

Taking Dissemination Seriously: A Critical Overview of the Dissemination Practices of the UN Treaty Bodies Regarding Individual Communications

*A contribution to the Hertie School of Governance Call for Papers: “Within
the realm of possible: Reforming the UN treaty bodies’ individual
communication mechanisms”¹*

*Theme: Effective dissemination of views; Access to and standing before the
UN human rights treaty bodies; Procedural aspects in dealing with individual
communications*

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Overview of Recommendations

I. Dissemination prior to the adoption of views

Information on procedures

- Information on the UN FAQs page should be modified.² The main UN human rights complaint procedures should be briefly introduced and in what case they can be used. A chart could be created for that purpose. A link to the relevant mechanism page could be provided.
- The Office of the High Commissioner for Human Rights (OHCHR) should redesign its website to make it more straightforward and user friendly.
- A short guidance on admissibility requirements should be created, using accessible language. The OHCHR should also consider creating an online admissibility checklist such as European Court of Human Rights' (ECtHR).
- Complaint forms should be more visible and accessible, and available in all UN official languages.

Communication between parties

- As envisaged, the OHCHR Secretariat should as a priority create a secure and user-friendly online portal for parties – author and state party - and treaty body members to submit and exchange relevant information and keep track of the proceedings. Third party interventions should also be accessible through the online portal.
- The OHCHR should consider enabling the submission of new petitions through the portal.
- The Secretariat could create a uniform complaint model form that would be made available through the portal.
- The Secretariat could create a search engine based on the model of the ECtHR's State of Proceedings (SOP) search engine to enable anyone to access information regarding the current procedural status of a complaint.

Accessibility of information regarding cases pending review

- Following the lead of the Committee on Economic Social and Cultural Rights (CESCR), other treaty bodies should adopt clear, easily accessible and concise policies on third party interventions. These should be harmonized across all treaty bodies.
- All committees should publish timely information about pending cases.
- Summaries of pending cases should be issued with enough details about the case to enable interested third parties to intervene.
- The OHCHR should continue to publicize basic statistics on the number of communications received and registered and update them on a regular basis. Details on registered cases could be provided in the weekly OHCHR treaty body newsletter.
- A calendar of projected consideration of communications should be issued, and published on the treaty body mainpage and/or on the search engine.
- Third party interventions should be made public.

II. Dissemination post-adoption of views

Visibility of adopted views

- The OHCHR should develop a robust and consistent media strategy with the aim of increasing the visibility and awareness of the system.

² <http://ask.un.org/faq/14425>.

- The visibility of treaty bodies on social media should be enhanced, inter alia through the creation of dedicated accounts on social media platforms³.
- Chairs could take a leading role in working with the OHCHR media unit and staff to proactively disseminate their statements and views⁴.
- Members of committees could be encouraged to actively disseminate views on social media.
- Positive narratives, which focus on restoration on victims' rights, should be promoted.
- The OHCHR main page and treaty body main page could highlight examples of positive outcomes achieved through individual complaints.
- Positive outcomes could also be disseminated through dedicated OHCHR media releases and through social media platforms (esp. twitter).

Access to jurisprudence

- The OHCHR should ensure that the jurisprudence database is accessible, up to date, comprehensive and word-searchable in all UN official languages.
- If feasible, the UN Official Document System (ODS) and the Treaty Body Jurisprudence Database could be linked, which would save time. Regular updates on decisions could be issued through the UN ODS⁵.
- The design of the jurisprudence database could be reconsidered. Tools to refine the search could be made available on the side of the results page, enabling modification of the search without having to leave the page.
- Case-law briefs on important issues and provisions should be issued.
- A newsletter could be circulated at the end of each session with a brief summary of each decision.

Visibility at the national level

- The OHCHR could strengthen efforts to disseminate views at the national level, including with support from UN field presences⁶.
- UN country teams and UN agencies at the national and regional levels could disseminate and translate concluding observations and views, especially in countries with no OHCHR presence or where a UN language is not used. Human Rights Advisors (HRA) could play a role in this respect.
- OHCHR regional and country offices could reinforce their presence on social media platforms and disseminate information related to individual complaints.
- The OHCHR could approach National Human Rights Institutions (NHRI) and National Mechanisms for Reporting and Follow up (NMRFs) to widely disseminate and translate treaty bodies' views within their networks, including government officials, members of the legislative branch and civil society organisations.
- UN field presences and/or NHRIs could support and host follow up meetings on treaty body views intended for the government, members of the legislative branch, the judiciary, CSOs and other relevant actors.
- The submission of third party interventions (see part 3.1.c), should be facilitated and encouraged.

³ Enhancing social media presence has been a recurrent recommendation in joint NGO contributions to the annual meetings of treaty body chairpersons, e.g. see the joint NGO submission to the 2017 meeting of treaty body chairpersons

<https://www.ohchr.org/Documents/HRBodies/TB/AnnualMeeting/29Meeting/JoinNGOStatement.pdf>

⁴ Joint NGO submission to the 2017 meeting of treaty body chairpersons, op. cit.

⁵ See Geneva Academy, "Treaty Bodies' Individual Communication Procedures: Providing Redress and Reparation to Victims of Human Rights Violations", May 2019, p.38, <https://www.geneva-academy.ch/joomlatools-files/docman-files/UN%20Treaty%20Bodies%20Individual%20Communications.pdf>

⁶ Joint NGO Statement - 2015 Annual Treaty Body Chairpersons Meeting, 22-26 June, 2015, San José; https://tbinternet.ohchr.org/Treaties/CHAIRPERSONS/Shared%20Documents/1_Global/INT_CHAIRPERSON_S_NGO_27_23555_E.pdf

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1. Setting the stage

1.1. A little known mechanism

Besides the vast majority of submissions to UNTBs focusing on asylum and non-refoulement, the individual complaints mechanism (ICM) remains largely underused and little known by the general public, and, to a lesser extent, by human rights stakeholders. The limited transparency, visibility, and accessibility of the system considerably hamper engagement by civil society.

Over the last five years, the number of individual communications received by the treaty bodies has increased. In 2018, the treaty bodies received a record number of individual complaints, with 370 communications registered⁷. Between 2014 and 2018, there was a 12,8% increase in the number of communications, from 288 to 370⁸. The Committee on the Rights of the Child (CRC) recorded the greatest increase in the annual average number of complaints registered, from 1 at the end of 2015 to 29 at the end of 2017 (+1650%)⁹.

Yet, compared to regional mechanisms such as the European Court of Human Rights (ECtHR) or the Inter-American Commission on Human Rights (IACHR), the number of communications registered remains extremely low. According to Geneva Academy, by the end of 2018, the total number of communications registered by all committees since the entry into force of their respective procedures was 4,608¹⁰. By contrast, 43,100 applications were submitted to the ECtHR in 2018¹¹ and the IACHR received 2,857 petitions in 2018¹².

Furthermore, two committees receive most of the individual communications: the Human Rights Committee (HRCttee) and the Committee Against Torture (CAT). By the end of 2017, the HRCttee had received 3,099 communications, which amounts for 73% of the total number of communications received by all committees since the entry into force of the procedures¹³. The CAT had received 862, representing 20% of the total¹⁴. In 2017, the HRCttee received 58% of the total number of communications received by all committees in 2017¹⁵. The CAT received a further 23% of the total, and the CRC, 10%¹⁶.

In addition to this imbalance between committees, breaking down the figures reveals significant regional variations. Communication procedures of the treaty bodies are not used universally. Indeed, individual communications originate predominantly from Western countries. According to a report by the Universal Rights Group (2018), as of the end of 2016, individual communications received about violations in countries of the African Group amounted to only 6% of all individual communications to the HRCttee, although the African Group have the most States parties to the ICCPR communications procedure (35)¹⁷. By contrast, 39% of the cases considered by the Committee were about violations from the 24 States of the Western European and Others Group (WEOG) that have accepted the complaint procedure¹⁸. Other treaty bodies suffer a similar fate. 88% of all petitions before the CAT relate to

⁷ Op.cit. Geneva Academy, p.9.

⁸ Op.cit., UNGA Report, Annex VI.

⁹ See UN General Assembly, Status of the Human Rights Treaty Body System, Report of the Secretary-General, UN doc A/73/309, §24. This increase can be explained by the recent entry into force of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure on 14 April 2014.

¹⁰ Op.cit., Geneva Academy, p.9.

¹¹ See European Court of Human Rights, Analysis of Statistics 2018, January 2019, p.7. https://www.echr.coe.int/Documents/Stats_analysis_2018_ENG.pdf

¹² See Inter-American Commission on Human Rights, 2018 Annual Report, Chapter 2 System of Individual Petitions and Cases, p. 58, <https://www.oas.org/en/iachr/docs/annual/2018/docs/IA2018cap.2-en.pdf>.

¹³ See Universal Rights Group (URG) “Reform of the UN Human Rights Petitions System”, January 2018, p.20, and op.cit. UNGA Report, Status of the Human Rights Treaty Body System, Annex VI.

¹⁴ Ibid.

¹⁵ See op.cit. UNGA Report, Status of the Human Rights Treaty Body System, Annex VI.

¹⁶ Ibid.

¹⁷ See op.cit. URG, p. 22.

¹⁸ Ibid.

alleged violations in 17 of the 25 WEOG States that have accepted the procedure whereas only 2% of the communications received allege violations in States of the Asia-Pacific Group, and 1% in States of Latin American and Caribbean Group¹⁹. The Committee on the Elimination of Discrimination Against Women (CEDAW) received only one communication alleging violations across the 24 African States that have accepted the procedure²⁰. The same report indicates that on the level of individual States, regional imbalances are even more striking. To illustrate this point, it notes that 61% of all cases considered by the CAT report violations by three Western democracies, Canada, Sweden, and Switzerland²¹. It also cites the example of Denmark, which accounts for 34% of all petitions registered before the CEDAW²².

One of the reasons for these figures remains the lack of visibility and the inaccessibility of the procedures themselves, registered cases and jurisprudence. First, the under-utilisation of the potential of individual communications is due to the fact that the existence of the procedures in itself is not well known, or that victims do not understand how the procedures work²³. Second, even where victims are aware of the existence of the complaints procedures, accessing them is a whole other issue²⁴. The unfriendliness of the UN website for its users (see below, part 2.1.a.) and the lack of uniformity between the procedures and working methods between committees hinder the effectiveness of the mechanism. Success on the complaint depends greatly on representation by specialised lawyers and CSOs, which also explains the great contrast between regions. As highlighted in the URG Report, the majority of cases leading to the adoption of views by the committees were authored by victims represented by a lawyer and/or a CSO²⁵. CSOs that support victims in lodging their complaints are unevenly spread across regions and countries²⁶. Better resourced in many cases, CSOs in Western countries are generally more familiar with the UN treaty bodies' procedures²⁷. Improving visibility and accessibility require above all an improved dissemination of the procedures and the jurisprudence, and an increase in ratifications and acceptance by states from all regions of the ICM.

1.2. A significant backlog in processing individual complaints

The lack of suitable financial and human resources has been a constant and serious challenge to the effective functioning of treaty bodies ever since they have been in existence. As a consequence, the amount of individual communications pending review by the treaty bodies has reached record levels, and the low levels of staffing at the Office of the High Commissioner for Human Rights (OHCHR) have resulted in treaty bodies unable to review individual communications²⁸.

The proposed programme budget for the ICM in 2020 acknowledges that “work has increased in the past years around the issuance of decisions on individual cases, with an average of 195 decisions or views annually”²⁹. In 2019, the Committees have adopted 191 views so far (as of 1st October)³⁰. However, at the same time, the number of communications pending review continues to grow. In the current context, it would take more than four years to deal with the current backlog of 977

¹⁹ Ibid.

²⁰ Ibid.

²¹ The report suggests that one of the reasons is the use of the Committee as a “last court of appeal” in asylum cases. See *ibid.*

²² Ibid.

²³ Ibid., p. 23.

²⁴ Ibid.

²⁵ Ibid. “77% of cases concluded by Treaty Bodies in 2015, and in 62% of cases concluded in 2016, the alleged victim was represented by a lawyer and/or an NGO.”

²⁶ *Op.cit.*, Geneva Academy, p. 31.

²⁷ Ibid.

²⁸ See <http://www.ishr.ch/news/treaty-bodies-backlog-individual-complaints-must-be-addressed-now>.

²⁹ UNGA, Proposed programme budget for 2020, A/74/6 (Sect. 24), 30 April 2019, p. 22.

³⁰ Based on press releases on the closure of sessions. 90 views adopted by the HRCttee, 74 views by the CAT, 10 views by the CEDAW, 9 views by the CRPD, 5 views by the CRC, 2 views by the CESCO, and 1 view by the CERD. There was no information on the views adopted by the CED.

communications pending review³¹, excluding new communications received during the same period. The OHCHR unit dealing with complaints receives up to over 2'000 pieces of correspondence on a monthly basis, and yet have less than 20 lawyers working to register the complaints³².

In the current context, any individual communication submitted to a UNTB is likely to take at least two years to be processed³³, with a number of them awaiting a decision for over 5 years³⁴. The backlog also considerably hampers the ability of the OHCHR Petitions unit, which handles the communications, to register them. In some instances, there has been a delay of up to two years for a communication to be registered³⁵.

The issues of visibility and backlog need to be addressed together, given that increased visibility, in the current context, would only worsen the backlog. Dissemination is an integral part of the machinery. Rather than aggravating the current situation, improving visibility is one of the keys to an effective mechanism. Nevertheless, this can only be the case if the lack of adequate financial and human resources is tackled effectively³⁶. The OHCHR should undertake a survey of strengthening measures which can be implemented at no or limited extra costs, and the High Commissioner should allocate a suitable amount of extra budgetary resources to the functioning of treaty bodies, including individual communications³⁷.

2. Current channels of communications

2.1. UN channels

a. The OHCHR website

The primary channel of communication of the Office of the High Commissioner for Human Rights (OHCHR) is its own website, <http://ohchr.org>. At first glance, the website appears simple and user-friendly. The homepage puts an emphasis on social media, as shown by the latest tweets of UN Human Rights and links to several social media platforms (twitter, facebook, youtube, instagram) displayed on the front page. Latest news can be found, classified by human rights body. The words “treaty bodies” appear thrice on the homepage³⁸ but no link is available about “individual communications”. Two clicks are needed to access the human rights treaty bodies’ main page.

The human rights treaty bodies’ main page³⁹ is difficult to navigate and includes long outdated information. The “Latest news” section does not include content related to individual communications at the time of writing, the “Newsletter” link⁴⁰ is not functional, and the “World maps of ratifications” has not been updated since 2013.

The main webpage providing information on the procedure⁴¹ is only accessible after several clicks. It contains 11,033 words, providing information on procedures, parties involved, information needed in the complaint (with a link to a “Model complaint form” for complaints under the Optional Protocol to

³¹ See op.cit., UNGA Report, Status of the Human Rights Treaty Body System, Annex VII. “On 31 December 2017, the individual communications pending review was by far the greatest for the Human Rights Committee (693 communications pending review). The Human Rights Committee alone has 71 per cent of all communications pending review.

³² See op.cit., <http://www.ishr.ch/news/treaty-bodies-backlog-individual-complaints-must-be-addressed-now>.

³³ ISHR interviews with UNTB rapporteur on views

³⁴ E.g. see CEDAW case 63/2013; <https://www.ohchr.org/Documents/HRBodies/CEDAW/PendingCases.docx>.

³⁵ E.g. case HRCtte 3248/2018 was submitted by ISHR on 25 September 2016 but it was only registered on 3 October 2018.

³⁶ See <http://ishr.ch/news/treaty-bodies-backlog-individual-complaints-must-be-addressed-now>

³⁷ ISHR submission to the 3rd follow up report of the UN Secretary General on the implementation of GA Res. 68/268, available at

https://www.ishr.ch/sites/default/files/documents/ishr_submission_to_questionnaire_on_tb_strengthening.pdf

³⁸ In the “news” section and twice in the “databases” tab of the “resources” section

³⁹ <https://www.ohchr.org/EN/HRBodies/Pages/Overview.aspx>

⁴⁰ <https://www.ohchr.org/EN/HRBodies/Pages/Newsletter.aspx>

⁴¹ <https://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#proceduregenerale>

the ICCPR, the CAT and the Committee on the Elimination of Racial Discrimination (CERD)), timing to file a complaint, admissibility, merits, consideration and next steps in the procedures under the different treaties. Contact details for lodging the complaint with the treaty bodies can be found at the bottom of the page. Model complaint forms for communications other than with the HRCtte, CAT and CERD can only be found by going on the main page of the treaty body in question. The CEDAW does not provide model complaint forms. Furthermore, non-English versions of these webpages are not optimal. Several documents are not available in all UN languages. For instance, model complaint forms are available in all UN languages only for the Committee on the Rights of Persons with Disabilities (CRPD) and the Committee on Enforced Disappearances (CED). The CERD, the CAT and the HRCtte provide model complaint forms only in English and French, and the CRC only in English.

In addition to the webpages on individual communications, each committee has its own main page and issues some documents related to individual complaints. However, due to a lack of uniformity of working procedures, each committee issues different documents, which makes navigation on the website difficult.

b. Press statements

Two channels coexist for news, the UN News website and the OHCHR news page. The UN News website publishes news related to human rights with a focus on topical issues. Individual communications rarely make the headlines. Since 2016, only seven stories related to individual communications were published, on topics often facing international scrutiny⁴². Four relate to the HRCtte, two to the Committee on Economic, Social and Cultural Rights (CESCR), and one to the CRC. With regard to content, only one story covers the filing of a complaint⁴³, while five others highlights findings of violations⁴⁴ and another the impact of a decision decades later⁴⁵.

The OHCHR news webpage disseminates information about a minority of individual communications. Between January to September 2019, nine OHCHR press releases related to individual communications to treaty bodies, i.e. approximately one per month. Eight releases concerned the HRCtte⁴⁶ and one the

⁴² "Countries violate rights over climate change, argue youth activists in landmark UN complaint," <https://news.un.org/en/story/2019/09/1047292>; "Forced pregnancy in Italy violated 'woman's human right to health', UN experts rule," <https://news.un.org/en/story/2019/03/1035601>;"French full-body veil ban, violated women's freedom of religion: UN Human Rights Committee," <https://news.un.org/en/story/2018/10/1023872>;"Spain's eviction violated family's human rights, say UN experts," <https://news.un.org/en/story/2017/07/560982-spains-eviction-violated-familys-human-rights-say-un-experts>; "Ireland: UN experts urge amending abortion ban subjecting women to suffering and discrimination," <https://news.un.org/en/story/2016/06/531652-ireland-un-experts-urge-amending-abortion-ban-subjecting-women-suffering-and>; "Australia violated rights of David Hicks by jailing him after transfer from Guantanamo – UN experts," <https://news.un.org/en/story/2016/02/522462-australia-violated-rights-david-hicks-jailing-him-after-transfer-guantanamo-un>; "UN announces that Peru will compensate woman in historic human rights abortion case," <https://news.un.org/en/story/2016/01/520272-un-announces-peru-will-compensate-woman-historic-human-rights-abortion-case>.

⁴³ Ibid. "Countries violate rights over climate change, argue youth activists in landmark UN complaint"

⁴⁴ *Op.cit.*, "Forced pregnancy in Italy violated 'woman's human right to health', UN experts rule;" French full-body veil ban, violated women's freedom of religion: UN Human Rights Committee;" "Spain's eviction violated family's human rights, say UN experts," "Ireland: UN experts urge amending abortion ban subjecting women to suffering and discrimination;" "Australia violated rights of David Hicks by jailing him after transfer from Guantanamo – UN experts."

⁴⁵ *Op.cit.*, "UN announces that Peru will compensate woman in historic human rights abortion case."

⁴⁶ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24661&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24921&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24890&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24874&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24661&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24629&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24631&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24137&LangID=E>.

CESCR⁴⁷. In 2018, the OHCHR issued “more than 60 media advisories and press releases related to treaty bodies,” which “breaks down to at least 33 advisories/releases connected directly to the regular sessions and outcomes of treaty body meetings and 28 other press releases on topics ranging from complaint mechanisms to new legal guidance being published”⁴⁸. By further breaking down the numbers, it can be found that press releases on individual communications amounts to eight: six releases related to the HRCtte⁴⁹, one to the CESCR⁵⁰, and one to CEDAW⁵¹. With regard to other committees, like the CAT and the CRC, individual communications are only mentioned briefly in press releases related to the closing of a session⁵². The last press releases concerning the CRPD⁵³ dates back to 2017, to 2016 for the CED⁵⁴, and to 2015 for the CERD⁵⁵. The average timeframe between the adoption of the views and its publication on OHCHR’s press releases is 46 days. By breaking down this number between the different committees, we find that the average timeframe between the adoption of a view and the issuance of a public statement equals to 60 days for the HRCtte, 51 days for the CESCR, 26 days for the CEDAW, 24 days for the CRPD, 19 days for the CERD, and 10 days for the CED⁵⁶.

c. Jurisprudence database

Views adopted by the committees are published on <http://juris.ohchr.org/>. The establishment of this database constitutes a major achievement and progress towards more transparency in UNTB jurisprudence. Documents are searchable by keyword, year of adoption, symbol (i.e. reference number of the document), or communication number. Search can also be filtered by states/regions, treaty bodies, articles, issues, sessions and types of decision. The results of the search are provided on a table format containing the petitioner’s name, treaty concerned, countries concerned, symbol (reference number of the document), date of adoption of views, issues, articles, communication number, and type of decision (adoption of views/discontinuance decision, admissibility/inadmissibility decision). Results can be ordered by, *inter alia*, date, treaty, country, issues, articles, number of communication, or type of decision. Full views are subsequently accessible in Pdf format. Some views are available in all UN languages, but in most cases some translations are missing and in a few cases⁵⁷, the views are only available in one language (mostly English).

d. UN Treaty Body Database

The treaty body database⁵⁸ makes accessible a variety of documents related to sessions, ratification, reporting and documentation by countries, follow-up procedure, inquiries, and has a documents search

⁴⁷ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24411&LangID=E>.

⁴⁸ Op.cit., UNGA, Proposed programme budget for 2020, p. 22.

⁴⁹ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22946&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22952&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22958&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22975&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23544&LangID=E>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23750&LangID=E>.

⁵⁰ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23192&LangID=E>.

⁵¹ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23849&LangID=E>.

⁵² See for instance

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24626&LangID=E> for the CAT, and <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25076&LangID=E> for the CRC.

⁵³ <https://www.ohchr.org/EN/NewsEvents/Pages/AlbinismAttackVictim.aspx?platform=hootsuite>

⁵⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19877&LangID=E>

⁵⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15981&LangID=E>

⁵⁶ The discrepancies between the committees can be partly explained by the unbalanced workload between committees.

⁵⁷ E.g. see <https://juris.ohchr.org/Search/Details/2526> (adoption of views on 31st May 2019) and <https://juris.ohchr.org/Search/Details/2527> (adoption of views on 31st May 2019) (as of October 1st 2019).

⁵⁸ <https://tbinternet.ohchr.org/SitePages/Home.aspx>

tool. Similarly to the jurisprudence database, searches can be filtered by state or region, committee, document type and symbol/dates. The vast majority of documents relate to country reviews. With regard to individual communications, the treaty body database contains jurisprudence and unlike the jurisprudence database, follow-up on jurisprudence. Little information is available about the communications; issues and articles related to the communications are not specified. However, the treaty body database publishes views earlier than the jurisprudence database. As of 1st October 2019, the latest views available on the treaty body database were adopted in late July 2019 whereas those available on the jurisprudence database were adopted in late May 2019. For views adopted since 2017, the average timeframe between the adoption of the views and the public dissemination of the views⁵⁹ is 65 days. By breaking down this number between the different committees, we find that the average timeframe between the adoption of a view and the public dissemination of views equals to 71 days for the HRCTTE, 59 days for the CAT, 65 days for the CESCR, 62 days for the CRC, 54 days for the CRPD, and 35 days for the CEDAW⁶⁰.

e. Social media

The OHCHR is active on social media platforms, such as Twitter⁶¹, Facebook⁶², or Instagram⁶³.

According to a UNGA report, “on the social media front, every news release and media advisory was circulated” in 2018⁶⁴. The reality is more nuanced. In 2018, only two press releases⁶⁵ concerning individual communications were also disseminated on social media platforms. Dissemination efforts on social media improved in 2019, as 6 press releases out of 8 were also published on twitter⁶⁶. Yet, the OHCHR seems to be lacking a coherent communication strategy that cuts across all its communication channels. While some news releases are not disseminated through social media, vice versa, some views are the subject of news releases but they are disseminated on twitter or facebook.

Twitter is the most used and followed platform. Except the Committee on Migrant Workers⁶⁷, treaty bodies do not have their own Twitter account. The [UNHumanRights](#) twitter account is followed by 2,5 million users and the account has posted 35 tweets related to UNTB individual complaints since September 2018⁶⁸. In comparison, 10 press releases related to individual complaints were issued on the OHCHR website over the same period of time. The [unitednationshumanrights/](#) facebook page comes behind, with 2,1 million followers and 13 posts on individual communications since 2014, but only 1 post since 2018⁶⁹. Out of these 13 posts, 3 posts purported to enhance the visibility of the individual complaints mechanism⁷⁰ while 10 others related to adopted views⁷¹. The Instagram page

⁵⁹ The dates of publication on the jurisprudence database or the treaty body database not being available, the date used is the general distribution date available on the views.

⁶⁰ The discrepancies between the committees can be partly explained by the unbalanced workload between committees.

⁶¹ <https://twitter.com/UNHumanRights>

⁶² <https://www.facebook.com/unitednationshumanrights/>

⁶³ <https://www.instagram.com/unitednationshumanrights/>

⁶⁴ Op.cit., UNGA, Proposed programme budget for 2020.

⁶⁵ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22975&LangID=E> and <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23544&LangID=E>.

⁶⁶ As of 1st October 2019.

⁶⁷ See https://twitter.com/UN_CMW.

⁶⁸ As of 1st October 2019.

⁶⁹ <https://www.facebook.com/unitednationshumanrights/posts/2981340538549400>

⁷⁰ Two posts explained that children can file complaints with the UN about violations of their rights (See <https://www.facebook.com/unitednationshumanrights/photos/a.543431359007009/875238565826285/?type=3&theater> and

<https://www.facebook.com/unitednationshumanrights/photos/a.543431359007009/818702281479914/?type=3&theater>) and another stated that if you have experienced racial discrimination, you could lodge a complaint with the CERD against a State if certain conditions were satisfied, with a link to the complaints procedures webpage (see <https://www.facebook.com/unitednationshumanrights/posts/2006200166063447>).

⁷¹ Out of the 10 posts related to views adopted by committees, 2 cases were not disseminated in other channels.

[unitednationshumanrights/](https://twitter.com/unitednationshumanrights/) has 768,000 followers but does not post content related to individual communications.

With regards to twitter, as stated above, 34 tweets were posted since September 2018. Except one tweet, which related to the filing of a case, all concerned new decisions. 32 tweets related to the HRCtte, 1 to the CRC, and 1 to the CESCR. No tweets were found for the other committees. Over the same period, the average timeframe between the adoption of the views and its dissemination on twitter is of 64 days, the maximum being 242 days and the minimum 9 days. Views adopted by the HRCtte are disseminated on average within 67 days, while dissemination of views by the CESCR takes 20 days, and 18 days for CRC. Mirroring the relative important presence of HRCtte decisions on twitter, members of the HRCtte are also the most active on the social media platform. 5 of the 18 current members of the Committee are on twitter, with 2 members⁷² being particularly active. Decisions by the CAT, CERD, CEDAW, CRPD, and CED are not visible on twitter and their members do not post tweets about individual communications. While the CESCR and CRC are more visible on twitter, their members do not post tweets related to individual complaints⁷³.

Regional offices of the OHCHR are also active on twitter⁷⁴. However, information related to individual complaints is barely disseminated. Only the European and the Asian OHCHR offices have issued information related to the individual complaints mechanism, but the number of tweets is low. Since 2019, the OHCHR Asia office posted 3 tweets on individual communications and the European office posted 2 tweets. Regarding OHCHR country offices, 5 offices out of 15 use twitter⁷⁵. The twitter account of the country office of Mexico disseminate all UNTB views concerning Mexico and information related to press conferences are held to present the views. Furthermore, the office released and circulated a very detailed guidance on how to file a complaint with the UN in Spanish⁷⁶. The other country offices do not disseminate country-specific information related to individual communications.

f. Newsletter

Every week, the OHCHR Civic Space Unit publishes a “Civil society weekly update” newsletter. The newsletter includes information on campaigns, reports, recent news, events and meetings, publications and useful resources. The “recent news and statements” section lists OHCHR press releases, including some related to individual communications. All the press statements about individual communications are not covered. The newsletter also has specific sections for each human rights body, including one for treaty bodies. The treaty bodies section contains links to a general guide on the treaty bodies⁷⁷, elections of members⁷⁸, a leaflet on urgent actions of the CED⁷⁹, a training guide on reporting to the treaty bodies⁸⁰, the treaty body database, the jurisprudence database, and to sessions webcast⁸¹. It also provides a link to the “Treaty Bodies Weekly Update” newsletter.

The Human Rights Treaties Branch of OHCHR publishes a “Treaty Bodies Weekly Update” newsletter every week, each issue covering the previous week. The newsletter provides information on

⁷² See <https://twitter.com/HeleneTigroudja> and <https://twitter.com/yuvalshany1?lang=fr>.

⁷³ With the exception of a member of the CRC, see <https://twitter.com/lexpsy?lang=fr>.

⁷⁴ See Europe office: https://twitter.com/OHCHR_Europe, Asia office: <https://twitter.com/OHCHRAsia>, Pacific office: https://twitter.com/OHCHR_Pacific, West Africa office: https://twitter.com/ONU_Droits_BRAO, Central America office: <https://twitter.com/OACNUDH>, and Middle East and North Africa office: https://twitter.com/ohchr_mena.

⁷⁵ See Colombia: <https://twitter.com/ONUHumanRights>, Guatemala: https://twitter.com/Oacnudh_GT, Mexico: <https://twitter.com/ONUDHmexico>, Seoul: <https://twitter.com/UNrightsSeoul>, and Russia: <https://twitter.com/UNHumanRightsRu>.

⁷⁶ See Violaciones a derechos humanos en México: ¿Cómo presentar una queja ante la ONU?, 2016, http://hchr.org.mx/images/doc_pub/ComoPresentarQueja_WEB.pdf.

⁷⁷ See https://www.ohchr.org/Documents/HRBodies/TB/TB_booklet_en.pdf.

⁷⁸ See <https://www.ohchr.org/EN/HRBodies/Pages/ElectionsofTreatyBodiesMembers.aspx>.

⁷⁹ See https://www.ohchr.org/Documents/HRBodies/CED/CED_leaflet_A4_EN.pdf

⁸⁰ See https://www.ohchr.org/Documents/Publications/PTS20_HRTB_Training_Guide_PartI.pdf and https://www.ohchr.org/Documents/Publications/PTS20_HRTB_Training_Guide_NotesforFacilitators_PartII.pdf.

⁸¹ See <http://webtv.un.org/meetings-events/treaty-bodies>.

committees' sessions, with a link to running sessions; committees' activities (opening and closing of sessions, organizational meetings, meeting with CSOs, country reviews, and working group meetings); upcoming events (sessions and working group meetings); OHCHR latest news; and elections of members. The newsletter also has a "press briefing notes and clippings" section comprised of OHCHR press statements related to treaty bodies, including those on individual communications. However, some press releases related to individual communications are not included in the list. The issue covering the first week of each month provides statistics on individual complaints and urgent actions submitted to treaty bodies in the previous month: number of email submissions received, number of registered cases, number of registered CED urgent actions, and number of granted interim measures.

2.2. External channels

Civil Society Organizations (CSOs) are key players in the dissemination of treaty body views. They participate in the dissemination on their website or social media⁸², thus contributing greatly to the visibility of the treaty body mechanism. Some CSOs disseminate information related to cases they bring on behalf of victims⁸³ or in which they intervene as third parties⁸⁴. Others publish guidance on bringing claims before the committees⁸⁵, thus making the procedures more accessible.

Some CSOs focused on specific committees host databases of cases. Child Rights Connect provides a database of pending cases before the CRC⁸⁶ with a short summary on each case. Child Rights Connect are also developing a jurisprudence database. The Centre for Civil and Political Rights, which focuses on the ICCPR, provides lists of decisions by session, a database of jurisprudence and case-law briefs on its website⁸⁷. The database is up-to-date and user-friendly. The Centre also issues overviews of the HRCtte sessions and overviews of jurisprudence⁸⁸. The International Disability Alliance provides summaries of all of the views adopted by the CRPD⁸⁹. The International Network for Economic, Social & Cultural Rights (ESCR-Net) holds a caselaw database⁹⁰ compiling, inter alia, treaty bodies' decisions

⁸² E.g. see Child Rights Connect <https://twitter.com/ChildRightsCnct>; Child Rights International Network (CRIN) <https://twitter.com/crinwire>; ESCR-Net <https://twitter.com/ESCRNet>; CCPR Centre https://twitter.com/CCPR_Centre; IMADR https://twitter.com/IMADR_Geneva; TRIAL International <https://twitter.com/Trial>.

⁸³ E.g. see ISHR submission to CEDAW <http://www.ishr.ch/news/cedaw-ishr-files-unprecedented-legal-submission-women-survivors-enforced-disappearances> or to the HRCtte <http://www.ishr.ch/news/reprisals-groundbreaking-legal-proceedings-filed-against-maldives>

⁸⁴ See the database of TRIAL International, <https://trialinternational.org/latest/cases>, or Open Society Justice Initiative, Global Human Rights Litigation Report 2018, <https://www.justiceinitiative.org/uploads/4e9483ab-a36f-4b2d-9e6f-bb80ec1dcc8d/litigation-global-report-20180428.pdf>.

⁸⁵ See Open Society Justice Initiative, "Practice Note: Legal Writing for Human Rights Claims," <https://www.justiceinitiative.org/uploads/f5e7da7b-a7b0-4a3d-9e16-fad3f82f94b0/litigation-practice-note-writing-20180427.pdf>, pp.22-23, "Strategic Litigation Toolkit: Drafting Complaints to the United Nations Human Rights Committee and Committee against Torture," <https://www.justiceinitiative.org/uploads/507acc52-2c91-4d0f-8410-62c31cb2f391/litigation-toolkit-torture-20180427.pdf>; The Global Initiative for Economic, Social and Cultural Rights, "Claiming Economic, Social and Cultural Rights at the United Nations: A Manual for Using the OP-ICESCR in Strategic Litigation", <https://static1.squarespace.com/static/5a6e0958f6576ebde0e78c18/t/5abbb6c4562fa7acbf064a2f/152225147155/6/ESCR-NET-OP-Manual-FINAL.pdf>. Also see OMCT "Handbook on the Individual Complaints Procedures of the UN Treaty Bodies" https://www.omct.org/files/2014/11/22956/v4_web_onusien_en_omc14.pdf; "Navigating Human Rights Complaints Mechanisms Rules, tools and resources" <https://ashurstcde.azureedge.net/-/media/ashurst/documents/news-and-insights/legal-updates/2018/jul/ashurst-navigating-human-rights-complaints-mechanisms.pdf> and "United Nations Treaty Bodies' jurisprudence on sexual orientation, gender identity, gender expression and sex characteristics" https://ilga.org/downloads/Treaty_Bodies_Strategic_Litigation_toolkit_policy_paper_en.pdf

⁸⁶ See <http://opic.childrightsconnect.org/crc-pending-cases/>. See also Table of pending cases, http://opic.childrightsconnect.org/wp-content/uploads/2019/09/TablePendingCases_17_09_2019.pdf.

⁸⁷ See <http://ccprcentre.org/database-decisions/>.

⁸⁸ Available up to the 112th session (October 2014).

⁸⁹ See <http://www.internationaldisabilityalliance.org/crpd-committee-interpretation>

⁹⁰ See <https://www.escr-net.org/caselaw>.

related to economic, social and cultural rights. Each case is summarised and significance of the case is highlighted. Also, information is provided on enforcement of the decision and outcomes and CSO groups involved in the case.

3. Current dissemination practices: diagnosis and recommendations

The individual complaints mechanism suffers from a lack of visibility and a high level of opacity. Reports from insiders of the system, including staffs of the OHCHR petitions team, and UNTB Rapporteurs on views, that they are unaware of developments or decisions by fellow UNTBs or face themselves restrictions in accessing relevant information, sometimes even within their own treaty body, are troubling⁹¹. The limits in the current dissemination practices can be classified into two categories: (1) dissemination before the adoption of views and (2) dissemination after the adoption of views.

3.1. Dissemination prior to the adoption of views

Significant gaps exist in three areas: (a) Limited information on procedures, (b) Laborious communication between the parties, and (c) Limited access to cases pending review.

a. Information on procedures

Access to information on the individual communication procedures proves to be of great difficulty, for the general public, victims and their representatives, and human rights researchers.

The unfriendliness of the OHCHR website is addressed in part 2.1.a supra. Relevant information is spread over multiple pages and the search for specific information roves difficult.

Good practices

The website of the ECtHR provides an interesting example of user-friendliness. By clicking on the “Applicants” tab on top of the homepage, users can accede to a centralized page with all the information necessary for understanding the procedure and filing a complaint⁹². Application forms are available in 36 languages and a note for filling in the application form⁹³ and guidance on common mistakes⁹⁴ are provided. Additional resources are available, such as a short and victim-friendly guide explaining how to apply and how applications are processed⁹⁵, a short questions and answers sheet⁹⁶, a guide on admissibility criteria⁹⁷, videos on “how to lodge a valid application”⁹⁸ and video on the admissibility conditions⁹⁹. Rather than a long vertical webpage with information bulked together, the ECtHR proposes an horizontal webpage, with relevant information on procedure organized in a grid layout. The webpage does not contain a lot of text and it includes visual content with links to resources, making the navigation more user-friendly.

The ECtHR also proposes a useful online admissibility checklist¹⁰⁰. It is composed of five steps: 1° personal jurisdiction, 2° subject matter jurisdiction, 3° *ratione temporis* jurisdiction, 4° exhaustion of domestic remedies, and 5° compliance with the six-month time-limit. Each question is asked in plain

⁹¹ ISHR interviews with UNTB members and staff of the OHCHR petitions team

⁹² See <https://www.echr.coe.int/Pages/home.aspx?p=applicants&c=>

⁹³ See https://www.echr.coe.int/Documents/Application_Notes_ENG.pdf

⁹⁴ See https://www.echr.coe.int/Documents/Applicant_common_mistakes_ENG.pdf

⁹⁵ See https://www.echr.coe.int/Documents/Your_Application_ENG.pdf

⁹⁶ See https://www.echr.coe.int/Documents/Questions_Answers_ENG.pdf

⁹⁷ See https://www.echr.coe.int/Documents/Admissibility_guide_ENG.pdf

⁹⁸ See https://www.youtube.com/watch?v=mA_iGhvxYFM&feature=youtu.be

⁹⁹ See <https://www.youtube.com/watch?v=mcbDDhsSZVA&list=TLJOTKYPB5lecNBocYG5HFefUzKqe-X4F6>

¹⁰⁰ See <https://app.echr.coe.int/CheckList/?lang=eng&cookieCheck=true>.

language and users have to reply by ticking “yes” or “no”. Additional questions appear based on previous answers. With regards to the personal jurisdiction step, when the online checklist asks whether the application is directed against one of the State Parties to the Convention, it provides a link to the list of States Parties. The subject matter jurisdiction step follows the same technique, by providing a link to the Convention when asked about whether the application concerns one of the rights guaranteed by the Convention. With respect to *ratione temporis* jurisdiction, the webpage asks when the violation took place. Depending on the date users insert and the country against which the complaint is lodged, an automated text appears, stating when the state party in question ratified the Convention and the protocols. Then, it asks again whether the violation took place after the date of ratification. On step 4 about exhaustion of domestic remedies, if users respond that they have brought the case before a competent national court, the database asks whether the case has been brought to the final instance before the highest court competent to deal with the subject matter and it provides the names of the competent national courts relevant to the country. After the fifth step, users are told whether or not they have passed all required steps. If so, the webpage suggests to download the application pack with a link redirecting to the right page.

The IACHR has an online individual petition system portal¹⁰¹ in which users can create a petition, upload evidence and follow the stages of the proceedings. A user manual for petitioners¹⁰² is provided, with questions related to the proceedings and step-by-step guidance illustrated by annotated screenshots. ISHR understands that an online “portal” to facilitate communication between the parties and provide a safe space to store relevant documents is envisaged and budgeted by the OHCHR.

Recommendations

- Information on the UN FAQs page¹⁰³ should be modified. The main UN human rights complaint procedures should be briefly introduced and in what case they should be used. A chart could be created for that purpose. A link to the relevant mechanism page could be provided.
- The OHCHR should redesign its website to make it more straightforward and user friendly. Practical information on all individual communication procedures and how to use them should be centralized on a single page. Drawing inspiration from other webpages such as the ECtHR’s, the OHCHR could redesign the webpage into a horizontal webpage with all the relevant information on procedure organized in a grid layout. Text elements should be reduced to a minimum and more visual content could be integrated.
- A short guidance on admissibility requirements should be created, using accessible language. The OHCHR could also consider creating an online admissibility checklist such as the ECtHR’s.
- Complaint forms should be more visible and accessible, and available in all UN official languages.

b. Communication between parties

The Geneva Academy report highlights that “the parties – author of the communication and state party alike – are not always kept informed of the stage their complaint is at while it is being processed.”¹⁰⁴

The current system relies heavily upon the Petitions unit, which serve as an interface between the authors of the communications and state parties. First, the petitions unit of the OHCHR Secretariat conducts first a pre-screening process of the thousands of communications that it receives every year. If the relevant communication contains all the required information, the unit prepares a summary of the case and submits it to the Committee’s Rapporteur on communications,. The Rapporteur when decides whether there is sufficient information to proceed with registering the communication. If so, the case is assigned a number and added to the docket of communications of the relevant treaty body. The relevant committee subsequently considers whether the complaint fulfills the admissibility criteria. The communication is submitted to the State, which has six months to respond regarding the admissibility

¹⁰¹ See <https://www.oas.org/ipsp/default.aspx?lang=en>.

¹⁰² See <https://www.oas.org/en/iachr/portal/help/petitioners/NetHelp/>.

¹⁰³ See <http://ask.un.org/faq/14425>.

¹⁰⁴ Op.cit., URG, p.22.

of the communication. The complainant may also be asked for further information on admissibility. If the complaint is deemed admissible, the committee subsequently sends the complaint to the State party, asking for clarification or a response on the complaint, usually within six months. The complainant may also be asked to provide further information on the merits or invited to respond to the State's response. It is only after that long and tedious process that the committee can consider the merits of the case and eventually adopt a view. The parties easily lose track of the proceedings during this timeframe. Moreover, the bureaucratization of this three-way dialogue slows down significantly the processing of individual communications, especially as viewed in light of the current backlog situation.

Good practices

Other regional mechanisms use secure electronic tools that facilitate communication between parties and enable them to keep track of the status of the proceedings. Another positive effect of these tools is that it speeds up the processing of complaints.

Parties to a complaint before the ECtHR, and even third parties, have access to the State of Proceedings (SOP) search engine¹⁰⁵. This tool allows anyone to find out the current procedural state of an application by entering the application number.

The IACHR and ECtHR both have an electronic and secure portal where parties can submit correspondence and access information submitted. The ECtHR has created eComms¹⁰⁶, a tool that applicants' representatives can use to communicate with the Court electronically, by sending and receiving documents electronically. This method is accessible once notice has been sent to the respondent Government and observations have been requested. The IACHR's portal¹⁰⁷ goes even beyond by enabling petitioners to submit new petitions through the portal by using an electronic petition form. Also, both parties – applicant and state party – are able to submit documentation, see documents issued by the Commission and consult the status of their matters¹⁰⁸.

As mentioned above, the Petitions unit is currently considering the creation of such a platform¹⁰⁹. The proposed platform would provide a secure access for both parties and would enable them to exchange information between each other and with the Secretariat and to be kept aware of the status of the communication¹¹⁰. This new tool is envisaged as from 2020 onward¹¹¹. One important benefit would be a considerable reduction of the backlog.

Recommendations

- As envisaged, the OHCHR Secretariat could as a priority create a secure and user-friendly online portal for parties – author and state party - and the OHCHR Petitions unit to submit and exchange relevant information and keep track of the proceedings. Third party interventions should also be accessible through the online portal.
- The OHCHR could consider enabling the submission of new petitions through the portal.
- The Secretariat could create a uniform complaint model form that would be made available through the portal.
- The Secretariat could create a search engine on the model of the ECtHR's SOP to enable anyone to find out the current procedural status of an application.

¹⁰⁵ See <https://app.echr.coe.int/sop/index.aspx?lg=en>

¹⁰⁶ See <https://ecomms.echr.coe.int/> and User Manual Electronic Communication (eComms) for Representatives, https://www.echr.coe.int/Documents/eComms_User_Manual_for_Representatives.pdf.

¹⁰⁷ <https://www.oas.org/ipsp/default.aspx?lang=en>.

¹⁰⁸ See User Manual for Petitioners <https://www.oas.org/en/iachr/portal/help/petitioners/NetHelp/#>. See also User Manual for Member States <https://www.oas.org/en/iachr/portal/help/states/NetHelp/#>.

¹⁰⁹ Interview with a member of the Petitions unit.

¹¹⁰ Ibid.

¹¹¹ Ibid.

c. Accessibility to cases pending review

The current system is characterised by its opacity regarding information on communications received and pending review. Individual communications are generally examined in closed session. Except the views, all documents related to individual communications remain confidential, unless a party decides to publish them. At the same time, treaty bodies enable CSOs to assist a victim submitting a complaint or to submit a complaint on the victim's behalf. Currently, the CESCR, CRC, CAT, CRPD, and HRCtte accept submissions from third parties¹¹². However, except the CESCR, which adopted a clear policy for third party interventions¹¹³, no other treaty body adopted a similar clear, concise and easily accessible policy.

The serious lack of transparency on cases pending review and on procedures for third party interventions limits considerably third party interventions. Third party interventions before the treaty bodies are rare. The petitions unit receives an average of five third party interventions per year¹¹⁴. Since 2016, the CAT has not received a single third party intervention¹¹⁵. By comparison, between 2010 and 2015, the ECtHR has admitted 300 amicus curiae (out of 301)¹¹⁶, an average of 50 interventions per year. Over the same period, the IACHR has admitted 269 amicus curiae (out of 283), an average of 45 interventions per year¹¹⁷.

Some treaty bodies, such as the CEDAW¹¹⁸, CRC¹¹⁹, CRPD¹²⁰, CESCR¹²¹ and HRCtte¹²² publish lists of cases pending review that provide information on the communication number, state party concerned, articles involved, and subject matter. This welcome practice considerably improves transparency and facilitates third party interventions. However, those lists, are often not regularly updated. Furthermore, although the practice differ from one committee to another, details on the cases are not provided and only short summaries of the cases are available. This information is vital for interested third parties. Most of the times, the CEDAW uses very short description of the subject matter (“Domestic violence”, “Deportation to x”, “Human trafficking, sexual exploitation”). The CESCR and the CRPD’s descriptions are also relatively short (“Eviction of a family that occupied a flat without legal title” for the CESCR, or “Incarceration of person with intellectual impairment declared unfit to stand trial” for the CRPD). The HRCtte sometimes uses only a few words to describe the subject matter, such as “fair trial” or “crime of rebellion.” A few cases have a longer description, for instance, “Bringing the author

¹¹² See CESCR, Provisional Rules of Procedure Under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Adopted by the Committee at its Forty-Ninth Session (12-30 November 2012), UN doc E/C.12/49/3, 15 January 2013, Rule 14; CER, Rules of Procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, UN doc CRC/C/62/3, 8 April 2013, Rule 13(2); CAT, Rules of Procedure, UN doc CAT/C/3/Rev.6, 1 September 2014, Rule 118(2); CRPD, Rules of Procedure, UN doc CRPD/C/1/Rev.1, 10 October 2016, Rule 72(3); HRCtte, Rules of Procedure of the Human Rights Committee, UN doc CCPR/C/3/Rev.11, 9 January 2019, Rule 96.

¹¹³ See <https://www.ohchr.org/Documents/HRBodies/CESCR/Guidance3rdPartyInterventions.doc>

¹¹⁴ Interview with a member of the petitions unit.

¹¹⁵ Interview with a member of the CAT.

¹¹⁶ See Dolidze, Anna, Bridging Comparative and International Law: Amicus Curiae Participation as a Vertical Legal Transplant, *The European Journal of International Law* Vol. 26 no. 4 (2015), pp. 864-866. See also Wiik, Astrid, "An international instrument", *Amicus curiae before International Courts and Tribunals*, Baden-Baden: Hart/Nomos, 2018, pp. 105-108, Annex I.

¹¹⁷ See op.cit. Wiik.

¹¹⁸ See <https://www.ohchr.org/Documents/HRBodies/CEDAW/PendingCases.docx>. Last update on 24 January 2019.

¹¹⁹ See <https://www.ohchr.org/Documents/HRBodies/CRC/TablePendingCases.pdf>. Last update on 17 September 2019.

¹²⁰ See <https://www.ohchr.org/Documents/HRBodies/CRPD/Tablependingcases.pdf>. Date of last update not provided.

¹²¹ See <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/PendingCases.aspx>. Date of last update not provided.

¹²² See <https://www.ohchr.org/Documents/HRBodies/CCPR/RegisteredCases2019.docx>, <https://www.ohchr.org/Documents/HRBodies/CCPR/RegisteredCases2018.docx>, <https://www.ohchr.org/Documents/HRBodies/CCPR/RegisteredCases2017.docx>. Dates of last update not provided.

The IACHR also issues statistics on, inter alia, the number of petitions received and the number of pending cases, broken down by country¹³⁰. Information is presented in a user-friendly manner, with interactive maps and charts are available. A schedule of public hearings is also published a month in advance¹³¹.

Recommendations

- Following the lead of the CESC, other treaty bodies should adopt a clear, easily accessible and concise policy on third party interventions.
- All committees should publish timely information about pending cases.
- Summaries of pending cases should be issued with enough details about the case, in order to enable interested third parties to intervene.
- The OHCHR should continue to publicize basis statistics on the number of communications received and registered and update them on a regular basis. Details on registered cases could be provided in the weekly OHCHR treaty body newsletter.
- A calendar of projected consideration of communications should be issued, and published on the treaty body main page and/or on the search engine.
- Third party interventions should be made public¹³².

3.2. Dissemination post-adoption of views

Dissemination of treaty body work following the adoption of views should be strengthened with regard to (a) visibility of adopted views, (b) access to jurisprudence and (c) visibility at the national level.

a. Visibility of adopted views

Information on the views adopted by the treaty bodies suffers from a lack of visibility. Furthermore, treaty body jurisprudence is not enough featured in the current dissemination practices.

In terms of quantity, as stated in part 2.1 above, dissemination of information related to views is very occasional compared to other UN human rights mechanisms. A minority of decisions are disseminated through OHCHR press statements, on twitter and sometimes facebook. Dissemination practices vary between committees. Views adopted by the HRCtte are the most disseminated. Views from the other committees are barely disseminated. Furthermore, views are disseminated too long after they have been adopted by treaty bodies. The average timeframe between the adoption of the views and its dissemination is around 46 days for OHCHR's press releases and 64 days for twitter¹³³.

In terms of quality, the dissemination of views focuses primarily on findings of violations and rarely on the positive impacts of communication procedures¹³⁴. With regard to titles of publications, most of them state that "x country violated x right, found UN experts", or that "x country is responsible for x violation". This sentence structure tends to put the treaty bodies in a passive stance – its only role is to find a violation. Furthermore, it focuses on violations by states and not on victims' rights being restored. The focus is on the restoration of the victims' rights only in rare instances. For instance, a 2017 press release on a decision by the CRPD was entitled "Disability rights body provides justice to albinism

¹³⁰ <https://www.oas.org/en/iachr/multimedia/statistics/statistics.html>

¹³¹ <http://www.oas.org/en/iachr/sessions/docs/Calendario-173-audiencias-en.pdf>

¹³² Currently, only a short summary of third party interventions is available in the views. Interventions are published only if the author decides to do so on their own e.g. see <http://www.ishr.ch/news/lgbti-rights-ishr-intervenes-international-legal-proceedings-against-russia>

¹³³ All press releases are not disseminated on twitter and some views are only disseminated through twitter. When a decision is disseminated both through a press statement and twitter, both publications are generally available on the same day.

¹³⁴ With some exceptions such as the following <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=25102&LangID=E>

attack victim.”¹³⁵ By focusing on the positive impact of communication procedures on victims’ lives, this framing creates a positive narrative that brings hope.¹³⁶ As to content, in most cases, the holding and the main recommendation is first stated, followed by a short summary of the facts and procedure and few sentences on the reasoning of the committee. In few cases, some comments by members of the committee are included. Only in rare instances does the OHCHR issue a press statement highlighting the positive impacts of its jurisprudence¹³⁷.

Good practices

OHCHR bodies that have a dedicated page on social media are more visible on social media and their activities are easier to follow. The twitter accounts of the Human Rights Council¹³⁸ and the Committee on Migrant Workers¹³⁹ are good practices that could be followed.

As stated above, treaty bodies sometimes communicate on positive impacts of their jurisprudence. Publications that frame views in a positive way, such as “Disability rights body provides justice to albinism attack victim,”¹⁴⁰ “Spain sets milestone in international human rights law, say UN women’s rights experts,”¹⁴¹ and “UN announces that Peru will compensate woman in historic human rights abortion case,”¹⁴² should be further promoted.

Recommendations

Visibility

- The OHCHR should develop a robust and consistent media strategy with the aim of increasing the visibility and awareness of the system.
- The visibility of treaty bodies on social media should be enhanced, inter alia through the creation of dedicated accounts on social media platforms.
- Chairs could take a leading role in working with the OHCHR media unit and staff to proactively disseminate their statements and views.
- Members of committees could be encouraged to actively disseminate views on social media.

Positive narrative

- Positive narratives, which focus on restoration on victims’ rights, could be promoted.
- The OHCHR main page and treaty body main page could highlight examples of positive outcomes achieved through individual complaints.
- Positive outcomes could be disseminated through dedicated OHCHR media releases and through social media platforms (esp. twitter).

¹³⁵ See <https://www.ohchr.org/EN/NewsEvents/Pages/AlbinismAttackVictim.aspx?platform=hootsuite>

¹³⁶ See https://medium.com/@the_hope_guy/hope-not-fear-a-new-model-for-communicating-human-rights-d98c0d6bf57b

¹³⁷ See “Spain sets milestone in international human rights law, say UN women’s rights experts” <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23849&LangID=E> or “UN announces that Peru will compensate woman in historic human rights abortion case,” <https://news.un.org/en/story/2016/01/520272-un-announces-peru-will-compensate-woman-historic-human-rights-abortion-case>

¹³⁸ https://twitter.com/UN_HRC

¹³⁹ https://twitter.com/un_cmw

¹⁴⁰ See <https://www.ohchr.org/EN/NewsEvents/Pages/AlbinismAttackVictim.aspx?platform=hootsuite>.

¹⁴¹ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23849&LangID=E>.

¹⁴² See <https://news.un.org/en/story/2016/01/520272-un-announces-peru-will-compensate-woman-historic-human-rights-abortion-case>.

b. Access to jurisprudence

Access to jurisprudence of the treaty bodies remains a challenge for all parties, petitioners and states, treaty body members, civil society, and human rights researchers.

First of all, jurisprudence is not updated and translated in a timely manner on the jurisprudence database. As stated above, the average timeframe between the adoption of the views and the public dissemination of the views¹⁴³ is 65 days and the treaty body database publishes views earlier than the jurisprudence database. The current practice is that the petitions unit uploads manually the views once a decision is adopted¹⁴⁴.

Furthermore, the database is not user-friendly and is difficult to navigate. For instance, some dates of adoption of views are missing, which results in views not sorted in chronological order even if ordered by date.

Another main issue is the fragmentation of the treaty bodies' jurisprudence. There is no comprehensive overview of jurisprudence, making it difficult to get a full picture of the committees' views across treaty bodies, including for issues that are relevant to several treaty bodies such as non-refoulement, torture, arbitrary detention, etc. Even Committee members have limited access to views of other committees¹⁴⁵, and there is no articulate policy or procedure to ensure coherence of jurisprudence across the various treaty bodies. This makes aligning jurisprudence across treaty bodies difficult and often leads to contradictory views between committees.¹⁴⁶ Some efforts have been made in this regard. In addition to annual reports,¹⁴⁷ the HRCttee issues analyses of some committee's case law.¹⁴⁸ These analyses are detailed but they only list certain decisions where "particularly relevant issues of admissibility [were] raised which allowed the Committee to develop or underscore its own jurisprudence"¹⁴⁹ (categorised under "procedural issues") or "where the Committee developed or underscored its jurisprudence on the provisions of the Covenant"¹⁵⁰ (categorised under "substantive issues"). Decisions dealt by the Committee "following well-established jurisprudence are not referred to." Rather than analysing the cases together and drawing parallels between them, cases are compiled and explained one after the other, without comparative analysis. Also, the CRC makes available a table of views adopted¹⁵¹, classified by subject matter. This table summarizes the facts in one sentence and includes a brief summary of the views adopted. However, there is no information on the document as to when the views were adopted.

Good practices

Timely update of jurisprudence database

The HUDOC database¹⁵² of the ECtHR uploads new decisions immediately after the judgment. Furthermore, when a decision is issued in French, the decision is translated without delay into English, thus making the decision more accessible.

¹⁴³ The dates of publication on the jurisprudence database or the treaty body database not being available, the date used is the general distribution date available on the views.

¹⁴⁴ Op.cit., Geneva Academy, p.38.

¹⁴⁵ Interviews with treaty bodies' members.

¹⁴⁶ Interviews with treaty bodies' members.

¹⁴⁷ See for instance

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=27.

¹⁴⁸ See <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/AnalysisCommitteesCaseLaw.aspx>.

¹⁴⁹ CCPR/C/119/3, §11. See

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&SymbolNo=CCPR/C/119/3

¹⁵⁰ Ibid, §28.

¹⁵¹ See <https://www.ohchr.org/Documents/HRBodies/CRC/AdoptedCases.docx>.

¹⁵² See

<https://hudoc.echr.coe.int/eng#%7B%22documentcollectionid%22%3A%22GRANDCHAMBER%22%22CHAMBER%22%7D>

User-friendliness of the database

The HUDOC database and the jurisprudence database of the Centre for Civil and Political Rights (CCPR)¹⁵³ provide tools to refine searches, enabling modification of the search without having to leave the page. Decisions can also be downloaded directly on the results page.

Compilation of jurisprudence

The table of views adopted by the CRC is a good practice. It makes the treaty body jurisprudence more accessible and understandable to all stakeholders.

The ECtHR disseminates factsheets by theme on the Court's jurisprudence and pending cases¹⁵⁴. These factsheets are available in 13 languages. They are concise and easy to understand. It enables the general public to get a good overview of the Court's case-law. The ECtHR also issues case law guides.¹⁵⁵ Organized by Convention article, case law guides are comprehensive documents compiling the Court's major judgments. These reviews are regularly updated by the Court and are translated into multiple languages. Furthermore, every month, the ECtHR circulates a newsletter which explains article by article the decisions adopted.

Recommendations

- The OHCHR should ensure that the jurisprudence database is accessible, up to date, comprehensive and word-searchable in all UN official languages.
- If feasible, the UN Official Document System (ODS) and the Treaty Body Jurisprudence Database could be linked, which would save time. Regular updates on decisions could be issued through the UN ODS¹⁵⁶.
- The design of the jurisprudence database could be reconsidered. Tools to refine the search could be made available on the side of the results page, enabling modification of the search without having to leave the page.
- Case-law briefs on important issues and provisions should be issued.
- A newsletter could be circulated at the end of each session with a brief summary of each decision.

c. Visibility at the national level

Dissemination of views at the national level is critical. Several actors have a role to play in that respect. Most committees, except the CAT¹⁵⁷ and CRPD, request States parties to disseminate their views in the official languages of the state parties¹⁵⁸. However, in practice, views are not effectively disseminated

¹⁵³ <http://ccprcentre.org/database-decisions/>

¹⁵⁴ See <https://www.echr.coe.int/Pages/home.aspx?p=press/factsheets&c=#>

¹⁵⁵ See <https://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis/guides&c=#>

¹⁵⁶ Geneva Academy, op. cit.

¹⁵⁷ The CAT does not integrate requests to disseminate its views nationally because it deems that implementation of the Committee's views - dissemination included - shall be left to State parties to decide. Interview with a member of the CAT.

¹⁵⁸ The language does not differ much between committees. The HRCtte requests states to "publish the present Views and disseminate them widely in the official languages of the State party" (See for instance CCPR/C/125/D/2556/2015). The CRC requests States to "to publish the present Views and to disseminate them widely" (See for instance CRC/C/81/D/16/2017). The CESCR asks States to "publish the Views of the Committee and to distribute them widely, in an accessible format, so that they reach all sectors of the population" (See for instance E/C.12/65/D/22/2017). The CEDAW requests States to "publish the Committee's views and recommendations and to have them widely disseminated in order to reach all relevant sectors of society" (See for instance CEDAW/C/69/D/103/2016). Only the CED uses in some occasions a significantly different wording: States are "urged to make public the present Views and disseminate their content widely, in

nationally. When state parties do conform, views are only disseminated towards a specialized audience¹⁵⁹.

CSOs have therefore a key role to play in raising awareness about treaty body work and disseminating their views on a local level. An illustrative case would be the individual communication n°5/2015 of the CESCR¹⁶⁰ which held that Spain violated the right to housing to a family with young children by evicting them from a rented room without alternative housing¹⁶¹. The victims were represented by a lawyer from the CSO Centro de Asesoría y Estudios Sociales (CAES)¹⁶² and the International Network for Economic, Social and Cultural Rights (ESCR-Net) made a third party intervention on this case. In the decision, the Committee requested the government to “publish the Views of the Committee and to distribute them widely, in an accessible format, so that they reach all sectors of the population” (§22). However, the government failed to comply¹⁶³. CSOs which intervened as third parties subsequently disseminated the view on their own¹⁶⁴ and received coverage from the local press, raising local awareness around the issue of expulsion.¹⁶⁵ As a matter of fact, individual communications before the CESCR have become the last resort remedy for cases involving expulsion of families in Spain.¹⁶⁶ As of 1st October 2019, out of the 129 cases pending before the CESCR, 125 are from Spain.¹⁶⁷ All relate to eviction of families who live in premises without legal title. UNTB individual communication in the context of Spain have major implications since a 2018 Supreme Court ruling that UNTB decisions are binding on the state¹⁶⁸. Creating a transparent and accessible system of UNTB petitions is therefore crucial for the visibility and effectiveness of the complaints procedure at the national and local level.

National Human Rights Institutions (NHRI) have also an important role to play. According to the HRCtte, this role includes: “raising awareness about the communications procedure at the national level; following up on the Committee’s Views and monitoring State party’s implementation action; and submitting follow-up information about the implementation of the Committee’s Views”¹⁶⁹. The CED acknowledged that “Once the Views have been made public, it is important that national human rights institutions verify, or assist authors in verifying, that implementation has indeed taken place, including, when appropriate, by suggesting to the State party legislative or administrative reforms”¹⁷⁰.

particular, though not solely, among members of the security forces and prison personnel who are in charge of persons deprived of their liberty” (See CED/C/10/D/1/2013).

¹⁵⁹ Stavrinaki, Tina, Université Panthéon Assas, Thèse de doctorat en droit international, “Le régime des communications individuelles présentées en vertu de traités onusiens relatifs aux droits de l’homme”, 2015, p.152.

¹⁶⁰See

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/61/D/5/2015&Lang=en (views adopted on 20 June 2017).

¹⁶¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21842&LangID=E>

¹⁶² See <http://www.caesasociacion.org/index.php/movimientos-sociales/derecho-a-la-vivienda/1637-proceso-ante-naciones-unidas-por-vulneracion-del-derecho-a-la-vivienda-reconocido-en-el-pacto-internacional-de-derechos-economicos-sociales-y-culturales>

¹⁶³ See https://elpais.com/economia/2019/01/20/actualidad/1548004440_833705.html

¹⁶⁴ <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/naciones-unidas-condena-a-espana-por-no-garantizar-vivienda-alternativa-a-una-familia-desahuciada/>

¹⁶⁵ https://www.eldiario.es/sociedad/ONU-dictamina-Espana-desahuciada-durmiendo_0_661784476.html;

https://www.eldiario.es/sociedad/deshucios-ONU_0_710429404.html;

https://elpais.com/ccaa/2019/02/22/madrid/1550825992_336882.html;

https://elpais.com/ccaa/2018/08/23/madrid/1535041364_934571.html.

¹⁶⁶ https://www.eldiario.es/sociedad/familias-punto-desahuciadas-encuentran-aliado_0_798970643.html

¹⁶⁷ <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/PendingCases.aspx>

¹⁶⁸ <https://www.ejiltalk.org/supreme-court-of-spain-un-treaty-body-individual-decisions-are-legally-binding/>

¹⁶⁹ See HRCtte, Paper on the relationship of the Human Rights Committee with national human rights institutions, adopted by the Committee at its 106th session (15 October–2 November 2012),

<https://nhri.ohchr.org/EN/IHRS/TreatyBodies/HRCCommittee/NHRIs%20contributions/Paper%20on%20the%20relationship%20of%20the%20HR%20Committee%20and%20NHRIs%20ENG.pdf>, §20.

¹⁷⁰ See CED, The relationship of the Committee on Enforced Disappearances with national human rights institutions, <https://undocs.org/CED/C/6>, §31.

Good practices

Presence of OHCHR regional and country offices on social media platforms is important for the local dissemination of information. In that regard, the dissemination practices of the country office of Mexico are exemplary. The office maintains a twitter account¹⁷¹ which disseminates all UNTB views concerning Mexico. Press conferences with local CSOs are held to discuss the views and information related to press conferences is disseminated on their twitter account. Furthermore, the office released and circulated a very detailed guidance on how to file a complaint with the UN, including with the treaty bodies, in Spanish¹⁷².

Recommendations

- The OHCHR could strengthen efforts to disseminate views at the national level, including with support from UN field presences.
- UN country teams and UN agencies at the national and regional levels could disseminate and translate concluding observations and views, especially in countries with no OHCHR presence or where a UN language is not used. Human Rights Advisors (HRA) could play a role in this respect.
- OHCHR regional and country offices could reinforce their presence on social media platforms and disseminate information related to individual complaints.
- The OHCHR could approach National Human Rights Institutions (NHRI) and National Mechanisms for Reporting and Follow up (NMRFs) to widely disseminate and translate treaty bodies' views within their national networks, including government officials, members of the legislative branch and/or civil society organisations.
- UN field presences and/or NHRI could support and host follow up meetings to views of treaty bodies intended for the government, members of the legislative branch, the judiciary, CSOs and other relevant actors.
- Participation of civil society, and especially third party interventions (see part 3.1.c), should be facilitated and encouraged.

4. Conclusion

Good dissemination practices are an integral part of an effective system. As highlighted in the above sections, major information sharing gaps exist in the current dissemination practices of the OHCHR and treaty bodies. UNTB views and decisions direly and urgently need to become more visible, accessible and transparent. CSOs can play a key role in that regard, and their participation in the complaints procedure should be facilitated. Given the current context of backlog and budgetary shortfall, it should be noted that a number of the above mentioned recommendations are relatively easy to implement and either partially or entirely hard cost neutral. Strong willingness and support from the OHCHR, treaty bodies and their members are required for the ongoing process of treaty body strengthening to be effective. The individual communications mandate of UNTBs has been largely left outside of discussions ahead of the 2020 review, yet it should be fully integrated, and the transparency and accessibility of the system are key features of the system's overall effectiveness.

¹⁷¹ <https://twitter.com/ONUDHmexico>

¹⁷² Op.cit., http://hchr.org.mx/images/doc_pub/ComoPresentarQueja_WEB.pdf.