the nominee(s) should be of high moral standing. Not defined by any of the treaties, this term is widely used in many countries to qualify the suitability of individuals to enter certain professions or take up certain civic responsibilities. Certainly, an individual who has misused or misappropriated United Nations funds would not be of high moral standing and therefore ineligible.

Further, the treaties include other criteria for nomination, such as recognized competence in human rights or professional experience in the field covered by the treaty. This is also echoed by the General Assembly in its resolution 68/268 . Table 3 sets out these criteria treaty by treaty.

In addition to setting out criteria for potential nominees, the treaties include criteria to guide States parties when they nominate and elect experts. For example, most treaties allow States parties to nominate only one individual, who should be one of their nationals. While the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture allow a State party to nominate up to two individuals, under the Covenant, the



#### **DID YOU KNOW?**

*Treaty Body members do not receive a salary for their work. The United Nations pays the travel costs of members and a daily subsistence allowance to cover their costs (accommodation, board, local transport) during the session.*

Committee may not include more than one national of the same State. The Optional Protocol contains the most detailed criteria for nominating individuals and envisages the nomination of a candidate who need not be a national of the nominating State party. The Convention on the Rights of Persons with Disabilities requires consultation with persons with disabilities and their representative organizations in the nomination process.

Further to the criteria set out in the treaties, other factors may affect the candidature of specific individuals. For example, the appointment of individual experts to special procedure mandates of the Human Rights Council is subject to the principle of non-accumulation of concurrent human rights functions. While the treaties do not refer to this principle, the implication is that special procedure mandate holders who wish to seek nomination as treaty body members should first resign their mandates.

When electing members, States parties should also give due consideration to a range of factors such as equitable geographical distribution, and the representation of the different forms of civilization and of the principal legal systems. Only the Committee on Economic, Social and Cultural Rights is formally subject to membership allocation on a regional basis. Fifteen of its eighteen seats must be equally distributed among the five regional groups (as recognized by the United Nations); the other three are allocated in accordance with the increase in the total number of States parties per regional group.

Resolutions such as the General Assembly resolution 68/268, also require States parties to consider gender balance and the participation of experts with disabilities.

In addition to the qualifications and requirements set out in the treaties and in General Assembly resolutions, individuals interested in being nominated for election as treaty body members should consider their availability to prepare for and attend all treaty body meetings as well as their ability to work confidently in at least one of the working languages of the treaty body. It should be noted that the General Assembly, in its resolution 68/268 (para. 30), limits the working languages of the committees to three, generally English, French and Spanish.

The Convention on the Rights of Persons with Disabilities, the Optional Protocol to the Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance restrict the number of successive terms to two. Other treaties have no such limits.

*Table 3: Criteria for nomination and election of treaty body members*



Treaty	Criteria for experts to be nominated	Criteria for states in nominating members	Criteria for electing members	Membership
International Convention on the Elimination of All Forms of Racial Discrimination (art. 8)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Acknowledged impartiality</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate one person from among its own nationals</li> </ul>	<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the different forms of civilization</li> <li>✓ Consideration given to the representation of the principal legal systems</li> </ul>	<p><b>18 members</b></p> <ul style="list-style-type: none"> <li>✓ Four-year term</li> <li>✓ In practice, the member is eligible for re-election if re-nominated</li> </ul>
International Covenant on Civil and Political Rights (arts. 28 — 29 and 31)	<ul style="list-style-type: none"> <li>✓ High moral character</li> <li>✓ Recognized competence in the field of human rights</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate not more than two persons</li> <li>✓ These persons shall be nationals of the nominating State</li> <li>✓ The Committee may not include more than one national of the same State</li> </ul>	<ul style="list-style-type: none"> <li>✓ Consideration given to the usefulness of the participation of some persons having legal experience</li> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the different forms of civilization</li> <li>✓ Consideration given to the representation of the principal legal systems</li> </ul>	<p><b>18 members</b></p> <ul style="list-style-type: none"> <li>✓ Four-year term</li> <li>✓ Members eligible for re-election if re-nominated</li> </ul>
International Covenant on Economic, Social and Cultural Rights (ECOSOC resolution 1985/17 of 28 May 1985)	<ul style="list-style-type: none"> <li>✓ Recognized competence in the field of human rights</li> </ul>	<ul style="list-style-type: none"> <li>✓ Elected by ECOSOC from among Candidates nominated by States parties to the Covenant</li> </ul>	<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of different forms of social and legal systems</li> </ul>	<p><b>18 members</b></p> <ul style="list-style-type: none"> <li>✓ Four-year term</li> <li>✓ Members eligible for re-election if re-nominated</li> </ul>
Convention on the Elimination of All Forms of Discrimination against Women (art. 17)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Competence in the field covered by the Convention</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate one person from among its own nationals</li> </ul>	<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the different forms of civilization</li> <li>✓ Consideration given to the representation of the principal legal systems</li> </ul>	<p><b>23 members</b></p> <ul style="list-style-type: none"> <li>✓ Four-year term</li> <li>✓ In practice, members eligible for re-election if re-nominated</li> </ul>

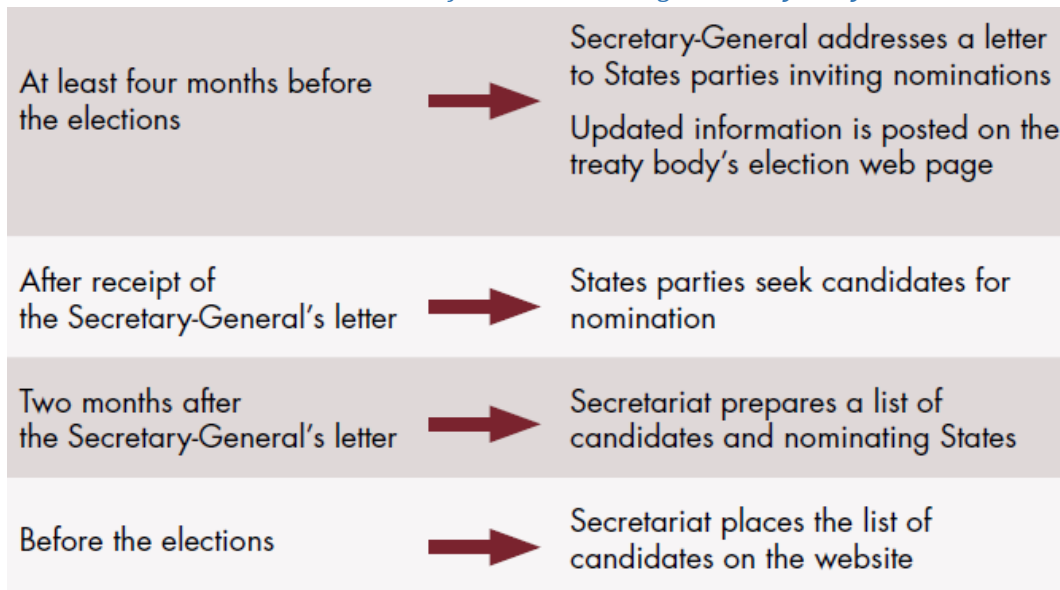
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 17)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Recognized competence in the field of human rights</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate one person from among its own nationals</li> <li>✓ State parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee</li> </ul>	<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical Distribution</li> <li>✓ Consideration given to the usefulness of the participation of some persons having legal experience</li> </ul>	<p><b>10 members</b></p> <ul style="list-style-type: none"> <li>✓ Four-year term</li> <li>✓ Members eligible for re-election if re-nominated</li> </ul>
Convention on the Rights of the Child (art. 43)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Recognized competence in the field covered by the Convention</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate one person from among its own nationals</li> </ul>	<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the principal legal systems</li> </ul>	<p><b>18 members</b></p> <ul style="list-style-type: none"> <li>✓ Four-year term</li> <li>✓ Members eligible for re-election if re-nominated</li> </ul>
Convention on the Rights of Persons with Disabilities (arts. 4.3 and 34)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Recognized competence and experience in the field covered by the Convention</li> </ul>	<ul style="list-style-type: none"> <li>✓ Due consideration given to close consultation and active participation of persons with disabilities</li> </ul>	<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the different forms of civilization</li> <li>✓ Consideration given to the representation of the principal legal systems</li> <li>✓ Consideration given to balanced gender representation</li> <li>✓ Consideration given to the participation of experts with disabilities</li> </ul>	<p><b>18 members</b></p> <ul style="list-style-type: none"> <li>✓ Four-year term</li> <li>✓ Eligible for re-election once</li> </ul>

For more details, please refer to the Handbook for Human Rights Treaty Body Members UNOHCHR 2015.

### **3.2. The Nomination Process**

The nomination process is set out in each treaty and begins at least four months before the election, when the Secretary-General sends a letter to States parties to the treaty inviting them to nominate candidates. At this stage, States begin their national selection of candidates. This process is very important. A good national nomination process ensures that the best candidates are able to seek election, and the better the pool of candidates, the higher the calibre of members of a treaty body. Table 4 table sets out the nomination process.

*Table 4: Nomination Process for UN Human Rights Treaty Body Members*



*Nomination principles for State Parties*

The treaties do not set out a specific process that States should follow when nominating candidates. However, the High Commissioner for Human Rights has encouraged States parties to consider the following principles when nominating experts:

- Have an open and transparent selection process.
- Consider candidates with a proven record of expertise in the relevant area (for example, through relevant work experience, publications and other achievements).
- Consider candidates who are willing to take on the full range of responsibilities of a treaty body member.
- Avoid nominations of experts holding any position that might expose them to pressures, conflict of interests or generate a real or perceived impression of a lack of independence.
- Limit the terms of service of members to a reasonable number for any given committee, bearing in mind that the most recent treaties allow a maximum of two successive terms.

The Secretary-General's letter specifies the date by which the secretariat should receive the nominations, which is generally two or three months before the elections. States parties should submit their nominations to the secretariat, together with the curricula vitae (CVs) of the nominees. The secretariat then prepares the list of nominees with their nominating States and circulates it to the Permanent Missions of the States parties. It is also posted on the treaty body's website, together with all other relevant documentation such as the rules of procedure.

### *Role of Civil Society Organisations in the nomination process*

The Convention on the Rights of Persons with Disabilities expressly identifies a role for persons with disabilities and their representative organizations in the nomination by States parties of candidates for election to the Committee<sup>3</sup>. However, civil society involvement in this nomination process is not envisaged in the other treaties. Civil society can nevertheless play an important role, even without being expressly referred to. CSOs may:

- Encourage the State to undertake an open and transparent national nomination process, including through advertising the position and interviewing potential candidates.
- Identify qualified candidates and propose them to the ministry in charge of the nomination process.
- Encourage the ministry in charge of the nomination process to select candidates who meet the requirements identified in the treaty, such as high moral standing and knowledge and experience in the relevant field, and to pay due attention to gender balance in the nomination of candidates.
- Encourage the ministry in charge of the nomination process to select candidates on merit rather than political considerations.
- Establish national partnerships with civil society and intergovernmental organizations, such as the United Nations Children’s Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the International Labour Organization (ILO), to work with the relevant ministry to choose well-qualified candidates.

### *3.3. The Election Process*

Elections are held every two years. Elections in New York generally take place in May and June. Elections for the Committee on Economic, Social and Cultural Rights take place during the session of the Economic and Social Council, generally in June. The elections for the Committee against Torture take place every two years in the month of October in Geneva, as do those under the Optional Protocol.

Each treaty — or in the case of the Committee on Economic, Social and Cultural Rights, resolution 1985/17 of the Economic and Social Council — stipulates that the Secretary-General organizes all the meetings of States parties during which elections take place. In practice, this means that OHCHR organizes the elections for all treaty bodies, with the exception of those for the

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<sup>3</sup> 4 (3) and 34)

Committee on Economic, Social and Cultural Rights, which are organized by the secretariat of the Economic and Social Council, located in the Department of Economic and Social Affairs. Each treaty body's rules of procedure govern the meetings of States parties, except again for the Committee on Economic, Social and Cultural Rights, to which the rules of procedure of the Economic and Social Council apply. The rules of procedure and practices of the General Assembly provide a guide for interpreting the rules of procedure for the meetings of States parties.

*Table 5: Election Calendar of UN Human Rights Treaty Bodies*

<b>Treaty Body</b>	<b>Timing of Elections</b>
Committee on the Elimination of Racial Discrimination	Odd years (2015, 2017, 2019 ...)
Human Rights Committee	Even years (2016, 2018, 2020 ...)
Committee on Economic, Social and Cultural Rights	Even years
Committee on the Elimination of Discrimination against Women	Even years
Committee against Torture	Odd years
Committee on the Rights of the Child	Even years
Committee on the Rights of Persons with Disabilities	Even years

At the meeting of States parties itself, a representative of the Secretary-General makes an opening statement, updating States parties on recent events and information concerning the treaty and the treaty body. The representative then moves to the first item on the agenda, which is the election of the Chair.

The Chair of the meeting rotates among the regional groups in alphabetical order, as follows:

- African States.
- Asian and Pacific States.
- Eastern European States.
- Latin American and Caribbean States.
- Western European and other States.

The Chair is normally the Permanent Representative or Deputy Permanent Representative of the Permanent Mission to the United Nations of the country elected to preside the meeting. The State party will nominate the candidate for Chair from the floor and election is generally by acclamation. The newly elected Chair then proceeds to the podium and chairs the rest of the meeting. The rules of procedure also require the election of up to four Vice-Chairs, although often

only one is elected. The secretariat will also ask Permanent Missions to provide tellers during the elections. The tellers supervise the collection of ballots and, together with the secretariat, participate in and endorse the counting of votes.

Once the meeting has elected its officers, the elections proceed by secret ballot. The secretariat distributes the ballot papers with the names of all candidates. Each State party indicates on the ballot paper the candidates it wishes to vote for. A State party may indicate as many as or fewer candidates than the total number of positions open for election, but not more. For example, if there are five vacant positions, the State may vote for up to five candidates by clearly marking the corresponding boxes. However, if it marks six or more, its vote is invalid and will not be counted.

The secretariat calls out the names of each State party in alphabetical order and a representative of the State proceeds to the podium or is approached by a conference officer to submit its ballot. Once all States parties have voted, the secretariat and the tellers take the ballot box to a private room and count the votes. To be elected to the treaty body, members must obtain *both* the largest number of votes *and* an absolute majority of votes from representatives of States parties present and voting at the meeting. If the first round does not yield enough members to fill all the vacant positions, the rules of procedure provide for additional rounds of voting until all vacancies are filled.

Occasionally, a position becomes vacant before the end of the four-year term, for example because a member has resigned or died. Depending on the wording of the treaty, such a vacancy is filled either through the appointment of a new member by the State party that nominated the original member or through a by-election.

Generally, treaties provide that the State party that nominated the original member may appoint a replacement from among its nationals to serve the remainder of the term. However, in the case of the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee on Migrant Workers, the treaty body must approve the appointment before it is formalized. In the case of the Committee against Torture, the Subcommittee on Prevention of Torture and the Committee on Enforced Disappearances, the States parties must approve the appointment. In the case of the Committee on Economic, Social and Cultural Rights, there is also a formal procedure for the election of a candidate from the regional group, who is usually from the State of the initial member.

When the treaty requires the appointment to be approved by the States parties, the approval is

considered to be obtained automatically unless at least half the States parties reject the candidate within six weeks of the notice from the Secretary-General informing them of the proposed appointment. The Convention on the Rights of Persons with Disabilities does not set out an approval mechanism, although it requires the proposed candidate to possess the qualifications and meet the requirements for members as set out in the Convention.

The International Covenant on Civil and Political Rights requires such vacancies to be filled through a by-election at an extraordinary meeting of States parties, unless the term of office of the member being replaced expires within six months of the formal notification by the Secretary-General of the vacancy. The Secretary-General organizes the by-election in the same way as a regular election. If the term has less than six months to run, no action is necessary.

For more information on nominations and elections, see: United Nations, *Human Rights Treaty Bodies and Election of Treaty Body Members: A Guide for United Nations Delegates Based in New York* (2013), available online at [www.ohchr.org](http://www.ohchr.org).

[CLICK HERE](#) for more information on the elections of treaty body members.

### **[3.4. Independence and Impartiality of Treaty Body Members](#)**

The treaties also stipulate that members should serve in their individual capacities. They should be independent and impartial. They should act in accordance with their conscience, with the terms of the treaty, and in the interests of the Treaty Body; and they should not act on behalf of other stakeholders. The Treaty Bodies also endorsed the self-regulatory Guidelines on the independence and impartiality of members of the human rights Treaty Bodies (“Addis Ababa Guidelines”), stipulating further safeguards for the independence and impartiality of Treaty Body members.

The Treaty Bodies are composed of **independent experts** who should be of recognised **competence in the field of human rights** and ‘of **high moral standing**’ or ‘of **acknowledged impartiality**’, as stipulated by the relevant treaties. It is important to note that even though the members of the treaty bodies are elected by States, they are meant to serve in their personal capacity and to carry out their duties with absolute impartiality and objectivity. The treaty bodies are intended to serve as **autonomous expert bodies** and not political or inter-governmental bodies such as the UN Human Rights Council or the UN Security Council.

The Treaty Bodies also endorsed the self-regulatory Guidelines on the independence and impartiality of members of the human rights Treaty Bodies (“Addis Ababa Guidelines”),

stipulating further safeguards for the independence and impartiality of Treaty Body members. **The Addis Ababa Guidelines on the Independence and Impartiality of Members of the Human Rights Treaty Bodies** sets out a series of principles and practical steps for ensuring the neutrality of committee members. It is up to each of the treaty bodies to implement the Guidelines. Many have adopted them or incorporated them into their rules of procedure.



### 3.5. Test Your Knowledge



**1) The Treaty Bodies are composed of independent experts who are not of recognised competence in the field of human rights, 'high moral standing' and 'of acknowledged impartiality'.**

- a) True
- b) False

**2) Which Treaty Body Committee has a formalised geographical quota?**

- a) ICESCR
- b) CAT
- c) ICCPR
- d) CEDAW

**3) States parties do not to consider gender balance and the participation of experts with disabilities**

- a) True
- b) False

**4) Under which convention can civil societies expressly have an involvement in the nomination process?**

- a) ICCPR
- b) CEDAW
- c) ICRPD
- d) CAT

**5) The Election process of Committee members takes place after how many years?**

- a) 2 years
- b) 5 years
- c) 3 years
- d) They are elected just once and have a permanent tenure

**6) Treaty body members' impartiality and independence was laid down under which guidelines:**

- a) Addis Ababa Guidelines
- b) UN GA resolution 1503
- c) Under the ICJ Statute
- d) None of the above

## 4. FUNCTIONS OF TREATY BODIES

The Treaty Bodies are mandated in the respective treaties or optional protocols to undertake a number of functions to monitor treaty implementation, namely, to review State parties' reports; to consider complaints from individuals; or to conduct inquiries and country visits. They also undertake other functions, namely responding to requests for urgent action, elaborating general comments or reviewing inter-State complaints. How these functions are performed is also elaborated in the treaties or optional protocols, and further specified in the rules of procedure and working methods of each Treaty Body. Not all Treaty Bodies perform the above functions; a summary of each Treaty Body function is detailed below. The main functions of Treaty Bodies are as follows:

### *4.1. Review of State Parties' Reports*

All Treaty Bodies except the SPT are mandated to consider reports which State parties are obliged to submit periodically on steps taken to implement the provisions of the relevant treaty and any difficulties encountered in that regard. In the case of the CRC, its mandate also includes the substantive optional protocols of the Convention, namely on the 'Sale of Children' and on 'Children and Armed Conflict'. This means that the number of reports a State is required to submit periodically will depend on the number of international human rights treaties to which that State is a party. The Treaty Bodies review these reports, identify issues of concern and make recommendations in what are known as "concluding observations".

### *4.2. Consideration of complaints from Individuals*

All Treaty Bodies apart from the SPT are entitled to receive and consider complaints (known as "communications") from individuals (or groups of individuals) alleging that their rights under a treaty have been violated by a State party to that treaty. The CMW is the only Treaty Body of which the mandate to consider individual communications is not yet operative.

The individual communication procedure is optional, which means that the State party to a treaty of which a violation is alleged must have expressly recognized the competence of the Treaty Body to receive and consider complaints from individuals under its jurisdiction. Such competence is recognized either through a declaration pertaining to a specific provision of the treaty (ICERD, CAT, CMW, CED) or through ratification of the relevant Optional Protocol (ICCPR, ICESCR, CEDAW, CRC, CRPD).

Communications are subject to admissibility criteria such as exhaustion of all domestic remedies prior to submission of the communication to the Treaty Body. The admissibility criteria are spelled out in the respective treaty or the optional protocol. They are mostly identical although

slight differences exist depending on the treaty in question. Once the Treaty Body considers the submission of the individual and the observations of the State party concerned on the case, it adopts views (or a decision) on its admissibility and merits and any decision on remedies, if relevant. The Treaty Bodies' views (decisions) represent an authoritative interpretation of the respective treaties. They contain recommendations to the State party in question. All Treaty Bodies have developed procedures for monitoring whether State parties have implemented their decisions ( follow-up procedures), since they consider that, by accepting the complaint procedures, State parties have also accepted an obligation to respect the committee's findings. State parties have to include information on implementation of the views and decisions of the committees in the individual cases systematically in their periodic reports.

#### **4.3. Country Visits:**

The Subcommittee on Prevention of Torture (SPT) has a mandate to visit all places where persons are or may be deprived of their liberty within the jurisdiction and control of State parties to the Optional Protocol to the Convention against Torture (OPCAT). However, SPT's mandate to undertake country visits does not cover Pakistan as it has not signed the OPCAT till date.

#### **4.4. Inquiries:**

Six Treaty Bodies (CAT, CEDAW, CESCR, CRC, CRPD and CED) have a mandate to conduct inquiries when they receive reliable information indicating grave or systematic violations by a State party of rights set forth in the treaty. With the exception of CED, for which State parties automatically accept the committee's competence when they ratify the Convention, inquiries may be undertaken only with respect to State parties that have recognized the competence of the relevant Treaty Body in that regard (by not opting out of the respective treaty provision or by becoming a State party to the Optional Protocol setting out the inquiry procedure).

The procedure may be initiated once information complying with the criteria set out above is received by a Treaty Body. Then the Treaty Body will invite the State party to cooperate in the examination of the information received by submitting its observations. Based on the State party's observations and other relevant information available to it, a committee may designate one or more of its members to conduct a confidential enquiry, which may include a visit to the State party concerned. The Treaty Body then would prepare a confidential report and send it to the State for comment. The procedure to conduct an enquiry is confidential although the Treaty Body may publish the final report or a summary thereof. Most treaties state that the committee may, after consultation with the State party concerned, decide to include a summary account of the results of the proceedings in its annual report.

#### **4.5. Urgent Actions:**

The Committee on Enforced Disappearances (CED) has the authority to receive urgent requests from relatives of a disappeared person – or their legal representative or any other authorized person – that a disappeared person should be sought and found. However, CED’s mandate does not cover Pakistan as the state has not signed the Convention for the Protection of All Persons from Enforced Disappearance (2006).

For its part, the Committee on the Elimination of Racial Discrimination (CERD) established the early warning and urgent action procedures which seek to prevent and respond to serious violations of the Convention. While early warning measures are to be directed towards preventing existing problems from escalating into conflicts, urgent procedures are needed in response to problems requiring immediate attention so as to prevent or limit the scale or number of serious violations of the Convention. Under these procedures, which may be initiated on the Committee’s own initiative or on the basis of information submitted by third parties, CERD may request information from State parties on relevant racial discrimination situations of concern and adopt a decision expressing specific concerns addressed to the State party in question.

This decision can also be addressed to the Human Rights Council and its Special Procedures as well as to the High Commissioner for Human Rights and to the Secretary General with a recommendation that the matter be brought to the attention of the Security Council, and the Committee can resort to further measures such as field visits.

#### **4.6. Bringing a matter to the attention of the GA:**

CED may bring urgently to the attention of the General Assembly, information appearing to contain well-founded indications about widespread or systematic enforced disappearance occurring in a State party to the Convention. The Committee would do so after having sought from the State party concerned all relevant information (art. 34).

#### **4.7. Inter-state Complaints**

Seven Treaty Bodies (CAT, CED, CERD, CESC, CRC, CMW and the Human Rights Committee) have the authority to receive and consider complaints from one State party to the effect that another State party is not giving effect to the provisions of the treaty. The inter-State complaints procedure is optional, and State parties must make a declaration that they accept the procedure before making or being subject to a complaint. The inter-State complain procedure has been rarely invoked.

#### **4.8. General Comments:**

All Treaty Bodies except the SPT prepare and publish general comments – referred to by CEDAW and CERD as general recommendations – which cover a wide range of issues. These can (i) contain the Treaty Bodies’ interpretation of specific substantive provisions of their respective human rights treaty, such as the General Comment no. 35 of the Human Rights Committee on the right to liberty and security of the person; (ii) provide guidance on the general obligations of State parties to a treaty, such as General Comment no. 3 of CESCR on the nature of State parties’ obligations; or (iii) address wider cross-cutting issues and their relationship to the provisions of their respective treaty, such as General Recommendation no. 30 of CEDAW on women in pre-conflict, conflict and post-conflict situations

The aim of general comments is to help State parties better implement the rights enshrined in the treaties. In this context the CRC and CEDAW decided to work together to provide consistent guidance to State parties in eliminating harmful practices, as this is a human rights issue which relates to both the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. In 2014 this effort was translated into the first joint general comment adopted by the Treaty Bodies, namely the CEDAW-CRC joint general comment on harmful practices.

On the basis of existing practices and with a view to standardizing their working methods as requested by GA Res. 68/268, the chairpersons of the Treaty Bodies endorsed at their 27<sup>th</sup> meeting a common methodology for the elaboration of and consultation on general comments. [CLICK HERE](#) to access the most up to date list of General Comments.

Illustration 6: Treaty Body Reporting and Follow-up process

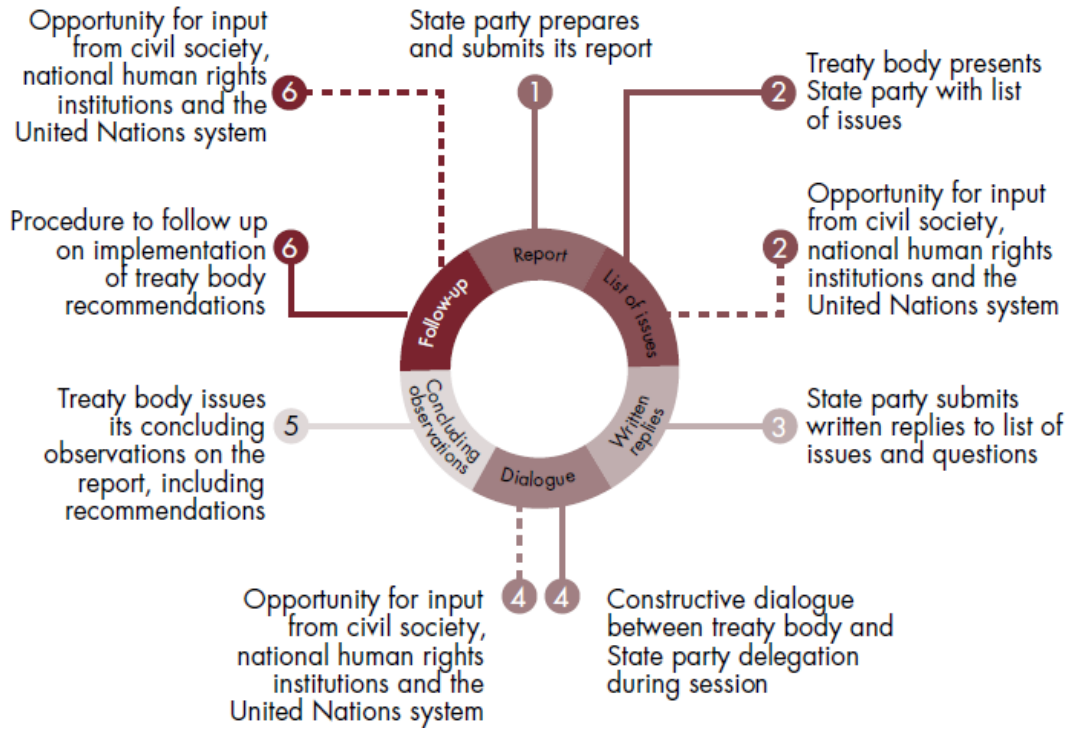


Table 7: Functions of UN HR Treaty Bodies

Treaty body	Procedures					Early warning and/or urgent actions	Follow-up	General comments/recommendations <sup>a</sup>	Recommend Secretary-General's studies on specific issues	Subcommittee visits	Advisory services (national preventive mechanisms)
	Reporting	Individual communications/complaints	Inquiries (including country visits)	Inter-State complaints	Notification to the General Assembly						
Committee on the Elimination of Racial Discrimination	✓	✓	×	✓	×	✓	✓	✓	×	×	×
Human Rights Committee	✓	✓	×	✓	×	×	✓	✓	×	×	×
Committee on Economic, Social and Cultural Rights	✓	✓	✓	✓	×	×	×	✓	×	×	×
Committee on the Elimination of Discrimination against Women	✓	✓	✓	×	×	×	✓	✓	×	×	×
Committee against Torture	✓	✓	✓	✓	×	×	✓	✓	×	×	×
Committee on the Rights of the Child	✓	✓	✓	✓	×	×	×	✓	✓	×	×
Committee on the Rights of Persons with Disabilities	✓	✓	✓	×	×	×	✓	✓	×	×	×

#### 4.9. Test Your Knowledge

- 1) The primary function of a treaty body committee is to:
  - a) Review state parties report
  - b) Consider complaints from individuals
  - c) Conduct inquiries and country visits
  - d) All of the above
- 2) In order to consider an individual complaint, the state parties must have:
  - a) signed the Optional Protocol to the relevant treaty
  - b) Signed the relevant Convention
  - c) Be party to the Rome Statute
  - d) Filed a *compromis* with the ICJ
3. In order to permit Inter-State Complaints Procedure, State parties must make a declaration that they accept the procedure before making or being subject to a complaint.
  - a) True
  - b) False
4. Under which Convention can matters be brought to the urgent attention of the UN GA?
  - a) ICCPR
  - b) ICERD
  - c) CAT
  - d) ICESCR
5. Pakistan is a signatory to OPCAT.
  - a) True
  - b) False

## 5. TREATY BODIES THAT PAKISTAN REPORTS TO

### 5.1. *Committee on the Elimination of Racial Discrimination*

CERD was the first treaty body to be established, in 1970, and oversees the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD). Provision for the creation of a committee to monitor implementation of the Convention was made under ICERD, due to the conviction of States in the Third Committee of the UN General Assembly that the treaty would not be effective unless sufficient emphasis was placed on implementation. This set the precedent for the formation of all the other treaty bodies. CERD consists of 18 experts who meet twice a year for three weeks at a time.

### 5.2. *Human Rights Committee*

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

### 5.3. *Committee on Economic, Social & Cultural Rights*

The Committee monitors the implementation of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). It is composed of 18 experts, who meet twice a year for three weeks at a time. Unlike the other treaties, ICESCR did not provide for the creation of a committee to oversee its implementation. Instead, the Economic and Social Council (ECOSOC)<sup>7</sup>, the principal organ of the UN dealing with economic and social issues, was given the general mandate to monitor the implementation of the Covenant by State parties through the examination of periodic reports. ECOSOC established a working group in 1985 to assist in the examination of State reports, which subsequently became the Committee on Economic, Social and Cultural Rights in 1987. Other than this main difference, and the fact that the members of CESCR are elected through ECOSOC, there are no major differences between CESCR and the other treaty bodies in terms of their role or function.

The *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights* (OP-ICESCR) was unanimously adopted by the UN General Assembly on 10 December 2008. This Optional Protocol allows CESCR to receive and consider communications from individuals or groups of individuals, under the jurisdiction of a State party, claiming to be victims of a violation



of any of the rights protected by the Covenant. It also creates an inquiry procedure.

Previously, CESCR did not have a complaints procedure (for more information on complaints procedures please refer to Chapter 2, pages 25 - 34). The adoption of OP-ICESCR is a significant victory after decades of campaigning and advocacy by human rights groups and academics. The Optional Protocol to ICESCR opened for signature and ratification in March 2009 and came into force on 5 May 2013, having been ratified by ten States.

#### **5.4. *Committee on the Elimination of Discrimination Against Women (CEDAW)***

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

#### **5.5. *Committee Against Torture***

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

#### **5.6. *Committee on the Rights of the Child***

CRC, created in 1990, monitors the implementation of the *International Convention on the Rights of the Child* (CRC). The Committee is comprised of 18 members, who meet three times a year for four weeks at a time – three weeks for the Committee session plus an additional week-long ‘pre-sessional working group’ to prepare the lists of issues and questions for the following session. The optional protocol to the CRC establishing an individual complaint procedure came into force on 14 April 2014.

#### **5.7. *Committee on the Rights of Persons with Disabilities***

The Convention on the Rights of Persons with Disabilities, adopted by the General Assembly in 2006, created a Committee on the Rights of Persons with Disabilities mandated to monitor the implementation of human rights obligations under the Convention. It does so through the consideration of periodic reports submitted by State parties. The Optional Protocol to the Convention allows the Committee to receive and consider complaints on behalf of individuals

and groups and provides for the Committee to conduct confidential investigations of allegations regarding grave or systematic violations of the Convention. Investigations may be carried out through country visits with the consent of the State. The Convention and the Optional Protocol entered into force on 3 May 2008. The first meeting of the Committee, which is comprised of 18 members, took place in February 2009.

### ***5.8. Test Your Knowledge***



- 1) Which was the first Treaty Body to be established?
  - a) ICERD
  - b) ICCPR
  - c) ICESCR
  - d) CEDAW
  
- 2) The HRC consists of how many members?
  - a) 3
  - b) 6
  - c) 22
  - d) 18
  
- 3) Which UN Committee deals with Economic, Social and Cultural Rights?
  - a) ECOSOC
  - b) UNGA
  - c) ICJ
  - d) Security Council
  
4. Where does the CEDAW Committee meet?
  - a) Geneva
  - b) New York
  - c) Sydney
  - d) Washington DC
  
5. The Committee on the Rights of Child consists of how many members?
  - a) 5
  - b) 14
  - c) 22
  - d) none of the above