

Engaging with UN Human Rights Mechanisms

An Introduction



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International
Rehabilitation
Council for
Torture Victims

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2013 © International Rehabilitation Council for Torture Victims

ISBN 978-87-88882-10-0 (print)

ISBN 978-87-88882-11-7 (online)



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The International Rehabilitation Council for Torture Victims is an independent non-profit global organisation with a membership of more than 140 rehabilitation centres in 74 countries and with more than 25 years experience. The work of the IRCT is threefold: rehabilitation of torture victims and their families; ensuring victims' access to justice; eradication of torture.

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April 2013

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Introduction

The absolute and universal prohibition of torture, a cornerstone of international human rights protection, is clearly established in several human rights treaties. The most detailed of these treaties, the United Nations Convention against Torture, has been ratified by more than 150 countries in the world, and it thus provides a nearly global framework for ending torture and ill-treatment and ensuring access to rehabilitation services for survivors. Within the UN human rights system, there are several mechanisms mandated to monitor and/or promote the implementation of the prohibition against torture at the national level. For torture rehabilitation organisations, it may be relevant to engage with these mechanisms as part of their efforts to end torture at home and ensure that victims receive adequate redress, including rehabilitation.

Engagement with UN and other international and regional human rights mechanisms can be a powerful tool for promoting domestic change, if it is done strategically – on the right issue, at the right time and in the right way. However, it is important to

carefully consider if and how to engage in order to ensure that an organisation's limited resources are spent on generating as much domestic change as possible.

This short guide seeks to provide members of the International Rehabilitation Council for Torture Victims (IRCT) and other interested stakeholders with a practical tool to assess whether it may be relevant for them to engage with UN human rights mechanisms as part of their work. It does so from the perspective that such engagement must result in improvements in the enjoyment of rights for people on the ground, with a reasonable investment of human and financial resources. This guide briefly outlines the different types of mechanisms that are available in the UN system and how they may be relevant to torture rehabilitation organisations. This is followed by a set of general considerations for national organisations to assess if and how to best utilise these mechanisms in their work. Finally, it outlines the different types of support for engaging with UN mechanisms that the IRCT can offer to our members.

UN human rights mechanisms dealing with torture

UN human rights mechanisms can be broadly divided into two groups: charter-based (political) and treaty-based (expert) bodies. In the political bodies, the main actors are the member States of the UN; while in the expert bodies, they are private individuals who are expected to be independent of any government and experts in the issues addressed by the respective body (see Figure 1). While these are interconnected, they have distinctly different

mandates and working methods, which are important to know when thinking about possible engagement with them.

Political bodies

The main political mechanisms are the UN General Assembly's 3rd Committee and the Human Rights Council. Their main function is elaboration of international human rights standards and promotion of their

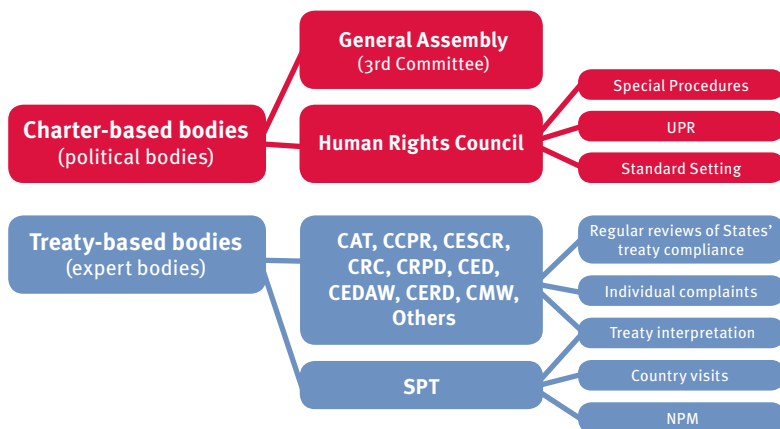


Figure 1 - The UN Human Rights System

Acronyms:

CAT - Committee against Torture
 CCPR - Human Rights Committee
 CESCR - Committee on Economic, Social and Cultural Rights
 CRC - Committee on the Rights of the Child
 CRPD - Committee on the Rights of Persons with Disabilities
 CED - Committee on Enforced Disappearances

CEDAW - Committee on the Elimination of Discrimination against Women
 CERD - Committee on the Elimination of Racial Discrimination
 CMW - Committee on Migrant Workers
 UPR - Universal Periodic Review
 SPT - Subcommittee on Prevention of Torture
 NPM - Supervision of establishment of National Preventive Mechanisms

implementation. To do this, they have a number of tools at their disposal.

Three of the most central tools are:

- Standard setting, whereby new human rights treaties or other less binding texts are negotiated and agreed on by States. This is how the UN Convention against Torture and its Optional Protocol came to exist.
- The system of Special Procedures, whereby the Human Rights Council, through the use of independent experts, monitors thematic and country-specific human rights situations through desk-based research and country visits. The independent experts will submit regular reports to the Human Rights Council, which can then decide to act on them or not. The UN Special Rapporteur on Torture is part of this system.
- The Universal Periodic Review, whereby all UN member States are subjected to a review of their national human rights situation by the other member States. Here, States can make comments, ask questions and issue recommendations to the State under review during an oral session at the UN in Geneva. IRCT's practical guide to the UPR is available at www.irct.org.

The common feature of all of these tools is that States are central actors and decision makers both at the international level and for the national implementation of standards and recommendations. Except for the legally binding treaties, most output from these mechanisms will be of a political nature, and it thus gains legitimacy from the political weight of the source — individual States, groups of States or all UN member States.

Expert bodies

The UN treaty bodies are established by individual human rights treaties with a mandate to monitor and promote States' implementation of their obligations under the respective treaty. The Committee against Torture (CAT) and the Subcommittee on Prevention of Torture (SPT) are among these, and IRCT guides to these mechanisms are available at www.irct.org. Each body is composed of independent experts and carries out its functions through a variety of means. The three most common are:

- The State reporting procedure, whereby each State that has ratified the relevant treaty will have its implementation record reviewed by the treaty body at regular intervals through a mixed written and oral procedure.
- Issuance of General Comments, whereby the treaty body will outline its interpretation of one or more provisions of the treaty it is mandated to monitor. This takes place through deliberations between the treaty body experts often over several years.
- Deciding on individual communication, whereby the treaty body will take a court-like function and issue its views on individual complaints submitted to it from persons claiming to be victims of violations of the relevant treaty by States that have ratified it.

In the treaty bodies, the decision-making power is shared between the independent experts and the States. The independent experts are in charge of monitoring and making recommendations. States are responsible for the national implementation efforts. Compared to the political bodies,

the output generated by the treaty bodies will have a more detailed and technical nature. Because the output comes from individual experts, its legitimacy with the States that are responsible for its implementation depends on its quality and the process through which it came about. If

output is of a high quality, relevant and produced in a process where States can feel that their views have been considered, States are, generally speaking, more likely to have a positive attitude towards national implementation.

Determining if and how to engage with UN mechanisms

UN human rights mechanisms have the potential to make an important contribution to advancing human rights for rights holders on the ground — if they are adequately informed about the national context, and if national stakeholders, including NGOs, are actively using the outputs from the UN mechanisms in the promotion of human rights in their respective countries.

However, with limited human and financial resources available to NGOs, it is important that these are focused on the interventions that generate the best outcome for the time and money invested. It is therefore important for torture rehabilitation organisations and other civil society organisations to consider a number of factors before deciding if and how to engage with UN human rights mechanisms. This will help to determine whether the expected outcome is proportional to the investment that will have to be made and how outcome can be maximised.

In addition, engagement with UN human rights mechanisms may result in other less obvious results, notably a change in the relationships between the different national stakeholders. The sections below will present some general considerations that can be used for an initial self-assessment in relation to expected outcomes, the necessary investment and possible effects on the relationship between national stakeholders. For a full assessment of the relevance of engaging with UN human rights mechanisms, the IRCT is available for input and further discussion.

Expected outcomes

The following factors are elements for consideration in an assessment of what outcomes at the national level can be expected from engagement with UN human rights mechanisms and how to maximise these outcomes. In other words, it needs to

be assessed what output can be expected from the UN human rights mechanisms and if this is likely to result in positive national change/outcome. As illustrated above, the two main tangible outputs from UN human rights mechanisms are country-specific recommendations and thematic standard setting. The following considerations will need to be contextualised to the specific national political and human rights situation and the situation of your respective organisation.

1. Do I have a national advocacy strategy/priority and what is it? Often the activities and outputs of UN human rights mechanisms have the biggest national impact if there are national stakeholders, including NGOs, that actively work with and lobby their national governments to effectively implement the sought-after recommendations. There is no need for a very formalised strategy, but it is important that there are national advocacy/lobbying activities taking place and that these are working towards clearly established objectives.
2. Is my country at all open to implementing recommendations made by UN human rights mechanisms? In general, most countries in the world are to some degree responsive to UN human rights mechanisms, but there are also some States where it is difficult to identify any national effort at implementing recommendations from UN human rights mechanism.
3. What output do I hope to gain from the UN and how will that support the realisation of my national advocacy strategy/priority? It is very important to consider what type of output you

will need to support the achievement of your national advocacy priority. This goes both for content and form of the output. What issues should be addressed? Should it be very detailed or more broadly focused recommendations? Should recommendations be of a political or expert nature? This will help you determine what mechanisms are most likely to deliver the output you need.

If you have clearly defined national advocacy objectives, your country demonstrates some level of openness to implementing recommendations from UN human rights mechanisms and you believe that the achievement of your advocacy objectives can be supported by recommendations from one or more UN bodies, it is likely to be relevant for you to engage.

Determining the necessary investment

Once you have determined that there is relevance in engaging with UN human rights mechanisms and the type of output that would be most useful, it is important to carefully assess what investment will be necessary to have a realistic chance of achieving the desired output. Below you will find a set of general considerations that may be supplemented with a more detailed discussion with the IRCT about how to most effectively engage with UN human rights mechanism, including with the support of the IRCT.

1. Does our organisation have previous experience with international advocacy towards the UN or other institutions?

2. Does our organisation have experience and capacity in producing written reports analysing the domestic human rights situation in one of the UN languages (English, French, Spanish, Arabic, Russian or Chinese)?
3. Do you have background information on the issue you want to highlight or will this need to be collected?
4. What time do you have available to produce a written report and conduct domestic advocacy activities using the output from the UN human rights mechanisms?
5. Are there any other national stakeholders working on the same issue or broader issues that may be interested in collaborating on UN advocacy?

Possible effects on the relationship between national stakeholders

It is very common that engagement with UN human rights mechanisms results in the alteration of the relationship between national stakeholders – this can be both positive and negative. Below is an exhaustive list of such changes as they have previously occurred with other NGOs as a result of engagement. These changes can be very significant and must thus be carefully considered as part of the overall decision on whether or not to engage.

1. Engagement with UN human rights mechanisms can facilitate an improved dialogue with your government. There are many examples where engagement with UN human rights mechanisms results in a better dialogue, either because the UN

provides a more neutral ground where you can dialogue with government representatives, or simply because your organisation, due to its engagement with the UN, is perceived as a more important stakeholder. Lastly, your ability to engage with UN human rights mechanisms may result in the government giving more importance to your voice to avoid criticism from the UN.

2. However, it can also result in a deteriorating relationship caused by the fact that your organisation contacted an international mechanism, which may bring shame or embarrassment to the country. This can lead to exclusion from decision-making processes, loss of privileges, such as access to places of detention, and in the worst case threats and physical targeting of your organisation, individual staff or clients.
3. One of the more commonly reported positive outcomes is that the process of engagement with UN human rights mechanisms has led to increased collaboration among national NGOs. Often at least parts of the engagement will be done through standing or ad-hoc national NGO coalitions, and the process of NGOs coming together to conduct international advocacy often has a unifying effect, which can subsequently be utilised for national implementation activities and beyond.

It is not possible to make a general assessment of the likeliness of any of these changes manifesting themselves. It therefore has to be carefully assessed based on your own knowledge about the domestic situation in your country.

How the IRCT can be of support

The IRCT seeks to provide all the support that our members need to assess the possibilities for engagement with UN mechanisms and to effectively engage if relevant. Below is an outline of the different ways in which we can support our members with this. Since this is done with limited human and financial resources, we cannot promise the delivery of all of these support elements to all interested members, but we will do our best to satisfy the need.

Support with assessment of relevance of engagement

The IRCT has extensive experience in working with the different UN human rights mechanisms and has a liaison office and staff based in Geneva. We therefore have a good overview of the types of outputs the different mechanisms are most likely to deliver, and how national NGOs can most effectively promote quality outputs with a minimal investment of human and financial resources. We are available for an informal discussion with our members on the different possibilities for engagement, which may be followed by a more concrete assessment of how this can be done most effectively.

Technical support with producing information for the UN human rights mechanisms

The IRCT can provide members with technical support to produce mainly written information to relevant UN human rights mechanisms. We have produced a series of practical guides on the different relevant mechanisms, which can be found on our website at www.irct.org. Furthermore, we can provide targeted guidance on how to produce written information and comment on existing draft documents. Lastly, when relevant, we may be in a position to produce joint reports with our members, where we will take a more active role in the drafting process.

Where resources permit, we may also be in a position to conduct preparatory visits that will focus on developing capacity of local civil society and preparing an advocacy strategy for future engagement with UN mechanisms.

Support with direct lobbying/advocacy in Geneva

Through our liaison office in Geneva, the IRCT is well placed to directly influence the relevant UN human rights mechanisms, and the IRCT does this through various forms of support to our members. This includes, to the extent possible, practical and financial support to members to travel to Geneva and advice on how, when and which decision makers to target for concrete lobbying activities. We can arrange meetings and accompany members if relevant. Furthermore, we can offer representation on behalf of our members when they are not able to come to Geneva themselves.

Support with national implementation activities

IRCT can provide technical advice on conceptualising national strategies to promote implementation of recommendations by UN human rights mechanisms, and, where relevant and resources permit, we may get actively involved in national implementation activities. This support can either be provided remotely or through follow-up visits by IRCT staff and/or external stakeholders.

Further information

For further information, question and comments, please contact Mr Asger Kjaerum, Head of IRCT Geneva Liaison Office at akj@irct.org / +41762215959

For more IRCT resources, please visit www.irct.org/library

Notes

Notes



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**International
Rehabilitation
Council for
Torture Victims**

Borgergade 13
P.O. Box 9049
1022 Copenhagen K
Denmark
Tel: +45 33 76 06 00
Fax: +45 33 76 05 00
Email: irct@irct.org
Website: www.irct.org