

Informal technical consultation for States parties  
to international human rights treaties  
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Background paper prepared by the  
Office of the UN High Commissioner for Human Rights (OHCHR)

## State parties' reporting procedures under international human rights treaties

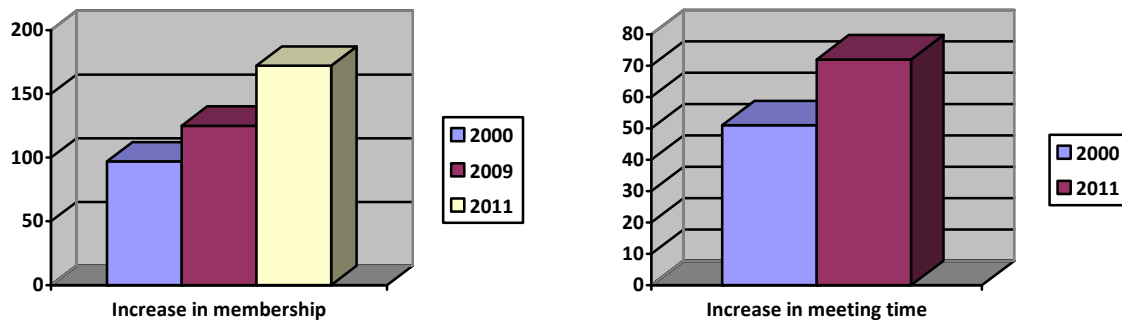
### Requirements and implications of the ongoing growth of the treaty body system on the periodic reporting procedures, documentation and meeting time

#### A. Introduction

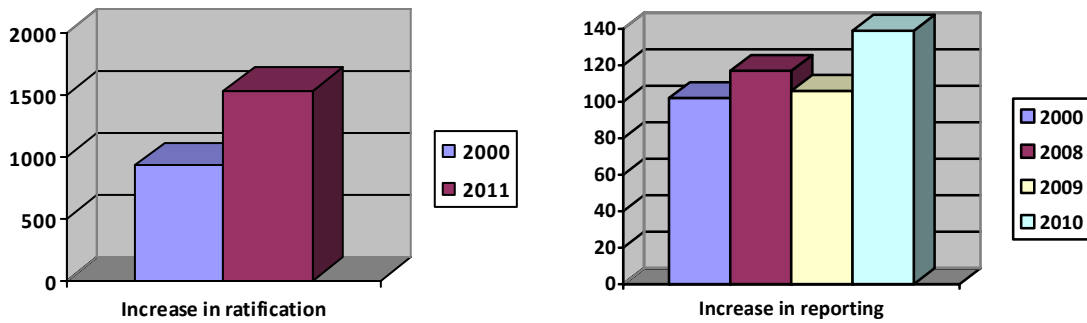
Since 2004, the human rights treaty body system has grown enormously and **doubled in size** with the addition of four new treaty bodies (CMW, CRPD, SPT, and the CED), two new optional protocols for individual complaints (CRPD and ICESCR, the latter not yet having entered into force) and one in the making (CRC).

This trend is expected to continue with the ongoing development of international human rights law and the adoption of new instruments, such as on issues relating to the human rights of older persons (currently in negotiation), mercenaries, as well as business and human rights.

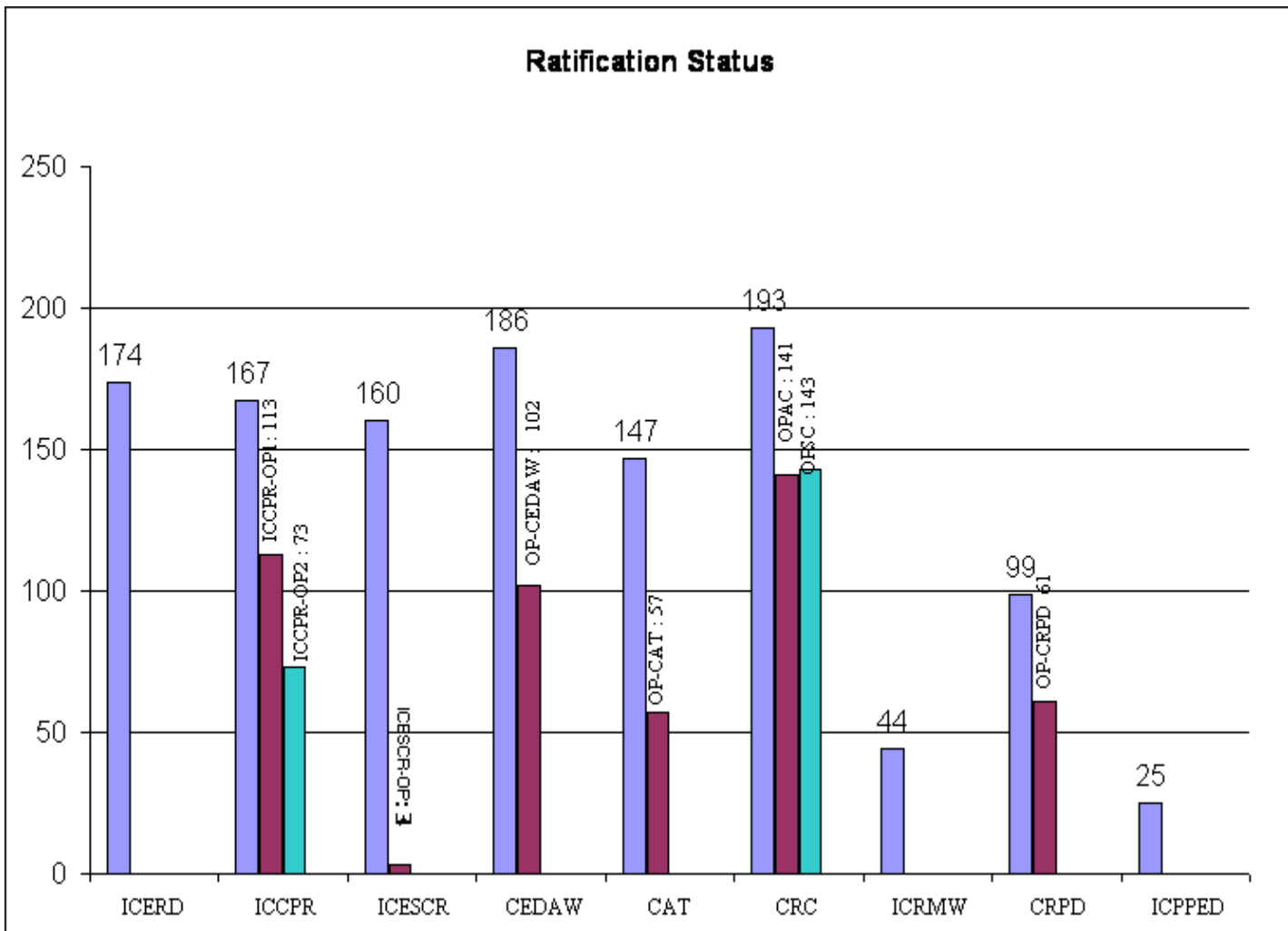
There have been increases in membership for the CRC, CMW, CRPD and the SPT bringing the total number of treaty body experts in 2011 to 172 (versus 97 in 2000 and 125 at the end of 2009). The meeting time has also been on a sharp rise (51 weeks in 2000; 72 weeks in session for 2010 and for 2011).



In addition, and also as a positive side-effect of the new Universal Periodic Review (UPR), States have increased ratification and reporting under international human rights treaties. The six core international human rights treaties into force in 2000 totaled at the time 927 ratifications. In 2011, the total increased over 50%: 1 536 ratifications<sup>1</sup>. As to reporting, the increase witnessed has been reflected in the number of reports submitted by States parties: 102 in 2000, 117 in 2008, 106 in 2009, 139 in 2010 (32 for the first quarter of 2011).



As of 3 May 2011, the status of ratification of international human rights treaties is as follows:



In 2010, the treaty bodies reviewed over 120 State party reports (almost three times the number of States reviewed yearly under the UPR - and over 120 individual complaints. At the same time, over 250 State parties reports are waiting to be reviewed and over 500 individual complaints are pending to be considered.

## **B. Reporting by States parties**

This paper provides facts and figures regarding the reporting procedure under core international human rights treaties. It also looks at various possible projections on the implications of the management of the workload of treaty bodies.

### **I. Periodicity**

Nine core international human rights treaties and two optional protocols include a reporting obligation for States parties. The periodicity of these reporting procedure is identified in the below table.

**Reporting periodicities under the treaties**

<i>Treaty</i>	<i>Initial report within</i>	<i>Periodic reports every</i>
ICERD	1 year	2 years <sup>2</sup>
ICESCR	2 years	5 years <sup>3</sup>
ICCPR	1 year	4 years <sup>4</sup>
CEDAW	1 year	4 years
CAT	1 year	4 years
CRC	2 years	5 years

<sup>2</sup> With a two year periodicity specified in the treaty, ICERD allows for merging two reports in one (i.e. de facto periodicity of four years).

<sup>3</sup> Article 17 of the Covenant does not establish a reporting periodicity, but gives ECOSOC discretion to establish its own reporting programme.

<sup>4</sup> Article 41 of the Covenant gives the Human Rights Committee discretion to decide when periodic reports shall be submitted. In general, these are required every four years.

ICRMW	1 year	5 years
CRC- OPSC	2 years	5 years or with next CRC report
CRC- OPAC	2 years	5 years or with next CRC report
CRPD	2 years	4 years
CED	2 years	Additional information as requested by CED (art 29(4))

The average reporting periodicity under the nine core international human rights treaties is between four and five years. If a State ratifies eight or nine treaties, it is bound to submit in the time frame of 10 years approximately 20 reports to treaty bodies, i.e. two annually.

The reporting includes a national process followed by an engagement by the State party with the respective treaty body in Geneva during a constructive dialogue. A State which is party to eight or nine treaties and submits all its reports on time will participate as an average in two treaty body sessions annually.

## II. Actual reporting by State parties

In reality, very few State parties to core international human rights treaties are able to strictly respect the periodicity established under each treaty<sup>5</sup>.

Only one-third of States are able to more or less submit reports according to due dates established in treaties (see detailed figures hereafter).

As at 3 May 2011, **623 State party reports are overdue**. With the future increase of ratifications and the establishment of new treaty bodies **this figure will most certainly increase**.

### Overdue reports as of 3 May 2011

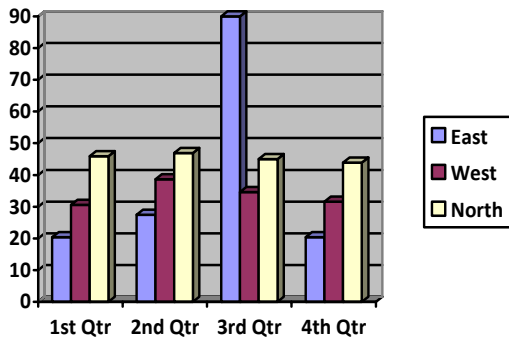
	Periodic reports		Initial reports	
	Number	Percentage	Number	Percentage
CAT	28	18%	30	20%
CCPR	61	40%	30	18%
CERD	78	44%	14	8%
CEDAW	38	20%	15	8%

<sup>5</sup> A State party due date for the submission of a report is established by the periodicity defined in the relevant treaty or the rules of procedure of the corresponding Committee, in accordance with and through the date of ratification by the State

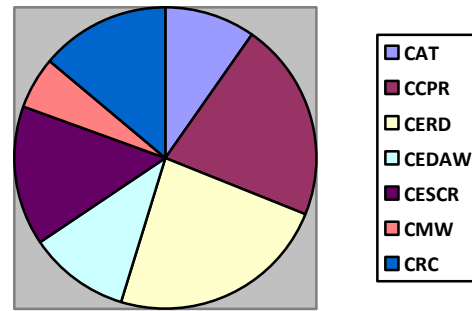
CESCR	45	28%	38	23%
CMW	4	10%	22	50%
CRC	51	26%	3	1,5%
CRC-OPAC	0	-	51	36%
CRC-OPSC	0	-	72	50%
CRPD	0	-	41	42%
Total	<b>305</b>		<b>316</b>	

**Total: 623 State parties reports are overdue**

**Overdue initial reports**



**Overdue periodic reports**



For the period 2008-09, the percentages represents of reports which were submitted on time:

- CERD: 45%**
- CCPR: 15%**
- CESCR: 25%**
- CAT: 13, 5%**
- CEDAW: 46%**
- CRC: 54%**
- OP-CRC-SC: 30%**
- OP-CRC-AC: 20%**
- CMW: 0% (no report submitted on time)**

For 2010, the figures are as follows:

- CERD: 27%**
- CCPR: 25%**
- CESCR: 59%**
- CAT: 25, 5%**
- CEDAW: 46%**
- CRC : 35%**

**OP-CRC-SC : 25%**  
**OP-CRC-AC : 54%**  
**CMW : 0% (no report submitted on time)**  
**and the new CRPD : 100% (7 initial reports due – 7 received)**

For the three-year period **2008-2010**, the average timely submission is as follows:

**CERD: 34%**  
**CCPR: 20%**  
**CESCR: 39%**  
**CAT: 18%**  
**CEDAW: 34%**  
**CRC: 43%**  
**OP-CRC-SC: 31%**  
**OP-CRC-AC: 32%**  
**CMW: 0%**  
**CRPD: 100%**

The general average percentage of timely submission to treaty bodies for the period 2008-2010 is: 35, 1% (351 divided by 10)

If the extremes are retrieved from these statistics – CMW and CRPD – as it can be expected that averages will change with time for these two bodies, then the average percentage of timely submission under 6 treaty bodies is approximately one third of States parties: 31, 37% (251 divided by 8 types of reports)

Note: for the compilation of the above statistics, due dates have been even interpreted with some flexibility. For the purpose of this paper, a report submitted on time is in fact a report submitted before its due date or not more than during the entire year after; in other words within twelve months maximum after due date (for example a report which due date was 1 September 2009 that has been submitted on 30 August 2010 is considered, for the compilation of the above statistics, as a report submitted on time).

### **C. Requirements and implications on treaty bodies' meeting time**

#### **1. Meeting time required if every State party were to report on time**

Initially, when the first treaty bodies were set up, it was assumed that the calendar of States parties reports would be set in accordance with the respective due dates of submission (deadlines). Rapidly, it became clear that the timely submission of State party reports was not a sound criterion to establish a calendar of meetings, as almost all States were unable to keep up with their reporting obligations. Therefore, the first treaty bodies already built early on their calendar of meetings on the basis only of States parties' reports received (instead of reports due).

As of March 2011, there are **1 193 ratifications to the nine core international human rights treaties (not counting the two CRC Optional protocols that include a separate one-time reporting requirement and OPCAT that is mandated to undertake country visits and as no reporting requirement as such)**<sup>6</sup>. This means that in every four *year period a similar number* of reports are required to be prepared by States parties and submitted to treaty bodies.

In 2010, the eight treaty bodies with a reporting procedure met for **70 weeks** and considered **123** State party reports. With rare exceptions (CESCR), treaty bodies spend one full day to consider a State party periodic report in plenary, but more meeting time is required to prepare the dialogue and finalize for adoption related concluding observations (the exception is CESCR, which uses 1,5 days for the consideration of each State party report. In 2010, it examined 10 reports). Treaty bodies however do not spend all their time in reviewing State parties' reports, as they also need time for considering individual communications (for those who have such a procedure), discuss improvement of working methods and efficiency, consult with States parties during informal meetings, draft general comments, adopt their annual report to the General assembly, prepare and hold general discussion days (thematic), etc. Currently, it can be considered that the Human Rights Committee spends approximately 50% of its meeting time in dealing with individual communications (it has over 350 communications pending consideration); the Committee against Torture (over 100 communications pending consideration) spends approximately 6 working days per year to the same type of work. CERD and CEDAW spend relatively less time as they receive - for the time being - less individual complaints. Nevertheless, it is estimated that the treaty bodies will receive within the next decade an increased number of complaints, including under the new procedures recently established under all core international human rights treaties.

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<sup>6</sup> Current ratification/accession status, as at 5 May 2011:

174	CERD
160	ICESCR
167	ICCPR
186	CEDAW
147	CAT
193	CRC
44	MWC
99	CRPD
25	CED

**Total: 1195 States parties**

+

141	OP AC
143	OP SC
57	OP CAT

**Grand total: 1536 States parties**

*.....the nine treaty bodies with a reporting procedure would need a total of over five years (5,4 years) of meeting time just to meet with the State parties' delegations to review all the 1 193 reports that are due every four years.... 10, 8 years would be required for the full review of States parties if they all report on time (including preparatory time, plenary meeting and adoption of concluding observations)....*

If today, treaty bodies would construct their meeting calendar on the basis of due dates of States parties' reports – as it is done for the Universal Periodic Review – and call for a meeting with each State party with each concerned treaty body a few months after the due dates of the reports (in order to leave some time for the preparation of the reports consideration), **the nine treaty bodies with a reporting procedure would need a total of over five years (5,4 years) of meeting time just to meet with the State parties' delegations to review all the 1 193 reports that are due every four years<sup>7</sup>.**

This calculation does not include the additional meeting time needed to discuss and adopt the country related “concluding observations” (recommendations). If this is factored in, as an average (counting as an average of one day for review in plenary; and one day for both pre-review and drafting-adoption of concluding observations), **the nine treaty bodies with a reporting procedure would need a total of over ten years (10,8 years) of meeting time** (1193 reports : 9 treaty bodies x 2 days = 220 working days per year). **This means that each treaty body would need to meet as an average full time for more than one year (220 working days) during a time-span of four years** to take-up this challenge (equivalent to one-fourth of a year on a yearly basis – or 55 days of meeting per year or 11 weeks per year).

If one deconstructs the specific meeting time requirements by treaty body, one should conclude that a treaty that provides for a reporting periodicity of four years and which is ratified by 160 States parties would have to consider 40 reports per year. Given that a committee can examine approximately four States parties per week (the fifth day is used for discussing and adopting the concluding observations for the four States<sup>8</sup>), then **the treaty body needs a minimum of 10 weeks of meeting per year** (two and half months) only to undertake this part of its work.

In addition, three treaty bodies firstly consider States parties' reports in a pre-sessional working group to prepare for the constructive dialogue (CESCR, CEDAW and CRC).

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<sup>7</sup> Counting one day of meeting per country review in plenary session and 220 working days a year (1193 reports: 220 working days = 5,4 years).

<sup>8</sup> In reality treaty bodies usually spend at least half a day of work to discuss and adopt a concluding observation).



Under their present working methods, the treaty bodies do not operate in a way that is comparable to the methodology adopted by States for the UPR (HRC resolution 5/1). Calendars of treaty bodies are based on reports received rather than due and therefore States parties are not treated equally; those who report regularly are under the most scrutiny of the treaty bodies.

## 2. Meeting time needed to address current backlogs

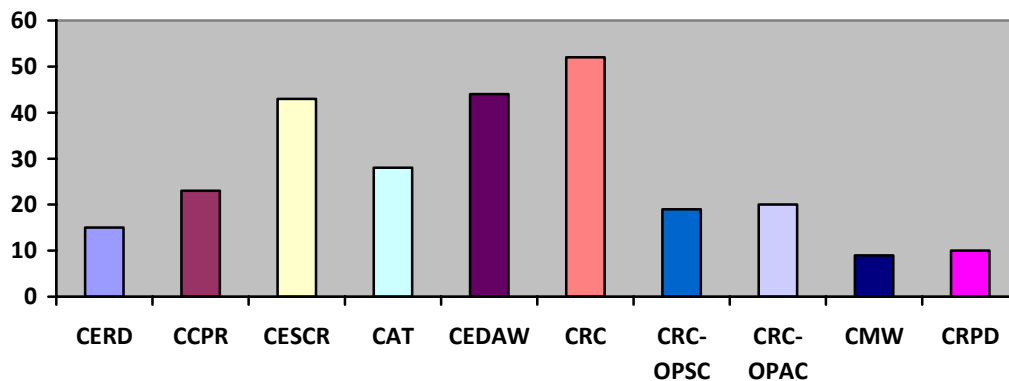
At this point in time, the nine human rights treaty bodies with a reporting procedure can not keep up in a satisfactory manner with the pace of submissions of reports by States. Eight of the nine treaty bodies have a serious backlog of reports pending consideration (CED has just been established and the first reports are only due in two years).

For example, the first reports (initial) under the recently adopted Convention on the Rights of Persons with Disabilities (CRPD) were due in 2011. At its April 2011 session, the Committee reviewed its first State party report; at the same time it already had 12 initial reports submitted and pending consideration, though the Committee has so far only been granted two weeks of meeting per year (as the CRPD will review for some time only initial reports it requires one and half day per review and half a day for discussion and adoption of the concluding observations). In other words, shortly after its establishment, CRPD already carries a backlog of reports due to the rapid ratification of the treaty and insufficient meeting time granted. At the same time, the initial reports of 41 States are already due to this Committee.

As at 3 May 2011, there were **263 reports pending consideration** under the nine treaty bodies.

	CERD	CCPR	CESCR	CAT	CEDAW	CRC	CRC:OPSC	CRC:OPAC	CMW	CRPD	Total
No. of reports	15	23	43	28	44	52	19	20	9	10	263

### Reports pending consideration



In order to eliminate the current backlog of States parties reports, all committee's should meet for a total of **over two years** (2, 4 years = 263 x 2: 220). This does not take into account time dedicated to the consideration of over 500 pending individual communications.

## **D. Documentation of treaty bodies**

### **1. Current reporting guidelines**

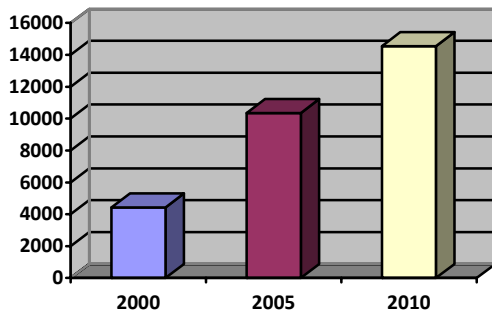
In 2006, the new “harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents” (HRI/MC/2006/3) established that “If possible, common core documents should not exceed 60-80 pages, initial treaty-specific documents should not exceed 60 pages, and subsequent periodic documents should be limited to 40 pages” (para. 19). CRC allows for periodic reports up to 60 pages maximum, as “a majority of States parties must include information on the Convention as well as the two Optional Protocols” (CRC/C/58/Rev.2, para. 11).

Despite numerous recommendations over the years requesting States parties to limit the number of pages reports and their Responses to List of Issues (see the last one in A/65/190, para. 22), a majority of States parties are not following this guidance. For another international human rights mechanism, the Universal Periodic Review, reporting States and the Secretariat are successful in applying strict page limitations for the UPR documentation, as outlined in HRC resolution 5/1 (para. 15). A State party report exceeding the agreed number of pages is returned to the submitting State with the request to be shortened. In September 2010, a note verbale was sent to all States Parties on behalf of the Meeting of Chairpersons requesting certain page limits to be respected (40 pages for periodic reports and 60 pages for initial ones, or when applicable specific page limitation set by a treaty body) in relation to the submission of reports, and the Secretariat is trying to enforce a similar approach for treaty body documentation as established for the UPR.

The number of State parties' reports submitted has increased dramatically since 2000, a consequence of the rapid growth of the treaty body system. The following figures represent the cumulated number of pages submitted by States parties that were considered in 2000, 2005 and 2010. This covers States parties reports, Responses to List of Issues and for 2010 Responses under the Follow-Up procedures established by four committees:

- 2000:** 4 433 pages submitted by 68 States parties
- 2005:** 10 348 pages submitted by 67 States parties
- 2010:** 11 294 pages submitted by 92 States parties (+ 3 255 pages submitted and reproduced in original languages but not translated, such as Responses to List of Issues submitted late)

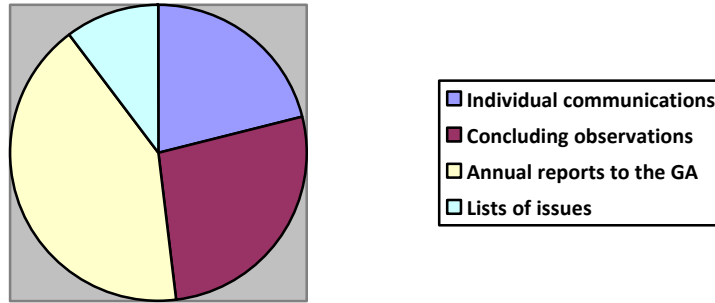
**Number of pages submitted by States parties**



The average volume of documentation submitted by a State for a country review by a treaty body amounts to 92 pages (11 294 pages divided by 123 country reviews).

The other key documents relating to the work of treaty bodies for 2010 were (estimations):

- Individual communications:** 1 015 pages
- Concluding observations:** 1 310 pages
- Annual reports to GA:** 2 000 pages (partly compilation of already translated documents)
- List of Issues:** 500 pages



The breakdown of the length of States parties report considered and States Responses to Lists of Issues as well as Follow-Up reports in 2010 is as follows:

**Up to 50 pages:** 54 State party reports; 39 Follow-Up reports and 84 Responses to List of Issues

**Between 50 and 100 pages:** 50 State party reports; 16 Responses to List of Issues

**Between 100 and 200 pages:** 30 State party reports; 2 Responses to List of Issues

**Over 200 pages:** 2 State party reports

Out of the 136 State party reports considered in 2010, generally speaking States submit to CAT and CERD the shortest reports and to CRC, CESCR, CCPR and CEDAW the longest ones. This is mainly due to the focused mandates of the first mentioned treaties (and also partly due to the new system of optional List of Issues prior to reporting of CAT).

**By treaty body, the breakdown of length of the 136 States parties reports considered in 2010 is as follows:**

**Up to 50 pages (54):** 10 CERD, 1 CCPR, 1 CESCR, 9 CAT, 3 CEDAW, 6 CRC, 8 CRC-OPAC, 14 CRC-OPSC & 2 CMW

**Between 50 and 100 pages (50):** 10 CERD, 5 CCPR, 7 CESCR, 4 CAT, 11 CEDAW, 7 CRC, 3 CRC-OPAC, 1 CRC-OPSC & 2 CMW

**Between 100 and 200 pages (30):** 2 CERD, 6 CCPR, 4 CESCR, 0 CAT, 6 CEDAW, 11 CRC, 1 CRC-OPAC, 0 CRC-OPSC & 0 CMW

**Over 200 pages (2):** 1 CEDAW & 1 CCPR

As all human rights treaty bodies use the **six official languages** of the United Nations, States parties can submit their reports in any one of the six official languages. Depending on their respective Rules of Procedure, the **working languages** of the treaty bodies vary

between three (e.g. CRC) to six (CEDAW; CAT, “to the extent possible”). All States parties’ reports are published in the language of submission (one of the six official UN languages) and translated into the working languages of the concerned committee.

As an average, treaty bodies request to **translate** States parties reports, Responses to List of Issues and information they submit under Follow-Up procedures **into three other languages** (in addition to the language of submission – one of the six official UN languages).

*“...the total amount of working days to translate all treaty bodies documentation amounts to 10 000 working days or 45, 5 years or the work of 45, 5 staff members over one year”*

Based on 2010 figures, if one considers that States parties to treaties **submit 11 500 pages of documentation per year** that are translated in three languages, **the amount of pages produced per year would amount to 46 000** (11 500 in language of submission + 34 500 pages translated). At the standard pace of work of a UN certified translator of 5 pages per day in one language and review at 12,5 pages per day, a total of **6 900 (translation) + 2 700 (review) working days yearly** would be required to translate all treaty body documentation submitted by States (not taking into account the other documentation produced by each treaty body – as outlined above). With approximately 220 working days per year, this work amounts to **43, 6 years of work for one person or one year of work for over 43 translators**. If one adds the other treaty body documents, amounting to 5 000 pages (translated into 3 languages, as an average), **the total amount of working days to translate all treaty bodies documentation amounts to 7 900 working days or 45, 5 years or the work of 45, 5 staff members over one year**.

The total cost of formatting, editing, referencing, translating, reproducing and distributing of one page of text into 5 other languages is of 2 600 USD. Consequently, translation to 3 languages cost 1 560 USD per page. It can be estimated that the **total cost of translation of the 11 500 pages submitted by States per year is equivalent to 17 940 000 USD**.

Treaty bodies themselves generate an additional number of over 5 000 pages of documentation (mainly individual communications, concluding observations: annual reports to the GA, and List of Issues, summary records, see above). This adds an **additional cost of over 7 800 000 USD**. **The total cost of treaty body documentation per year therefore can be estimated at 25 740 000 USD**.

At the same time, treaty bodies have de facto **given-up over the years some other translation entitlements and in some cases work without interpretation** in view of the

increased and **unmanageable** pressure on resources not matching the growth of the system:

- A very significant number of the replies to lists of issues are not issued in the working languages of the Committee at all; increasingly, the submitting States parties are assuming themselves the task of translating their replies or a summary in at least one language of common use in the concerned Committee
- in-session translation of draft documents (draft concluding observations and draft lists of issues) are not issued regularly in the working languages; one Committee (CRC) does not translate anymore in-session documents as its intense pace of work can not be followed by translation services
- Key papers of the Secretariat are strictly limited in the number to the maximum and even not translated anymore
- Committees working requirements exceed their allocated meeting time and therefore many increasingly work outside meeting hours with no interpretation. For example, CRC and CEDAW regularly add two hours of work per day only using English language which is a challenge for some of its members. Nearly all treaty bodies have briefings organized by civil society outside of formal meeting hours on the State parties about to be examined by them in plenary, which adds another hour or more to the normal workday
- Significant part of State party reports that present key data, abstracts of laws or other basic information is separated in annexes to the reports and is not translated
- Summary records of treaty body public meetings are now translated months after the session concluded. Summary records of closed meetings have been cancelled (except for very rare exceptions)
- The translation of other key background documentation (such as country briefs) of the Secretariat for treaty body members is not translated anymore since the early 2000. This also concerns NGO submissions to CESCR, despite a related binding ECOSOC resolution for this treaty body

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