



UNITED NATIONS  
**HUMAN RIGHTS**  
OFFICE OF THE HIGH COMMISSIONER

# **Overview of South Africa's treaty obligations and the role of the Parliament in promoting implementation**

Jean B Fokwa Tsafack

Human Rights Officer

Office of the United Nations High Commissioner for Human Rights

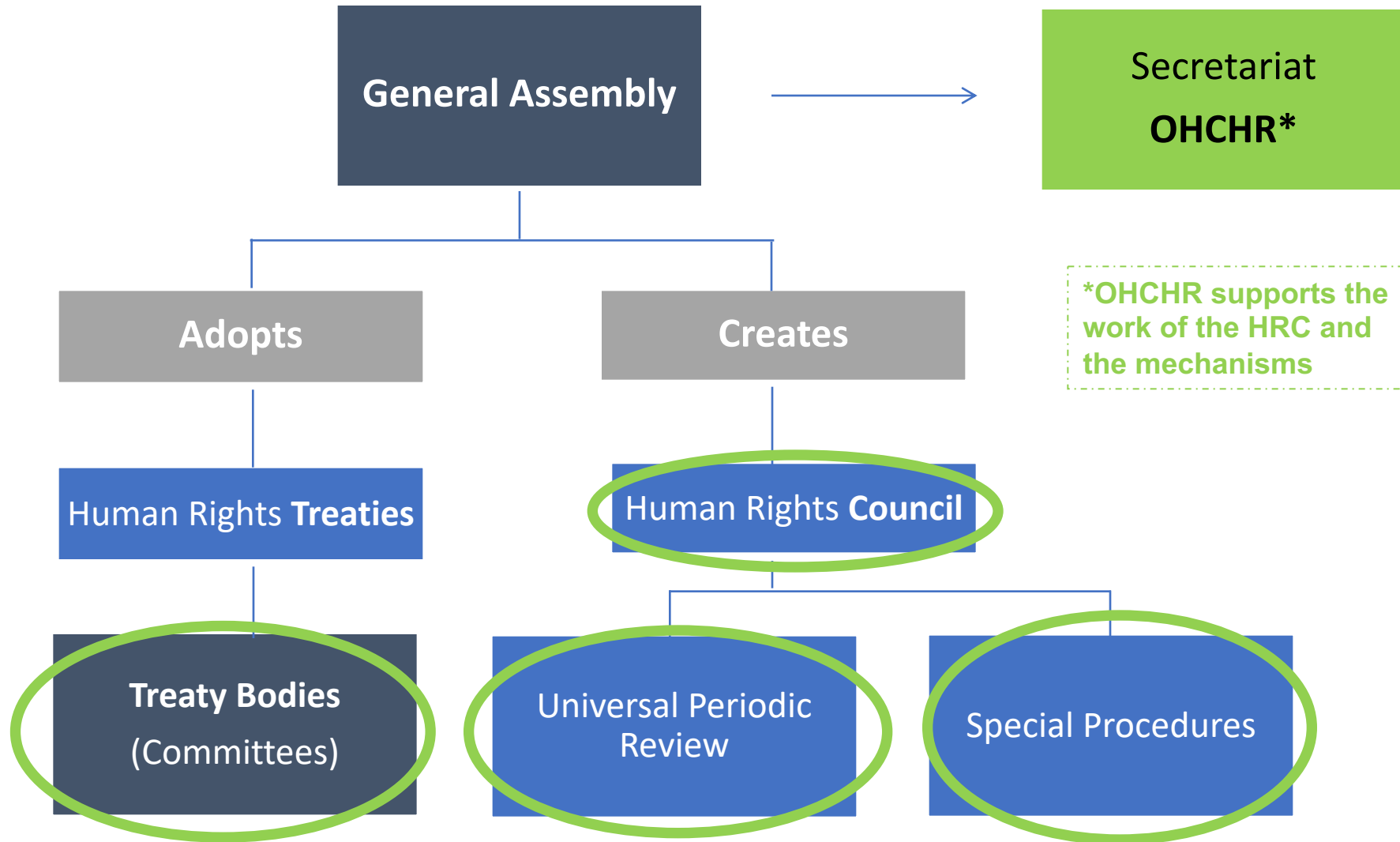
Regional Office for South Africa



# What are human rights

- Human rights are fundamental rights that everyone is endowed with by virtue of being human. Human rights have the following characteristics.
- Inherent
- Inalienability
- Universality
- Indivisibility
- Interdependence

# The main UN Human Rights Mechanisms



# Developing human rights standards

## Universal Declaration of Human Rights

- The declaration was adopted by the General Assembly on 10 December 1948
- This document, expressed as “a common standard of achievement for all peoples and all nations”, sets out a wide span of rights covering all aspects of life including civil, political, economic, social and cultural rights.
- While the Declaration is not legally binding treaty, its importance should not be underestimated.
- It sets out human rights standards and some of the provisions have been accepted as customary international laws.

# Human rights treaties

- Human rights treaties are agreements between states which grant specific rights to individuals who are not themselves parties to the instruments, but for whom the correlative duties fall primarily on States
- States become a party to a treaty through ratification, accession or succession,
- A State voluntarily becomes **obligated under public international law to uphold and implement the provisions of the treaty.**

## The obligation of the State

### Duty-bearers

Respect

Protect

Fulfill

*Refrain* from  
interfering with the  
enjoyment of rights

*Prevent* others from  
interfering with the  
enjoyment of rights

*Adopt* appropriate  
measures towards full  
realization of rights

- Once a State has become party to the treaty in question, it must take steps to ensure that domestic legislation is in conformity with the provisions of the treaty.
- Measures must also be put in place towards implementation.
- In some cases, a State may declare a **reservation** to a particular article of a treaty it has ratified. If the reservation to the relevant article is deemed admissible, then the State is no longer considered bound to fulfil that particular provision

# Overview of core international human rights treaties

## International bill of human rights

Universal Declaration of Human Rights



International Covenant on Civil and Political Rights  
- OP on a complaints procedure  
- OP on abolition of death penalty

International Covenant on Economic, Social and Cultural Rights  
- OP on a complaints procedure

## Specific phenomena

International Convention on the Elimination of All Forms of **Racial Discrimination**

Convention against **Torture** and other Cruel, Inhuman or Degrading Treatment or Punishment  
- OP on Subcommittee on the Prevention of Torture

International Convention for the Protection of All Persons from **Enforced Disappearance**

## Specific groups

International Convention on the Elimination of All Forms of Discrimination against **Women**  
- OP on complaints procedure

**Convention on the Rights of the Child**  
- OP on involvement of children in armed conflict  
- OP on sale of children, child prostitution and child pornography  
- OP on complaints procedure

Convention on the rights of **Migrant Workers** and members of their families

Convention on the rights of **persons with disabilities**  
- OP on complaints procedure





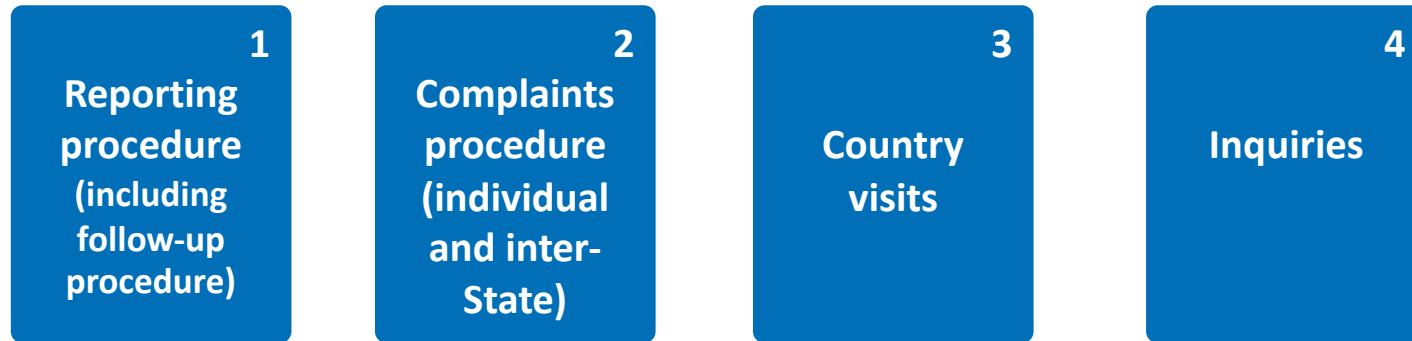
# Treaty bodies

- Human Rights Committee (HRC)
- Committee on Economic, Social and Cultural Rights (CESCR)
- Committee on the Elimination of Racial Discrimination (CERD)
- Committee against Torture (CAT)
- Subcommittee on the prevention of torture (SPT)
- Committee on Enforced Disappearances (CED)
- Committee on the Elimination of Discrimination against Women (CEDAW)
- Committee on the Rights of the Child (CRC)
- Committee on Migrant Workers (CMW)
- Committee on the Rights of Persons with Disabilities (CRPD)

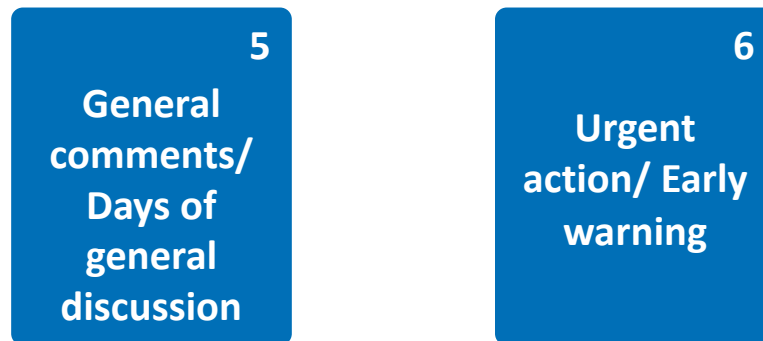


# Six key functions of treaty bodies

Treaty Bodies monitor State parties' compliance with their **treaty obligations** through:



Treaty Bodies interpret the treaties and prevent human rights violations through:



## South Africa's treaty ratification and reporting status

Core Human Rights Treaties	Date of ratification by South Africa	Reporting status
The Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	10 <sup>th</sup> December 1998	Next report due on 17 May 2023
The International Covenant on Civil and Political Rights (ICCPR)	10 <sup>th</sup> December 1998	Next report due in April 2024
The Convention on the Elimination of all forms of Discrimination against Women (CEDAW)	15 <sup>th</sup> December 1995	Next report due in 2025
The Convention on the Elimination of all forms of Racial Discrimination (CERD)	16 <sup>th</sup> June 1995	Report submitted on 27 May 2021
The Convention on the Rights of the Child (CRC)	30 <sup>th</sup> September 1990	Report due on 15 January 2022
CRC Optional Protocols on the involvement of children in armed conflict	24 September 2009	Report overdue on 25 October 2011
CRC- sale of children, child prostitution and child pornography	30 <sup>th</sup> June 2003	Report due on 15 Jan 2022
The International Covenant on Economic, Social and Cultural Rights (CESCR)	12 <sup>th</sup> January 2015	Next report due on 31 <sup>st</sup> October 2023
Convention on the Rights of Persons with Disabilities (CRPD)	4 <sup>th</sup> December 2007	Report due 03 June 2022
The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)	Not a State party	-----
The International Convention for the Protection of all Persons from Enforced Disappearance (CED)	Not a State party	-----



## Regional human rights treaties ratified by South Africa

- African Charter on Human and Peoples' Rights (African Charter)
- African Charter on the Rights and Welfare of the Child (African Children's Charter)
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women





# South Africa's reporting and implementation obligations to treaty monitoring bodies

- South Africa is under the obligation to report to treaty monitoring bodies on the steps it has taken to ensure the implementations of the provisions of different treaties it has ratified.
- In return, the treaty monitoring bodies are expected to issue what is known as 'concluding observations' or recommendations on such reports.
- South Africa has an obligation to implement the treaty provisions by also implementing the recommendations or concluding observations from the treaty bodies.



## The role of the Parliament in the implementation of human rights treaties

- Encourage ratification of treaties yet to be ratified
- Exercise oversight function by requesting the Department of International Relations and Cooperation and responsible Government Departments to keep the committee up to date on the status of SA's reporting obligations and implementation of recommendations from all human rights mechanisms
- Using international human rights standards and principles (General Comments/Recommendations and Concluding Observations) as benchmarks in drafting laws or scrutinizing compliance



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- Facilitating the domestication of human rights treaties in SA.
- Monitoring implementation by the Government of Concluding Observations or recommendations issued by treaty monitoring bodies and other human rights mechanisms.
- Make necessary budget allocation for the implementation of recommendations.



## General measures for child rights Governance and implementation of the Convention on the Rights of the Child

- ❖ Ensuring that legislation is fully compatible with the Convention
- ❖ Ensuring that there is a systematic process of assessing new laws, policies or programmes for their impact on children's rights ("Child Impact Assessments")
- ❖ Developing a detailed, comprehensive national strategy or agenda for children, based on the Convention, and taking into account policies of decentralisation
- ❖ Ensuring adequate resource allocation and making children "visible" in budgets
- ❖ Developing permanent mechanisms in government to ensure the effective co-ordination, monitoring and evaluation of implementation
- ❖ Developing training, education and capacity-building for all those involved in the implementation process.





- ❖ Creation of a mechanism or process to ensure all state and non-state service providers (e.g. the private sector, faith organizations, NGO/civil society) respect the Convention.
- ❖ Promoting co-operation and co-ordination with civil society - with professional associations, non-governmental organizations, children and so on.
- ❖ Ensuring the development of appropriate indicators and sufficient data collection on the state of children.
- ❖ Promoting international co-operation in implementation.
- ❖ Creating statutory children's rights institutions / ombudsmen offices.



**Thank you**  
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