



# GUIDE FOR THIRD PARTY INTERVENTIONS BEFORE UN HUMAN RIGHTS TREATY BODIES 2022

## GRAPHIC DESIGN

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# ABBREVIATIONS

<b>ACHPR</b>	African Court of Human and Peoples' Rights
<b>AI</b>	Amnesty International
<b>AIRE Centre</b>	Advance on Individual Rights in Europe Centre
<b>CAT</b>	Committee against Torture
<b>CCPR</b>	Centre for Civil and Political Rights
<b>CED</b>	Committee on Enforced Disappearances
<b>CEDAW</b>	Committee on the Elimination of Discrimination Against Women
<b>CELS</b>	Center for Legal and Social Studies
<b>CERD</b>	Committee on the Elimination of Racial Discrimination
<b>CESCR</b>	Committee on Economic, Social and Cultural Rights
<b>CESR</b>	Center for Economic and Social Rights
<b>ch</b>	Chapter
<b>CLADEM</b>	Latin-American and Caribbean Committee for the Defense of Women's Rights
<b>CMW</b>	Committee on Migrant Workers
<b>CPJ</b>	Committee to Protect Journalists
<b>CRC</b>	Committee on the Rights of the Child
<b>CRIN</b>	Child Rights International Network
<b>CRPD</b>	Committee on the Rights of Persons with Disabilities
<b>CRR</b>	Centre for Reproductive Rights
<b>CSO</b>	Civil Society Organisation
<b>DOI</b>	Dullah Omar Institute
<b>e.g.</b>	<i>exempli gratia</i> (for example)

<b>ECHR</b>	European Court of Human Rights
<b>ECRE</b>	European Council on Refugees and Exiles
<b>edn</b>	Edition
<b>eds</b>	Editors
<b>ERRC</b>	European Roma Rights Centre
<b>ESCR-Net</b>	International Network for Economic, Social and Cultural Rights
<b>ESRC-H</b>	Economic & Social Rights Centre – Hakijamii
<b>FIDH</b>	International Federation for Human Rights
<b>fn</b>	Footnote
<b>GI-ESCR</b>	Global Initiative for Economic, Social and Cultural Rights
<b>GIHR</b>	German Institute for Human Rights
<b>Civil Society Monitoring Group for the Implementation of the Committee’s Views in the Spanish State</b>	A group of NGOs dedicated to monitoring compliance by the Spanish State of the recommendations made by the CESCR.
<b>HCHR</b>	High Commissioner for Human Rights
<b>HEAL Clinic</b>	International Reproductive and Sexual Health Law Programme. Faculty Of Law, University of Toronto
<b>HIC-HRLN</b>	Habitat International Coalition – Housing and Land Rights Network
<b>HPOD</b>	Harvard Law School Project on Disability
<b>HRCttee</b>	Human Rights Committee
<b>HRD</b>	Human Rights Defender
<b>i.e.</b>	<i>id est</i> (that is)
<b>IACrthR</b>	Inter-American Court of Human Rights
<b>IC / Complaint / Submission / Petition</b>	Individual Communication presented before a UNTB



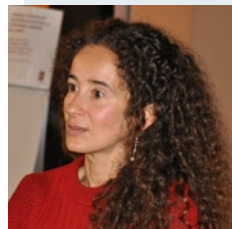
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICJ</b>	International Commission of Jurists
<b>IDA</b>	International Disability Alliance
<b>IJRC</b>	International Justice Resource Centre
<b>ILGA-World</b>	International Lesbian, Gay, Bisexual, Trans and Intersex Association
<b>IMADR</b>	International Movement Against All Forms of Discrimination and Racism
<b>INGOCGA</b>	International NGO Council on Genital Autonomy
<b>ISER</b>	Initiative for Social and Economic Rights
<b>ISHR</b>	International Service for Human Rights
<b>IWRAW-AP</b>	International Women's Rights Action Watch Asia Pacific
<b>LRC</b>	Legal Resources Centre
<b>NELFA</b>	Network of European LGBTIQ Families Associations
<b>NGO</b>	Non-governmental organisation
<b>NHRI</b>	National Human Rights Institution
<b>No.</b>	Number
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>OMCT</b>	World Organisation Against Torture
<b>OP</b>	Optional Protocol
<b>OSJI</b>	Open Society Justice Initiative
<b>para</b>	Paragraph
<b><i>per se</i></b>	As such
<b>PUAS</b>	Petitions and Urgent Actions Section
<b>ROP</b>	Rules of Procedure
<b>SERI</b>	Social Rights Institute of South Africa

<b>SOGI</b>	Sexual Orientation and Gender Identity
<b>SR</b>	Special Rapporteur
<b>SRAC</b>	Social Rights Advocacy Centre
<b>TB-Net</b>	Network of NGOs that work in regular partnership with UNTBs
<b>TP / <i>amicus curiae</i></b>	Third Party
<b>TPI / <i>amicus curiae</i> brief</b>	Third Party Intervention
<b>UN</b>	United Nations
<b>UNGA</b>	United Nations General Assembly
<b>UNSR</b>	United Nations Special Rapporteur
<b>UNTB</b>	United Nations Treaty Body
<b>v</b>	versus
<b>WG</b>	Working Group
<b>WLC</b>	Women's Legal Centre

# FOREWORD

By: Prof. Hélène Tigroudja

I am pleased to introduce this new resource for potential authors of Third Party Interventions (TPIs). As Special Rapporteur on New Communications and Interim Measures at the Human Rights Committee (HRCttee) but also as an academic, I am convinced that some of the procedural or substantial topics which come to our consideration through individual communications (ICs) brought under the First Optional Protocol to the International Covenant on Civil and Political Rights (OP-ICCPR) need further expansion and analysis by parties that are not directly and personally involved in an individual complaint. The example of the practice followed in this area by other universal Human Rights Treaty Bodies or regional organs as the Inter-American Court of Human Rights or the European Court of Human Rights echoes this assumption.



While the substantiation of an individual complaint under the OP-ICCPR normally falls on the author of a petition, they may be constrained by limited resources (financial, human or otherwise) and cannot provide all the necessary information to the adjudication body. Some of them are even not represented by a counsel before the HRCttee and they may face some difficulties to navigate among so many human rights organs and to have access to relevant cases and materials that could support their claims.

Also named with the Latin expression of *amici curiae* ("friends of the court"), TPIs are a useful tool in helping an adjudication body to reach a decision that is properly informed, reasoned, referenced and consistent with the most favorable trends of international human rights law. This explains the recent amendment of the Rules of Procedure of the HRCttee entered into force on 1 January 2019 and its new Rule 96 on the possibility by "individuals and entities" to submit written interventions. The provision has been clarified by the Guidelines on third-party interventions also adopted by the Committee in 2019. Although Rule 96 does not recognise a *right to third-intervention* but only the possibility to request for the authorisation to intervene, it is obvious that TPIs aim to ensure a more open and deliberative decision-making process based on the exchanges of plurality of opposite views

on human rights topics in general and the interpretation of the ICCPR in particular.

However, in order to be persuasive and convincing, TPIs must be well drafted, relevant and directly in relation with the procedural or substantive questions raised by an individual complaint. As *amici curiae*, TPIs must be accurate, legally rigorous and not a general and vague discourse on human rights that would have no relationship with the procedural or substantive issues at stake. In addition, the request must be presented in a timely manner, otherwise it would have the negative side-effect to delay the processing of an individual communication as the TPI need to be shared with both parties (the author and the State Party) that have a procedural right to reply and formulate their observations.

This means that before requesting the authorisation to intervene, NGOs, academics, legal clinics or any other relevant entities must precisely and thoroughly assess the interest *for the individual case brought to the HRCttee* and the interpretation of the Covenant rights of such an intervention and the type of intervention that could genuinely make the difference. The two Special Rapporteurs on Individual Communications and Interim Measures are in charge to grant or not the authorisation on behalf of the HRCttee. Our assessment is based on the accuracy of the proposal. As an example, if an individual complaint raises an important admissibility issue as the non-exhaustion of domestic remedies, the quality of victim, the litispence or the absence of jurisdiction of the Committee, TPIs should be strategic in their submission and first and foremost focus on these aspects - which could really help the HRCttee to make its mind - before addressing the substance of the claims.

Of course, this requires that potential third-interveners are duly, properly and timely informed of the cases brought before the UN Treaty Bodies in general and our HRCttee in particular. It can only be addressed with efficient and updated digital tools that would allow a clear and detailed information, based on the model of other human rights organs as the regional courts I mentioned earlier. This requires a deep improvement of the digital case management of the UNTBs system and a strong financial, logistic and human support from States Parties.

I share the hope of the authors that, by having a comprehensive resource, more organisations will submit TPIs and that the adjudication process will become more accessible to different voices.

# INTRODUCTION

Third Party Interventions (TPIs) provide useful information for those dealing with human rights cases (judicial or quasi-judicial mechanisms) that helps them reach legally-sound decisions. TPIs can have a significant impact on process, resulting in just outcomes and the advancement of international human rights law. Current and former members of the United Nations Human Rights Treaty Bodies (UNTBs) have acknowledged the extent to which TPIs can be helpful, particularly on subjects where limited jurisprudence exists, and for legal matters that could benefit from additional context, research, and analysis.

However, UNTBs have seldom used this tool. At the time of publication, the Committees that had received the most TPIs were the Human Rights Committee (HRCttee), the Committee on the Rights of the Child (CRC) and the Committee on the Elimination of Discrimination against Women (CEDAW) with six each. Then the Committee on Economic, Social and Cultural Rights (CESCR) with five, the Committee on the Rights of Persons with Disabilities (CRPD) and the Committee on the Elimination of Racial Discrimination (CERD) with one each, and the Committee Against Torture and the Committee on Enforced Disappearances (CED) with none.

This means that decisions adopted by each UNTB which acknowledge TPIs represent fewer than 10% of their total body of decisions (9.4% for CRC, 6.7% for CESCR, 5.9% for CEDAW, 2.9% for CRPD, 1.9% for CERD, 0.3% for HRCttee and 0% for both CAT and CED). This is a far cry from the Inter-American Court of Human Rights, where TPIs have been considered in at least 30% of its decisions. While the figures for the CRC and CEDAW are positive, growth is not necessarily linear, so it is possible that, the more cases these Committees consider, the more their TPI rates will look like those of the HRCttee, rather than the other way round.

There are many factors that help explain this phenomenon, from the relative recency of some UNTBs, to the sheer number of cases dealt with by some of them (especially the HRCtee). An additional and critical obstacle is that the specific rules and procedures on TPIs vary from one UNTB to the next, as does the availability of relevant information on TPIs for advocates. This presents obstacles to effective engagement.

In addition to this (or perhaps because of it), the TPI procedure continues to be geographically and socially limited, with most interventions submitted by lawyers or NGOs from the Global North or members (former and current) of the UN Human Rights System.

This guide seeks to demystify and democratise the TPI procedure and thus widen the circle of those who can make use of it. It aims to do so by providing practical tools and tips on how to submit TPIs to the UNTBs. We hope you find it useful.



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## CHAPTER I: INDIVIDUAL COMMUNICATIONS TO UN TREATY BODIES

An individual communication (IC), also known as a complaint or petition, is a submission by or on behalf of an individual (or, in some cases, a group) alleging that their rights under a human rights treaty have been violated by a State party to that treaty. Eight UNTBs have the ability to consider ICs: CERD, HRCtee, CESC, CEDAW, CAT, CRC, CRPD and CED, while the CMW's complaints mechanism has not yet entered into force.<sup>1</sup>

<sup>1</sup> International Service for Human Rights (ISHR) 'Understanding the Treaty Bodies – Individual Communications – What Do the Treaty Bodies Do?' (ISHR Academy, 2021) <https://academy.ishr.ch/learn/treaty-bodies/individual-communications---what-do-the-treaty-bodies-do>

## Brief overview of the procedure

All UNTBs have formal guidelines to follow when submitting ICs. In general, ICs should be submitted in written form and in one of the official UN languages: Arabic, Chinese, English, French, Russian or Spanish. The contents and form that the complaint should take can be found on the website of each specific UNTB or on the webpage of the OHCHR.<sup>2</sup>

The IC is filed with the relevant UNTB through the Petitions and Urgent Actions Section (PUAS) of the OHCHR. The PUAS then conducts an initial review of the IC, verifying that it contains all required information and complies with formal requirements (including not being anonymous, frivolous, or manifestly ill founded). If deemed compliant, and if the petitioner has not submitted a summary of the IC,<sup>3</sup> the PUAS prepares a summary of the case and shares it with the subsidiary body created by each UNTB to handle incoming ICs. This body is either a Rapporteur (HRCttee, CAT, CRPD, CED) or a Working Group (CEDAW, CERD, CESC, CRC) on ICs.<sup>4</sup> The Rapporteur or the Working Group (WG) then considers the summary and decides if the IC can be registered. If it is registered, a case number (e.g., '67/2015') is assigned.<sup>5</sup>

Once a complaint has been registered, the relevant UNTB considers it in two stages: admissibility and merits. These stages are usually carried out simultaneously, unless Committees, *ex officio* or on request of the State party relevant to the IC, decide to carry them out separately. Following registration, the UNTBs share the IC with the relevant State party and give it a set timeframe (usually 6 months) to provide comments on admissibility. The Complainant (person submitting the IC) may also be asked to provide further information on admissibility.

While UNTBs' rules for determining the admissibility of an IC vary slightly between each other,<sup>6</sup> there are some general requirements shared by all:<sup>7</sup>

<sup>2</sup> Office of the High Commissioner for Human Rights (OHCHR) 'Human Rights Treaty Bodies - Individual Communications. Procedure for complaints by individuals under the human rights treaties' (OHCHR) <[www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#proceduregenerale](http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#proceduregenerale)>

<sup>3</sup> OHCHR 'What information do you need to provide in your complaint?' (OHCHR, 2021) <[www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#whatinfo](http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#whatinfo)>

<sup>4</sup> Claire Callejon, Kamelia Kemileva and Felix Kirchmeier *Treaty Bodies' Individual Communication Procedures: Providing Redress And Reparation To Victims Of Human Rights Violations* (Geneva Academy, May 2019) 14 <[www.geneva-academy.ch/joomla-tools-files/docman-files/UN%20Treaty%20Bodies%20Individual%20Communications.pdf](http://www.geneva-academy.ch/joomla-tools-files/docman-files/UN%20Treaty%20Bodies%20Individual%20Communications.pdf)>

<sup>5</sup> ISHR, 'A simple guide to the UN Treaty Bodies' (ISHR, 2015) 28, 29 <[https://academy.ishr.ch/upload/resources\\_and\\_tools/ishr\\_simpleguide\\_treatybodies\\_2015\\_en.pdf](https://academy.ishr.ch/upload/resources_and_tools/ishr_simpleguide_treatybodies_2015_en.pdf)>

<sup>6</sup> For example, some Committees require that complaints be submitted within specific time periods from the time domestic remedies were exhausted: HRCttee (5 years), CESC and CRC (1 year), CERD (6 months).

<sup>7</sup> Claire Callejon, Kamelia Kemileva and Felix Kirchmeier *Treaty Bodies' Individual Communication Procedures: Providing Redress And Reparation To Victims Of Human Rights Violations* (Geneva Academy, May 2019) 13 – 15 <[www.geneva-academy.ch/joomla-tools-files/docman-files/UN%20Treaty%20Bodies%20Individual%20Communications.pdf](http://www.geneva-academy.ch/joomla-tools-files/docman-files/UN%20Treaty%20Bodies%20Individual%20Communications.pdf)>



- **Competence:** The respondent State must be a party to the relevant treaty and have recognised that ICs can be filed against it; recognising the competence of the Committee to receive and consider such complaints. This is done through a declaration to this effect (CAT, CERD and CED) or through ratification of the relevant Optional Protocol (CCPR, CEDAW, CRPD, CESC, and CRC).
- **Exhaustion of domestic remedies:** The State must have an opportunity to remedy the alleged violation through the national system before being subject to an international procedure. The complainant therefore must exhaust all available effective domestic remedies unless an exception applies.<sup>8</sup>
- **The case is not under consideration elsewhere:** There should not be an essentially identical complaint being submitted or considered by another international body or regional court.<sup>9</sup>
- **Ratione personae:** The right to be heard in proceedings. The general rule is that only a direct victim or group of victims<sup>10</sup> (even if not the sole victim[s])<sup>11</sup> or a person on behalf of the victim(s) can file a complaint before a UNTB.
- **Ratione materiae:** The subject of the IC must fall within the rights of people and corresponding obligations binding to the State under the relevant treaty.
- **Ratione temporis:** The violation must have occurred, or its effects continued, after the entry into force of the complaint mechanism for the State party concerned.
- **Ratione loci:** The violation must have occurred within the jurisdiction of the State party or in a territory under its effective control.

<sup>8</sup> Among other things, a remedy will not need to be exhausted when it is: unreasonably long, ineffective, unavailable, insufficient, inadequate, or unable to provide a reasonable prospect of success. See an in-depth analysis in: International Justice Resource Center (IJRC) 'Exhaustion of Domestic Remedies in the United Nations System' (IJRC, August 4, 2017) 10 – 16 <[ijrcenter.org/wp-content/uploads/2018/04/8.-Exhaustion-of-Domestic-Remedies-UN-Treaty-Bodies.pdf](https://ijrcenter.org/wp-content/uploads/2018/04/8.-Exhaustion-of-Domestic-Remedies-UN-Treaty-Bodies.pdf)>

<sup>9</sup> See: CESC 'Imelda Merino Sierra and Juan Luis Merino Sierra v Spain' (24 November 2016) E/C.12/59/D/4/2014 para 6.4: Complaints will be identical if they have '*been examined by another procedure of international investigation or settlement if the examination by that procedure: (i) related to the same matter, i.e., related to the same parties, the same events and the same substantive rights; and (ii) went beyond the examination of the purely formal criteria of admissibility and involved a sufficient consideration of the merits*' <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f59%2f-D%2f4%2f2014&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f59%2f-D%2f4%2f2014&Lang=en)>

<sup>10</sup> CESC, CERD, CEDAW, CRPD and CRC. See: CERD 'TBB-Turkist Union in Berlin/Brandenburg v Germany' (26 February 2013) CERD/C/82/D/48/2010 para 11.4 <<https://www2.ohchr.org/English/bodies/cerd/docs/CERD-C-82-D-48-2010-English.pdf>>

<sup>11</sup> HRCtee 'Rabbae, ABS and NA v The Netherlands' (14 July 2016) CCPR/C/117/D/2124/2011 para 9.6 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f117%2fD%2f2124%2f2011&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f117%2fD%2f2124%2f2011&Lang=en)>

If the IC is deemed inadmissible, the process ends. If the IC is deemed admissible, then the UNTB will consider it on the merits. This means examining whether the facts, evidence and legal arguments presented actually indicate a violation of the relevant treaty by the State party. The State is again given an opportunity to comment on the merits, usually within 6 months. The complainant will also have an opportunity to comment on the State's arguments.

In very rare instances, some UNTBs (namely, the HRCttee,<sup>12</sup> the CRC,<sup>13</sup> and the CAT<sup>14</sup>) have invited the parties to provide additional information orally and to answer questions made by Committee members. This process requires the consent of all parties. At the time of writing, the CRC was the first and only UNTB that conducted hearings not only with petitioners, but also with third-party intervenors.<sup>15</sup>

Committees can consider a broad range of documentation and evidence to determine if there was a violation, including reports from human rights organisations, testimonies and, of course, *amicus* briefs. After the Committee reaches a decision, it shares its findings with the parties and, if a violation is found, makes recommendations to the State party.<sup>16</sup>

The legal nature of UNTB decisions is the subject of much debate, with some State parties considering them as recommendatory, and therefore, not binding as a matter of international law. The better view is that they are authoritative views on whether a State party has violated its obligations under the treaty and has an obligation to provide effective remedy to victims of violations, including full reparation.<sup>17</sup> Their mandatory nature derives from the customary international law obligation to comply in good faith with international obligations emanating from ratified treaties,<sup>18</sup> such as Optional Protocols that

<sup>12</sup> HRCttee 'Guidelines on making oral comments concerning communications' (26 March 2019) CCPR/C/159/Rev.1 <<https://undocs.org/CCPR/C/159/Rev.1>>

<sup>13</sup> CRC 'Rules of Procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure', Rule 19. <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/62/3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/62/3&Lang=en)> See also: OHCHR, *Human Rights Fact Sheet No. 7 Individual Complaint Procedures under the United Nations Human Rights Treaties* (2nd rev, United Nations, 2013) 24 <[www.ohchr.org/Documents/Publications/FactSheet7Rev.2.pdf](http://www.ohchr.org/Documents/Publications/FactSheet7Rev.2.pdf)>

<sup>14</sup> CAT 'Toirjon Abdussamatov and 28 other complainants v. Kazakhstan' (11 July 2012) CAT/C/48/D/444/2010 paras 1.3, 9.1, 13.9 <[http://www.worldcourts.com/cat/eng/decisions/2012.06.01\\_Abdussamatov\\_v\\_Kazakhstan.htm](http://www.worldcourts.com/cat/eng/decisions/2012.06.01_Abdussamatov_v_Kazakhstan.htm)>

<sup>15</sup> UN Human Rights Office Media Section 'UN Child Rights Committee rules that countries bear cross-border responsibility for harmful impact of climate change' OHCHR (Geneva, 11 October 2021) <[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27644&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27644&LangID=E)>

<sup>16</sup> OHCHR, 'Human Rights Treaty Bodies - Individual Communications' (OHCHR) <[www.ohchr.org/en/hrbodies/tbp petitions/Pages/IndividualCommunications.aspx](http://www.ohchr.org/en/hrbodies/tbp petitions/Pages/IndividualCommunications.aspx)>

<sup>17</sup> Ilias Bantekas and Lutz Oette, 'International Human Rights Law and Practice' (3rd edn, Cambridge University Press, 2020) ch 7, 331.

<sup>18</sup> Vienna Convention on the Law of Treaties, Articles 26 and 27

establish these complaints mechanisms. Some States have given the UNTB's decisions binding force within their own legal systems.<sup>19</sup>

There has been a relatively low level of implementation of UNTB decisions, with an estimated 24% of the cases being satisfactorily complied with.<sup>20</sup> This can be partly attributed to the aforementioned rejection of States of the mandatory nature of UNTB's decisions, but also to the lack of an enforcement/sanction mechanism and, more broadly, a lack of willingness that often characterises States' compliance with decisions of international and regional courts and tribunals. There are, however, relevant examples of compliance with UNTB decisions in a broad range of countries and situations, including in sensitive contexts.<sup>21</sup>

As a means of assessing compliance with their views, UNTBs have adopted a 'follow-up procedure' where they follow up with States and other stakeholders to verify if recommendations have actually been implemented. Each UNTB has a Rapporteur or WG in charge of follow up, which works to promote compliance, mostly through bilateral communication with the State party.<sup>22</sup> If a follow up procedure is commenced and the UNTB determines that its recommendations have been met, it closes the case.

<sup>19</sup> *Amparo en Revisión* 1077/2019 (2021) First Chamber of the Supreme Court of Justice of the Nation of Mexico, para 102 fn 77, para 119 fn 85, para 122 fn 89, para 133 <[www.idheas.org.mx/wp-content/uploads/2021/07/VERSION-PUBLICA.pdf](http://www.idheas.org.mx/wp-content/uploads/2021/07/VERSION-PUBLICA.pdf)>

<sup>20</sup> Kate Fox Principi 'Sabbatical leave report – Implementation of decisions under treaty body complaints procedures – Do states comply? How do they do it?' (UN OHCHR) 9 <[academy.ishr.ch/upload/resources\\_and\\_tools/Principi%20Implementation%20of%20decisions%20under%20TB%20complaints%20procedures\\_en.pdf](https://academy.ishr.ch/upload/resources_and_tools/Principi%20Implementation%20of%20decisions%20under%20TB%20complaints%20procedures_en.pdf)>

<sup>21</sup> For instance, see successes in securing compensation for victims' relatives on the basis of UNTB decisions in Central Asia in: Masha Lisitsyna and Anastassiya Miller, 'Litigating Torture in Central Asia: Lessons Learned from Kyrgyzstan and Kazakhstan' in OSJI, *Implementing Human Rights Decisions Reflections, Successes, and New Directions* (Open Society Foundations, July 2021) ch 7, 36-42 <<https://www.justiceinitiative.org/publications/implementing-human-rights-decisions-reflections-successes-and-new-directions>>

<sup>22</sup> ISHR, 'A simple guide to the UN Treaty Bodies' (ISHR, 2015) 32 <[academy.ishr.ch/upload/resources\\_and\\_tools/ishr\\_simpleguide\\_treatybodies\\_2015\\_en.pdf](https://academy.ishr.ch/upload/resources_and_tools/ishr_simpleguide_treatybodies_2015_en.pdf)>



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## CHAPTER II: THIRD-PARTY INTERVENTIONS

### 2.1. What is a third-party intervention?

A third-party intervention, also known as an *amicus curiae* brief, is an independent submission to an IC procedure by someone who is not a party to the proceedings. The core function of a TPI is to provide a legal opinion or additional information that may help the UNTB when deciding on the case. Usually, it clarifies or expands an argument or legal reasoning either on procedural aspects (such as admissibility of the IC) or on the merits of the case; it is not supposed to add to or contend the facts of the IC.

There are no restrictions as to who can be considered a third-party, which means that almost anyone can submit a TPI. UNTBs have accepted interventions from NHRIs<sup>23</sup> and even from other States.<sup>24</sup> Of course, TPIs from parties to the proceedings or members of the UNTB deciding on the case will be rejected.

Third parties are not considered parties to the communication, which means that they do not enjoy the same rights as the complainant or respondent (State party). For example, while parties to the IC have the right to comment on the TPI, the third-party intervenor cannot respond nor comment on the arguments made by the parties or add facts to the complaint.

TPIs can be submitted either autonomously by the third party or at the request of either the UNTB (e.g. in circumstances when they need additional expertise to deal with a complicated topic) or one of the parties to the IC. When the intervention is prepared at the request of the UNTB or the parties, it may be called a 'legal opinion' or 'expert submission'. Users have adopted the practice of submitting TPIs through one of the parties in cases where UNTBs do not have a formal procedure to handle TPIs or don't accept autonomous interventions.

The procedure for submitting a TPI can differ in important aspects from one UNTB to another, with some UNTBs still only accepting TPIs submitted through one of the parties. A detailed list of the steps and best practices to follow when submitting a TPI can be found in [Sections 3.4 and 3.5](#).

## 2.2. Submissions during the follow-up to views stage

Although lesser known and less common, submissions by third parties can also be made after a UNTB has reached a decision on the merits of a case. Technically, these are not TPIs, because they do not help the Committee reach a decision on admissibility or the merits. However, they remain relevant insofar as they represent an opportunity for third parties to intervene before UNTBs.

These submissions may be made by anyone after the details of the case and the Committee's findings have been made public. They can focus on steps taken by the State party to comply with the Committee's views

<sup>23</sup> Chairs of the human rights treaty bodies (29th meeting) 'Common approach to engagement with national human rights institutions (Second reissue for technical reasons)' HRI/MC/2017/3 (4 July 2017) 8, para 33 <<https://undocs.org/HRI/MC/2017/3>>

<sup>24</sup> ISHR '2. Treaty Bodies: Going Deeper. 2.3 – Third-party interventions (individual communications). What are they?' (ISHR Academy, 2021) <<https://academy.ishr.ch/learn/treaty-bodies/third-party-interventions-individual-communications>>

and can be particularly valuable to provide the UNTB with information of a general nature that is directly relevant to the case, for instance, on legal reform. This can help the Committee determine whether the State party has complied with its recommendations.

Under Rule 18(7) of the CESCR's Provisional ROP<sup>25</sup> and section 4 of its Working Methods on Follow up to Views,<sup>26</sup> third parties have made submissions on the compliance of the State with views adopted by the CESCR in the cases of Mohamed Ben Djazia and Naouel Bellili v. Spain,<sup>27</sup> Marcia Cecilia Trujillo Calero (M.C.T.C.) v. Ecuador<sup>28</sup> and López Albán et. al. v. Spain.<sup>29</sup>

Submissions in this 'follow-up phase' have proved to be greatly useful. This is because general recommendations made by UNTBs usually require national-level legal and policy changes, and UNTB members are not expected to be experts on the national law of any given country nor be aware of its application. Submissions in this phase can inform the UNTB on the situation on the ground.

<sup>25</sup> CESCR 'Provisional rules of procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted by the Committee at its forty-ninth session' (15 January 2013) E/C.12/49/3 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2f49%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2f49%2f3&Lang=en)> 'In addition to written representations and meetings with duly accredited representatives of the State party, the Rapporteur or Working Group may seek information from the author/s and victim/s of the communications and other relevant sources'.

<sup>26</sup> CESCR 'Working methods concerning the Committee's follow-up to Views under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Adopted by the Committee on Economic, Social and Cultural Rights at its 61st session (29 May – 23 June 2017)' (2017) E/C.12/62/4 <[https://drive.google.com/file/d/1g9E-JH22t7vEKd\\_xE\\_WNfwg9\\_78Llax/view?usp=sharing](https://drive.google.com/file/d/1g9E-JH22t7vEKd_xE_WNfwg9_78Llax/view?usp=sharing)> 'The Committee may consider allowing the participation of NHRIs / entities from the civil society in the follow-up procedure by way of providing the Committee with information concerning the implementation of general recommendations: After the State party provides its observations [...] the Committee may accept submissions by NHRI and the civil society concerning information about the general recommendations. [...] Such information will be taken into account in the Committee's assessment of the State party's implementation of the recommendations contained in the Views'.

<sup>27</sup> Grupo de Monitoreo de la sociedad civil para el cumplimiento de los dictámenes del Comité DESC en el Estado español (Civil Society Monitoring Group for the Implementation of the Committee's Views in the Spanish State) 'Comentarios que presenta el Grupo de Monitoreo de la sociedad civil para el cumplimiento del dictamen relativo a la Comunicación 5/2015 ante el Comité De Derechos Económicos, Sociales y Culturales' (1 March 2018) <[https://www.esccr-net.org/sites/default/files/alegaciones\\_grupo\\_monitoreo\\_mar18.pdf](https://www.esccr-net.org/sites/default/files/alegaciones_grupo_monitoreo_mar18.pdf)>

ESCR-Net 'Under the working methods concerning the Committee's follow-up to Views under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. MBD v Spain. Communication No. 5/2015. Civil Society submission on the implementation of General Recommendations' (14 March 2018) <[https://www.esccr-net.org/sites/default/files/follow\\_up\\_to\\_escr\\_comm\\_5\\_of\\_2015\\_-\\_collective\\_submission\\_14\\_march\\_2018.pdf](https://www.esccr-net.org/sites/default/files/follow_up_to_escr_comm_5_of_2015_-_collective_submission_14_march_2018.pdf)>

Defensor del Pueblo 'Envío de Información. Vivienda. Naciones Unidas. Madrid' (July 2018) 1 – 11 and Civil Society Monitoring Group for the Implementation of the Committee's Views in the Spanish State 'VALORACIÓN del REAL DECRETO LEY 7/2019, de 1 de marzo, de medidas urgentes en materia de vivienda y alquiler. Convalidado por el Congreso el 3 de abril de 2019' (17 May 2019) 12 – 16 <[https://caescooperativa.es/wp-content/uploads/2020/11/Anexos-valoracion-normativa\\_informacion-defensor-del-pueblo.pdf](https://caescooperativa.es/wp-content/uploads/2020/11/Anexos-valoracion-normativa_informacion-defensor-del-pueblo.pdf)>

CESCR 'Report on follow-up to communications Nos. 2/2014 and 5/2015 against Spain. Adopted by the Committee at its sixty-sixth session (30 September – 18 October 2019). Reissued for technical reasons on 2 January 2020' E/C.12/66/3 (29 November 2019) 6, para. 3 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2f66%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2f66%2f3&Lang=en)> Civil Society Monitoring Group for the Implementation of the Committee's Views in the Spanish State 'Comentarios que presenta el Grupo de Monitoreo de la sociedad civil en relación al proceso de cumplimiento (follow-up) del dictamen relativo a la Comunicación 5/2015 ante el Comité De Derechos Económicos, Sociales y Culturales' (23 October 2020) <<https://caescooperativa.es/wp-content/uploads/2020/11/Comentarios-grupo-monitoreo.pdf>>

<sup>28</sup> ESCR-Net 'Third-Party Intervention before the United Nations Committee on Economic, Social, and Cultural Rights regarding Follow-up to Its Views on Marcia Cecilia Trujillo Calero v. Ecuador (Communication 10/2015)' <[www.esccr-net.org/sites/default/files/intervention\\_follow-up\\_mctc\\_v\\_ecuador.pdf](http://www.esccr-net.org/sites/default/files/intervention_follow-up_mctc_v_ecuador.pdf)>

<sup>29</sup> Submission not available online, see: CESCR 'Follow-up progress report on individual communications. Adopted by the Committee at its 70th session (27 September – 15 October 2021)' E/C.12/70/3 (15 November 2021) 7 – 10 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2f70%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2f70%2f3&Lang=en)>

While the State may claim that its actions comply with the UNTB's views, the specificities of national laws and policies and their application make it difficult to assess if the outcome suggested by the Committee is being, or has been, reached. Third parties can help clarify this situation. As rightly noted by the CESCR, such submissions can also be directly relevant to the Committee's subsequent assessments in the periodic reviews of the State party.

Other UNTB rules applicable to submissions under follow up to views include Rules 28.6 and 28.7 of the CRC's ROP and Rules 79.5, 79.6 of the CED's ROP,<sup>30</sup> Rule 106.2 of the HRCtee's ROP, Rule 74.5 of the CEDAW's ROP, Rule 75.5 of the CRPD's ROP, and Rule 120.2 of the CAT's ROP.<sup>31</sup>

## 2.3. Why submit a third-party intervention?

Parties will likely seek to intervene when they intend for the Committee's resolution to progress, or, at the very least not regress, interpretation of international human rights standards. Among other things, TPIs can be valuable as: I) they allow you to present creative arguments; II) they provide arguments to support the development of jurisprudence on novel issues; III) they can improve the quality of legal reasoning; IV) they facilitate engagement with UNTBs and contribute to the diversity of inputs; and V) they can support parties with limited resources, notably in relation to legal reasoning.

### 2.3.1. Presenting creative arguments

Some restrictions placed on third parties can become opportunities. The fact that TPIs are not to focus on the facts of the case actually allows them to make arguments that go beyond these facts. For example, TPIs can provide factual or contextual developments that occurred after the IC's submission – they can also make a form of *actio popularis* claim, arguing how a decision can have a larger impact than just in the individual case.

<sup>30</sup> With slight variations, the text is essentially the same for the CRC and CED: '[...] A rapporteur or working group may make such contacts and take such action as may be appropriate for the due performance of their assigned functions [...] In addition to written representations and meetings with duly accredited representatives of the State party, a rapporteur or working group may seek information from the author(s) of the communications and other relevant sources.'

<sup>31</sup> With slight variations, the text is essentially the same for the HRCtee, CEDAW, CRPD and CAT: 'The rapporteur or working group may make such contacts and take such action as may be appropriate for the due performance of her, his or its functions [...].'

This is precisely what happened in the *Bujdoso* case, referenced in [sub-section 2.4.1.1](#). The intervenors commented on legal developments following the IC's submission and argued that legal discrimination in the case affected more than the Applicants. Both arguments were taken up by the CRPD.

### 2.3.2. Promoting the development of legal standards on novel issues

TPIs are arguably most useful when the UNTB is dealing with an uncharted topic, such as one it has never considered or where there is limited jurisprudence. Here, Committee members face the challenge of providing an original interpretation of how Treaty provisions apply in a particular case; they also have the opportunity to contribute to the evolving interpretation of international human rights law. TPIs can provide the Committees with information and arguments that support and properly justify these novel resolutions.

### 2.3.3. Improving the quality of legal reasoning

UNTB members have recognised the usefulness of TPIs to facilitate the provision of relevant information that may not otherwise be accessible. This is the case, for example, when precedents are limited or difficult to access, data and information are scant, or the UNTB members have little knowledge of the topics at hand.<sup>32</sup>

In some cases, the legal question may be new to the UNTB considering it, but it may already have been considered by other UNTBs; international, regional, or national courts; human rights experts or institutions (such as UN Special Rapporteurs, human rights commissions or NHRIs); or academics. TPIs can provide this background (and translations of full documents, if necessary), which will help the UNTB understand how an issue was addressed in other jurisdictions or contexts. This can also help promote the coherence of international human rights law and complementarity of human rights mechanisms.

TPIs can also shed light on structural issues and trends. Usually, TPIs are submitted by specialist organisations or authors with expertise on the subject matter. Their contributions can include statistics and other data otherwise not accessible to the adjudicating body.

<sup>32</sup> Personal interviews carried out by ISHR with former and current UNTB members. See also: Chairs of the human rights treaty bodies (29th meeting) 'Common approach to engagement with national human rights institutions. (Second reissue for technical reasons)' HRI/MC/2017/3 (4 July 2017) 8, 12 paras 33 and 58(e) <<https://undocs.org/HRI/MC/2017/3>>



### 2.3.4. Facilitating access to UNTBs and the contribution of diverse inputs

The process of preparing and submitting ICs is time and resource intensive, as well as intimidatingly complex to those not familiar with the UNTB system.

TPIs, on the other hand, can be relatively nimble: they usually need to be quite short,<sup>33</sup> must focus on specific issues, have fewer procedural requirements, and require less engagement with the UNTB and parties than ICs. In this regard, TPIs allow a more diverse range of intervenors to participate in cases related to their interests. For example, a small NGO focused on migration issues may not have the capacity to litigate multiple cases related to human rights abuses worldwide, but it may be able to submit a TPI discussing the situation of migrants in a case with global implications.

This accessibility contributes to making the UNTB system more democratic and provides Committee members with viewpoints that otherwise would have been ignored, which is all the more relevant considering the global reach of UNTB jurisprudence.

### 2.3.5. Supporting parties with limited resources

There are inherent power and resource imbalances between victims of human rights violations and the States responsible for those violations. While States have multiple resources and relationships, victims may not even have representation or, if they do, are being represented by *pro bono* lawyers or NGOs, who also lack sufficient resources.

In this regard, TPIs can provide victims and their representatives with a helpful hand to strengthen the arguments in an IC, helping to redress the power imbalance between parties.

<sup>33</sup> See, for example, limits set by the HRCtee (5,350 words), CRC (10 pages) or CEDAW (7,000 words). For a full list of requirements set by UNTBs, see Section 3.4.

## 2.4. Examples of third-party interventions making a difference

This section provides a brief overview of TPIs that were particularly successful in influencing the final decision. It briefly sets out the way the TPIs were submitted, their contents, and the respective decisions from the UNTBs, as well as a brief explanation of the impact they had. The section also includes inspiring examples from national and international courts. A list of UNTB's cases with TPIs available online can be found in [Annex B](#).

### 2.4.1. UN Treaty Bodies

#### 2.4.1.1. CRPD – *Bujdosó et. al. v. Hungary*

**Complaint:** The authors argued that their disenfranchisement on the basis of guardianship, without an individualised assessment of their functional ability to vote, was discriminatory and violated their right to political participation.

**Third-party intervention:** TPI submitted autonomously. The Harvard Law School Project on Disability (HPOD) expanded on the authors' communication, asking the CRPD to rule that requiring individualised assessments of persons with disabilities' voting capacity in itself contravened the Convention.<sup>34</sup>

**Decision:** The Committee adopted the TPI argument that preventing people with intellectual disabilities from voting, even pursuant to an individualised assessment, constituted discrimination on the basis of disability.<sup>35</sup>

**Impact:** Demonstrates the value TPIs can have both for specific cases and for the advancement of human rights law in general. The arguments of the HPOD went beyond those of the authors and expanded the scope of the CRPD's views. It is possible that, but for the TPI, the CRPD would not have reached such a progressive resolution, which not only benefited the authors but also other persons with disabilities in Hungary.

<sup>34</sup> HPOD 'Third party intervention in the matter of Bujdosó, Zsolt et. al. v. Hungary, Communication No. 4/2011 before the Committee on the Rights of Persons with Disabilities' (2011) <<https://drive.google.com/file/d/1WY8trkn40FERkZe9likBmUUHjuVGfBM/view?usp=sharing>>

<sup>35</sup> CRPD 'Zsolt Bujdosó, Jánosné Ildikó Márkus, Viktória Márton, Sándor Mészáros, Gergely Polk and János Szabó v. Hungary' (9 September 2013) CRPD/C/10/D/4/2011 paras. 9.1 – 10 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2f10%2fd%2f4%2f2011&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2f10%2fd%2f4%2f2011&Lang=en)>

This case also features some noteworthy procedural aspects. It was the first ever TPI before the CRPD. This shows that a lack of TPIs before a specific UNTB does not necessarily signal a negative attitude of the UNTB towards TPIs, but rather that there merely has been a lack of engagement by third parties.

#### 2.4.1.2. HRCttee – *Nell Toussaint v. Canada*

**Complaint:** The applicant argued that Canada's refusal to provide lifesaving healthcare due to her immigration status violated her rights to non-discrimination, to life, to not be subjected to torture and cruel, degrading, and inhuman treatment, and to liberty and security.<sup>36</sup>

**Third party intervention:** TPI prepared at the request of, and submitted by, the author. The International Network for Economic, Social and Cultural Rights (ESCR-Net) submitted that Canada's refusal to provide healthcare because of migration status was discriminatory. They also submitted that the HRCttee should interpret the right to life as including, in certain cases, the positive obligation to provide healthcare, given the interdependence and indivisibility of civil and political rights with economic, social, and cultural rights.<sup>37</sup>

**Decision:** The Committee concluded that the right to life could not be narrowly interpreted to exclude the positive obligation of States to ensure that everyone has access to health care necessary to prevent reasonably foreseeable risks to their life. It found a violation to the rights to non-discrimination and to life.<sup>38</sup>

**Impact:** This was the first case in which a UNTB considered the complaint of an irregular migrant who was denied access to life-saving health care. The case was particularly complex, given that it was not entirely clear if it was actually related to the right to life (and therefore admissible under the ICCPR) or to the right to health (and therefore inadmissible *ratione materiae*). By admitting the case, the HRCttee needed strong arguments to justify how access to healthcare can be regarded as inherent to the right to life.

<sup>36</sup> ESCR-Net 'Toussaint v. Canada, CCPR/C/123/D/2348/2014, 2018. UN finds rights violations in irregular migrant being denied essential health services' (ESCR-Net, 12 December 2018) <[www.escr-net.org/caselaw/2018/toussaint-v-canada-ccprc123d23482014-2018](http://www.escr-net.org/caselaw/2018/toussaint-v-canada-ccprc123d23482014-2018)>

<sup>37</sup> ESCR-Net's Strategic Litigation Working Group members: CELS, CESR, GI-ESCR, SERI, SECTION27 'Nell Toussaint v. Canada. Communication No. 2348/2014. LEGAL OPINION' (22 August 2015) <[www.escr-net.org/sites/default/files/escr-net\\_legal\\_opinion\\_-\\_toussaint\\_v\\_canada.pdf](http://www.escr-net.org/sites/default/files/escr-net_legal_opinion_-_toussaint_v_canada.pdf)>

<sup>38</sup> HRCttee 'Toussaint v. Canada' (24 July 2018) CCPR/C/123/D/2348/2014 paras 11.1 – 14 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f123%2fd%2f2348%2f2014&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f123%2fd%2f2348%2f2014&Lang=en)>

The third-party interveners helped the HRCttee reach this conclusion by providing ample jurisprudence and legal precedents supporting its reasoning. An HRCttee expert mentioned that the case was particularly difficult, given that the topics of social security and health are not traditionally in the field of the HRCttee. The expert considered the TPI to be very useful, as it provided comparative jurisprudence and information about the domestic situation in Canada, which helped to substantiate a pioneering decision.

This case also demonstrates the different avenues third parties can take to intervene in the proceedings. Given that it was submitted by the author of the IC, the intervention wasn't a TPI in the sense of Rule 96 of the Rules of Procedure (ROP) of the HRCttee – that is, an 'autonomous' TPI. Rather, the HRCttee refers to the intervention as a 'legal opinion'.<sup>39</sup> Nonetheless, the effects were essentially the same: a third party provided information that helped the Committee reach a decision. If potential interveners have a close relationship with the IC's authors, it may be easier and more expeditious to submit the TPI through them.

#### 2.4.1.3. CRC – L.H. and others v. France

**Complaint:** The complainants sought repatriation to France of their French grandchildren detained in Kurdish camps in Syria. They argued that France exerted jurisdiction over the French children and that, by its inaction, it violated its obligations towards the children under the CRC.<sup>40</sup>

**Third Party Intervention:** TPIs prepared at the request of the Committee. Two interventions were submitted at the CRC's invitation by the Consortium on Extraterritorial Obligations and by other academics. The intervenors argued that there were grounds for an extraterritorial application of the Convention.<sup>41</sup>

**Decision:** The CRC noted that the State party was informed of the situation of extreme vulnerability of the children, and therefore did exercise jurisdiction over them. The Committee declared the communications admissible.<sup>42</sup>

<sup>39</sup> *ibid.* para. 7.4

<sup>40</sup> Helen Duffy, 'Communication 79/2019 and 109/2019 et. al., Case Note 2021/3. French Children in Syrian Camps: The Committee on the Rights of the Child and the Jurisdictional Quagmire' (Leiden Children's Rights Observatory, 18 February 2021) <[www.childrensrightsobservatory.nl/case-notes/casenote2021-3](http://www.childrensrightsobservatory.nl/case-notes/casenote2021-3)>

<sup>41</sup> Gamze Erdem Türkelli and others 'Third Party Intervention to the UN Committee on the Rights of the Child in the cases of H. and A. v. France and X. and X. v. France' (10 June 2020) <[www.childrensrightsobservatory.nl/images/papers/TPI-Submission-10-June-2020-final.pdf](http://www.childrensrightsobservatory.nl/images/papers/TPI-Submission-10-June-2020-final.pdf)>

<sup>42</sup> CRC 'L.H. and others v. France' CRC/C/85/D/79/2019 – CRC/C/85/D/109/2019 (30 September 2020) paras 9.1 – 11 <[https://www.ejiltalk.org/wp-content/uploads/2020/12/CRC\\_C\\_85\\_D\\_79\\_2019\\_E-1.pdf](https://www.ejiltalk.org/wp-content/uploads/2020/12/CRC_C_85_D_79_2019_E-1.pdf)>

**Impact:** This case clearly exemplifies why Committees sometimes need TPIs. This was a particularly complex case for the CRC, given that it had to rule on the unexplored question of extraterritorial applicability of the Convention. There was no CRC jurisprudence, so the CRC requested the support of experts on extraterritorial obligations. The ground-breaking decision to declare the case admissible may be controversial, but, thanks to the TPIs, is duly motivated and justified.

#### 2.4.1.4. CEDAW – A.S. v. Hungary

**Complaint:** The Applicant was a Hungarian woman of Roma origin who underwent an emergency C-section. During the procedure, she was also sterilised without her prior, informed consent.<sup>43</sup>

**Third Party Interventions:** The author submitted a TPI prepared by the Centre for Reproductive Rights (CRR). The TPI contended that the applicant did suffer a permanent violation of her rights as a result of the non-consensual sterilisation, which permanently deprived her from the freedom to make decisions as to the number and spacing of children.<sup>44</sup>

**Decision:** The CEDAW found Hungary did not ensure that the Applicant could make a well-considered and voluntary decision to be sterilised. Therefore, the State violated the Applicant's rights to information on family planning, to appropriate services in connection with pregnancy, and to her freedom to decide on the number and spacing of children she wanted to have.<sup>45</sup>

During the phase of follow up to views, the European Roma Rights Centre (ERRC) submitted information related to financial compensation for the victim.<sup>46</sup>

**Impact:** Elements of the TPI were transcribed in the decision, and arguments presented by the third-party were adopted in the consideration of the merits and the recommendations made to the State party.

43 'Fact Sheet. A.S. v Hungary – Informed Consent: A Signature is Not Enough' (CRR, December 2008) <[https://reproductiverights.org/wp-content/uploads/2020/12/AS\\_v\\_Hungary\\_Informed\\_Consent.pdf](https://reproductiverights.org/wp-content/uploads/2020/12/AS_v_Hungary_Informed_Consent.pdf)>

44 CRR 'Supplemental Information Re: A.S. v. Hungary. Communication No: 4/2004' (2005) <[https://reproductiverights.org/wp-content/uploads/2020/12/ww\\_ASvHungary\\_amicus\\_brief.pdf](https://reproductiverights.org/wp-content/uploads/2020/12/ww_ASvHungary_amicus_brief.pdf)>

45 CEDAW 'A.S. v. Hungary' (14 August 2006) CEDAW/C/36/D/4/2004 <[https://www.escr-net.org/sites/default/files/CEDAW\\_Committee\\_Decision\\_0.pdf](https://www.escr-net.org/sites/default/files/CEDAW_Committee_Decision_0.pdf)>

46 ERRC 'Written Comments of the European Roma Rights Centre concerning the CEDAW case of A.S. v. Hungary, communication No. 4/2004.' (20 November 2009) <[www.errc.org/uploads/upload\\_en/file/hungary-written-comments-cedaw-ascase-20112009.pdf](http://www.errc.org/uploads/upload_en/file/hungary-written-comments-cedaw-ascase-20112009.pdf)>

Furthermore, while the information submitted by the ERRC was not a TPI (as they represented the victim), it is also an example of a good practice. Victims' representatives should maintain engagement with the Committee during follow-up, to ensure the UNTB reviews compliance with the case based on diverse perspectives, not just the State's.

#### 2.4.1.5. CEDAW – Ángela González Carreño v. Spain

**Complaint:** The complainant alleged a violation of the right to non-discrimination in multiple areas, including due to a failure to ensure marital equality. This, because the State failed to act with due diligence to protect her and her daughter from their aggressor, a negligence which culminated in her daughter's murder.

**Third-party interventions:** Several TPIs were submitted autonomously and at the request of the authors' representatives, dealing with a range of topics including gender-based violence,<sup>47</sup> gender stereotyping,<sup>48</sup> transformative equality,<sup>49</sup> the due diligence principle in relation to gender-based violence in the Inter-American System,<sup>50</sup> and the jurisprudence of the ECHR on the obligation to exercise due diligence to protect individuals from domestic violence.<sup>51</sup>

**Decision:** The CEDAW concluded there was a violation of the Convention, given that the authorities applied stereotypical notions (including on what constitutes domestic violence) when deciding about a visiting scheme. This resulted in the discriminatory decision that allowed unsupervised visits without considering the necessary safeguards nor the pattern of domestic violence.<sup>52</sup>

**Impact:** Although not expressly mentioned in the Committee's decision, the arguments of some third parties appear to have been considered. Particularly in paragraph 7.5, the Committee mentioned that *'The information included by the author in her initial communication*

47 Save the Children 'La responsabilidad del Estado ante las vulneraciones de los derechos de los niños y niñas víctimas de la violencia de género' (2014) <[www.womenslinkworldwide.org/files/77/amicus-de-save-the-children-espana.pdf](http://www.womenslinkworldwide.org/files/77/amicus-de-save-the-children-espana.pdf)>

48 Simone Cusack 'Ángela González Carreño v. Spain CEDAW Communication No. 47/2012: Amicus Curiae Brief' (2 February 2014) <<http://www.womenslinkworldwide.org/files/78/amicus-de-simone-cusack-solo-en-ingles.pdf>>

49 Christine Chinkin and Keina Yoshida 'Transformative Equality and Violence against Women and the Girl Child' (2014) <[www.womenslinkworldwide.org/files/80/amicus-de-christine-chinkin-y-keina-yoshida-solo-en-ingles.pdf](http://www.womenslinkworldwide.org/files/80/amicus-de-christine-chinkin-y-keina-yoshida-solo-en-ingles.pdf)>

50 Victor Abramovich and Susana Villarán 'Amicus Curiae. The Due Diligence Principle in the Inter-American System Applied to Gender-Based Violence' (2014) <[www.womenslinkworldwide.org/files/79/amicus-de-victor-abramovich-y-susana-villaran-solo-en-ingles.pdf](http://www.womenslinkworldwide.org/files/79/amicus-de-victor-abramovich-y-susana-villaran-solo-en-ingles.pdf)>

51 International Commission of Jurists 'Angela Gonzalez Carreño v. Spain, Communication No. 47/2012, CEDAW. Amicus Brief' (26 June 2014) <[www.womenslinkworldwide.org/files/76/amicus-de-la-comision-internacional-de-juristas-informacion-disponible-solo-en-ingles.pdf](http://www.womenslinkworldwide.org/files/76/amicus-de-la-comision-internacional-de-juristas-informacion-disponible-solo-en-ingles.pdf)>

52 CEDAW 'González Carreño v. Spain' CEDAW/C/58/D/47/2012 (16 July 2014) paras 9.1 – 12 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/58/D/47/2012&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/58/D/47/2012&Lang=en)>

*regarding the context of the events is important to show that the lack of diligence in her case is typical of the lack of diligence that habitually characterises domestic violence cases.’*

This case shows how TPIs can be relevant even if they are not explicitly mentioned in the decision. The topic analysed by the Committee was complex, and the TPIs provided useful guidance which led to the adoption of a view which addresses grass-roots problems and is duly motivated.

## 2.4.2. Other courts

### Inter-American Court of Human Rights (IACrTHR) – Guzmán

**Albarracín et. al. v. Ecuador:** In a case concerning the sexual abuse at a public school of a minor, TPIs were submitted highlighting the systemic nature of sexual violence and abuse within Ecuador’s education system.

The Court explicitly referenced several TPIs, noting for instance that it shared ‘[...] *the view expressed by the Committee of Experts of MESECVI, in its amicus curiae brief, that those working in the area of education have the [unavoidable] obligation to safeguard the personal integrity of the students and avoid, at all costs, situations that may create improper advantages or benefits [...] Ecuador’s domestic laws also recognize the right of students to be protected against all forms of violence in educational institutions. As indicated by SURKUNA in its amicus curiae brief, this is stipulated in the Organic Law on Intercultural Education, of 2011*’.<sup>53</sup>

**IACrTHR – Vicky Hernández et. al. v. Honduras:** In a case concerning the transfemicide of Vicky Hernández, a sex worker and human rights defender, the Court received 18 TPIs. ISHR submitted a TPI relating to the need to interpret the American Convention on Human Rights in light of the Yogyakarta Principles and the Yogyakarta Principles + 10, which apply international human rights standards to specific issues relating to sexual orientation and gender identity (SOGI).<sup>54</sup> In its judgement, the IACrTHR recognised the heightened risk Vicky faced both because of her SOGI and her work as an HRD.<sup>55</sup>

<sup>53</sup> IACrTHR ‘Case of Guzmán Albarracín et. al. v. Ecuador. Merits, Reparations and Costs.’ Series C No. 405 (June 24, 2020) 39, fn 126 <[www.corteidh.or.cr/docs/casos/articulos/seriec\\_405\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_405_ing.pdf)>

<sup>54</sup> ISHR ‘AMICUS CURIAE. Case No. 13.051. Vicky Hernandez and Family v. Honduras’ (2020) <[https://ishr.ch/wp-content/uploads/2021/09/third\\_party\\_submission\\_iachr\\_honduras\\_final\\_english\\_june10\\_1.pdf](https://ishr.ch/wp-content/uploads/2021/09/third_party_submission_iachr_honduras_final_english_june10_1.pdf)>

<sup>55</sup> IACrTHR ‘Case of Vicky Hernández et. al. v. Honduras. Merits, Reparations and Costs.’ Series C No. 422 (26 March 2021) para 8 fn 10, paras 30, 98, 112, 152, 175 <[www.corteidh.or.cr/docs/casos/articulos/seriec\\_422\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_422_ing.pdf)>

**ECHR – Sanoma Uitgevers B.V. v. The Netherlands:** The case concerned police officers who wanted to obtain photos of an illegal street race taken by a journalist, to use for an unrelated criminal investigation. The applicants refused, invoking their journalistic privilege, subsequent to which the officers arrested an editor of the magazine and threatened to close it down, without a court order. The Grand Chamber of the ECHR received a TPI from various media organisations: Media Legal Defence Initiative, Committee to Protect Journalists (CPJ), Article 19, Guardian News & Media Ltd., and Open Society Justice Initiative (OSJI), which showed a tendency in several countries around the world to establish safeguards against interferences with the journalistic privilege of source protection.

The ECHR found a violation of the right to freedom of expression, echoing the third-parties' argument by noting the *'lack of legal safeguards for the Applicant company to enable an independent assessment as to whether the interest of the criminal investigation overrode the public interest in the protection of journalistic sources'*.<sup>56</sup>

**African Court of Human and Peoples' Rights (ACHPR) – Actions pour la protection des droits de l'Homme (APDH) v. The Republic of Côte D'Ivoire:** The case concerned the contention by the applicant that the Electoral Commission of the State party was not in conformity with relevant human rights instruments, and it therefore was obligated to amend it. The ACHPR requested TPIs from the African Union Commission and the African Institute for International Law, specifically, on the question of whether some of these treaties (namely, the African Charter on Democracy and its protocol on Democracy) could be considered human rights instruments under article 3 of the Court's Protocol, which established its jurisdiction *ratione materiae*.<sup>57</sup>

In its judgement, the ACHPR briefly summarised relevant portions of the TPIs, stated that it took note of the observations and agreed with the position adopted by the intervenors, namely, that the instruments were human rights instruments. A comparison between the TPIs and the judgment showed that the ACHPR relied heavily on the TPIs to reach its decision on admissibility.<sup>58</sup>

<sup>56</sup> ECHR, Grand Chamber 'Case of Sanoma Uitgevers B.V. v. the Netherlands.' Application no. 38224/03 (14 September 2010) paras 45, 80 <<https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2021/09/CASE-OF-SANOMA-UITGEVERS-B.V.-v.-THE-NETHERLANDS.pdf>>

<sup>57</sup> ACHPR 'Actions pour la protection des droits de l'Homme (APDH) v The Republic of Côte D'Ivoire' Application 001/2014 (18 November 2016) 8, 9 paras. 3, 28, 29, 50-56 <[https://www.african-court.org/en/images/Cases/Judgment/JUDGMENT\\_APPLICATION%20001%202014%20-%20APDH%20V.%20THE%20REPUBLIC%20OF%20COTE%20DIVOIRE.pdf](https://www.african-court.org/en/images/Cases/Judgment/JUDGMENT_APPLICATION%20001%202014%20-%20APDH%20V.%20THE%20REPUBLIC%20OF%20COTE%20DIVOIRE.pdf)>

<sup>58</sup> Jonas Obonye, 'The participation of amici curiae in the African human rights system' (Student thesis: Doctoral thesis for the Degree of Doctor of Philosophy in Law, University of Bristol Law School 2018) 166 <[research-information.bris.ac.uk/en/studentTheses/the-participation-of-amici-curiae-in-the-african-human-rights-sys](https://research-information.bris.ac.uk/en/studentTheses/the-participation-of-amici-curiae-in-the-african-human-rights-sys)>



### **First Chamber of the Supreme Court of Justice of the Nation of Mexico – Amparo 1077/2019:**

The case concerned the enforced disappearance of Víctor Álvarez Damián in 2013 and Mexico's persistent failure to comply with hundreds of Urgent Actions issued by CED, which the government did not regard as binding. The Court received several TPIs from civil society organisations and public institutions (including the NHRI of Mexico).<sup>59</sup> In its judgement, the Court held that it had 'no doubts' about the mandatory nature of the Urgent Actions, being the first high court in the world to make such a recognition.<sup>60</sup>

### **Victorian Civil and Administrative Tribunal (Australia) – Kracke v Mental Health Review Board & Ors:**

The case concerned the compulsory medical treatment of a man (Gary Kracke) without his consent and without prior review by competent authorities of such treatment. The Human Rights Law Resource Centre submitted a TPI arguing that the competent authorities breached the victim's right to a fair trial by failing to conduct the reviews of his involuntary and community treatment orders within a reasonable time.<sup>61</sup> The argument was adopted by the Tribunal in its decision, and the president of the Tribunal recognised that *'The assistance I have received in the submissions has been indispensable in my analysis of the issues.'*<sup>62</sup>

### **Constitutional Court of Guatemala – Appeal of amparo 6359-2016:**

Indigenous human rights defender Daniel Pascual appealed the rejection of a constitutional action related to a penal process that sought to criminalise him for his activism. During the appeal, ISHR filed a TPI in the Guatemalan Constitutional Court highlighting international standards on the rights of human rights defenders. While the appeal was rejected,<sup>63</sup> the Criminal Court ultimately acquitted Pascual, basing its decision on international standards referenced in the TPI.<sup>64</sup>

<sup>59</sup> Idehas 'MéxicoAnteLaONU: SCJN se pronunciará sobre la obligatoriedad de las acciones urgentes emitidas por la ONU para la búsqueda de personas desaparecidas. Amicus Curiae presentados.' (2020) <<http://idheas.org.mx/especiales/amicus/>>

<sup>60</sup> *Amparo en Revisión 1077/2019* (2021) First Chamber of the Supreme Court of Justice of the Nation of Mexico, para 102 fn 77, para 119 fn 85, para 122 fn 89, para 133 <[www.idheas.org.mx/wp-content/uploads/2021/07/VERSION-PUBLICA.pdf](http://www.idheas.org.mx/wp-content/uploads/2021/07/VERSION-PUBLICA.pdf)>

<sup>61</sup> Human Rights Law Resource Centre 'Mental Health: Kracke v Mental Health Review Board & Ors. VCAT Makes Declaration of Breach of Human Rights in Major Charter Test Case' (2009) <<https://www.hrlc.org.au/human-rights-case-summaries/kracke-mental-health-review-board->>

<sup>62</sup> Victorian Civil and Administrative Tribunal 'Kracke v Mental Health Review Board & Ors (General)' (21 May 2009) [2009] VCAT 646, paras. 8, 242, 859 <<http://www8.austlii.edu.au/cgi-bin/sign.cgi/au/cases/vic/VCAT/2009/646->>

<sup>63</sup> *Apelación de sentencia de amparo 6359-2016* (22 November 2018) Constitutional Court of Guatemala, 7 <<http://138.94.255.164/Sentencias/840678.6359-2016.pdf>>

<sup>64</sup> Judgement of the criminal court not available online. For a summary of the case see: ISHR 'Guatemala | Indigenous human rights defender Daniel Pascual acquitted in criminal case that sought to silence him' (27 March 2020) <<https://ishr.ch/latest-updates/guatemala-indigenous-human-rights-defender-daniel-pascual-acquitted-criminal-case-sought/>>



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## CHAPTER III: SUBMITTING A TPI

This section provides information about the TPI procedures of UNTBs, and how to find relevant cases to intervene. Submitting a TPI to a UNTB can be a relatively simple and straightforward process, you only need a relevant case pending resolution before a UNTB, and for the case to be in a phase where TPIs may be submitted. Nonetheless, a survey of practitioners carried out by ISHR found that 38.7% of respondents had never submitted a TPI to a UNTB, for the following reasons:<sup>65</sup>

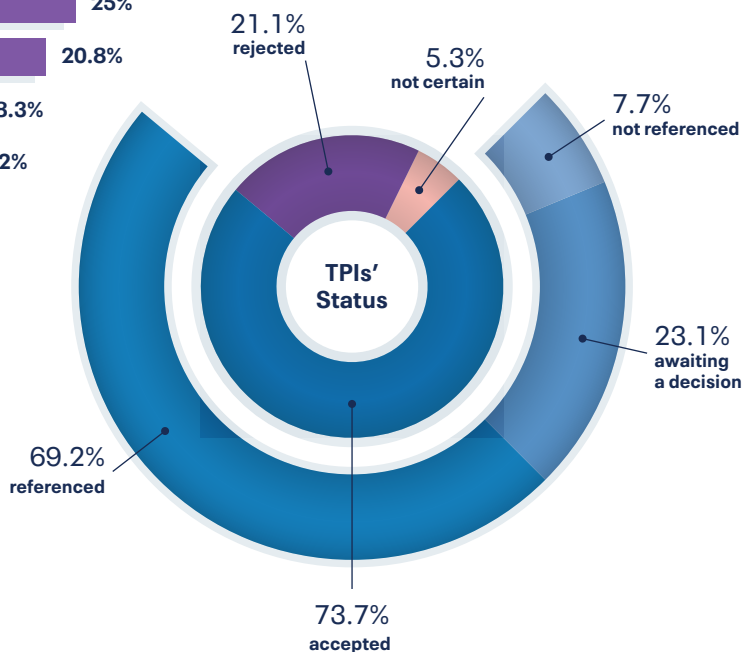
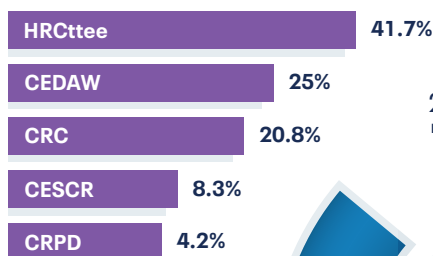
- Not aware of the process by which a TPI could be submitted (25%)
- Opportunity has not arisen (25%)
- Not aware of cases pending resolution in which a TPI would be useful (18.75%)
- Have not considered necessary to do so (18.75%)
- Not aware TPIs could be submitted (6.25%)
- Request to intervene was rejected (6.25%)

<sup>65</sup> A total of 31 responses were received between 15 June 2021 and 26 September 2021.

Additionally, 61.3% of respondents indicated that they had submitted a TPI to one of the following UNTBs: HRCttee (41.7%), CEDAW (25%), CRC (20.8%), CESC (8.3%) and CRPD (4.2%). The TPIs were accepted in 73.7% of the cases, rejected in 21.1% of the cases, and in 5.3% of the cases, there was no certainty of whether it was admitted or not.

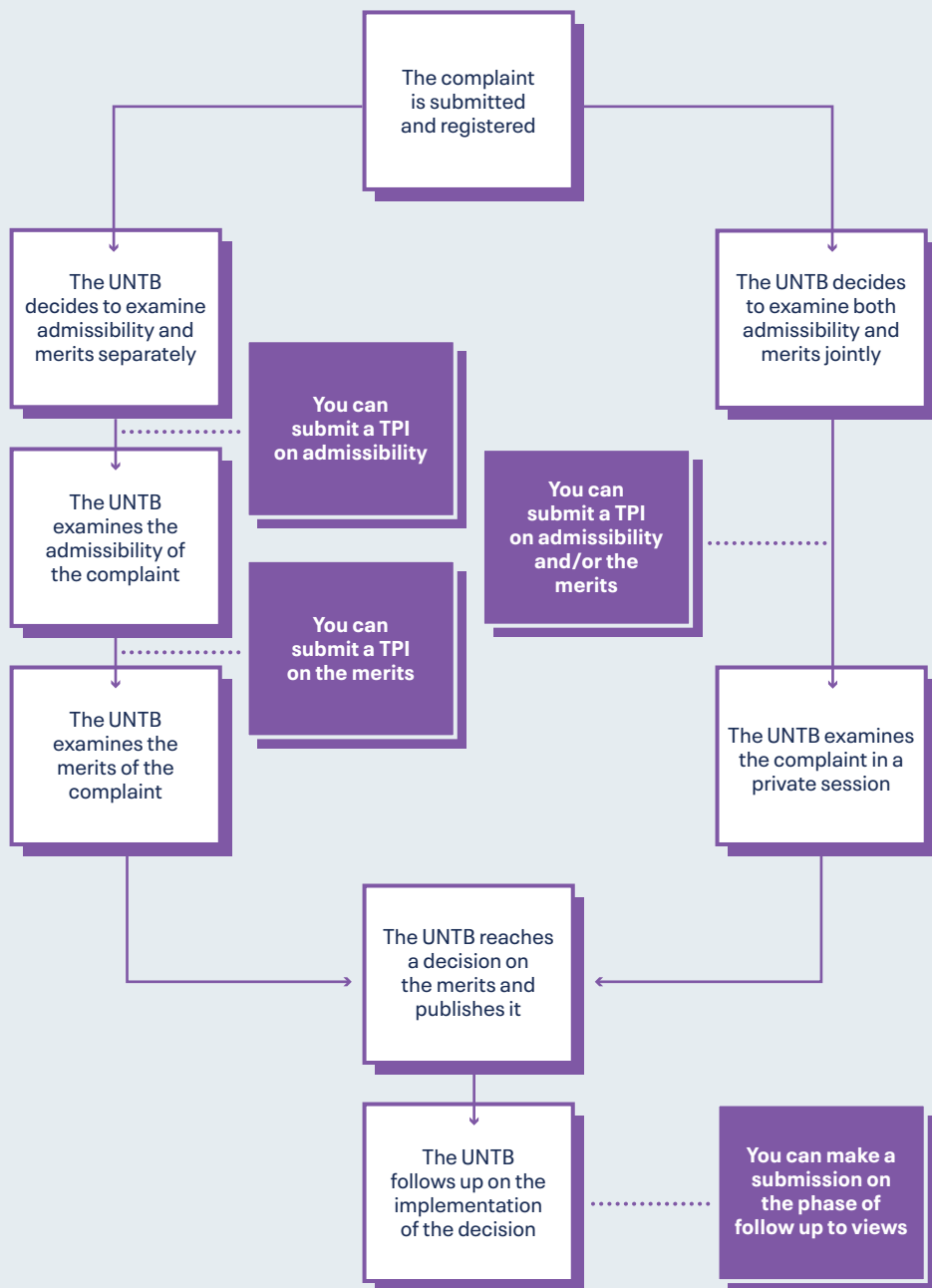
Of the accepted TPIs, 69.2% were referenced in the UNTB's decision, 7.7% were not and 23.1% were on cases still awaiting a decision. Alternatively, of the rejected TPIs, 75% did not receive any explanation for the rejection, while 25% did.

### UNTBs submitted to



These data show that potential interveners without personal knowledge of a case find it considerably more difficult to identify cases in which they could intervene. The lack of updated public information about cases pending review also makes it difficult to determine which cases relate to legal issues with limited jurisprudence, and that would therefore benefit most from TPIs.

### 3.1. Moments when you can intervene as a third party



## 3.2. Finding cases pending resolution

Some UNTBs provide tables of ICs pending consideration, which contain the following information: number of the IC (e.g., 2900/2017), State party concerned, Convention articles involved, and subject matter. Interested third parties can use this to find cases in which they may be able to provide valuable input.

At the time of publication, information on pending cases before each of the Committees that publishes it can be found in the following way:

- **HRCttee:** On the Committee's website,<sup>66</sup> on the left column under 'Complaints Procedure', there are hyperlinked documents titled 'Table of registered cases' which list the cases registered in the corresponding year.<sup>67</sup>
- **CESCR:** On the Committee's website,<sup>68</sup> on the left column under 'Complaints and inquiry procedures' there is a link titled 'Table of pending cases'.<sup>69</sup>
- **CRC:** On the Committee's website,<sup>70</sup> on the left column under 'Complaints Procedure' there is a link titled 'Table of pending cases'.<sup>71</sup>
- **CEDAW:** On the Committee's website,<sup>72</sup> on the left column under 'Complaints Procedure' there is a link titled 'Table of pending cases'.<sup>73</sup>
- **CRPD:** On the Committee's website,<sup>74</sup> on the left column under 'Complaints Procedure' there is a link titled 'Table of pending cases'.<sup>75</sup>

66 OHCHR 'Introduction. Human Rights Committee' (2021) <<https://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx>>

67 Currently, there are no tables for the years 2020 or 2021. You can access a PDF version of the three most recent tables at the following links:

2017: <[https://drive.google.com/file/d/19LD8HxeG8sy1cZG6gF\\_MZ6wQxz1U\\_-gW/view?usp=sharing](https://drive.google.com/file/d/19LD8HxeG8sy1cZG6gF_MZ6wQxz1U_-gW/view?usp=sharing)>;

2018: <<https://drive.google.com/file/d/1iSto1mk2NbGTbOkpwXjY6b5e6bMjV3lb/view?usp=sharing>>;

2019: <<https://drive.google.com/file/d/1tOaZHsK1EUeomWJE9HwQoQlKXdNpir/view?usp=sharing>>

68 OHCHR 'Introduction. Committee on Economic, Social and Cultural Rights' (2021) <<https://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx>>

69 CESCR 'Table of pending cases before the Committee On Economic, Social And Cultural Rights, considered under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-CESCR)' (2021) <[www.ohchr.org/EN/HRBodies/CESCR/Pages/PendingCases.aspx](http://www.ohchr.org/EN/HRBodies/CESCR/Pages/PendingCases.aspx)>

70 OHCHR 'Introduction. Committee on the Rights of the Child' (2021) <<https://www.ohchr.org/en/hrbodies/crc/pages/crcindex.aspx>>

71 CRC 'Table of pending cases before the Committee on the Rights of the Child' (15 March 2021) <[www.ohchr.org/Documents/HRBodies/CRC/TablePendingCases.pdf](http://www.ohchr.org/Documents/HRBodies/CRC/TablePendingCases.pdf)>

72 OHCHR 'Introduction. Committee on the Elimination of Discrimination against Women' (2021) <[www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx](http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx)>

73 CEDAW 'Status of pending cases under the Optional Protocol to CEDAW' (27 October 2020) <[www.ohchr.org/Documents/HRBodies/CEDAW/PendingCases.docx](http://www.ohchr.org/Documents/HRBodies/CEDAW/PendingCases.docx)> Note that clicking on the hyperlink will start the download of a Word (.docx) document.

74 OHCHR 'Introduction. Committee on the Rights of Persons with Disabilities' (2021) <[www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx](http://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx)>

75 CRPD 'Table of pending cases before the Committee on the Rights of Persons with Disabilities (CRPD)' <[www.ohchr.org/Documents/HRBodies/CRPD/Tablependingcases.pdf](http://www.ohchr.org/Documents/HRBodies/CRPD/Tablependingcases.pdf)>

It is important to check the date of the last update of the document, if indicated, as tables of pending / registered cases are not always regularly updated by the OHCHR.

At the time of writing, neither the CAT, CED nor the CERD published information about pending cases. Furthermore, some tables of pending cases may not provide sufficient information to allow third parties to determine if their expertise could be useful.

Finding an opportunity or case in respect of which to submit a TPI has become one of the main challenges for practitioners who do not personally know of the topic, parties, or other relevant details of pending ICs. This results in excluding valuable inputs from third parties with experience and knowledge on the matter.

Regrettably, there is no easy workaround to overcome this issue. It can be helpful to be connected with individuals and institutions in the know, such as members of UNTBs, OHCHR or relevant NGOs, who may be able to share information about pending cases.

Sometimes, cases presented before UNTBs are part of strategic litigation campaigns, which in addition to achieving justice for claimants, seek to bring about systemic changes.<sup>76</sup> This is achieved by setting new precedents and publicly exposing injustice.<sup>77</sup> As such, cases presented to UNTBs are sometimes made public by the authors, as a way to raise awareness.<sup>78</sup> This provides an alternative way of identifying pending cases. To find this information, you can:

- Follow the websites and social media of organisations that have litigated before or worked with UNTBs. For example, those belonging to the TB-Net Coalition<sup>79</sup>:
  - The Centre for Civil and Political Rights<sup>80</sup> (on HRCttee).
  - Child Rights Connect.<sup>81</sup> (on CRC).
  - GI-ESCR<sup>82</sup> (on CESCR).

<sup>76</sup> See, for example: Daniele Paletta 'ILGA World Launches Treaty Bodies Strategic Litigation Toolkit' (ILGA World, 10 March 2019) <<https://ilga.org/ILGA-World-launches-UN-Treaty-Bodies-Strategic-Litigation-toolkit>>

<sup>77</sup> 'Strategic Litigation' (TRIAL International) <<https://trialinternational.org/topics-post/strategic-litigation/>>

<sup>78</sup> See, for example: 'Severe torture inflicted on Mr. Nouar Abdelmalek' (TRIAL International, 15 September 2016) <<https://trialinternational.org/latest-post/severe-torture-inflicted-on-mr-nouar-abdelmalek/>>; 'Case Omar N'dour v. Morocco' (TRIAL International, 28 September 2016) <<https://trialinternational.org/latest-post/case-omar-ndour-v-morocco/>>; s/Comité Contra las Desapariciones Forzadas' (Ideas, Litigio Estratégico en Derechos humanos, A.C.) <<https://www.idheas.org.mx/litigio-internacional/comite-contra-las-desapariciones-forzadas/>>

<sup>79</sup> 'TB-Net' (2021) <<http://tbnet.org/en/>>

<sup>80</sup> 'Center for Civil and Political Rights' (2021) <<https://ccprcentre.org/>>

<sup>81</sup> 'Child Rights Connect' (2021) <<https://childrightsconnect.org/>>

<sup>82</sup> 'The Global Initiative for Economic, Social and Cultural Rights' (2021) <[www.gi-escr.org/](http://www.gi-escr.org/)>

- International Disability Alliance (IDA)<sup>83</sup> (on CRPD).
- International Movement against all forms of Discrimination and Racism (IMADR)<sup>84</sup> (on CERD).
- International Women's Rights Action Watch Asia Pacific (IWRAP-AP)<sup>85</sup> (on CEDAW).
- World Organisation Against Torture<sup>86</sup> and TRIAL International<sup>87</sup> (on CAT).
- Follow the websites of the organisations that created the Additional Resources listed in [Annex B](#).
- Look for websites that regularly publish information on developments at the international level on relevant topics, for instance: *Opinio Juris*,<sup>88</sup> EJIL;<sup>89</sup> Open Society Justice Initiative,<sup>90</sup> Women's Link Worldwide,<sup>91</sup> CRR,<sup>92</sup> Leiden Children's Rights Observatory,<sup>93</sup> Human Rights Law Centre,<sup>94</sup> and IDHEAS.<sup>95</sup>
- All UNTBs have a section titled 'External Links' (usually on the lower right column of their websites) which contains hyperlinks to non-UN websites that relate to the mandate of the Committee (typically sites of NGOs working on issues relevant to the UNTB). These sites may include publications related to cases presented to UNTBs. For example:
  - International Federation for Human Rights (FIDH).<sup>96</sup>
  - ESCR-Net.<sup>97</sup>
  - International Institute on Race, Equality, and Human Rights.<sup>98</sup>

<sup>83</sup> 'International Disability Alliance' (2021) <[www.internationaldisabilityalliance.org/](http://www.internationaldisabilityalliance.org/)>

<sup>84</sup> 'International Movement against all forms of Discrimination and Racism' (2021) <[www.imadr.org/](http://www.imadr.org/)>

<sup>85</sup> 'IWRAP Asia Pacific' (2021) <[www.iwraw-ap.org/](http://www.iwraw-ap.org/)>

<sup>86</sup> 'OMCT' (2021) <[www.omct.org/](http://www.omct.org/)>

<sup>87</sup> 'TRIAL International' (2021) <<https://trialinternational.org/>>

<sup>88</sup> 'OpinioJuris' (2021) <<http://opiniojuris.org/>>

<sup>89</sup> 'EJIL:Talk! Blog of the European Journal of International Law' (2021) <[www.ejiltalk.org/](http://www.ejiltalk.org/)>

<sup>90</sup> 'Open Society Justice Initiative' (Open Society Foundations, 2021) <[www.justiceinitiative.org/](http://www.justiceinitiative.org/)>

<sup>91</sup> 'Women's Link Worldwide' (2021) <[www.womenslinkworldwide.org/en](http://www.womenslinkworldwide.org/en)>

<sup>92</sup> 'The Center for Reproductive Rights' (2021) <<https://reproductiverights.org/>>

<sup>93</sup> 'Leiden Children's Rights Observatory' (2021) <<https://childrensrightsobservatory.nl/>>

<sup>94</sup> 'Human Rights Law Centre' (2021) <[www.hrlc.org.au/](http://www.hrlc.org.au/)>

<sup>95</sup> 'Idheas. Litigio Estratégico en derechos humanos' (IDHEAS, 2021) <[www.idheas.org.mx/](http://www.idheas.org.mx/)>

<sup>96</sup> 'International Federation For Human Rights' (FIDH: International Federation For Human Rights, 2021) <[www.fidh.org/en/](http://www.fidh.org/en/)>

<sup>97</sup> 'ESCR-Net - International Network for Economic, Social and Cultural Rights' (ESCR-Net, 2021) <[www.escr-net.org/](http://www.escr-net.org/)>

<sup>98</sup> 'The International Institute on Race, Equality and Human Rights' (2018) <<https://raceandequality.org/>>

Alternatively, you can reach out to the OHCHR and ask for information on pending cases, including their current status, before any of the Committees (see below Section 3.3). You can contact them at:

- [OHCHR-Petitions@un.org](mailto:OHCHR-Petitions@un.org)
- [InfoDesk@ohchr.org](mailto:InfoDesk@ohchr.org)
- [civilsociety@ohchr.org](mailto:civilsociety@ohchr.org)

For safety and privacy reasons, Committee members' contact information is usually not public; however, most of them have other jobs aside from Committee membership, so it may be easier to contact them there.

### 3.3. Engaging with the Secretariat and Committee members

Given the limited information available online regarding the rules and requirements for the submission of TPIs, it may be useful for potential authors to engage with the PUAS or UNTBs' members during the submission process.

**Before submitting a TPI,** UNTB staff and members can provide guidance on cases that would benefit from a TPI and on the requirements for submission. After submission, the PUAS will confirm reception of the TPI and may provide a tentative timeline for subsequent steps – noting that such processes often take years.

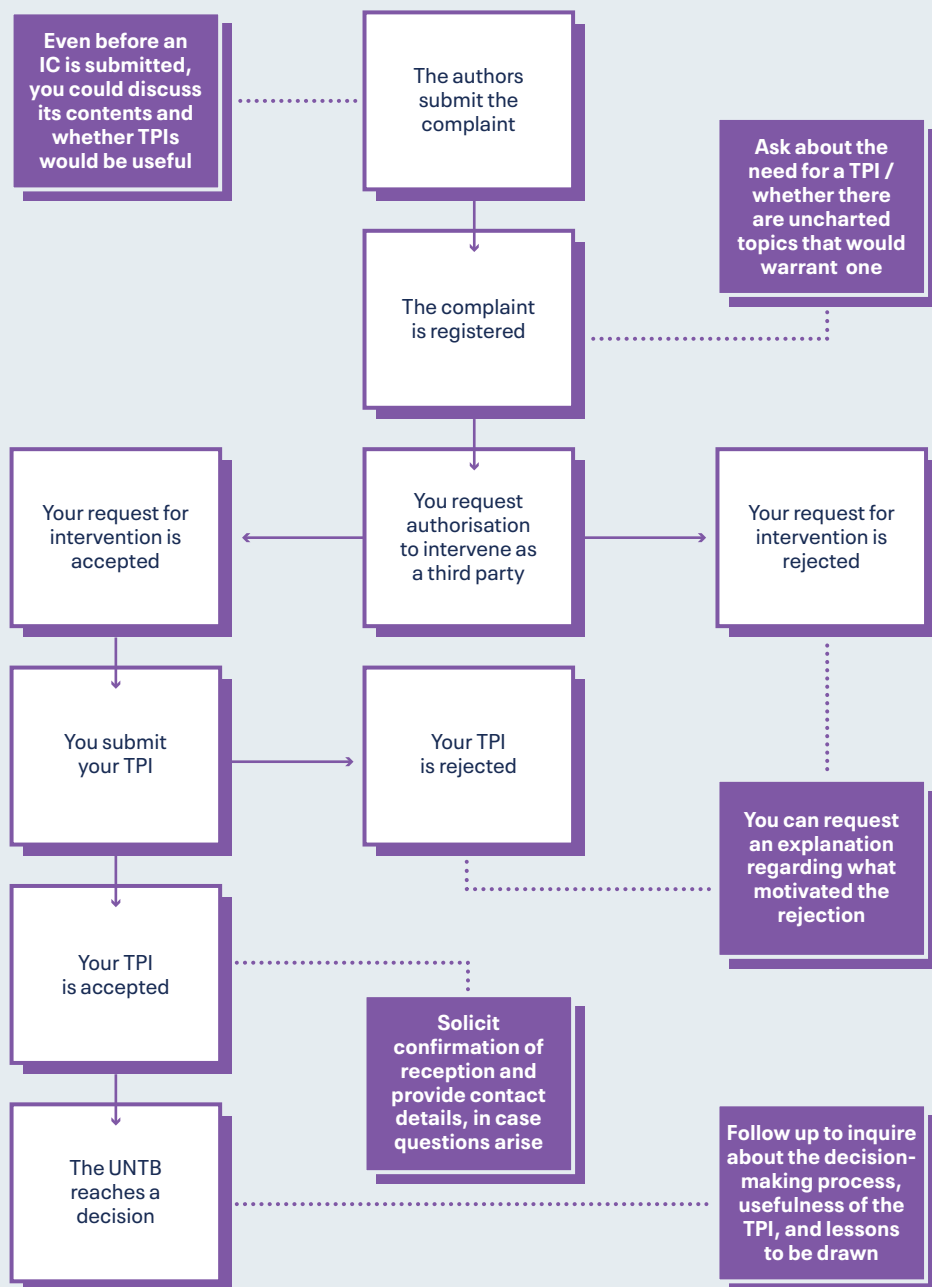
**Once your TPI has been submitted,** the PUAS shares it with the Committee member designated as Rapporteur on ICs. Providing the Rapporteur with a direct line of contact to you can be of use in the event they have questions or need clarifications.

UNTB members (including Rapporteurs) will not engage in discussions that could be construed as a conflict of interest, so you should refrain from contacting them if they have not given their express consent or they refused to maintain contact. Direct unsolicited contact can be interpreted as a way of exerting pressure, so it is better to only communicate directly if explicitly authorised by your interlocutor.

**Once the UNTB has adopted a decision,** you can reach out directly to the Rapporteur or other Committee members to discuss the relevance of your TPI. This conversation can provide valuable lessons and improve your advocacy strategy.



### 3.4. Engaging with the UNTB (Staff and members)



### 3.5. Instructions for submitting a TPI before the UNTBs

The process for submitting TPIs before each UNTB that accepts ICs is fairly similar, with only a few requirements varying between Committees. Considering this, and with the aim of avoiding repetition, in this section we outline the general steps to follow in order to submit a TPI. When relevant, we highlight particularities related to the requirements of each Committee.

The following steps are based chiefly on each Committee's rules and guidelines (where available), with the inclusion of some extra tips from other UNTBs guidelines as well as from the knowledge and experience of practitioners and other experts.

#### ■ Review the legal basis for the submission of TPIs:

- HRCtee: Rule 96 of the ROP.<sup>99</sup>
- CESCR: Rule 14 of the Provisional ROP.<sup>100</sup>
- CRC: Rule 23 of the ROP.<sup>101</sup>
- CEDAW: Rules 45, 46 and 47 of the ROP.<sup>102</sup>
- CRPD: Rule 72(3) of the ROP.<sup>103</sup>
- CAT: While there is no explicit legal basis, Rule 118(2) of the ROP<sup>104</sup> seems to allow for the possibility of submitting TPIs.<sup>105</sup>
- CERD: No explicit legal basis.<sup>106</sup> The only TPI ever submitted was rejected (see Annex A6).

99 HRCtee 'Rules of procedure of the Human Rights Committee' CCPR/C/3/Rev.11 (9 January 2019) <<https://undocs.org/CCPR/C/3/REV.11>>

100 CESCR 'Provisional rules of procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted by the Committee at its forty-ninth session' E/C.12/49/3 (15 January 2013) <<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDZFEOvLCuW6%2b2AxiK5eE0bJBuavJLFxyFFyp2I0IbP1EgR4DPey1FXnIWwf-BLPHN05AhEzNg1M38ubvjFhOmJhK4OZFCmbOzdDHPeOxZLuOnUPTOfkH3R>>

101 CRC 'Rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure' CRC/C/62/3 (16 April 2013) <<https://digitallibrary.un.org/record/774220?ln=en>>

102 CEDAW 'Rules of procedure of the Committee on the Elimination of Discrimination Against Women' CEDAW/C/ROP (26 January 2001) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FROP&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FROP&Lang=en)>

103 CRPD 'Committee on the Rights of Persons with Disabilities Rules of procedure' CRPD/C/1/Rev.1 (10 October 2016) <<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRICAqhKb7yhsksjXFQ9tA2V9GKOYtS6n6VSA-tuhFoglcVQSIF1IKFogVsSOiQawzgh8gorlHHSjOCS3Kb5B9Xa3X46zo5BSNHW0YmimDyV4sQMrWPy3%2b1GK>>

104 CAT 'Rules of Procedure' (1 September 2014) CAT/C/3/Rev.6 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2F3%2FRev.6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2F3%2FRev.6&Lang=en)>  
Rule 118(2): 'The Committee [...] may at any time in the course of the examination [of an IC] obtain any document from [UN agencies or] other sources that may assist in the consideration of the complaint'.

105 Some practitioners share this interpretation, see: Claire Callejon, Kamelia Kemileva and Felix Kirchmeier *Treaty Bodies' Individual Communication Procedures: Providing Redress And Reparation To Victims Of Human Rights Violations* (Geneva Academy, May 2019) 12, fn 23 <[www.geneva-academy.ch/joomlaools-files/docman-files/UN%20Treaty%20Bodies%20Individual%20Communications.pdf](http://www.geneva-academy.ch/joomlaools-files/docman-files/UN%20Treaty%20Bodies%20Individual%20Communications.pdf)>

106 CERD 'Rules of procedure of the Committee on the Elimination of Racial Discrimination' CERD/C/35/Rev.3 (1986) <<https://drive.google.com/file/d/1W2t4siGnYAXC6Q4DlcQHbhp6afheVo5Z/view?usp=sharing>>  
Rule 95(2) indicates that it may obtain documents that can assist in the consideration of ICs from other UN bodies or specialised agencies, but there is no mention of receiving documents from 'other sources' (such as NGOs or individuals).

- **CED:** At the time of publication, there was no explicit legal basis nor precedents of TPIs submitted to this Committee.<sup>107</sup> However, some articles,<sup>108</sup> when read in conjunction,<sup>109</sup> could be interpreted as allowing for this possibility.
- **Follow the requirements set by each Committee:**
  - **HRCttee:** Guidelines on third-party interventions.<sup>110</sup>
  - **CESCR:** Guidance on third party interventions.<sup>111</sup>
  - **CRC:** Guidelines on third-party interventions under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OPIC).<sup>112</sup>
  - **CRPD:** Rules of Procedure (Rule 72 paragraph 3).<sup>113</sup>
  - **CEDAW:** No requirements / guidance.<sup>114</sup>
  - **CAT:** No requirements / guidance.
  - **CERD:** No requirements / guidance.
  - **CED:** No requirements / guidance.
- **Verify that the communication in which you intend to participate has been registered by the UNTB and its resolution is pending (see Chapter III of this guide).**

<sup>107</sup> At its 21st Session (13 Sep 2021 – 24 Sep 2021), the CED decided to create a working group to review its ROP. Among the proposed amendments is the regulation of TPIs. See: CED 'Report of the Committee on Enforced Disappearances. 21<sup>st</sup> Session' (2021) para. 8 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCED%2f-SED%2f21%2f32991&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCED%2f-SED%2f21%2f32991&Lang=en)>

<sup>108</sup> CED 'Rules of Procedure' CED/C/1 (22 June 2012) <<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG-1d%2fPPRICAqhKb7yhsqY18XqvgFYeu8jW4bj%2bkGyRyAqbk0livm4EbGxZVvyVmXsbQKM7tovUR3lj2he44a%2bHy6r6%2fPVJy-diy7Huatl0%3d>>

Rules 44(2) and (3): '2. The Committee shall invite [NHRIs, NGOs], associations of victims' families, and other relevant [CSOs] to submit to it [...] information or documentation and oral and written statements, as appropriate, relevant to the Committee's activities under the Convention. 3. The Committee may receive, at its discretion, any other information, documentation and statements submitted to it, including from individuals and sources not mentioned in the previous paragraphs of this rule.'

Rule 76(1): '[When considering an IC, the Committee may consult] documentation emanating from all relevant [UN bodies and special procedures], other international organisations [...] as well as all relevant State institutions [...] provided that the Committee shall afford each party an opportunity to comment on such third-party documentation or information within fixed time limits.'

<sup>109</sup> CED 'Working methods' <[www.ohchr.org/EN/HRBodies/CED/Pages/WorkingMethods.aspx#15](http://www.ohchr.org/EN/HRBodies/CED/Pages/WorkingMethods.aspx#15)>

Paragraph 33: 'The [CED] invites [NHRIs], [NGOs], associations of victims' families, and other relevant civil society actors to submit to it [...] information or documentation relevant to the Committee's activities under the Convention.'

<sup>110</sup> HRCttee 'Guidelines on third-party submissions' (2019) <[https://drive.google.com/file/d/1mA5jiq3Nop\\_ABZop4uybG\\_Xq\\_E9DaiLj/view?usp=sharing](https://drive.google.com/file/d/1mA5jiq3Nop_ABZop4uybG_Xq_E9DaiLj/view?usp=sharing)>

<sup>111</sup> CESCR 'Guidance on third-party interventions' (2016) <[https://drive.google.com/file/d/1vHWDvU2FiiffE1tu6u\\_4HlDHMXwd-D/view?usp=sharing](https://drive.google.com/file/d/1vHWDvU2FiiffE1tu6u_4HlDHMXwd-D/view?usp=sharing)>

<sup>112</sup> CRC 'Guidelines on third-party interventions under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OPIC)' (2020) <[ohchr.org/Documents/HRBodies/CRC/GuidelinesTPI.pdf](http://ohchr.org/Documents/HRBodies/CRC/GuidelinesTPI.pdf)>

<sup>113</sup> CRPD 'Committee on the Rights of Persons with Disabilities Rules of procedure' CRPD/C/1/Rev.1 (10 October 2016) <<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRICAqhKb7yhsqjXFQ9tA2V9GKOYtS6n6VSA-tuhFoglcVQSIF1iKfQgVsQIQawzgH8gorlhHSjOCS3kb5B9Xa3X46zo5BSNHw0YmimDyV4sQMrWPy3%2b1GK>>

<sup>114</sup> CEDAW 'The former working methods of the CEDAW ('Working Methods of the Committee on the Elimination of Discrimination Against Women and its Working Group on individual communications received under the Optional Protocol to the CEDAW Convention [17 November 2020])' did reference TPIs in paras 17, 18 and 19. However, as of 2022, these were changed and the new Working Methods available on the site make no reference to TPIs.' (17 November 2020) <[www.ohchr.org/\\_layouts/15/WorkingFrame.aspx?sourceDoc=/Documents/HRBodies/CEDAW/WorkingMethods.docx&action=default&DefaultItemOpen=1](http://www.ohchr.org/_layouts/15/WorkingFrame.aspx?sourceDoc=/Documents/HRBodies/CEDAW/WorkingMethods.docx&action=default&DefaultItemOpen=1)>

- **Send a written request for authorisation to submit a TPI to the Committee:** While some UNTBs (CEDAW, CRPD, CAT, CERD, CED) do not explicitly require that you ask for leave to intervene, we suggest that you do so to avoid preparing a brief without having certainty about the UNTB's willingness to receive it.
- **Make sure your request does not exceed:**
  - **HRCtee:** 2 pages
  - **CESCR:** 1 page
  - **CRC:** 1 page
  - **CEDAW:** No explicit limit, ideally no more than 2 pages.
  - **CRPD:** No explicit limit, ideally no more than 2 pages.
  - **CAT:** No explicit limit, ideally no more than 2 pages.
  - **CERD:** No explicit limit, ideally no more than 2 pages.
  - **CED:** No explicit limit, ideally no more than 2 pages.
- **Include the following information:**
  - Individuals or entities submitting the amicus
  - Identification of the case(s) concerned
  - Issue(s) to be addressed
  - Nature of the information or analysis to be submitted
  - Object and purpose of the intervention
  - Reasons why the submission will be desirable or useful for the consideration of the communication
- **Address the request to the respective Committee through the following contact details:**

Petitions and Urgent Actions Section (PUAS)  
Office of the High Commissioner for Human Rights (OHCHR)  
Email: [ohchr-petitions@un.org](mailto:ohchr-petitions@un.org)
- **If authorised, the UNTB, its WG or one of its Rapporteurs will give you notice of the authorisation, where the following requirements may be included:**
  - A deadline for the submission (you may request the PUAS for an extension of this deadline).
  - A content limit.
  - The issues on which the submission should focus.
- **Confidentiality:**
  - The Committee will not provide you with access to the case file, copies of submissions or any other documentation, only the parties may disclose this information.

- You may request the PUAS to facilitate contact with the author(s), representative(s) or victim(s) if required, but it will only provide their identity and contact details if all of them have given their prior written consent.
- You will need to commit to not disclose any information on the communication obtained during the proceedings, unless explicitly authorised to do so by the Committee.
- The Committee may request that you do not disclose the identity of the author(s), representative(s) and/or victim(s) as well as the contents of your TPI until the decision or views have been made public.
- Only for the CRC: If given access to the case file, you may not disclose, at any time, the identity of any child who is part (author and/or victim) to the IC, or any other information contained in the case file. When a decision is reached, you may publish your TPI, but, even then, you may not disclose the identity of the children.
- **The submission should comply with the following requirements:<sup>115</sup>**
  - Be submitted in writing, preferably in the language of the IC or of the State party concerned, and imperatively in a UN language.
  - **Respect a content limit, if set:**
    - **HRCtee:** 5,350 words.
    - **CRC:** 10 pages
    - **CEDAW:** 7,000 words
    - **CESCR:** No predetermined limit, may be set by the Committee.
    - **CRPD:** No predetermined limit, may be set by the Committee.
    - **CERD:** No predetermined limit, may be set by the Committee.
    - **CAT:** No predetermined limit, may be set by the Committee.
    - **CED:** No predetermined limit, may be set by the Committee.
  - Be relevant to the deliberation of the case and use non-offensive language.
  - Avoid focusing on the facts and/or allegations of the case, challenging the facts and/or allegations presented by the parties or presenting new allegations.

<sup>115</sup> In the case of the CRC: the CRC may consider a departure from formal requirements if the intervention is submitted by children.

- **Explicitly stated only in the CRPD's ROP, but other UNTBs may also request it:** Be accompanied by written authorisation (consent) from one of the parties to the communication.
- Be addressed to the Committee, through the following contact details:  
  
 Petitions and Urgent Actions Section (PUAS)  
 Office of the High Commissioner for Human Rights (OHCHR)  
 Email: [ohchr-petitions@un.org](mailto:ohchr-petitions@un.org)
- **If you fail to comply with any of the above requirements,** the Committee may decide to not consider the submission nor include it in the case file.
- **Alternatively, if all requirements are met:** The Committee will forward your TPI to the parties, who may submit written observations and comments in reply, including with regard to the relevance of the submission, within a period set by the Committee:
  - CRC: 1 month
  - CEDAW: 2 months
  - HRCtee: No predetermined time frame
  - CESC: No predetermined time frame
  - CRPD: No predetermined time frame
  - CERD: No predetermined time frame
  - CAT: No predetermined time frame.
  - CED: No predetermined time frame.
- **CRC:** If the Committee deems it necessary, it may invite you and other third-party intervenors to make a brief oral intervention. CRC members may ask questions related to your TPI (i.e., elaborate on certain topics).<sup>116</sup>
- **Adoption of a decision:** If the Committee decides it is appropriate and relevant, your TPI and the observations of the parties may be used in the Committee's deliberation and reflected in the body of the Committee's decisions. If this occurs, such decisions or views may be transmitted to you upon adoption.

<sup>116</sup> At its 88th session, the CRC adopted Guidelines for oral hearings and amended its ROP on the OPIC to the Convention. The new Rule 19 provides for the possibility of inviting third-party intervenors to participate in oral hearings, if consented by all parties. See: CRC 'Intersessional activities report. June 2021 – September 2021' (2021), 3 <[https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/1\\_Global/INT\\_CRC\\_OCR\\_88\\_33014\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/1_Global/INT_CRC_OCR_88_33014_E.pdf)>

### 3.6. Tips for drafting a persuasive TPI

Impactful submissions (namely, those that influence the Committees' decisions) share some common features that can provide inspiration when preparing a TPI. What follows is a series of tips and suggestions on how you can draft a successful TPI.

#### Before drafting the TPI:

- Consider if a TPI best serves the strategy that you are pursuing. Would a campaign be better? A public statement? What is the most efficient way to get to your desired result?
- If you decide a TPI is a suitable course of action, have a strategy! Your TPI is meant to contribute to a set of determined goals and should be part of a broader strategy. You should consider if you will publicise your submission and its outcome (if possible), and, if so, how.
- Take into account the political juncture surrounding the case: who are the parties? Is the topic a sensitive one? Who are the relevant members of the Committee?
- Your intervention should be legally sound and well argued. Analyse if support from other organisations or legal experts could help you. Consider the benefits (legitimacy, capacity, expertise)<sup>117</sup> and drawbacks of working with others.
- If you choose to seek support from other people, review their background and expertise, to see who is best suited to help you.<sup>118</sup>
- Consider the usefulness of your TPI and how it serves and adds value to the UNTB. Remember, as set out in [Section 2.3](#), that TPIs can be useful when:
  - The legal questions presented before the UNTB are new or unprecedented and the intervenor provides this specific legal knowledge (including through comparative international and national law or by showing inconsistencies in the receiving UNTBs' own jurisprudence).

<sup>117</sup> TPIs submitted or supported by recognised experts, such as current or former UNTB members, UN Special Procedures mandate holders or renowned NGOs can help.

<sup>118</sup> Various organisations compile lists of pro bono lawyers who may be able to help. See, for example: Chambers Associate 'Top law firms for pro bono experience' (Chambers and Partners Ltd, 2021) <[www.chambers-associate.com/law-firms/associate-satisfaction-surveys/top-law-firms-for-pro-bono-experience](http://www.chambers-associate.com/law-firms/associate-satisfaction-surveys/top-law-firms-for-pro-bono-experience)>; 'Our supporters' (Pro Bono Net, 2021) <[www.probono.net/about-supporters/#lawfirms](http://www.probono.net/about-supporters/#lawfirms)>; 'Pro Bono Program' (CRR, 2021) <<https://reproductiverights.org/about-us/pro-bono-program/>>; 'Our Partners' (ISHR, 2021) <<https://ishr.ch/about-us/partners/>>.

- Elements beyond the law need to be discussed (e.g., scientific problems, contextual issues), and the intervenor supplies these data or explanations.
- They cover gaps in the existing knowledge of the Committee.
- Reflect on what you are trying to achieve by submitting the TPI. Are you actually trying to assist the UNTB? Or are you merely trying to submit a TPI for the sake of it or for the status that it brings? Remember, TPIs are not useful or may be rejected when:
  - They merely repeat the recent or established jurisprudence of the receiving UNTB or the arguments of one of the parties.
  - They focus on the merits and the case is still in the admissibility stage.
  - They comment on the facts of the case or the arguments of the parties.
  - They have no relevance to the particular case or do not help responding the legal questions at stake.
  - They rely on subjective arguments.
  - They are presented too late in the procedure. UNTBs may decide to reject a TPI so as not to delay the adoption of views any longer.
- Consider your capacity, time, and any content limits. If there is a major issue on admissibility that makes it uncertain if the IC will pass to the merits stage, it may be better to focus your efforts solely on admissibility.
- Even if you are not required to obtain the consent from one of the parties, you should consider whether maintaining regular contact with them would benefit your strategy. Regular contact with one of the parties can be advisable if:
  - You intend to support their arguments, as they will be in the best position to indicate what type of support they need.
  - The UNTB could not or did not provide you with sufficient information about the communication, as the parties can provide you with the missing details.

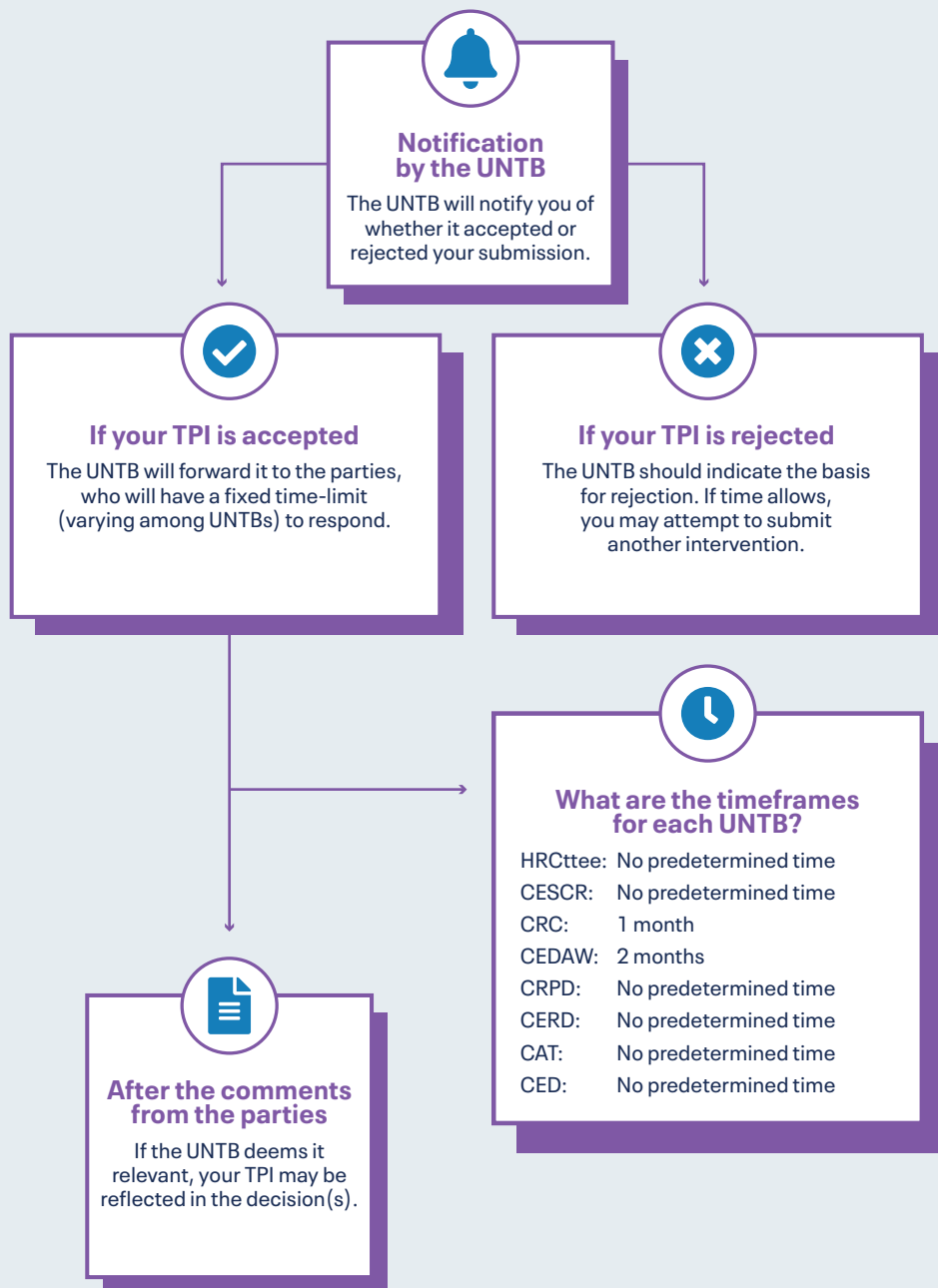


## Suggested contents of a TPI:

- **Introduction of the intervening organisations and the submission:** start with a brief introduction explaining the usefulness of your intervention. This should include:
  - Contact information and overview of the relevant experience and knowledge of the intervenors.
  - The object and purpose of the intervention.
  - An explanation of how the intervention will be useful to the Committee or why it is desirable.
- **Table of contents:** depending on the length of the intervention, this may be useful to help guide the readers.
- **Executive summary:** TPI submissions often contain complicated analysis. Therefore, an executive summary of the key issues and arguments can be helpful.
- **Substantive argumentation:** Avoid repeating the facts, arguments and jurisprudence already developed in the IC itself: focus on distinct elements where you can add value. Remember that your intervention should be composed exclusively of legal arguments or contextual information, as no arguments that challenge the facts or allegations of the parties will be considered. You should take into account:
  - **Structure:** while the structure will vary depending on your argument and style of writing, it should be consistent throughout the entire document. You could divide your intervention on the international standards that you deem applicable and explain each of them and how they apply to the present case. You could also divide it by the issues of the case that you wish to address, below each issue indicating which standards apply.
  - **Format:** you should use a professional writing style, avoiding offensive language. Concise and succinct argumentation is essential, particularly if the Committee sets a word or page limit. Even if such a limit is not set, interventions should avoid exceeding 8,500 words (including footnotes).
- **Legal sources (if relevant):** Interventions do not necessarily have to be on legal issues, as they may be related to contextual information relevant to the case at hand (such as health or housing data). However, if the submission is of a legal nature, the order of priority of legal sources should be the following:

- The treaty whose compliance the Committee supervises.
- Customary international law and other sources of international law applicable to the case at hand.
- International law principles.
- **Jurisprudence and doctrine, in the following order:**
  - Jurisprudence and doctrine produced by the Committee that is reviewing the case (resolutions on ICs, Concluding Observations, General Comments/Recommendations, statements).
  - Jurisprudence and doctrine produced by other UNTBs.
  - Jurisprudence and doctrine produced by other judicial or quasi-judicial regional and international bodies, such as human rights courts or commissions (resolutions on contentious procedures).
  - Doctrine produced by human rights experts, such as UN or regional mechanisms, procedures or Special Rapporteurs, and other experts (thematic/country reports, communications, statements, principles, guidelines).
  - Jurisprudence produced by high national courts and other writings of the most highly qualified publicists.
- **Conclusion:** provide a short conclusion summarising the main points of your arguments and what measures you invite the Committee to take with respect to the communication. If appropriate, in this section you could also include the recommendations and remedies that you consider the UNTB should grant.
- **Date, name, and signature of authors**
- **Annexes:** while it is ideal that sources to your arguments are provided via footnotes and links, you may add documents or media that are not available online to annexes. This may also be counted towards the page limit for your intervention.

### 3.7. What happens after submitting a TPI?



# ANNEXES

## A. Overview of UN Treaty Body Case Law Featuring Third-Party Interventions

### A1 – Committee on the Rights of the Child (CRC)

Case	Complaint	Third parties	Decision
Chiara Sacchi <i>et. al.</i> v. Argentina, Brazil, France, Germany and Turkey.  <b>Nos. 104 – 108 / 2019</b>	Failure of State parties to prevent and mitigate the consequences of climate change has violated the rights of the applicants to life, health, and the prioritisation of the child's best interests, as well as the cultural rights of the authors from indigenous communities.	Joint submission on admissibility by: Current (Dr. David R. Boyd) and former (Prof. John H. Knox) UN Special Rapporteurs on the environment. <sup>119</sup>	<b>Declared inadmissible for:</b> failure to exhaust domestic remedies.  TPI: Referenced in paras. 6–7, <sup>120</sup> paras 6–7.3, <sup>121</sup> paras. 6–7.2, <sup>122</sup> paras. 6.1–6.5, <sup>123</sup> and para. 6. <sup>124</sup>

<sup>119</sup> Dr. David R. Boyd and Professor John H. Knox 'N.104/2019, N.105/2019, N.106/2019, N.107/2019, and N.108/2019. Before the United Nations Committee on the Rights of the Child C.S. *et. al.* v. ARGENTINA, BRAZIL, FRANCE, GERMANY and TURKEY. Amici Curiae brief of Special Rapporteurs on Human Rights and the Environment in support of admissibility' (30 April 2020) <[www.hausfeld.com/uploads/documents/crc\\_admissibility\\_brief\\_boyd\\_knox\\_final\\_-\\_1\\_may\\_2020.pdf](http://www.hausfeld.com/uploads/documents/crc_admissibility_brief_boyd_knox_final_-_1_may_2020.pdf)>

<sup>120</sup> CRC 'Chiara Sacchi *et. al.* v. Argentina' (22 September 2021) CRC/C/88/D/104/2019 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f104%2f2019&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f104%2f2019&Lang=en)>

<sup>121</sup> CRC 'Chiara Sacchi *et. al.* v. Brazil' (22 September 2021) CRC/C/88/D/105/2019 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f105%2f2019&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f105%2f2019&Lang=en)>

<sup>122</sup> CRC 'Chiara Sacchi *et. al.* v. France' (22 September 2021) CRC/C/88/D/106/2019 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f106%2f2019&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f106%2f2019&Lang=en)>

<sup>123</sup> CRC 'Chiara Sacchi *et. al.* v. Germany' (22 September 2021) CRC/C/88/D/107/2019 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f107%2f2019&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f107%2f2019&Lang=en)>

<sup>124</sup> CRC 'Chiara Sacchi *et. al.* v. Turkey' (22 September 2021) CRC/C/88/D/108/2019 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f108%2f2019&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2f-C%2f88%2fD%2f108%2f2019&Lang=en)>

Case	Complaint	Third parties	Decision
A.B. v. Finland <b>No. 51/2018</b>	Finnish authorities failed to conduct a sufficiently thorough assessment of the best interests of the child in the examination of the author and his family's application for asylum or residence permit in Finland, considering the deteriorating situation for LGBT+ persons in Russia.	Joint submission by: Child Rights International Network (CRIN), International Commission of Jurists (ICJ), The European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe), International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-World), Network of European LGBTIQ Families Associations (NELFA). <sup>125</sup>	<b>Violation of articles 3 and 22:</b> failed to adequately take the best interests of the child into account when assessing the asylum request based on his mothers' sexual orientation.  <b>Violation of article 19:</b> failure to protect author of real risk of irreparable harm in case of return to the Russian Federation.  <b>TPI:</b> Referenced in paras. 8.1–10. <sup>126</sup>
M.H. v. Finland <b>No. 23/2017</b>	Finland failed to take into account the best interests of the child and failed to protect the author's integrity and privacy by not regulating the practice of ritual male circumcision.	International NGO Council on Genital Autonomy (INGOCGA). <sup>127</sup>	<b>Declared inadmissible <i>ratione temporis</i>.</b>  <b>TPI:</b> Referenced in paras. 9.1–10. <sup>128</sup>
D.D. v. Spain <b>No. 4/2016</b>	The author (who fled war in Mali) was deported without procedure. Spain did not take into account the best interests of the child nor afford the complainant the protection to which he was entitled as an unaccompanied child outside his family environment.	Joint submission by: ICJ, European Council on Refugees and Exiles (ECRE), Advance on Individual Rights in Europe Centre (AIRE Centre) and Dutch Council for Refugees. <sup>129</sup>	<b>Violation of articles 3, 20 and 37:</b> failure to respect principle of non refoulement, to carry out an identity check of the author (as an unaccompanied minor) and to provide an opportunity to challenge deportation.  <b>TPI:</b> Referenced in paras. 10.1–12.4. <sup>130</sup>

<sup>125</sup> CRIN, ICJ, ILGA-Europe, ILGA-World and NELFA 'Third-party intervention. Communication no. 51/2018 against Finland' (15 April 2020) <[https://static1.squarespace.com/static/5afadb22e17ba3edd90c02f/t/602cfa9e4c13017e1d7fe704/1613560479462/Interventions\\_AB+v.Finland\\_final.pdf%201%20response](https://static1.squarespace.com/static/5afadb22e17ba3edd90c02f/t/602cfa9e4c13017e1d7fe704/1613560479462/Interventions_AB+v.Finland_final.pdf%201%20response)>

<sup>126</sup> CRC 'A.B. v. Finland' (4 February 2021) CRC/C/86/D/51/2018 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f86%2f-D%2f51%2f2018&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f86%2f-D%2f51%2f2018&Lang=en)>

<sup>127</sup> INGOCGA 'Under the Convention on the Rights of the Child. M.H. v Finland Communication 23/2017. Third Party Intervention Submitted to the United Nations Committee on the Rights of the Child (CRC)' (December 2018) <[www.arclaw.org/wp-content/uploads/INGOCGA-Third-Party-Intervention-As-Submitted-to-CRC-12-31-18.pdf](http://www.arclaw.org/wp-content/uploads/INGOCGA-Third-Party-Intervention-As-Submitted-to-CRC-12-31-18.pdf)>

<sup>128</sup> CRC 'M.H. v. Finland' (16 March 2020) CRC/C/83/D/23/2017 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f83%2f-D%2f23%2f2017&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f83%2f-D%2f23%2f2017&Lang=en)>

<sup>129</sup> ICJ, ECRE, AIRE Center, Dutch Council for Refugees 'Third party intervention in D.D. v Spain, 4/2016. To the UN Committee on the Rights of the Child' (31 May 2018) <[www.icj.org/wp-content/uploads/2018/06/UN-Third-party-intervention-DD-v-Spain-Rights-of-the-Child-May-2018-ENG.pdf](http://www.icj.org/wp-content/uploads/2018/06/UN-Third-party-intervention-DD-v-Spain-Rights-of-the-Child-May-2018-ENG.pdf)>

<sup>130</sup> CRC 'D.D. v. Spain' (31 January 2019) CRC/C/80/D/4/2016 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f80%2f-D%2f4%2f2016&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f80%2f-D%2f4%2f2016&Lang=en)>

Case	Complaint	Third parties	Decision
L.H., L.H., D.A, C.D. and A.F. v. France <b>Nos. 79/2019 109/2019</b>	France has jurisdiction over the French nationals (grandchildren of the applicants) detained in Kurdish camps in Syria. By not repatriating them, the State is violating articles 2, 3, 6, 20, 24 and 37 of the CRC.	Joint submissions on admissibility at the Committee's invitation by: Three experts from the Consortium on Extraterritorial Obligations. <sup>131</sup>  A group of thirty-one experts from different universities. <sup>132</sup>	<b>Declared admissible:</b> the State party did exercise jurisdiction over the children subject of the complaint, as it was informed of the situation of extreme vulnerability of the children, who were detained in refugee camps in a conflict zone.  <b>TPI:</b> Referenced in paras. 8.1–8.8. <sup>133</sup>
S.M.A v. Spain <b>No. 40/2018</b>	Spain subjected unaccompanied migrant minors to age determination tests and detention in adult detention centres pending deportation.  These practises violated the complainants' rights to have their best interests taken into account, to be heard, to protection in case of deprivation of the family environment, to an adequate standard of living, and to be presumed a minor in the event of doubt or uncertainty about their age.	Defender of Rights ( <i>Ombudsman</i> ) of France. <sup>134</sup>  The submission also concerned analogous communications against Spain from: L.D. (37/2017), M.B. (28/2017), R.K. (27/2017), M.B.S (26/2017), A.B. (24/2017), J.A.B. (22/2017), A.D. (21/2017), M.T. (17/2017), A.L. (16/2017), D.K.N (15/2017), A.D. (14/2017), and N.B.F. (11/2017).	<b>Violation of articles 3, 8, 12, 20:</b> failure to ensure that all procedures for assessing the age of young people claiming to be minors offer the safeguards needed to protect their rights under the CRC.  Failure to protect highly vulnerable unaccompanied child migrants.  Failure to respect the right of children to identity by attributing to them an age different from that appearing in the official document issued by their country of origin.  <b>TPI:</b> Referenced in paras. 6.1–6.3. <sup>135</sup>

<sup>131</sup> Intervention not available online. Contents transcribed in paras. 8.2 – 8.4 of the decision.

<sup>132</sup> Gamze Erdem Türkelli and others 'Third Party Intervention to the UN Committee on the Rights of the Child in the cases of H. and A. v. France and X. and X. v. France' (10 June 2020) <[www.childrensrightsobservatory.nl/images/papers/TPI-Submission-10-June-2020-final.pdf](http://www.childrensrightsobservatory.nl/images/papers/TPI-Submission-10-June-2020-final.pdf)>

<sup>133</sup> CRC 'L.H. and others v. France' (30 September 2020) CRC/C/85/D/79/2019–CRC/C/85/D/109/2019 <[www.ejiltalk.org/wp-content/uploads/2020/12/CRC\\_C\\_85\\_D\\_79\\_2019\\_E-1.pdf](http://www.ejiltalk.org/wp-content/uploads/2020/12/CRC_C_85_D_79_2019_E-1.pdf)>

<sup>134</sup> Défenseur des droits Jacques Toubon 'Tierce-intervention du Défenseur des droits dans le cadre des communications suivantes portées devant le Comité des droits de l'enfant de l'ONU: 44/2018, 42/2018, 41/2018, 40/2018, 39/2017, 38/2017, 37/2017, 29/2017, 28/2017, 26/2017, 25/2017, 24/2017, 22/2017, 20/2017, 18/2017, 16/2017, 15/2017, 14/2017, 11/2017, 8/2016' (2 May 2018) <[https://juridique.defenseurdesdroits.fr/doc\\_num.php?explnum\\_id=17671](https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=17671)>

<sup>135</sup> CRC 'S.M.A. v. Spain' (28 September 2020) CRC/C/85/D/40/2018 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f85%2f-D%2f40%2f2018&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f85%2f-D%2f40%2f2018&Lang=en)>

## A2 – Committee on the Elimination of Discrimination against Women (CEDAW)

Case	Complaint	Third parties	Decision
<p>Ángela González Carreño v. Spain</p> <p><b>No. 47/2012</b></p>	<p>Spain's failure to act with due diligence to prevent and punish the violence committed by the husband of the Applicant against her and her daughter, which culminated in the daughter's murder, amounted to multiple forms of discrimination.</p>	<p>Save the Children.<sup>136</sup></p> <p>Simone Cusack.<sup>137</sup></p> <p>International Commission of Jurists (ICJ).<sup>138</sup></p> <p>Professors Christine Chinkin and Keina Yoshida.<sup>139</sup></p> <p>Victor Abramovich and Susana Villarán.<sup>140</sup></p>	<p><b>Violation of articles 2 (a-f), 5(a); and 16 (1)(d):</b> Spain failed to protect Ángela and her daughter. Moreover, it did not investigate whether its authorities failed to protect or were negligent in protecting the victims.</p> <p><b>TPI:</b> No explicit reference, possible tacit reference in para. 7.5.<sup>141</sup></p>
<p>L.C. v. Perú.</p> <p><b>No. 22/2009</b></p>	<p>The refusal by State agents to perform the therapeutic abortion, which resulted in the complainant being paralysed from the neck down, violated her rights to health, dignity, and non-discrimination. Peru also failed to enact positive measures to secure equal access to healthcare.</p>	<p>International Commission of Jurists.<sup>142</sup></p> <p>Health Equity and Law Clinic. International Reproductive and Sexual Health Law Programme. Faculty Of Law, University of Toronto (HEAL Clinic).<sup>143</sup></p>	<p><b>Violation of articles 1, 2(c), 2(f), 3, 5 and 12:</b> the failure to consider the possible effects that the continuation of the pregnancy would have on the health of the patient amounted to multiple forms of discrimination against the applicant.</p> <p><b>TPI:</b> Referenced as 'amicus brief' and 'legal opinion' in footnote 1 and para. 7.17.<sup>144</sup></p>

<sup>136</sup> Save the Children 'La responsabilidad del Estado ante las vulneraciones de los derechos de los niños y niñas víctimas de la violencia de género' (2014) <[www.womenslinkworldwide.org/files/77/amicus-de-save-the-children-espana.pdf](http://www.womenslinkworldwide.org/files/77/amicus-de-save-the-children-espana.pdf)>

<sup>137</sup> Simone Cusack 'Ángela González Carreño v. Spain CEDAW Communication No. 47/2012: Amicus Curiae Brief' (2 February 2014) <[www.womenslinkworldwide.org/files/78/amicus-de-sim-one-cusack-solo-en-ingles.pdf](http://www.womenslinkworldwide.org/files/78/amicus-de-sim-one-cusack-solo-en-ingles.pdf)>

<sup>138</sup> ICJ 'Ángela González Carreño v. Spain, Communication No. 47/2012, CEDAW. Amicus Brief' (26 June 2014) <[www.womenslinkworldwide.org/files/76/amicus-de-la-comision-internacional-de-juristas-informacion-disponible-solo-en-ingles.pdf](http://www.womenslinkworldwide.org/files/76/amicus-de-la-comision-internacional-de-juristas-informacion-disponible-solo-en-ingles.pdf)>

<sup>139</sup> Christine Chinkin and Keina Yoshida 'Transformative Equality and Violence against Women and the Girl Child' (2014) <[www.womenslinkworldwide.org/files/80/amicus-de-christine-chinkin-y-keina-yoshida-solo-en-ingles.pdf](http://www.womenslinkworldwide.org/files/80/amicus-de-christine-chinkin-y-keina-yoshida-solo-en-ingles.pdf)>

<sup>140</sup> Victor Abramovich and Susana Villarán 'Amicus Curiae. The Due Diligence Principle in the Inter-American System Applied to Gender-Based Violence' (2014) <[www.womenslinkworldwide.org/files/79/amicus-de-victor-abramovich-y-susana-villaran-solo-en-ingles.pdf](http://www.womenslinkworldwide.org/files/79/amicus-de-victor-abramovich-y-susana-villaran-solo-en-ingles.pdf)>

<sup>141</sup> CEDAW 'Angela González Carreño v. Spain' (16 July 2014) CEDAW/C/58/D/47/2012 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2f58%2fD%2f47%2f2012&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2f58%2fD%2f47%2f2012&Lang=en)>

<sup>142</sup> ICJ 'Legal Opinion. Committee on the Elimination of Discrimination against Women, Case of L.C. v. Perú' <[www.icj.org/wp-content/uploads/2012/11/Legal-Opinion-ICJ-LC-v.-Peru1.pdf](http://www.icj.org/wp-content/uploads/2012/11/Legal-Opinion-ICJ-LC-v.-Peru1.pdf)>

<sup>143</sup> HEAL Clinic 'Written Comments' (9 June 2011) <<https://opcedaw.files.wordpress.com/2012/01/lc-v-peru-heal-clinic-amicus-brief.pdf>>

<sup>144</sup> CEDAW 'L.C. v. Perú' (17 October 2011) CEDAW/C/50/D/22/2009 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2f50%2fD%2f22%2f2009&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2f50%2fD%2f22%2f2009&Lang=en)>

Case	Complaint	Third parties	Decision
A.S. v. Hungary. <b>No. 4/2004</b>	Hungary was responsible for the actions of a doctor who, when providing the Applicant (Roma woman) with an emergency C-section, also sterilised her without her consent.	Centre for Reproductive Rights. <sup>145</sup>	<b>Violation of articles 10 and 12:</b> failure to provide access to information regarding healthcare amounted to discrimination against the victim in healthcare.  <b>TPI:</b> Referenced as 'brief' in paras. 9.5.–9.11. <sup>146</sup>
Alyne da Silva Pimentel Teixeira (deceased) v. Brazil <b>No. 17/2008</b>	Brazil's failure to ensure appropriate medical treatment and subsequent failure to provide timely emergency obstetric care amounted to discrimination in healthcare and caused the death of Alyne da Silva.	CLADEM. <sup>147</sup> ICJ. <sup>148</sup> Amnesty International (AI) (not available online). <sup>149</sup>	<b>Violation of article 12(2):</b> Brazil discriminated against the applicant on multiple grounds, including on the basis of her sex, her status as a woman of African descent and her socio-economic background, by failing to ensure that she received appropriate health services in connection with her pregnancy.  <b>TPI:</b> Referenced as 'amicus curiae briefs' in footnote 1. <sup>150</sup>
J.D. et. al. v. The Czech Republic <b>No. 102/2016</b>	The Czech Republic was responsible for not providing an effective remedy to six Romani women who were victims of forced sterilisation.	CRR. <sup>151</sup>	<b>Declared inadmissible for:</b> lack of exhaustion of domestic remedies.  <b>TPI:</b> Referenced as 'expert opinion' in para. 7.2. <sup>152</sup>

<sup>145</sup> CRR 'Supplemental Information Re: A.S. v. Hungary. Communication No: 4/2004' (2005) <[https://reproductiverights.org/wp-content/uploads/2020/12/ww\\_ASvHungary\\_amicus\\_brief.pdf](https://reproductiverights.org/wp-content/uploads/2020/12/ww_ASvHungary_amicus_brief.pdf)>

<sup>146</sup> CEDAW 'A.S. v. Hungary' (14 August 2006) CEDAW/C/36/D/4/2004 <[https://www.escr-net.org/sites/default/files/CEDAW\\_Committee\\_Decision\\_0.pdf](https://www.escr-net.org/sites/default/files/CEDAW_Committee_Decision_0.pdf)>

<sup>147</sup> CLADEM 'AMICUS CURIAE by CLADEM Case: ALYNE DA SILVA PIMENTEL (Communication No. 17/2008)' (January 2010) <<https://opcedaw.files.wordpress.com/2012/01/alyne-da-silva-v-brazil-cladem-amicus-curiae-brief.pdf>>

<sup>148</sup> ICJ 'Committee on the Elimination of Discrimination Against Women: Case of Alyne da Silva Pimentel V. Federative Republic of Brazil. Legal Opinion by the International Commission of Jurists' (2010) <<https://www.icj.org/wp-content/uploads/2012/11/Legal-Opinion-ICJ-Case-of-Alyne-da-Silva-Pimentel-.pdf>>

<sup>149</sup> Amnesty International (AI) 'UN finds Brazil failed to prevent pregnant woman's death' (August 19, 2011) <[www.amnesty.org/en/latest/news/2011/08/un-finds-brazil-failed-prevent-pregnant-womanes-death/](http://www.amnesty.org/en/latest/news/2011/08/un-finds-brazil-failed-prevent-pregnant-womanes-death/)>

<sup>150</sup> CEDAW 'Alyne da Silva Pimentel Teixeira v. Brazil' (25 July 2011) CEDAW/C/49/D/17/2008 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CE-Daw%2fC%2f49%2fd%2f17%2f2008&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CE-Daw%2fC%2f49%2fd%2f17%2f2008&Lang=en)>

<sup>151</sup> CRR 'Expert Opinion submitted by the Center for Reproductive Rights in the case of J.D. et. al. v. the Czech Republic, CEDAW Communication No. 102/2016' (24 November 2017) <[https://reproductiverights.org/wp-content/uploads/2021/04/CRR-Expert-Opinion\\_JD-et-al.-v.-Czech-Rep\\_Final.pdf](https://reproductiverights.org/wp-content/uploads/2021/04/CRR-Expert-Opinion_JD-et-al.-v.-Czech-Rep_Final.pdf)>

<sup>152</sup> CEDAW 'J.D. et. al. v. The Czech Republic' (16 July 2019) CEDAW/C/73/D/102/2016 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2f73%2fd%2f102%2f2016&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2f73%2fd%2f102%2f2016&Lang=en)>



### A3 – Human Rights Committee (HRCttee)

Case	Complaint	Third parties	Decision
Nell Toussaint v. Canada <b>No. 2348/2014</b>	Canada's denial of health care coverage necessary to prevent foreseeable risks to life to an undocumented immigrant violated the rights to: non-discrimination, life, not being subjected to torture and cruel, degrading and inhuman treatment, and liberty and security of person.	Members of ESCR-Net's Strategic Litigation Working Group: CELS, CESR, GI-ESCR, SERI, SECTION27. <sup>153</sup>  AI. <sup>154</sup>	<b>Violation of articles 6 and 26:</b> the applicant's rights to life and to non-discrimination were violated by not receiving treatment essential to protect her life.  <b>TPI:</b> Referenced as 'legal opinions' in paras. 7.4.–7.9. <sup>155</sup>
Krikerik v. Russian Federation <b>No. 2992/2017</b>	Failure to investigate, sanction and remedy hate attacks against LGBTI rights advocate. Violation of prohibitions of discrimination, of cruel, inhuman, or degrading treatment, and of arbitrary and unlawful interference with privacy.	International Service for Human Rights (ISHR). <sup>156</sup>	Case submitted on 24 May 2016 and registered in 14 Jun 2017. Pending resolution.
Irina Fedotova v. Russian Federation. <b>No. 1932/2010</b>	Sanctions against the Applicant for disseminating ideas of tolerance towards sexual minorities constituted an unjustifiable restriction against her freedom of expression. It also amounted to discrimination on the basis of sexual orientation.	ICJ. <sup>157</sup>	<b>Violation of articles 19 and 26:</b> the restriction to the exercise of freedom of expression by banning propaganda on homosexuality amounted to discrimination, as propaganda on heterosexuality or sexuality in general was allowed.  <b>TPI:</b> Referenced as 'legal opinion' in paras. 5.8.–5.14. <sup>158</sup>

<sup>153</sup> ESCR-Net's Strategic Litigation Working Group members Centre for Legal and Social Studies (CELS), Centre for Economic and Social Rights (CESR), GI-ESCR, Social Rights Institute of South Africa (SERI), 'Nell Toussaint v. Canada. Communication No. 2348/2014. LEGAL OPINION' (22 August 2015) <[www.escr-net.org/sites/default/files/escr-net\\_legal\\_opinion\\_-\\_toussaint\\_v\\_canada.pdf](http://www.escr-net.org/sites/default/files/escr-net_legal_opinion_-_toussaint_v_canada.pdf)>

<sup>154</sup> AI 'Legal Opinion submitted before the United Nations Human Rights Committee regarding issues raised in Nell Toussaint v Canada Communication No. 2348/2014' (August 2015) <[www.amnesty.ca/sites/amnesty/files/imce/images/Legal%20Opinion%20of%20Amnesty%20International%20-%20Toussaint.pdf](http://www.amnesty.ca/sites/amnesty/files/imce/images/Legal%20Opinion%20of%20Amnesty%20International%20-%20Toussaint.pdf)>

<sup>155</sup> HRCttee 'Toussaint v. Canada' (24 July 2018) CCPR/C/123/D/2348/2014 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f123%2f-D%2f2348%2f2014&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f123%2f-D%2f2348%2f2014&Lang=en)>

<sup>156</sup> ISHR 'HUMAN RIGHTS COMMITTEE. Written comments of the International Service for Human Rights. Complainant: Sasha Maimi Krikerik. Communication number: 2992/2017' (August 2017) <[https://ishr.ch/wp-content/uploads/2021/10/ishr\\_amicus\\_brief\\_-\\_sasha\\_krikerik\\_-\\_2992-2017\\_final.pdf](https://ishr.ch/wp-content/uploads/2021/10/ishr_amicus_brief_-_sasha_krikerik_-_2992-2017_final.pdf)>

<sup>157</sup> ICJ 'ICJ Legal Opinion on Section 3.10 of the Ryazan Oblast Law' <[www.icj.org/wp-content/uploads/2012/06/Russian-Federation-ICJ-opinion-legal-submission-2010.pdf](http://www.icj.org/wp-content/uploads/2012/06/Russian-Federation-ICJ-opinion-legal-submission-2010.pdf)>

<sup>158</sup> HRCttee 'Irina Fedotova v. Russian Federation' (31 October 2012) CCPR/C/106/D/1932/2010 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=C-CPR%2fC%2f106%2fD%2f1932%2f2010&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=C-CPR%2fC%2f106%2fD%2f1932%2f2010&Lang=en)>

## A4 – Committee on Economic, Social and Cultural Rights (CESCR)

Case	Complaint	Third parties	Decision
I.D.G v. Spain. <b>No. 2/2014</b>	Spanish legislation regulating mortgage enforcement proceedings did not adequately protect the right to mount a proper legal defence, which in turn amounted to a violation of the Applicant's right to adequate housing.	Members of ESCR-Net's Strategic Litigation Working Group: CESR, GI-ESCR, SERI. <sup>159</sup>	<b>Violation of article 11:</b> the authorities did not exhaust all available means to personally notify the victim of the proceedings against her, so that she could mount a proper defence, in court, of her right to housing.  <b>TPI:</b> Referenced in paras. 6.1–8.4. <sup>160</sup>
Alarcón Flores et. al. v. Ecuador <b>No. 14/2016</b>	A decision by Ecuador to rescind previously granted pension benefits amounted to a violation of the Applicants' right to social security.	Members of ESCR-Net's Strategic Litigation Working Group: GI-ESCR, Initiative for Social and Economic Rights (ISER), Ana Lucia Maya Aguirre. <sup>161</sup>	Declared inadmissible <i>ratione temporis</i> .  <b>TPI:</b> Referenced in paras. 1.4–1.6, 6.1–8.3. <sup>162</sup>

<sup>159</sup> ESCR-Net 'I.D.G. c. ESPAÑA Comunicación 2/2014. Intervención De Tercero' (24 February 2015) <[www.escr-net.org/sites/default/files/intervencion\\_de\\_tercero\\_-\\_red-desc\\_comunicacion\\_2-2014\\_2.pdf](http://www.escr-net.org/sites/default/files/intervencion_de_tercero_-_red-desc_comunicacion_2-2014_2.pdf)>

<sup>160</sup> CESCR 'I.D.G. v. Spain' (17 June 2015) E/C.12/55/D/2/2014 <[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/55/D/2/2014&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/55/D/2/2014&Lang=en)>

<sup>161</sup> ESCR-Net 'Third Party Intervention on Interim Measures and Admissibility' <<https://drive.google.com/file/d/1D9j7BFNrrs7siLfuVV8nNOTKciqGB-P/view?usp=sharing>>

<sup>162</sup> CESCR 'Ana Esther Alarcón Flores and 116 others, acting as a group of individuals v. Ecuador' (4 October 2017) E/C.12/62/D/14/2016 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f62%2fD%2f14%2f2016&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f62%2fD%2f14%2f2016&Lang=en)>

Case	Complaint	Third parties	Decision
<p>Mohamed Ben Djazia <i>et. al.</i> v. Spain.</p> <p><b>No. 5/2015</b></p>	<p>The State violated the rights of the Applicants to adequate housing by not providing alternative accommodation, social housing, or other assistance when they were evicted.</p>	<p>Members of ESCR-Net's Strategic Litigation Working Group (AI, CELS, CESR, GI-ESCR, DOI, <i>Observatori DESC</i>, SRAC, Ana Lucia Maya Aguirre, Jackie Dugard)<sup>163</sup></p> <p>UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms. Leilani Farha.<sup>164</sup></p> <p><b>During follow up to views:</b></p> <p>Civil Society Monitoring Group for the Implementation of the Committee's Views in the Spanish State and Spanish Ombudsman,<sup>165</sup> Members of ESCR-Net's Strategic Litigation Working Group (CESR, DOI, Economic &amp; Social Rights Centre – Hakijamii [ESRC-H], Habitat International Coalition – Housing and Land Rights Network [HIC-HRLN], IWRAP-AP, Just Fair, SRAC, Jackie Dugard, GI-ESCR).<sup>166</sup></p>	<p><b>Violation of articles 11, 2(1) and 10(1):</b> the eviction of a couple and their child without a guarantee of alternative housing amounted to a violation of their rights.</p> <p><b>TPI:</b> Referenced in paras. 8.1–10 and footnotes 24, 32.<sup>167</sup></p> <p><b>Submission on follow-up:</b> Referenced in pages 6–8 of the 2019 report,<sup>168</sup> and pages 3–5 of the 2021 report.<sup>169</sup></p>

<sup>163</sup> ESCR-Net 'M.B.D. v Spain. Communication 5/2015. Third Party Intervention' (17 May 2016) <[www.escr-net.org/sites/default/files/third\\_party\\_intervention\\_-\\_comm\\_n\\_5\\_eng.pdf](http://www.escr-net.org/sites/default/files/third_party_intervention_-_comm_n_5_eng.pdf)>

<sup>164</sup> UNSR on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms. Leilani Farha 'Third-party submission on the Communication 5/2015. MDB *et. al.* v. Spain' (31 January 2017) <[www.ohchr.org/Documents/Issues/Housing/TB/Communication\\_5\\_2015.pdf](http://www.ohchr.org/Documents/Issues/Housing/TB/Communication_5_2015.pdf)>

<sup>165</sup> Civil Society Monitoring Group for the Implementation of the Committee's Views in the Spanish State (*Cáritas España, FEANTSA, Fundación Abogacía Española, Observatori DESC, Plataforma de Afectados por la Hipoteca, Sindicato de Inquilinos, Arquitectura Sin Fronteras, Federación Regional de Asociaciones Vecinales de Madrid, Federación de Asociaciones Vecinales de Barcelona, Centro de Asesoría y Estudios Sociales*) '*Comentarios que presenta el Grupo de Monitoreo de la sociedad civil para el cumplimiento del dictamen relativo a la Comunicación 5/2015 ante el Comité De Derechos Económicos, Sociales y Culturales*' (1 March 2018) <[www.escr-net.org/sites/default/files/alegaciones\\_grupo\\_monitoreo\\_mar18.pdf](http://www.escr-net.org/sites/default/files/alegaciones_grupo_monitoreo_mar18.pdf)>

Defensor del Pueblo '*Envío de Información. Vivienda. Naciones Unidas. Madrid*' (July 2018) 1–11 and Civil Society Monitoring Group for the Implementation of the Committee's Views in the Spanish State '*VALORACIÓN del REAL DECRETO LEY 7/2019, de 1 de marzo, de medidas urgentes en materia de vivienda y alquiler. Convalidado por el Congreso el 3 de abril de 2019*' (17 May 2019) 12–16 <<https://caescooperativa.es/wp-content/uploads/2020/11/Anexos-valoracion-normativa-informacion-defensor-del-pueblo.pdf>>

Civil Society Monitoring Group for the Implementation of the Committee's Views in the Spanish State '*Comentarios que presenta el Grupo de Monitoreo de la sociedad civil en relación al proceso de cumplimiento (follow-up) del dictamen relativo a la Comunicación 5/2015 ante el Comité De Derechos Económicos, Sociales y Culturales*' (23 October 2020) <<https://caescooperativa.es/wp-content/uploads/2020/11/Comentarios-grupo-monitoreo.pdf>>

<sup>166</sup> ESCR-Net 'Under the working methods concerning the Committee's follow-up to Views under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. MBD v Spain. Communication No. 5/2015. Civil Society submission on the implementation of General Recommendations' (14 March 2018) <[www.escr-net.org/sites/default/files/follow\\_up\\_to\\_cescr\\_comm\\_5\\_of\\_2015\\_-\\_collective\\_submission\\_14\\_march\\_2018.pdf](http://www.escr-net.org/sites/default/files/follow_up_to_cescr_comm_5_of_2015_-_collective_submission_14_march_2018.pdf)>

<sup>167</sup> CESCR 'Mohamed Ben Djazia and Naouel Bellili v. Spain' (20 June 2017) E/C.12/61/D/5/2015 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2F61%2FD%2F5%2F2015&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2F61%2FD%2F5%2F2015&Lang=en)>

<sup>168</sup> CESCR 'Report on follow-up to communications Nos. 2/2014 and 5/2015 against Spain. Adopted by the Committee at its sixty-sixth session (30 September–18 October 2019). Reissued for technical reasons on 2 January 2020' E/C.12/66/3 (29 November 2019) 6–8 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2F66%2F3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2F66%2F3&Lang=en)>

<sup>169</sup> CESCR 'Follow-up progress report on individual communications. Adopted by the Committee at its 70th session (27 September – 15 October 2021)' E/C.12/70/3 (15 November 2021) 3–5 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2F70%2F3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2F70%2F3&Lang=en)>

Case	Complaint	Third parties	Decision
M.C.T.C. v. Ecuador. <b>No. 10/2015</b>	The denial of the Applicant's retirement pension, despite having paid her monthly contributions in full while employed as a domestic worker, violated her rights to social security and non-discrimination.	<p>Members of ESCR-Net's Strategic Litigation Working Group: AI, <i>Asociación Civil por la Igualdad y la Justicia</i> (ACIJ), CESR, ESRC-H, <i>Foro Ciudadano de Participación por la Justicia y los Derechos Humanos</i> (FOCO), GI-ESCR, IWRAW-AP, Legal Resources Centre (LRC), SRAC, Lilian Chenwi, Viviana Osorio Pérez.<sup>170</sup></p> <p><b>During follow up to views:</b></p> <p>Members of ESCR-Net's Strategic Litigation Working Group: ACIJ, <i>Centro de Apoyo y Protección de los Derechos Humanos</i> SURKUNA, IWRAW-AP, LRC, SRAC, Women's Legal Centre (WLC).<sup>171</sup></p>	<p><b>Violation of articles 2, 3 and 9:</b> The denial of the Applicant's special retirement request constituted a violation of the right to social security, while the conditions attached to the retirement scheme constituted multiple discrimination, including on the basis of gender and age.</p> <p><b>TPI:</b> Referenced in paras. 7.1–8.2.<sup>172</sup></p> <p><b>Submission on follow-up:</b> Not referenced in the Follow-up progress report.<sup>173</sup></p>

<sup>170</sup> ESCR-Net 'M.C.T.C. v Ecuador Communication 10/2015 Third Party Intervention' (30 October 2017) <[www.escr-net.org/sites/default/files/escr-net\\_third\\_party\\_intervention\\_cescr\\_comunica-tion\\_10\\_of\\_2015.pdf](http://www.escr-net.org/sites/default/files/escr-net_third_party_intervention_cescr_comunica-tion_10_of_2015.pdf)>

<sup>171</sup> ESCR-Net 'Third-Party Intervention before the United Nations Committee on Economic, Social, and Cultural Rights regarding Follow-up to Its Views on Marcia Cecilia Trujillo Calero v. Ecuador (Communication 10/2015)' <[www.escr-net.org/sites/default/files/intervention\\_-\\_follow-up\\_mctc\\_v\\_ecuador.pdf](http://www.escr-net.org/sites/default/files/intervention_-_follow-up_mctc_v_ecuador.pdf)>

<sup>172</sup> CESCR 'Marcia Cecilia Trujillo Calero v. Ecuador' (26 March 2018) E/C.12/63/D/10/2015 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbol-no=E%2fC.12%2f63%2fD%2f10%2f2015&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbol-no=E%2fC.12%2f63%2fD%2f10%2f2015&Lang=en)>

<sup>173</sup> CESCR 'Follow-up progress report on individual communications. Adopted by the Committee at its sixty-eighth session (28 September–16 October 2020)' (3 November 2020) E/C.12/68/3, 3–8 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbol-no=E%2fC.12%2f68%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbol-no=E%2fC.12%2f68%2f3&Lang=en)>

## A5 – Committee on the Rights of Persons with Disabilities (CRPD)

Case	Complaint	Third parties	Decision
Bujdosó et. al. v. Hungary. <b>No. 004/2011</b>	Authors were automatically erased from electoral registers due to their guardianship orders, with no individualised assessment of their actual ability to vote. This automatic voting ban violated their rights to equal recognition under the law and to political participation.	HPOD. <sup>174</sup>	<b>Violation of articles 12 and 29:</b> All disability-based voting restrictions, including those pursuant to individualised assessments, are discriminatory. Furthermore, the State failed to fulfil its twin duties to support persons with disabilities to exercise their legal capacity and to assist them to vote, if requested.  <b>TPI:</b> Referenced in paras. 5.1.–6.4. <sup>175</sup>

## A6 – Committee on the Elimination of Racial Discrimination (CERD)

Case	Complaint	Third parties	Decision
TBB v. Germany. <b>No. 48/2010</b>	The State party failed to provide protection under its Criminal Code against a former public official's racially discriminatory and insulting statements directed against the complainants (a group of individuals of Turkish heritage).	German Institute for Human Rights <sup>176</sup> (GIHR).*	<b>Violation of articles 2(1)(d), 4(a), and 6:</b> Germany had violated its obligations to protect its Turkish and Arab populations, as the official's statements amounted to dissemination of ideas based upon racial superiority or hatred and contained elements of incitement to racial discrimination.  <b>TPI:</b> Referenced as 'amicus curiae brief' in paras. 8.1–10.2. <sup>177</sup>

\*The authors of the TPI mentioned to ISHR that the CERD did not accept the TPI as an independent submission, as it interpreted its ROP in a narrow sense. The GIHR then shared the brief with the German government and the Applicant, who formally introduced the amicus brief as a document into the procedure. This practice, albeit effective, did not reflect the independent role of an A-status NHRI. There is therefore no precedent for an independently submitted TPI (a TPI per se) in the CERD.

<sup>174</sup> HPOD 'Third party intervention in the matter of Bujdosó, Zsolt et. al. v. Hungary, Communication No. 4/2011 before the Committee on the Rights of Persons with Disabilities' (2011) <<https://drive.google.com/file/d/1Wy8trkn40FERklZe9likBmUUHjuVGfBM/view?usp=sharing>>

<sup>175</sup> CRPD 'Zsolt Bujdosó, Jánosné Ildikó Márkus, Viktória Márton, Sándor Mészáros, Gergely Polk and János Szabó v. Hungary' (9 September 2013) CRPD/C/10/D/4/2011 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2f10%2fD%2f4%2f2011&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2f10%2fD%2f4%2f2011&Lang=en)>

<sup>176</sup> German Institute for Human Rights 'Stellungnahme des Deutschen Instituts für Menschenrechte im Verfahren vor dem UN-Antirassismus-Ausschuss Türkischer Bund in Berlin-Brandenburg e.V. / Deutschland' (December 2011) <[www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Stellungnahme\\_DIMR\\_im\\_Verfahren\\_vor\\_dem\\_UN\\_Antirassismus\\_Ausschuss\\_TBB\\_Deutschland.pdf](http://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Stellungnahme_DIMR_im_Verfahren_vor_dem_UN_Antirassismus_Ausschuss_TBB_Deutschland.pdf)>

<sup>177</sup> CERD 'TBB-Turkish Union in Berlin/Brandenburg v. Germany' (26 February 2013) CERD/C/82/D/48/2010 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2f82%2fD%2f48%2f2010&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2f82%2fD%2f48%2f2010&Lang=en)>

## A7 – Other cases with interventions not available online at the time of publication

Committee	Case	Third Party Intervenor
CAT	Mr. Slobodan Nikolic and Mrs. Ljiljana Nikolic v. Serbia and Montenegro <b>No. 174/2000</b>	Human Rights Watch/Helsinki. <sup>178</sup>
HRCttee	Torres Strait Islanders v. Australia <b>No. 3624/2019</b>	Current and former UNSRs on the environment. <sup>179</sup>
HRCttee	Gençay Bastimar v. Turkey <b>No. 3592/2019</b>	Bar Human Rights Committee of England and Wales. <sup>180</sup>
HRCttee	Susana v. Nicaragua, Lucía v. Nicaragua, Norma v. Ecuador and Fátima v. Guatemala <b>Nos. 3626/2019, 3627/2019, 3628/2019 and 3629/2019</b>	Paris Human Rights Centre & Assas International Law Clinic, Human Rights Unit. <sup>181</sup>
CEDAW	[unknown] v. Spain <b>Nos. 149/2019 and 154/2020</b>	Paris Human Rights Centre & Assas International Law Clinic, Human Rights Unit. <sup>182</sup>
CESCR	López Albán <i>et. al.</i> v. Spain (Follow-up to views) <b>No. 37/2018</b>	Civil Society Monitoring Group for the Implementation of the Committee's Views in the Spanish State. <sup>183</sup>

<sup>178</sup> Referenced in para. 3.4 of the decision. See: CAT 'Mr. Slobodan Nikolic and Mrs. Ljiljana Nikolic v. Serbia and Montenegro' (24 November 2005) CAT/C/35/D/174/2000 para 3.4 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2f35%2fD%2f174%2f2000&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2f35%2fD%2f174%2f2000&Lang=en)>

<sup>179</sup> David R. Boyd 'Newsletter #7: December 2020' (December 2020) <<http://srenvironment.org/newsletter/newsletter-7-december-2020>>

<sup>180</sup> 'Turkey's mass surveillance case: Monica Feria-Tinta in third party intervention to the UN Human Rights Committee' (18 September 2020) <<https://twentysex.com/turkeys-mass-surveillance-case-monica-feria-tinta-in-third-party-intervention-to-the-un-human-rights-committee/>>

<sup>181</sup> Paris Human Rights Center 'Third Intervention to the UN Human Rights Committee' (2021) <<https://www.crdh.fr/en/2021/06/communication-proposal-for-a-third-intervention-to-the-un-human-rights-committee/>>

<sup>182</sup> Paris Human Rights Center 'Tierce intervention devant le CEDAW' (2020) <<https://www.crdh.fr/2020/06/tierce-intervention-devant-le-cedaw/>>

<sup>183</sup> Referenced in pages 7 – 10 of the decision. See: CESCR 'Follow-up progress report on individual communications. Adopted by the Committee at its 70th session (27 September – 15 October 2021)' E/C.12/70/3 (15 November 2021) 7 – 10 <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f70%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f70%2f3&Lang=en)>

## B. Additional Resources

### Third Party Interventions and international litigation

There are various resources that provide tips, tricks, and analysis on the submission of TPIs and litigation in general before international and national courts and tribunals. While they may not be specific to UNTBs, the information provided can be useful as a reference for UNTB cases:

- UNESCO's 'Guide for Amicus Curiae Interventions in Freedom of Expression Cases'.<sup>184</sup>
- Astrid Wiik's 'Amicus curiae before International Courts and Tribunals'.<sup>185</sup>
- Martín Francisco Losardo's article 'Amicus curiae at the international level' (only in Spanish).<sup>186</sup>
- The European Network of National Human Rights Institutions' (ENHRI) 'Third Party Interventions Before the European Court of Human Rights. Guide for National Human Rights Institutions'.<sup>187</sup>
- Christopher Kerker and Christopher Mbazira's 'Friend of The Court & The 2010 Constitution: The Kenyan Experience and Comparative State Practice on Amicus Curiae'.<sup>188</sup>
- IJRC's 'Advocacy before the African Human Rights System: A Manual for Attorneys and Advocates. Preventing and Remediating Human Rights Violations through the International Framework'.<sup>189</sup>
- Equality Now's 'Litigating before the African Commission on Human and Peoples' Rights: A practice manual'.<sup>190</sup>

<sup>184</sup> UNESCO Guide for Amicus Curiae Interventions in Freedom of Expression Cases (UNESCO, 2021) <<https://unesdoc.unesco.org/ark:/48223/pf0000379020/PDF/379020eng.pdf.multi>>

<sup>185</sup> Astrid Wiik Amicus Curiae before International Courts and Tribunals (Nomos Verlagsgesellschaft mbH & Co. KG., Baden-Baden, Germany, 2018) <[www.nomos-elibrary.de/10.5771/9783845275925/amicus-curiae-before-international-courts-and-tribunals](http://www.nomos-elibrary.de/10.5771/9783845275925/amicus-curiae-before-international-courts-and-tribunals)>

<sup>186</sup> Martín Francisco Losardo, "Amicus Curiae" En El Plano Internacional' (2014) vol 92 Lecciones y Ensayos, 101 <<http://www.derecho.uba.ar/publicaciones/lye/revistas/92/amicus-curiae-en-el-plano-internacional.pdf>>

<sup>187</sup> ENHRI Third Party Interventions Before the European Court of Human Rights. Guide for National Human Rights Institutions (ENHRI, October 2020) <<https://ennhri.org/wp-content/uploads/2020/10/Third-Party-Interventions-Before-the-European-Court-of-Human-Rights-Guide-for-NHRIs.pdf>>

<sup>188</sup> Christine Nkonge, the Katiba Institute, the Public Interest Law and Policy Group and Equality Now, 'Friend of the Court Participation in Regional Courts' in Christopher Kerker and Christopher Mbazira (eds), Friend of The Court & The 2010 Constitution: The Kenyan Experience and Comparative State Practice on Amicus Curiae (Judicial Training Institute, the National Council on the Administration of Justice, International Development Law Organisation, Public International Law & Policy Group, ICJ Kenya, Equality Now, Solidarity for African Women's Rights Coalition, Kenyans for Peace with Truth and Justice and The Katiba Institute, 2017) <[www.idlo.int/publications/friend-court-2010-constitution-kenyan-experience-and-comparative-state-practice-amicus](http://www.idlo.int/publications/friend-court-2010-constitution-kenyan-experience-and-comparative-state-practice-amicus)>

<sup>189</sup> IJRC Advocacy before the African Human Rights System: A Manual for Attorneys and Advocates. Preventing and Remediating Human Rights Violations through the International Framework (International Justice Resource Center, November 2016) <<https://ijrcenter.org/wp-content/uploads/2016/11/Advocacy-before-the-African-Human-Rights-System.pdf>>

<sup>190</sup> Sofia Rajab-Leteipan and Mariam Kamunyu Litigating Before The African Commission on Human and Peoples' Rights Developed by Sofia Rajab-Leteipan Mariam Kamunyu A Practice Manual (Equality Now, Nairobi, Kenya, 2018) <[www.equalitynow.org/resource/litigating-before-the-african-commission-on-human-and-peoples-rights-a-practice-manual/](http://www.equalitynow.org/resource/litigating-before-the-african-commission-on-human-and-peoples-rights-a-practice-manual/)>

- The IACrHR's page on amicus curiae.<sup>191</sup>
- Obonye Jonas' doctoral thesis 'The participation of amici curiae in the African human rights system'.<sup>192</sup>
- Ivonei Souza Trindade's 'Amicus Curiae ante la Corte Interamericana de Derechos Humanos: Una Guía práctica' (in Spanish).<sup>193</sup>
- IJRC's 'Preventing and Remediating Human Rights Violations through the International Framework. Advocacy before the Inter-American System: A Manual for Attorneys and Advocates'.<sup>194</sup>
- Paul Harvey's 'Third Party Interventions before the ECtHR: A Rough Guide'.<sup>195</sup>

## Individual Communications

ISHR Academy's online learning module on Treaty Bodies includes an introduction to ICs and TPIs before UNTBs, as well as practical examples.<sup>196</sup>

GI-ESCR's Individual Communication Guide contains a detailed set of tips on how to submit individual complaints to the CESCR.<sup>197</sup>

The Geneva Academy has authored a detailed analysis of the procedural handling of individual communications to UNTBs with practical suggestions on how that could be improved in 'Treaty Bodies individual communications procedures: providing redress and reparation to victims of human rights violations'.<sup>198</sup>

IJRC's 'Exhaustion of Domestic Remedies in the United Nations System' contains ample jurisprudence on the subject.<sup>199</sup>

<sup>191</sup> IACrHR 'Amicus Curiae' (2021) <[www.corteidh.or.cr/amicus\\_curiae.cfm](http://www.corteidh.or.cr/amicus_curiae.cfm)>

<sup>192</sup> Jonas Obonye, 'The participation of amici curiae in the African human rights system' (Student thesis: Doctoral thesis for the Degree of Doctor of Philosophy in Law, University of Bristol Law School 2018) 166 <[research-information.bris.ac.uk/en/studentTheses/the-participation-of-amici-curiae-in-the-african-human-rights-sys](https://research-information.bris.ac.uk/en/studentTheses/the-participation-of-amici-curiae-in-the-african-human-rights-sys)>

<sup>193</sup> Ivonei Souza Trindade *Amicus Curiae ante la Corte Interamericana de Derechos Humanos: Una Guía práctica* (KDP-Amazon, Esteio, 2019) <[www.academia.edu/40041296/Amicus\\_Curiae\\_ante\\_la\\_Corte\\_Interamericana\\_de\\_Derechos\\_Humanos\\_Una\\_Gu%C3%ADa\\_Pr%C3%A1ctica?auto=download](http://www.academia.edu/40041296/Amicus_Curiae_ante_la_Corte_Interamericana_de_Derechos_Humanos_Una_Gu%C3%ADa_Pr%C3%A1ctica?auto=download)>

<sup>194</sup> IJRC *Preventing and Remediating Human Rights Violations through the International Framework. Advocacy before the Inter-American System A Manual for Attorneys and Advocates* (International Justice Resource Center, 2nd ed, March 2014) <<https://ijrcenter.org/wp-content/uploads/2014/03/Manual-Advocacy-before-the-Inter-American-System-2014.pdf>>

<sup>195</sup> Paul Harvey *Third Party Interventions before the ECtHR: A Rough Guide* (Strasbourg Observers, 24 February 2015) <<https://strasbourgobservers.com/2015/02/24/third-party-interventions-before-the-ecthr-a-rough-guide/>>

<sup>196</sup> ISHR 'Treaty Bodies' (ISHR Academy, 2021) <<https://academy.ishr.ch/learn/treaty-bodies>>

<sup>197</sup> GI-ESCR 'Individual Communication Guide' (GI-ESCR, 2021) <[www.gi-escr.org/individual-communication-guide](http://www.gi-escr.org/individual-communication-guide)>

<sup>198</sup> Claire Callejon, Kamelia Kemileva and Felix Kirchmeier *Treaty Bodies' Individual Communication Procedures: Providing Redress And Reparation To Victims Of Human Rights Violations* (Geneva Academy, May 2019) <[www.geneva-academy.ch/joomlatools-files/docman-files/UN%20Treaty%20Bodies%20Individual%20Communications.pdf](http://www.geneva-academy.ch/joomlatools-files/docman-files/UN%20Treaty%20Bodies%20Individual%20Communications.pdf)>

<sup>199</sup> IJRC *Exhaustion of Domestic Remedies in the United Nations System* (International Justice Resource Center, August 4, 2017) <[ijrcenter.org/wp-content/uploads/2018/04/8.-Exhaustion-of-Domestic-Remedies-UN-Treaty-Bodies.pdf](https://ijrcenter.org/wp-content/uploads/2018/04/8.-Exhaustion-of-Domestic-Remedies-UN-Treaty-Bodies.pdf)>



Child Rights Connect have established a dedicated webpage on the Third Optional Protocol to the Convention on the Rights of the Child which includes an information pack and practical information on how to submit a complaint.<sup>200</sup>

OMCT's 'Handbook on the Individual Complaints Procedures of the UN Treaty Bodies' provides detailed and useful information and tips on individual communications to CAT, HRCtee and CEDAW.<sup>201</sup>

OSJI's 'Toolkit for Drafting Complaints to the United Nations Human Rights Committee and Committee Against Torture'.<sup>202</sup>

Equal Rights Trust and Ashurst's 'Navigating Human Rights Complaints Mechanisms' includes a dedicated section on UNTBs, including information on the submission of TPIs.<sup>203</sup>

## Strategic litigation and UNTBs

ILGA's 'Treaty Bodies Strategic Litigation toolkit' includes a policy paper, a case digest of the UNTBs, and a compilation of LGBTI cases reviewed by the IACrHR and the ECHR.<sup>204</sup>

OSJI has produced a range of excellent, thorough, insightful, and well documented reports, studies, and guides on human rights litigation, including with UNTBs. Those include:

- Practical examples of effective litigation, including with UNTBs, and their impact, which are documented in Strategic Litigation Impacts: insights from global experience.<sup>205</sup>
- Global human rights litigation reports, including the 2018 report which integrates an article on CAT litigation in Central Asia.<sup>206</sup>
- Reports from the 'Implementing human rights decisions' series include useful insights into the implementation of UNTB decisions, which are crucial to consider in designing effective litigation strategies.<sup>207</sup>

200 Child Rights Connect 'Optional Protocol on a Communications Procedure' (2021) <<https://opic.childrightsconnect.org/>>

201 Sarah Joseph and others, *Seeking Remedies for Torture Victims. A handbook on the individual complaints procedures of the UN Treaty Bodies* (OMCT, 2006) <[www.omct.org/site-resources/legacy/handbook4\\_eng\\_00\\_table\\_contents\\_2020-12-11-144643.pdf](http://www.omct.org/site-resources/legacy/handbook4_eng_00_table_contents_2020-12-11-144643.pdf)>

202 OSJI, *Strategic Litigation Toolkit. Drafting Complaints to the United Nations Human Rights Committee and Committee Against Torture. Torture, Deaths in Custody, and Related Violations* (Open Society Foundations, 2018) <[www.justiceinitiative.org/uploads/507acc52-2c91-4d0f-8410-62c31cb2f391/litigation-toolkit-torture-20180427.pdf](http://www.justiceinitiative.org/uploads/507acc52-2c91-4d0f-8410-62c31cb2f391/litigation-toolkit-torture-20180427.pdf)>

203 Equal Rights Trust and Ashurst, *Navigating Human Rights Complaints Mechanisms. Rules, tools and resources* (2018) <[www.ashurst.com/en/news-and-insights/legal-updates/navigating-human-rights-complaints-mechanisms-rules-tools-and-resources](http://www.ashurst.com/en/news-and-insights/legal-updates/navigating-human-rights-complaints-mechanisms-rules-tools-and-resources)>

204 International Lesbian, Gay, Bisexual, Trans and Intersex Association: Kseniya Kirichenko, *Treaty Bodies Strategic Litigation toolkit* (ILGA-World, October 2019) <<https://ilga.org/Treaty-Bodies-strategic-litigation-toolkit>>

205 OSJI, *Strategic Litigation Impacts. Insights from Global Experience* (Open Society Foundations, 2018) <[www.justiceinitiative.org/uploads/fd7809e2-bd2b-4f5b-964f-522c7c70e747/strategic-litigation-impacts-insights-20181023.pdf](http://www.justiceinitiative.org/uploads/fd7809e2-bd2b-4f5b-964f-522c7c70e747/strategic-litigation-impacts-insights-20181023.pdf)>

206 OSJI, *Global Human Rights Litigation Report* (Open Society Foundations, June 2021) <[www.justiceinitiative.org/publications/2021-global-human-rights-litigation-report](http://www.justiceinitiative.org/publications/2021-global-human-rights-litigation-report)>

207 OSJI, *Implementing Human Rights Decisions. Reflections, Successes, and New Directions* (Open Society Foundations, July 2021) <<https://www.justiceinitiative.org/publications/implementing-human-rights-decisions-reflections-successes-and-new-directions>>; OSJI, *From Judgment to Justice Implementing International and Regional Human Rights Decisions* (Open Society Foundations, November 2010) <[www.justiceinitiative.org/publications/judgment-justice-implementing-international-and-regional-human-rights-decisions](http://www.justiceinitiative.org/publications/judgment-justice-implementing-international-and-regional-human-rights-decisions)>

## CESCR

GI-ESCR's guide also contains references to other resources that elaborate on individual complaints before the CESCR, including:

- Sandra Liebenberg's 'Between Sovereignty and Accountability: The Emerging Jurisprudence of the United Nations Committee on Economic, Social and Cultural Rights Under the Optional Protocol'.<sup>208</sup>
- Malcolm Langford, Bruce Porter, Rebecca Brown & Julieta Rossi's 'The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: A Commentary'.<sup>209</sup> While the entire book is relevant, the chapter on individual complaints procedure by Christian Courtis and Julieta Rossi, is of particular importance.<sup>210</sup>
- The Nordic Journal of Human Rights produced (Volume 27, No: 1) 'Perspectives on a New Complaint and Inquiry Procedure: The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights' (2009). Malcolm Langford's article titled: 'Closing the Gap? An Introduction to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights' is particularly relevant, as it refers to *amicus briefs*.<sup>211</sup>

## Litigators' groups

Several litigators' groups have published useful guidance:

- ESCR-Net has a working group on strategic litigation, which includes resources on support to litigation, implementation of decisions and a case law database.<sup>212</sup>
- Members of the Vuka! NGO coalition hosted by Civicus have a 'thematic action team' dedicated to strategic litigation, including with UNTBs.<sup>213</sup>
- CCPR Centre convenes annually an informal group of UNTB litigators, together with TBnet, OSJI and ISHR, to discuss recent UNTB case law and procedural developments.<sup>214</sup>

<sup>208</sup> Sandra Liebenberg, 'Between Sovereignty and Accountability: The Emerging Jurisprudence of the United Nations Committee on Economic, Social and Cultural Rights Under the Optional Protocol' (2020) vol. 42/no. 1 Human Rights Quarterly 48-84 <<https://muse.jhu.edu/article/747391>>

<sup>209</sup> Malcolm Langford and others (eds), *The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: A Commentary* (Pretoria University Law Press, 2016) <<https://www.pulp.up.ac.za/component/edocman/the-optional-protocol-to-the-international-covenant-on-economic-social-and-cultural-rights-a-commentary>>

<sup>210</sup> Christian Courtis and Julieta Rossi, 'Individual Complaints Procedure' in Malcolm Langford and others (eds), *The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: A Commentary* (Pretoria University Law Press, 2016) ch 3 <<https://www.pulp.up.ac.za/component/edocman/the-optional-protocol-to-the-international-covenant-on-economic-social-and-cultural-rights-a-commentary>>

<sup>211</sup> Malcolm Langford, 'Perspectives on a New Complaint and Inquiry Procedure: The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights' (2009) vol. 27/no. 1 Special Issue of *Nordisk Tidsskrift for Menneskerettigheter*. Nordic Journal of Human Rights <[www.jus.uio.no/igr/english/people/aca/malcolm/NTMR109-1.pdf](http://www.jus.uio.no/igr/english/people/aca/malcolm/NTMR109-1.pdf)>

<sup>212</sup> ESCR-Net 'Strategic Litigation' (2021) <[www.escr-net.org/strategiclitigation](http://www.escr-net.org/strategiclitigation)>

<sup>213</sup> VUKA! Coalition for Civic Action 'What we do' (2021) <[www.vukacoalition.org/what-we-do/](http://www.vukacoalition.org/what-we-do/)>

<sup>214</sup> CCPR 'NGOs meet in Geneva to discuss strengthening of UN Treaty Bodies' (2019) <<https://ccprcentre.org/ccprpages/ngos-meet-at-geneva-to-discuss-strengthening-of-un-treaty-bodies>>



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