

Engaging with State reviews in the UN Committee against Torture

A practical guide



irct
International
Rehabilitation
Council for
Torture Victims

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**International
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Torture Victims**

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 over 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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Preface

Local organisations working on torture often possess a wealth of information and knowledge about torture in their country through their on-going and direct contact with victims. This information can be very useful as a basis for advocating for changes to domestic law and practice to ensure rehabilitation, justice and prevention of torture.

United Nations treaty bodies such as the Committee against Torture (the Committee), in particular its State review procedure, can provide useful support to existing domestic advocacy initiatives by bringing international attention and legitimacy to issues already being advanced domestically. International mechanisms can provide an additional push in the right direction, but this will only happen if their engagement with the States concerned is based on quality information and if they have sufficient guidance on the key priorities within the national context. To achieve this, the Committee needs reliable data and case examples to illustrate systemic issues, and it needs contextual information to better prioritise and target its interventions. Torture rehabilitation organisations and other organisations working on torture and ill-treatment at the domestic level are very well placed to produce this type of information and guidance. Therefore, the

Committee solicits information from local organisations at various stages throughout its review of a State.

It is our hope that this guide will help empower human rights advocates at the local level to effectively use the Committee's State review process to promote domestic change. In recognition that the process is complicated and that many organisations have difficulties accessing decision makers in Geneva, the International Rehabilitation Council for Torture Victims (IRCT) is implementing a programme to support our member organisations and partners with this part of the process. Through our office in Geneva, we are supporting our members with the preparation of alternative reports to the Committee, presentation of the report and its recommendations to the Committee in Geneva, and the national advocacy for the implementation of the treaty body recommendations.

The IRCT currently focuses on engaging with the UN Committee against Torture, the UN Subcommittee on Prevention of Torture, the UN Committee on Economic, Social and Cultural Rights and the UN Human Rights Committee. We also provide various forms of support to engage with the Universal Periodic Review of the Human Rights Council.

Why this guide?

The Committee was created with the main objective of promoting national implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in order to ensure increased protection for individuals and groups against torture and ill-treatment at the national level. To achieve this objective, it is essential that the intended beneficiaries, individuals on the ground, have effective access to the Committee to inform it about the situation in their country and advise on what concrete initiatives should be taken to improve that situation.

However, the Committee meets in Geneva far away from many of the countries it reviews and even further removed from the individuals it is tasked with protecting. Furthermore, its working methods and practices have developed over the years into a fairly complicated process, which can be difficult to understand and engage with for persons who do not have a regular interaction.

The objective of this practical guide is to explain, in a simple and concise format, how the Committee operates and how non-governmental organisations (NGOs) can engage with its State review process, which is the main process by which the Committee monitors compliance with the

Convention. The Committee also implements other mandates, such as deciding on individual complaints and drafting General Comments, but these will not be covered by this guide.

The guide contains background information on the working methodologies of the Committee as well as practical guidance on how to best influence the process at the different stages of the State review. It starts by explaining the State reporting cycle and providing an outline of the different stakeholders. This is followed by an overview of how NGOs can best ensure that their priority issues are adequately considered at each stage of the process. Finally, the guide provides some practical guidance and strategic reflections for NGO engagement in the State review on issues such as drafting alternative reports, working in coalitions and how the process can be linked with other international human rights monitoring mechanisms.

The guide focuses on engagement with the Committee against Torture, but many of the observations made herein are generally applicable to other treaty bodies. It is important to note that working methods and procedures change regularly, so it is always a good idea to check up on these before starting to engage in a State review.

How does the Committee monitor State compliance

The Committee is a treaty-based body composed of 10 independent experts with the mandate to monitor how States that have ratified the UNCAT implement the obligations contained therein at the national level. This is done through a wide range of activities such as reviewing States' periodic reports, deciding on individual complaints, conducting confidential inquiries and providing interpretations of selected provisions or elements of UNCAT through the drafting of General Comments.

However, the main activity of the Committee is to conduct regular examinations of how States implement their UNCAT obligations. This is done through periodic reviews of reports produced by the States about their implementation efforts. Each State is supposed to be reviewed every four years, but for a number of reasons, including economic constraints, the effective gap between reviews is significantly longer.

A State review process contains a number of steps commonly referred to as the reporting cycle, where the Committee will ask questions and make recommendations to the State, which in return will provide information about initiatives taken towards domestic implementation of UNCAT. In this way, the State reviews provides a venue where Government representatives can have a regular, technical discussion with international experts in the field of torture and ill-treatment on how to best realise the

rights and obligations contained in UNCAT at the domestic level. NGOs and other civil society actors can play a crucial role in this process by keeping the Committee informed about domestic developments, thereby ensuring that the discussion is based on a diverse and solid basis of information and that all relevant issues are adequately addressed.

The main outcome of a State review is a document containing concluding observations, which summarises the Committee's findings and makes a number of concrete recommendations for the State to implement in order to better comply with its obligations under UNCAT. These recommendations are important directions for States that have a genuine willingness to improve their domestic protection against torture. They also provide valuable guidance for international actors, such as donors and international organisations, when they determine their human rights priorities in the State in question. Also here, NGOs and other civil society actors can play a crucial role by promoting, supporting, participating in and monitoring the national implementation of the Concluding Observations.

The reporting cycle

The reporting cycle is composed of four main phases: i) preparation and information collection; ii) the hearing in Geneva;

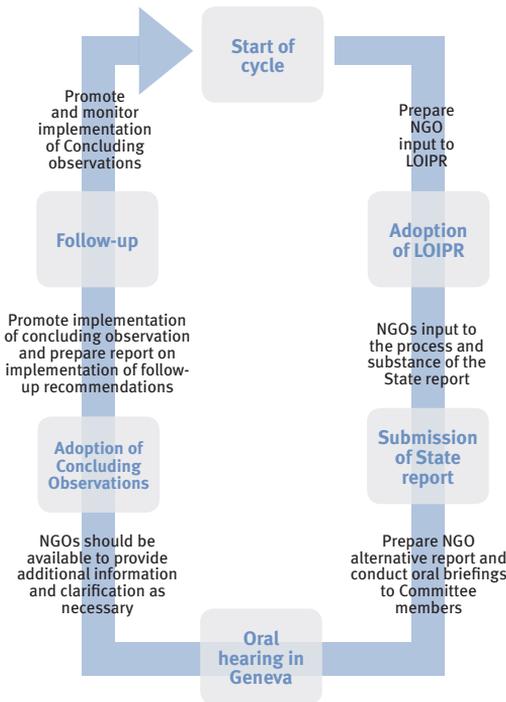
iii) the outcome; and, iv) national follow up on the Committee’s recommendations. The cycle is supposed to take four to five years but often takes longer.

NGOs have the possibility to engage with the Committee and contribute to the process at all four phases of the cycle.

Phase 1 – Preparation and information collection

This phase is mainly focused on gathering information from all stakeholders so that the review can be undertaken on a sound evidentiary basis. The reporting cycle starts by the Committee producing a document called a List of Issues Prior to Reporting (LOIPR). This document contains a list of both specific and broader questions posed to the State in relation to the current implementation of UNCAT and initiatives undertaken since the last time the State was reviewed. This is the first possibility for NGOs to contribute to the process by sharing with the Committee their main issues of concern and background information on the situation of torture in their country. The LOIPR is adopted during the official session of the Committee, and NGOs can submit information to the Committee approximately two months in advance of the review to inform the contents of the LOIPR. Next, the State is asked to prepare a report responding to each of the questions posed by the Committee and including any other information that the State deems relevant. This report is usually prepared in collaboration between the ministries and agencies whose area of responsibility is relevant to the issue of torture and ill-treatment. Some States also consult a broader range of stakeholders including NGOs during this process.

To complete the preparation and information collection, NGOs, National Human Rights Institutions (NHRIs) and other relevant non-state stakeholders are invited to submit their own alternative reports in



addition to the State reports. These should contain their views on the current state of implementation of UNCAT in their country

Example of General question to the Philippines, 2012:

...please provide information on redress and compensation measures, including the means of rehabilitation, ordered by the courts and actually provided to victims of torture, or their families, since the examination of the last periodic report in 2009.

Example of focused question to the Philippines, 2012:

Please indicate the status of implementation of section 19 of the Anti-Torture Law, which mandates the formulation of a rehabilitation programme and specifically indicate whether all relevant agencies have participated in its development and implementation, the amount of resources allocated to it, and measures the State party is taking to ensure that it is implemented throughout the territory of the State party.

and, if necessary, correcting or otherwise commenting on the information contained in the State report. The deadline for submitting alternative reports is approximately two weeks before the beginning of the Committee's official session.

This concludes the preparation and information collection phase of the reporting cycle. The Committee has now asked its questions about the current state of implementation of UNCAT and these have been answered both by the State and by other non-state stakeholders.

Phase 2 - The hearing in Geneva

When the State has submitted its report, the Committee will schedule an oral hearing in Geneva, Switzerland, where the State and the Committee can have an interactive discussion on how the State is implementing UNCAT. The oral hearing is split into two sessions over two days and lasts a total of five hours. During these two sessions, which are webcast live, the State will briefly present its report followed by a series of comments and questions by the Committee members. The State will then have the rest of the day to prepare responses, which will be delivered the following day during the second half of the session. The hearing concludes with a more interactive exchange of questions and answers.

Also civil society actors have the possibility to directly engage with the Committee during the sessions in Geneva. On the day before the official review starts, the Committee will hold a closed one-hour briefing with civil society actors. Only those that have submitted written reports to the Committee during the preparation phase are allowed to participate in the briefing. NGOs can present additional information to that contained within the written reports and the Committee members will have an opportunity to ask clarifying questions or make comments, in advance of formulating their questions for the State. The hearing with the government is public, which means that NGOs can observe it in persons or through the live webcast.

Phase 3 - The outcome of the review

The main tangible outcome of a country review is the Concluding Observations, which are adopted at the end of the Committee's session. This is a 10-15 page document

summarising the Committee’s findings and making a number of recommendations for the State to implement in order to improve its compliance with UNCAT.

The Concluding Observations will also identify a number of priority recommendations, where it will request that the State provide information within one year on steps taken towards their implementation (also known as follow-up recommendations). These recommendations are selected on the basis of three criteria: that they are serious, protective and can be accomplished within a one-year period.

Phase 4 – National implementation and follow up to concluding observations

The State is the primary responsible stakeholder for implementing the Committee’s recommendations. There is no formal procedure for implementing Concluding Observations, so the State is free to choose its own methods of implementation. However, the State is requested to translate and widely disseminate the Concluding Observations through official websites, the media and non-governmental organisations as a first step in implementing them at the national level. The State will

be required to report on its implementation efforts at two instances: a report on implementation of the follow-up recommendations one year after the adoption of the Concluding Observations; and reporting on implementation of the remaining recommendations only when the State submits its next periodic report – approximately four years after the adoption of the Concluding Observations.

NGOs and other stakeholders can also participate in the implementation and follow up to Concluding Observations. This can be done by actively contributing to the national implementation efforts through lobbying government agencies and contributing with their expertise in a given area. For instance, torture rehabilitation centres can provide technical assistance on how to establish rehabilitation services that are appropriate, available, and accessible to all victims of torture and ill-treatment. Furthermore, NGOs can submit alternative information to the Committee on implementation of the follow-up recommendations to support the monitoring function of the Committee.

Influencing the review

General approach to engaging with treaty bodies

The CAT State review process is implemented as a dialogue between independent experts (the Committee members) and representatives of the State under review. The main objective of this review must always be that it has a positive influence on the enjoyment of human rights on the ground in the State concerned. Since the State will ultimately be the one responsible for realising this objective, it is important that the review and the Concluding Observations are of the highest possible quality and that these are made in a constructive atmosphere that does not unnecessarily antagonise the State. This entails that:

1. **the review is conducted on the basis of accurate and reliable information and adequately addresses all relevant issues of concern within the mandate of the Committee; and,**
2. **Committee members and State representatives participate actively in a constructive dialogue about the issues of concern.**

These two process objectives are not easy to reconcile since many States see even the slightest criticism as an illegitimate attack on their sovereignty. Nevertheless, it is important that all possible efforts are made to achieve both objectives since States who feel that the Concluding Observations are a result of an illegitimate process are less

likely to subsequently initiate a genuine process of implementation. NGOs wishing to promote a strong outcome of the State review must therefore work with the Committee, as well as State representatives, to ensure the best possible outcome.

The above-mentioned objectives relate to the process of the review, and they are thus applicable to all CAT State reviews. In addition to these, each organisation that decides to get involved in the State review process must establish clear objectives for what it wishes to achieve in terms of substantive outcomes of the review. These objectives will largely depend on the domestic situation and the focus and priorities of the individual organisations. However, there are a few general considerations to keep in mind when establishing these objectives:

1. The outcome must have a realistic chance of instigating or promoting domestic change in policy or practice.
2. The review conducted by the Committee is technical rather than political in nature. It is thus possible to aim for some fairly detailed and concrete recommendations, such as proposing changes to specific legislation or practice. This also means that objectives that are politically highly contentious may be difficult to achieve through a State review.
3. Evaluate how different outputs can contribute to the achievement of your

objective. The main output is written recommendations to the State, but there are also less tangible outputs such as the webcasted dialogue between the Committee and State representatives. This can be used to give increased visibility to the process and issues at the national level, including in the media, and the possibility of using the review as an entry point for NGOs to have direct discussions with the government.

The following sections will illustrate how NGOs can work towards the achievement of the two process objectives and their individual substance objectives through working with the different actors involved in the review.

Who are the relevant stakeholders?

In order to effectively influence any process, it is important to know which stakeholders have a formal or informal influence on whether or not you will achieve your objectives, what kind of decisions they can make and how these are made. The main stakeholders in the State review are: the Committee and its individual members; State representatives; staff in the Committee's secretariat; and NGOs and NHRIs working to influence the review.

The Committee and its individual members

The Committee is a key stakeholder, but it makes different types of decisions formally and informally in different formats. All formal decisions made by the Committee are made by majority vote, but the Committee always strives to achieve consensus. In relation to the State review procedure, these

decisions include adoption of the LOIPR and adoption of the Concluding Observations.

For each State under review, the Committee will appoint two of its members as rapporteurs. These country rapporteurs take the lead in preparing and conducting the review process. Their main responsibilities include preparing the LOIPR, leading the oral hearing with the State representatives and preparing the Concluding Observations. Through these responsibilities, the country rapporteurs have a significant impact on the substantive contents of the LOIPR and Concluding Observations, and they will be given more time than other members to make questions and comments to the State.

Furthermore, the Committee appoints one of its members as permanent follow-up rapporteur on all States, with the main responsibility to collect and assess information received from States regarding measures taken to implement the recommendations selected for follow-up within one year. The follow-up rapporteur will assess whether all the issues identified by the Committee for follow up have been addressed and whether the information provided responds to the Committee's concerns and recommendations. Based on this assessment, the follow-up rapporteur may request additional information from the State or issue reminder letters when no information is submitted. The follow-up rapporteur also plays a more informal role in influencing which recommendations are selected for one-year follow-up.

Some Committee members may have specific expertise or interest areas, which lead them to have a stronger focus on certain issues in their evaluation of States'

performance. This could, for example, be a focus on gender, children, legal frameworks, rehabilitation or documentation of torture. These members have no formal prerogative to address their issues of interest, but due to their often strong knowledge and focus on clearly defined issues, they may have a larger influence on the outcome of the State review in this particular area than members with other interests. To give an example, if a Committee member is an expert in torture rehabilitation and continuously addresses this issue during State reviews, it is likely that the other members will give weight to his/her views when developing recommendations in this area.

To avoid conflicts of interest, Committee members do not participate in the review of their own State.

State Representatives

State representatives make a number of decisions throughout the review cycle, which also influence how likely NGOs are to achieve their objectives. These decisions can be grouped in two main categories: (i) the State approach to the dialogue with the Committee; and, (ii) the State approach to the involvement of external stakeholders including NGOs.

It is for the State to decide how it will approach the dialogue with the Committee. This includes the process for drafting the State report; which representatives will be present for the hearing in Geneva; and how it will implement the recommendations of the Committee. These decisions have a significant impact on whether the objectives of a quality constructive dialogue will be achieved since the State can either focus on creating a political dialogue or a technical dialogue with the Committee.

The State is not obliged to consult with any external stakeholders, such as NGOs, during the review cycle. However, when States conduct broad and open stakeholder consultations in connection with the different stages of the reporting cycle, it often results in a more constructive dialogue with NGOs and Committee members since many critical issues will already have been discussed directly with national NGOs. Practically, a majority of the States who appear before the Committee undertake some form of external stakeholder consultations. Further, the Committee often questions the State delegation on their inclusion of NGOs in the preparation of its report.

When addressing State representatives, it is important to distinguish between those that are mainly concerned with domestic policies and those that are concerned with foreign policies, notably from the Ministry of Foreign Affairs and from the Permanent Mission of the respective country to the UN in Geneva. The persons concerned with foreign policy are often more knowledgeable about the functioning of international human rights mechanisms like the CAT and their main purpose is to make the State look good internationally. These persons may be important bridge builders among NGOs, Committee members and those State representatives mainly concerned with domestic policies, who can have a tendency to protect these against external influence at any cost.

The Committee's secretariat

Staff in the Committee's secretariat are professionals who are tasked with servicing the Committee in its work. They, thus, have no decision-making power in a State review. Their main task is to prepare and

organise the meetings as well as to support the Committee members with the preparation of official documents such as the LOIPR and the Concluding Observations. However, the quality of this support depends on the level of detailed knowledge they have about the issues to be addressed. Most secretariat staff are highly qualified, but at the same time they are generalists who provide support to several different thematic areas of work. Therefore, it may be necessary to ensure that they are updated on specific issues in order to provide quality support.

Other NGOs and NHRIs involved in the review

NGOs and NHRIs have a range of different formal and informal roles in the reporting cycle. However, these are not always a homogenous group, and there may be other national or international organisations that are working to achieve other objectives than yours. While these are often mutually reinforcing, there may be instances where they are either conflicting or simply competing with your objectives for limited attention. This means that other NGOs and NHRIs can have significant impact on whether you achieve your objectives — either as an ally or as a competitor. In either case, it is important to be aware and map which other organisations are working on the review to ensure that your activities are coordinated and that avenues for collaboration are explored.

How to influence the relevant stakeholders

The following sections will look at each step of the reporting cycle and outline what

are the main objectives; which stakeholders can help you achieve these objectives; and how the support of these actors can be solicited.

Phase 1 – Providing information for LOIPR adoption

The LOIPR is prepared on the basis of the previous concluding observations and all credible information available to the Committee. It is, thus, possible for NGOs and other interested parties to submit written information about the current state of implementation of UNCAT and relevant questions that can be asked to the State. The questions contained in the LOIPR frame the discussion during the remaining part of the review cycle. New and emerging issues not included in the LOIPR can still be addressed, but they are less likely to be a focus of the Committee. Therefore, the main objective of interventions in relation to the LOIPR should be to ensure that your priority substance issues are included in the questions submitted to the Government.

There are four main stakeholders who can help you achieve this objective: the country rapporteurs; the Committee; the Committee secretariat; and individual members with special interests. The country rapporteurs are the main actors responsible for preparing the LOIPR, and it is thus important to ensure that they recognise the relevance of your priority issue. LOIPRs must enjoy support from a majority of the Committee members and in practice they are unanimously adopted. Therefore, it is important to ensure that at least a majority (and preferably all) of the Committee members recognise this relevance. If necessary, individual Committee members

How to produce a quality LOIPR report with minimum use of human resources:

- Provide a short context to the torture situation in the country so Committee members understand what the general conditions are.
- Primarily focus on the issues you know well so you do not need to conduct new research. There is no requirement to produce reports that cover all relevant issues.
- Go through previous Concluding Observations issued by Committee in relation to your country. If the issues addressed therein are still relevant, you should make sure to comment on what has been done to implement these.
- When addressing specific issues, you should provide some detail but avoid writing several pages on one issue. Instead reference to existing reports on those issues if these exist.
- Use all the non-confidential statistical information you have available to support your arguments. Statistical information is very useful to the Committee to get a more evidence-based overview of the domestic situation. Where possible, this should be linked to indicators for measuring change.
- Explicitly propose particular issues where you think CAT should ask questions. This can either be general — on legislation, prison conditions, etc. — or on very specific issues, such as lack of available statistical data, status of concrete unresolved cases or the situation in a specific detention facility. It is important not to propose the wording of the question but only to request questions on certain issues.

Deciding a format of the text is a very individual choice. However, the IRCT finds that it can be useful to split each focus area into four sub-categories:

1. General context of the issue
2. Previous Concluding Observations on the issue and what the Government has done to implement them
3. Specific problems and possible solutions
4. Proposed areas for questions

with special interests can help promote the inclusion of questions within their interest areas. Lastly, the Committee secretariat needs to have sufficient information to support the preparation of relevant quality questions.

The main method for influencing the contents of a LOIPR is by submitting a written report to the Committee approximately two months in advance of the session. In addition, one can seek to provide informal oral briefings to Committee members who may have questions for clarification.

When preparing written and oral information, it is important to keep in mind the following considerations:

1. Country rapporteurs can be expected to have a certain degree of background understanding of the situation in your country since they are likely to do their own research in advance. However, they have very limited time available to prepare the individual LOIPRs. It might therefore be relevant to include some very specific and targeted analysis and proposed questions in your

Outline of the process of compiling a state report, Kenya (UN Human Rights Committee, 2012)

Practical example provided by the Independent Medico-Legal Unit (IMLU), Kenya

The government carried out a multi-sector and multi-agency approach in compiling the information needed for the report. The Ministry of Justice and Constitutional Affairs was the focal point. The Ministry of Justice also involved civil society in different stages in compiling the report. The Ministry invited the different governmental agencies to discuss what content went into the report. This was based on its treaty obligations, the concluding remarks and the list of issues that provided by the UN Human Rights Committee. The Ministry briefed participants on the particular treaty under review and further identified different stakeholders, who would provide different input.

A focal point for different thematic areas was identified, who coordinated the sharing and consolidation of information to the report. The report, once consolidated, was circulated and subject to validation by different stakeholders including NGOs.

After the review took place, the Ministry of Justice, in collaboration with the Kenya National Commission on Human Rights, held a workshop to disseminate the Concluding Observations to Kenya made by the Human Rights Committee. In addition to disseminating information about the Concluding Observations, the workshop identified and prioritised actions that should be taken by the government of Kenya, the national human rights agency and civil society organisations to implement the recommendations.

information to the Committee and to submit this information at the earliest point possible.

2. Committee members who are not assigned as country rapporteurs have very limited time to familiarise themselves with the situation in countries that are up for LOIPR adoption. In order to ensure that they feel comfortable with including your priority issues, it is important to provide a certain level of compelling and concise background information and analysis.
3. It is important to illustrate how your priority issues fit with the mandate and the on-going (country specific and thematic) work of the Committee. If possible, you should draw connections to specific provisions of UNCAT and to relevant previous recommendations to your country made by the Committee. If these do not exist, you

can draw attention to similar questions asked by the Committee to other countries.

4. Try to map which NGOs and NHRIs are planning to present information. There may be a possibility to submit a joint NGO report and at the very least you can coordinate your input.

Phase 2 – Engage in the State reporting procedure

The drafting of the State report is a very important element in the reporting cycle. This is because the quality of the report affects the quality of the future phases in the review, and because it presents an opportunity for the State to evaluate itself. Depending on a State's willingness to reform, the exercise of collecting and analysing information on implementation of UNCAT may in itself prompt the State to take initiatives for immediate improvement. It

is therefore important to ensure that the process of drafting the report includes all relevant government agencies and that external stakeholders, such as NGOs and NHRIs, are given an opportunity to comment on the report.

The main stakeholders that can influence this stage of the process are the government officials responsible for the coordination of the drafting process. The coordination will often be done by either the ministry of foreign affairs or justice, but there is no fixed format for how this is done. The method for influencing these government officials varies greatly from country to country, but it is often done through direct oral or written contact with the relevant officials or through intermediaries with more power to influence. Such intermediaries could be other government agencies, the NHRI, or representatives of other governments in your country who can influence your government due to bilateral relations or because they are an important donor. Since the process of drafting the State report is often rather long (deadline for submission is usually 16-19 months after adoption of the LOIPR), it is important to start these efforts immediately after the adoption of the LOIPR or even before.

Phase 3 – Influencing the hearing in Geneva

The main purpose of the oral hearing in Geneva is to have a high quality and constructive dialogue on how the State has implemented its obligations under UNCAT. This dialogue is based on the State report and all other information available to the Committee, such as reports from NGOs, NHRIs and other UN agencies. The main objective for NGOs seeking to influence

the review is to ensure that the dialogue adequately focuses on and addresses your priority issues in a manner that is as constructive as possible, without compromising on the substance. A thorough discussion of your priority issues can greatly facilitate the development of high quality and targeted recommendations in the relevant area since it assures that all Committee members have substantive knowledge of the issue.

The main stakeholders that can help to achieve this objective are: the country rapporteurs; the Committee; Committee members with special interests; and State representatives from relevant ministries and the Permanent Mission in Geneva. The country rapporteurs are the ones leading the dialogue, and it is thus important that they have sufficient background information to adequately address and discuss your priority issues with the State representatives. Similarly, it is important to promote that the State delegation be composed of individuals who have expertise within the relevant areas that the dialogue is likely to address and specifically on your priority issues. These two elements are crucial for achieving a high quality and constructive dialogue.

Individual Committee members can also be important actors if your priorities are aligned with their special interest since they might be able to engage in more thorough dialogue with the State than Committee members less knowledgeable on these issues. In addition, it is important to have a broad range of Committee members addressing your priority issues so the State is aware that they enjoy broad support in the Committee.

There are several formal and less formal

methods for influencing the different stakeholders. Among the State representatives, it might be most relevant to focus on the government officials responsible for coordinating the drafting of the State report and through the Permanent Mission in Geneva. The methods for influencing State representatives are very context specific. In this regard, it might be useful to engage with international partners who can contribute with direct connections to the Missions in Geneva and with some internal perspectives on how other States engage with the Committee.

There are two official methods for influencing country rapporteurs and other Committee members in connection with the hearing. This is through a written alternative report and through participation in the NGO briefing with the Committee, which takes place the day before the oral hearing with the State in Geneva.

The written report will serve to provide the Committee members with detailed, reliable information providing an alternative perspective to what is contained in the State report. It may thus correct out-dated or incorrect information contained in the State report and may also provide information on issues that are not addressed. It is important that the report can contain background information, analysis of relevant aspects of the legal system and illustrative cases and statistics. While the report should ideally contain all these elements, it is fully legitimate to only cover one or more if this is more feasible.

It is outside the scope of this practical guide to provide detailed instructions on how to draft an alternative report to the Committee. However, there are some general considerations, which are important to keep in mind for the drafting process:

- 1. Format:** The Committee accepts and values information in all formats from an email to comprehensive booklets. The two main formats used are comprehensive reports focusing on the implementation of the full Convention or reports focused on specific thematic areas covered by the Convention. Comprehensive reports should ideally be structured according to the different provisions of the Convention to provide Committee members with an easy overview of the report. Further, these should ideally provide response to the questions posed by the Committee in its LOIPR. Conversely, thematic reports should focus on explaining the specific issue(s) covered and do not need to be structured along the Convention provisions.
- 2. Accessibility:** Committee members usually have very limited time available and an overwhelming amount of information to digest for each country being reviewed. It is therefore crucial that the report is as accessible as possible. It should be concise, to the point and avoid unnecessary narrative. Using a table of contents, executive summary, graphic layout and annexes for lengthy background information are all valuable tools to achieve an easily readable document.
- 3. Objectivity:** The report must be and appear to be objective. This means that all allegations must be well documented and clearly indicate what provision of UNCAT is allegedly being violated. Furthermore, it is important to recognise positive steps taken by the State to ensure that these are also taken into account by the Committee.

4. Structure: Reports are generally structured in three main sections:

- Introduction
- Substantive part
- Conclusions and recommendations.

For the substantive part, it can be helpful to structure each issue into sub-sections focusing on:

- The general context (where relevant include a reference to questions posed in the LOIPR),
- Developments since last review (previous Concluding Observations, implementation efforts and information in the State report)
- Specific problems and possible solutions
- Suggested recommendations.

5. Use of cases and statistics: It can be very effective to use cases and statistics to emphasise and add credibility to certain points in the alternative report. For statistics, it is very important to ensure that they are as updated as possible. Older statistics can still be helpful for questioning the State on what has happened since (if there are no newer statistics in the State report) but it must be clearly indicated if they are out-dated. Since the State review procedure does not deal with individual complaints, cases should mainly be used to illustrate general trends such as the extent of torture in a country; specific torture practices, perpetrators or locations where torture is practiced; or, systematic impunity etc. When using cases, it is crucial that

all identifiable victims have provided prior informed consent and that all measures are taken to avoid reprisals.

6. Focus on recommendations: It is important to remember that the main objective of the report is to ensure that the Committee makes high quality recommendations pertaining to your priority issues. Therefore, there must be clear links from your report's analysis, through conclusions and to the proposed recommendations, and that these are visually clearly accessible.

The NGO briefing is only open to NGOs that have submitted an alternative report on the respective country. In this way, it is a very good opportunity to have an interactive discussion with the Committee to further clarify issues already covered in the alternative report. Lastly, it also provides a possibility to have more informal exchanges with country rapporteurs and individual Committee members who may have a special interest in your priority issues.

Webcasting of treaty body hearings is an initiative that has been growing over the past years. Currently, all the Committee's State reviews are webcast live on the internet (treatybodywebcast.org) and recorded for posterity. This enables NGOs with limited resources for travelling to Geneva to follow the discussions during the review, analyse the outcome and provide their insight to interested media on the conduct of the proceedings. It also provides a new venue for improving the quality and constructive nature of the dialogue. State representatives with relevant knowledge, who cannot come to Geneva for the hearing, can follow the discussions and provide input to the State's replies, which takes place on day two of the

What you need to know for the NGO Briefings at the hearing in Geneva:

- Briefings are split into two parts: intro statements by participating NGOs and Q & A with the Committee, with the country rapporteurs taking the lead. The briefing is interpreted into the six UN languages.
- Make sure that you coordinate with other NGOs attending the session well in advance of the session. It is important to ensure that you distribute speaking time equally between NGO speakers and avoid repetition. The Committee's secretariat may be helpful in establishing contact with other NGOs attending the session. More info can be found on the Committee's NGO page: http://www2.ohchr.org/english/bodies/cat/follow_up_ngo.htm
- If possible, provide the secretariat with copies of written statements and a speakers list immediately before the sessions starts. This will facilitate interpretation and give Committee members an overview of the subjects that are about to be covered.
- **Keep it short.** The briefing lasts only one hour, and you need to leave time for a Q&A with committee members. It is not possible to know in advance what Committee members already know and where they would like additional information. It is therefore important to leave sufficient time for them to ask questions and for detailed responses. Total time for introductory statements should not be more than 20 minutes.
- Despite the limited time, **speak slowly.** Limited comprehensible information is better than more information that no one understands because you speak too fast. Most people cannot make themselves understood if they speak more than 150 words per minute, and it can be difficult for interpreters to keep up. Make a written version of your intro statement and make sure that it does not exceed your allocated time.
- Introductory statements should mainly focus on outlining the main points in your submission and providing updates on any recent developments. Do not go into detail on issues already covered in written reports. If relevant, make reference to specific sections in your report rather than reading them out.
- If there is limited time for responses, make sure you respond to questions from country rapporteurs since they will be leading the review. You can explicitly offer to get back to individual members on specific questions after the briefing is over if you do not have enough time to answer their questions.
- If you do not have the answer to a question, either offer to get back at a later time before the oral hearing starts or simply say that you do not have the answer. There is no shame in this. **Never provide answers that you are not 100% certain are factually correct.**
- Make a note of which Committee members ask questions about your priority issues so that you know who is more likely to bring up these issues.

hearing. Further, it enables State representatives who are not in Geneva to follow the discussions that form the background for the Concluding Observations. This should contribute to a better understanding of how they were reached and increase their legitimacy with the agencies that will eventually be required to implement them. Lastly, the webcasting and recording holds State representatives and Committee members accountable for how they conduct the dialogue, which should contribute to a more constructive environment. Since this is a relatively new initiative, many States are not fully aware of the potential this has for remote monitoring of the review. It is therefore important that NGOs take the

initiative by using the webcast for their own purposes and introducing it to the relevant State representatives and encouraging them to make full use of it.

Phase 4 – Make recommendations for Concluding Observations

The Concluding Observations are the main tangible outcome of the review process. This phase of the process is closely linked with the hearing, both in time, but also in relation to the relevant stakeholders. However, where the main objective in the preceding stages is the quality of the dialogue, the objective here is to ensure that the Concluding Observations are of a high quality, can be easily implemented and address your priority issues substantively.

In relation to interaction with Committee members, the observations above are still applicable. However, it is important to justify why certain issues should be addressed and to be very clear about what types of recommendations are useful in the national context. Sometimes, recommendations need to be highly critical to ensure that the State representatives appreciate their importance and at other times a more constructive approach will have a better effect. National NGOs are often much better placed to assess this than Committee members who have a less intimate understanding of the national context. It is also important to identify what type of recommendations will be best suited for follow-up after one year and clearly indicate this to the Committee.

In addition to the methods outlined in the hearing section, it is important that you clearly link proposed recommendations to concerns identified in your background information and make yourself available to

Webcast of review of Ireland, 2011:

In May 2011, the CAT review of Ireland was webcasted live online. The initiative was very well received by local stakeholders who were not able to travel to Geneva for the review. Among the key concrete outcomes of the webcast were:

- Footage used for a news segment focusing on the review on the 9pm news on RTE (the Irish equivalent of BBC).
- When presenting her annual report a week after the review, the Irish Children's Ombudsperson strongly criticised the Irish Government for misrepresenting one of her reports in its discussion with the Committee. This information would never have come to her attention if she had not had access to the webcast.
- NGOs produced video compilations of discussions pertaining to their priority issues.
- It was possible for the State delegation to use the video footage to double check questions asked when preparing their responses.

clarify any additional questions that Committee members might have during the rest of the Committee session. In this way you ensure that your priority issues are not dropped because there is uncertainty about the specific facts or analysis.

Phase 5 – Work on national implementation and follow-up

As stated in the beginning, the main objective of the State review procedure is to promote improvements in the enjoyment of human rights on the ground in the State concerned. The main objective of this last phase of the cycle is thus to make sure that the recommendations are promptly and effectively implemented and that the State is held accountable for this.

While State representatives are the most important stakeholders in this effort, it may also be relevant to activate Committee members, the Committee secretariat Office of the High Commissioner for Human Rights (OHCHR) in general, NHRIs and other national and international NGOs. National NGOs can support lobbying on the implementation of the Concluding Observations and provide technical assistance to the State; international NGOs can support such efforts by maintaining international focus on the situation, activating other international actors in support of your objectives and providing technical assistance to the State; the Committee secretariat and the OHCHR can possibly facilitate support with technical assistance to the State, and it can help involve UN country offices where relevant; and Committee members can participate in the national awareness raising and promotion of the Concluding Observation and conduct a formal evaluation of implementation of the recommendations

selected for follow up one year after the review.

The methods that national NGOs use for collaboration and lobbying is highly context-specific, and it is thus outside the scope of this guide. However, it is important to reflect on how international and regional NGOs can be activated to support these primary efforts. International NGOs can often be helpful in applying additional pressure on the Government through letter writing, country visits and offers for technical assistance with implementing specific recommendations. It is therefore important to draw on international partners affiliated with the different national organisations involved to ensure that they are active and coordinated between each other and, more importantly, with the national organisations. The national advocacy efforts should always be led by the national organisations who know the local context best and international NGOs should be involved when requested by the national organisations.

Country visits by individual committee members, acting in their own capacity or as representatives of the Committee, is a practice that often produces positive results. These visits can either be done immediately after the review to introduce the Concluding Observations and discuss implementation plans with all national stakeholders, including State representatives and NGOs, or they can be conducted at a later stage with the objective of an on-site assessment of the implementation efforts. International NGOs can often be helpful in establishing the contact to the Committee members and facilitating the visit.

More formally, the Committee will conduct an assessment of the implementation

of follow-up recommendations one year after the review took place based on information available. Here, the State is requested to send a short report outlining its implementation efforts on the selected recommendations. NGOs have the opportunity to submit their own report on how the implementation of these recommendations is progressing. In this regard it is important to lobby the State representatives to send the status report on time since the Committee will not evaluate implementation until it receives a report from the State. For the NGO report, it is recommended not to submit this until the State report is submitted since this offers an opportunity to comment on the information provided by the State. If the State report is significantly delayed

(by at least six months), it might be relevant to submit the NGO report without a State report to comment on. In this way, the Committee can use the NGO report as a pressure mechanism for the State to submit its own information.

Lastly, the OHCHR has an extensive programme focused on providing technical assistance to States. If your Government indicates a genuine interest in implementing the Concluding Observations, it may be useful to seek the involvement of OHCHR in supporting their implementation. This can be done through the Committee secretariat, through the country or regional office or directly with the Field Operations and Technical Cooperation Division (FOTCD) of OHCHR.

On coalition-building and collaboration with other NGOs

In all our work, the IRCT strongly encourages collaboration between NGOs in coalitions or other suitable formats. In the human rights review process, NGO coalitions are often more visible and have more impact than single NGO submissions, given that Committee members have limited time and thus prefer to read reports that are comprehensive and represent an agreed position among NGOs.

The State reporting process can be an opportunity to build stronger cooperation between NGOs in the area of international

advocacy, and it can be a tool for coalition-building and strengthening links between NGOs nationally.

What has to be considered for NGOs working on very specific issues is the visibility of their own analysis and recommendations within the coalition report. It is perfectly legitimate to both contribute to a coalition report and to submit a separate report on issues of special concern to your organisation if you feel that there are certain issues that need separate attention.

Links to the Universal Periodic Review

The Universal Periodic Review (UPR) is a process whereby all States will have their human rights record reviewed by the Human Rights Council every four-and-a-half years. As a Human Rights Council mechanism, the review is conducted in Geneva through a three-and-a-half hour session, during which any state can ask questions and make comments and recommendations to the State under review. The State under review is also given the opportunity to provide responses during the session.

While the Committee's State review and the Universal Periodic Review (UPR) processes both focus on analysing States' national implementation of human rights obligations, the two processes are very different. This is especially due to the fact that the UPR is a political rather than expert process, where States make recommendations to each other based on a number of different considerations that are not necessarily grounded in an expert analysis of the national situation.

Nevertheless, the two processes can be mutually reinforcing if used in the right way. For instance, the UPR has proven to be a strong mechanism for encouraging States to ratify international human rights documents and for making States submit their reports to the relevant treaty bodies.

Furthermore, the UPR can be used to put more political weight behind implementation of treaty body recommendations by States recommending implementation of specific treaty body recommendations in the UPR.

However, at the same time, it is important to avoid that UPR recommendations dilute the recommendations made by treaty bodies by oversimplifying the recommendations or making them less demanding.

In the context of a Committee's State review, it may be relevant to bring up UPR recommendations. However, this must be done carefully to avoid unnecessarily politicising the treaty body expert process. As a general rule, implementation of UPR recommendations accepted by the State should be addressed by the relevant treaty bodies, which are in a better position to make a technical assessment of how the State is performing this commitment in the context of its broader human rights obligations. As for rejected UPR recommendations, it is important for NGOs to ensure that these are addressed as a general issue on implementing the Convention and not as rejected recommendations. Otherwise, there is a risk that the treaty bodies enter a political arena where they do not belong.

Resources

There is a wealth of resources available on the UN Treaty Body system and more specifically on the Committee against Torture. Below, you will find a non-exhaustive list of links:

IRCT resources:

www.irtct.org/library

Committee Against Torture Webpage:

<http://www2.ohchr.org/english/bodies/cat/index.htm>

NGO Guidelines on the Reporting Process of the UN Human Rights Committee by the CCPR Centre

www.ccprcentre.org/publication/ngo-guidelines-on-the-reporting-process-of-the-un-human-rights-committee

Simple Guide to the UN Treaty Bodies, by International Service for Human Rights (ISHR)

www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies

Information on alternative reporting to the Committee Against Torture by Association for the Prevention of Torture (APT)

www.apt.ch/en/alternative-reporting-to-the-cat

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

Notes

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