

PARTICIPANT'S HANDBOOK

MODULE 7: THE NGO ALTERNATIVE REPORT

DESCRIPTION

This module examines the role of NGOs in the reporting process.

TIME: 2 HOURS

MODULE AIMS

In particular:

- In the first part, the module provides participants with an understanding of the purpose of including NGOs in the production of the State report, and the importance of NGO Alternative or Shadow Reports
- The second part of the module examines the content of these reports and explores how NGOs can work together to make a meaningful contribution to the reporting process.

LEARNING OUTCOMES

An understanding of:

1. The role of NGOs in the preparation of the State Report
2. How to draft and submit a shadow or alternative report either as an individual NGO or as a NGO coalition
3. NGO participation in the Pre-Sessional Working Group
4. Making oral presentations to the Committees
5. Actions NGOs can take to promote follow up

SECTION HEADINGS

- 7.1 NGO Participation in the Production of the State Report
- 7.2 NGO Submission of Shadow or Alternative Reports
- 7.3 Attending the Treaty Body Sessions
- 7.4 NGO Participation in Briefings
- 7.5 The Role of NGOs in the Follow-Up Procedure

7.1 NGO Participation in the Production of the State Report


NGOs may provide input at almost every stage of the work of the treaty bodies. The CRC and CEDAW Committees have both emphasised that the process of preparing the **State Report** should be broad and participatory and should ‘encourage and facilitate popular participation and public scrutiny of government policies’.²⁵⁸

The CRC Committee has stated that the **NGOs can** (and should) be invited to participate in national consultations preceding the drafting of the State Report, in order **to feed into** the content of the report. Paragraph 45 of the harmonised guidelines for the common core document request States parties to provide **information on the process of preparation** of both the common core document and treaty specific reports. This **should include the participation of entities outside government** or relevant independent bodies at the various stages of preparing the report and in follow-up to the Committee’s concluding observations.²⁵⁹ The CRC Guidelines on reporting request States to provide information on cooperation with civil society organisations, including the extent to which NGOs were consulted in the preparation of the Report and in the implementation of all aspects of the Convention. The CRC Committee also asks on a regular basis about State/NGO cooperation in its List of Issues and at the Plenary Session.²⁶⁰

States can benefit significantly from encouraging the broad participation of stakeholders in the reporting process. Participation of NGOs can help to ease the burden on Government during the reporting process; NGOs can submit valuable data and findings and make recommendations to the State on how to draft the report and what to include. When the State *fails* to consult with NGOs during the drafting of the report, this can lead to important information and valuable perspectives being *excluded* from the report. In some cases, this may lead to such a paucity of information within the State Report that the Committee will request the State to provide more information during a later stage of the Reporting Process, making the whole process more lengthy and expensive for Governments.

Conducting a **validation workshop** with civil society is a useful way to both engage NGOs and other organisations, and to include their perspectives in the State report.

For Example:



Haiti’s Combined Report to the CEDAW Committee emphasis the role of civil society in the preparation of the report and in ending discrimination against women more broadly: “14 and 15 February, 2008, approximately 100 representatives of government organizations, civil society organizations, and of women’s and human rights organizations, in particular, took part in the workshop held to discuss and validate the report on implementation of the Convention on the

²⁵⁸ See CRC/C/58.

²⁵⁹ CRC Committee, “CRC Treaty Specific Reporting Guidelines, Harmonized According to the Common Core Document,” CRC/C/58/Rev.2, 2010.

²⁶⁰ NGO Group for the Convention on the Rights of the Child, “A Guide for Non-Governmental Organizations reporting to the Committee on the Rights of the Child,” Geneva 2006, p. 5.

Elimination of All Forms of Discrimination against Women. For two days, those members of government institutions and of civil society discussed key issues in connection with the report: legislative reforms in favour of women, women's participation in political life, and progress in the fight against violence specifically directed against women."²⁶¹

The report, however, does not clearly indicate whether inputs and perspectives from the validation workshop **were actually included in the report**, though references to civil society activities are included throughout the report.



Exercise 7.1.1: At this point, the facilitator will conduct a discussion exercise: “Experiences involving NGOs in Treaty Body Reporting”

7.2 NGO Submission of Shadow or Alternative Reports

Article 45(a) of CRC provides that the CRC Committee may invite specialised agencies, UNICEF, and "other competent bodies" to provide expert advice on the implementation of the Convention. The term "other competent bodies" is taken to include non-governmental organisations (NGOs), who generally fulfil this function **by submitting Alternative or Shadow Reports to the CRC Committee**.

Similarly, Article 22 of CEDAW states that “**The Committee may invite the specialised agencies to submit reports** on the implementation of the Convention in areas falling within the scope of their activities” and the CEDAW Committee’s practice of allowing NGOs to submit Shadow Reports is well established.

The purpose of the Shadow or Alternative Reports is to provide the Committees with a more comprehensive picture of implementation of the rights in the Convention.

Convention on the Rights of the Child, Article 45 (a):

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's

²⁶¹ “Implementation of the Convention on the Elimination of Discrimination Against Women – Combined Reports: 1982, 1986, 1990, 1994, 1998, 2002 and 2006” CEDAW/C/HTI/7, 2008.

Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

Convention on the Elimination of Discrimination Against Women, Article 22:

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

The Purpose of a Shadow or Alternative Report

NGOs can provide a well-informed and independent assessment of the progress that has been made in implementing the Conventions and the Optional Protocols. The Committees take the view that NGOs play a vital role in presenting **specific, reliable** and **objective** information. In the Committee's experiences governments may tend towards presenting the legislative framework without adequate consideration of the implementation process and its outcomes.

At the community level, NGOs, that work "on the ground" directly with beneficiaries, may be able to provide more detailed evidence about factual implementation of treaty provisions. They can also provide supplementary information on issues to which the Government have only given sparse attention, or correct any misleading information.²⁶² Engaging in the reporting process can also empower NGOs by offering an independent and secure avenue through which women and children's issues can be raised and addressed.²⁶³

At national level, the preparation of an NGO Report not only allows for scrutiny of government policy and practice, but also provides NGOs with an opportunity to engage in public debate about the Conventions and their implementation, either through the media or through meetings and events. This process provides an opportunity to raise the profile of the Conventions.

Individual and Coalition Reports

Neither the CEDAW nor CRC Committee imposes limitations on reports by NGOs.²⁶⁴ Unlike State Reports, which have to report on all aspects of the Convention, individual NGOs may choose to submit reports on the implementation of **a specific aspect** of the Conventions' provisions relevant to their field of expertise.

Alternatively, NGOs may choose to coalesce and submit one joint report covering all aspects, or nearly all aspects, of the Convention. There are benefits and challenges associated with both approaches. NGOs should be aware that the Committees will be receiving a vast quantity of material to read for each State Party review. In addition to the State Report, the Committee may receive a report from more than one National Human Rights Institution, UN body reports, as well as (I)NGOs' reports. As such, Committees may find it easier when they are under

²⁶² International Service for Human Rights, "The Simple Guide to the UN Treaty Bodies", 2010, <http://www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies>.

²⁶³ NGO Group for the Convention on the Rights of the Child, "A Guide for Non-Governmental Organizations reporting to the Committee on the Rights of the Child," Geneva 2006 p. 9.

²⁶⁴ International Service for Human Rights, "The Simple Guide to the UN Treaty Bodies", 2010, <http://www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies>.

intense time pressure to read one single comprehensive report submitted by 20 organisations, rather than a myriad of individual reports. NGOs should take this into consideration when they decide whether to produce an individual or coalition report. If NGOs wish for their views to be given due weight by the Committee, and taken into consideration when the Concluding Observations are drafted, they must consider the most effective way to achieve this.

Nevertheless, some specialist NGOs may choose to submit their own individual reports on their particular area of expertise. For instance, **Human Rights Watch** frequently submits individual reports to the Committee focusing on breaches or violations of **specific rights** in CEDAW or CRC.²⁶⁵ These reports can be highly valuable as they have the potential to provide a detailed analysis of State law and its implementation in practice, and contain both quantitative and in-depth qualitative evidence. Such reports merit attention by the Committee, but (on account of their length and detail) they may not fit easily into a coalition report, which (is intended to) cover the full range of the Convention rights. As such, a decision is made to draft a separate in-depth report on a particular issue. There is no reason, however, why NGOs cannot also form a coalition to report on a specific, limited aspect of the Convention, such as, for example, teenage pregnancy.

The NGO Group for the Convention of the Rights of the Child encourages the creation and development of national coalitions of NGOs working for children and has written a Guide for Non-Governmental Organizations reporting to the Committee on the Rights of the Child.²⁶⁶ This can be accessed on the web at www.childrightsnet.org. The Guide recommends that NGOs should form a national coalition *before* the State starts preparing its report. A range of coalition members with specialist knowledge and a variety of viewpoints can present very effective evidence on implementation. Ideally, if NGOs in the State are considering submitting an NGO coalition report, its members should represent diverse jurisdictional and geographic as well as ethnic and cultural differences that may exist in a country. Just as with the State report, it is important that the views of children and women should be incorporated into the report.

In most cases, NGOs (whether working in coalitions or otherwise) will wait to review the State report before drafting their shadow or alternative reports.²⁶⁷ Sometimes, however, States are reluctant to share their reports. In such cases, the State Report can be obtained from the OHCHR website once it is submitted to Geneva.

NGO reports, particularly coalition reports, often mimic the structure of the State Report, providing information relating to each article of the relevant treaty. This can be a helpful way for NGO reports to be structured, as they assist Committee members in the reviewing process; it provides a transparent format and allows Committee members to compare and crosscheck information included in the State Report, against the alternative information provided by NGOs.

How Best to Draft a Coalition Report

²⁶⁵ Human Rights Watch, “Our Work – Topics,” last updated 2013, <http://www.hrw.org/topics>.

²⁶⁶ NGO Group for the Convention on the Rights of the Child, “A Guide for Non-Governmental Organizations reporting to the Committee on the Rights of the Child,” Geneva 2006.

²⁶⁷ International Service for Human Rights, “The Simple Guide to the UN Treaty Bodies”, 2010, <http://www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies>.

As with a State Report, a decision needs to be made about who will draft the report, and how that drafting will be effected. First, a coalition will need to be formed. An NGO will need to take the lead and inform other NGOs of the intention to form a coalition and then coordinate the NGOs that sign up. The coordinator should bear in mind that the **views** of different NGOs on the progress and level of implementation of the Conventions **may differ** and there may be a need to mediate and agree on the content to be submitted. To address such issues, the coalition needs to assign to one person or NGO the ultimate authority to make final decisions (after careful consultation with the group) on the content of the report and evidence to be submitted. If no agreement can be reached about a particular submission, the NGO concerned can always submit their evidence/analysis as an individual report.²⁶⁸

An existing national coalition on the rights of women or the rights of the child may mandate a few of its members with relevant expertise to prepare the report and present it on behalf of the coalition. Alternatively, the coalition may wish to identify specific NGOs to write specific sections of the report related to particular articles, with a coordinator bringing this altogether at the end of the process.



The Integrity of the Report

Consideration of NGO information by the CRC Committee and the CEDAW Committee is an essential element in the monitoring process, which must not run the risk of being discredited. NGO reports must be very careful to cite sources, and must clearly distinguish the NGOs' own position and information, from media reports or public opinion referred to in the report. NGOs should feel free to quote official data that is not available in the government report if relevant, but they must not suggest that the information has been obtained by them. When NGOs have no access to information or are not able to comment on some points, they can simply admit to it and encourage the Committee itself to inquire further on these issues in its dialogue with the State party. The Committee appreciates such transparency. It is as important to suggest questions, as it is to give answers. It is extremely important for NGOs to make recommendations as to what can be done to improve the situation be it from a legislative, political or awareness-raising perspective²⁶⁹.

Timing for Submission of Shadow and Alternative Reports

For **CEDAW**, NGOs should send 40 copies of each Shadow Report with enough lead time to ensure that they reach the Division of Women before the pre-sessional working group's consideration of the State report.²⁷⁰ If this is not possible, NGO representatives could bring 40 copies to the session itself for distribution during the informal consultation meeting of the Committee with NGOs.

²⁶⁸ Ibid, 41.

²⁶⁹ NGO Group for the Convention on the Rights of the Child, "A Guide for Non-Governmental Organizations reporting to the Committee on the Rights of the Child," Geneva 2006.

²⁷⁰ International Women's Rights Action Watch, "Producing Shadow Reports to the CEDAW Committee: A procedural guide," <http://www1.umn.edu/humanrts/iwraw/proceduralguide-08.html>, last accessed 21 April, 2013.

NGOs can also send their shadow reports to IRAW-Asia Pacific, an NGO that distributes NGO shadow reports electronically or in hard copy to CEDAW experts in advance of the session. The address of IRAW Asia-Pacific can be found on the CEDAW website (www.unwomen.org). **Ideally Shadow Reports should be submitted three months before the pre-sessional working group meeting.**

For the **CRC Committee**, NGO Reports should not be longer than 30 pages, and should contain an abstract or summary highlighting the key issues covered in the Report.²⁷¹ The Committee requests that NGOs are careful to ensure that evaluative statements in the report are backed by evidence, and that the tone is not overly polemic. **Ideally, a written report should be submitted within six months of the State Report being received by the OHCHR and at least three months before the Pre-Sessional Working Group** to ensure that the Committee can take into account at this stage of the process.²⁷² NGOs should send the report to the NGO Group Liaison Unit, which will ensure that the information reaches the Committee. Wherever possible, **25 copies** should be submitted.²⁷³ The NGO Report can also be submitted electronically. The Report will only be made public after the completion of the pre-sessional working group meeting. NGOs should also indicate whether or not the members of the Committee may refer to the source of the information during their discussions with the government. The NGO Reports are considered to be confidential documents and for the Committee's eyes only. They may only be made available more widely with the consent of the NGO. NGOs should indicate to the NGO group whether it is giving permission for the Report to be made publicly available.

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If there is any doubt about the submission deadline, NGOs should contact the OHCHR Secretariat and check with them. NGOs should try and comply with deadlines to ensure that the Report is available for the Committees' Pre-Sessional Working Group meetings and can be considered by Committee members. It is at this stage that the information for the "List of Issues" is obtained which provides a "frame" for the content and structure of the entire review process. If an NGO has made submissions well in advance of a Committee session, it may subsequently provide updates closer to the time, to include any new developments that it wishes to bring to the attention of the Committee.

7.3 Attending the Treaty Body Sessions

In most cases, **NGO representatives are permitted to attend the Plenary Session as observers**, however, they must obtain advance accreditation from the Secretariat of the Committee Bodies based at OHCHR.


NGOs may not participate in formal dialogue between the Committee and the State delegation. However, they may have an opportunity to hold separate formal or informal meetings with Committee members (see "briefings" below), or participate in other NGO meetings or parallel

²⁷¹ NGO Group for the Convention on the Rights of the Child, "A Guide for Non-Governmental Organizations reporting to the Committee on the Rights of the Child," Geneva 2006.

²⁷² CRC Committee, "CRC Treaty Specific Reporting Guidelines, Harmonized According to the Common Core Document," CRC/C/58/Rev.2, 2010.

²⁷³ NGO Group for the Convention on the Rights of the Child, "A Guide for Non-Governmental Organizations reporting to the Committee on the Rights of the Child," Geneva 2006.

events.²⁷⁴ The opportunity to observe the formal dialogue at the Plenary Session can provide NGOs with the first-hand knowledge and qualitative experience of the discussions between the Committee and the State, the issues raised, questions asked, and recommendations for moving forward.



Committee members are usually open and approachable and welcome dialogue with all parties participating in and observing plenary sessions.

Exercise 7.3.2 Before continuing on to the next section, facilitators will administer a “Quiz on NGO reporting”

7.4 NGO Participation in Briefings

In addition to attending the Plenary Sessions, NGOs may participate in separate briefings of the Committee before or during Committee sessions. These briefings may be informal or form part of the formal process of a Committee session.

The CEDAW Committee hosts a session where NGOs can orally brief the Committee during the pre-sessional working group meeting (this is usually held on the first day of the pre-sessional working group). Briefings by NGOs are also hosted on the first day of the first week of other sessions held by the Committee. Furthermore, NGOs may request to brief the Committee in an informal session organised through the secretariat.

The CRC Committee also hosts an oral briefing by NGOs during the pre-sessional working group. Requests to participate in this briefing must be sent to the Secretariat at least **2 months** before the session. At other times NGOs may also request private meetings with the Committee.

Under the CRC a separate **children’s meeting** may also be convened on request to the Committee Secretariat via **the NGO Group for the CRC**. Any NGO asking for a meeting should read **“Together with children – for children: A guide for non-governmental organizations accompanying children in CRC reporting by the NGO Group for the CRC.”** This can be found on the CRIN website, www.crin.org.

7.5 The Role of NGOs in Follow-Up

NGOs have a critical role in supporting the State to act on the knowledge and learning that derives from the reporting process. Amongst other activities, NGOs can:²⁷⁵

- **Monitor** the implementation of recommendations contained within Concluding Observations to States.

²⁷⁴ International Service for Human Rights, “The Simple Guide to the UN Treaty Bodies”, 2010, <http://www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies>.

²⁷⁵ International Service for Human Rights, “The Simple Guide to the UN Treaty Bodies”, 2010, <http://www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies>.

- Produce a **Follow-Up Report** and submit this to the treaty Committee, either through formal submissions or informally. This can help the Committee to assess the progress a State has made from one session to the next.
- Support the **publication** and **dissemination** of Concluding Observations and other documents produced by the treaty Committee.
- **Lobby** governments to implement the Concluding Observations, through individual meetings and conferences with parliamentarians and government officials to discuss the Concluding Observations and recommendations made by the Committees.
- Directly **support** government in **implementing** actions and activities to address recommendations made in the Concluding Observations. This is highly useful as it lends extra capacity to the Government to progressively ensure the full and effective implementation of treaty provisions.

NGOs can also use the Concluding Observations to guide and direct their own policies, programmes and activities. The participation of NGOs in the reporting process helps to facilitate and encourage this process, and ensures the harmonisation of Government and NGO activities towards the same goal: the realisation of international human rights for children and women in the state.

In addition to assisting in the reporting process, NGOs may provide useful input into other aspects of the treaty monitoring system. They can:

- Support the **communication of complaints** to treaty bodies, where a complaints procedure exists (e.g. the optional protocol to CEDAW, and the 3rd Optional Protocol to CRC when it comes into force). NGOs can also make useful recommendations to the Committees regarding individual complaints, and support the follow-up on decisions made by the Committee in response to a complaint.
- **Submit evidence** to Committees during an **inquiry, early warning** or **urgent action** procedure.
- Participate in days of general discussion convened by Committees to inform the development of General Comments (CRC) and General Recommendations (CEDAW).



NGOs can be particularly efficient and effective at feeding into the treaty body system where they have formed **coalitions** or **networks**.

The NGO group for the Convention on the Rights of the Child works together with over 60 international NGOs to promote the implementation of the Convention, to coordinate NGO written submissions, and undertake other tasks to assist the work of the CRC Committee.

<http://www.childrightsnet.org/NGOGroup>

The International Women's Rights Action Watch – Asia Pacific (IWRAP - AP) convenes training sessions for NGOs in parallel to the sessions of CEDAW, and writes reports and

publications which seek to promote and publicise understandings of the Convention's normative content and provisions.

<http://www.iwraw-ap.org/>

FURTHER READING

Producing a Shadow Report to the CEDAW Committee: A procedural guide contains a useful timeline for NGOs making submissions to the Committees.

<http://www1.umn.edu/humanrts/iwraw/proceduralguide-08.html>

The **Office of the High Commissioner for Human Rights** has published an Information Note from the **CEDAW Committee** on NGO Participation:

http://www2.ohchr.org/english/bodies/cedaw/docs/NGO_Participation.final.pdf

Participation in ICESCR and CEDAW Reporting Processes: Guidelines for Writing Women's Economic, Social and Cultural Rights in Shadow/ Alternative Reports, ESCR-Net Red-DESC Reseau-DESC (2010) http://www.escr-net.org/usr_doc/CEDAW_CESCR_reporting_guidelines_FINAL_Oct_6_2010.pdf