



JOINT SUBMISSION TO THE HUMAN RIGHTS COMMITTEE  
IN RELATION TO THE  
STRENGTHENING OF THE FOLLOW-UP PROCEDURE CONCERNING VIEWS ON  
INDIVIDUAL COMMUNICATIONS

31 August 2016

**I. INTRODUCTION**

1. The Redress Trust (REDRESS), TRIAL International, the CCPR Centre, and the Human Rights Implementation Centre make this submission to the United Nations (UN) Human Rights Committee (hereinafter, “the Committee”) in relation to the strengthening of the follow-up procedure concerning Views on individual communications. This topic is of particular relevance to our work as our organisations engage with the Committee in relation to victims’ rights under international human rights standards, regularly bring individual communications before the Committee on behalf of victims and engage with a range of States on implementation of the Committee’s Views.
2. The importance of the First Optional Protocol to the International Covenant on Civil and Political Rights (hereinafter, “the Optional Protocol”) is illustrated by the continued increase in the number of individual communications being brought to the Human Rights Committee (hereinafter, “the Committee”).<sup>1</sup> Our organisations welcome the important work of the Committee under the Optional Protocol and recognise efforts to achieve greater implementation, in particular the work of the Special Rapporteur for follow-up on Views. However, over many years of bringing cases of violations of the International Covenant on Civil and Political Rights (hereinafter, “the Covenant”) by various countries before the Committee we have learned that even when the Committee adopts significant Views, achieving implementation of these often gives rise to difficulties.<sup>2</sup> **Systematisation of best practices is needed**, including learning lessons from countries where Views have been effectively implemented and from other human rights mechanisms worldwide.

<sup>1</sup> Human Rights Committee (HRC), *2015 Annual Report*, UN Doc. A/70/40 of 1 September 2015, para. 26: “Since the Committee started its work under the Optional Protocol in 1977 until August 2015, 2,593 communications concerning 92 States parties were registered for consideration by the Committee.” (Hereinafter, HRC, *2015 Annual Report*).

<sup>2</sup> For instance, to illustrate the specific difficulties encountered in the implementation of the Views on individual communications concerning Nepal, on 3 November 2015 REDRESS and TRIAL International organised an informal meeting with members of the Committee.

3. Based on our organisations' experiences in representing victims in cases before the Committee, **we set out below a number of concrete suggestions for proposed improvements in the Committee's follow-up procedure that, we hope would assist States with implementation and the Committee and other stakeholders in monitoring implementation.** The present submission aims at constituting a base to encourage a larger debate on this subject of crucial importance and is not intended to exhaust the analysis of the multiple options that can be considered. We call on the Special Rapporteur on follow-up on Views and the Committee to consider these proposals and would welcome an opportunity to discuss these further.

## II. IMPLEMENTATION OF THE COMMITTEE'S VIEWS

4. If the Committee finds a violation in a particular case, the State party is requested to remedy that violation, pursuant to its obligations in article 2, paragraph 3, of the International Covenant on Civil and Political Rights (hereinafter "the Covenant") to provide an effective remedy for Covenant violations. The recommended remedy may take specific form, such as the payment of compensation, the repeal or amendment of legislation, and/or the release of a detained person. Thereupon, the case is taken up by the Committee's Special Rapporteur for follow-up on Views, who communicates with the parties with a view to achieving a satisfactory resolution to the case in light of the Committee's Views.<sup>3</sup>
5. General Comment No. 33 outlining the obligations of States parties under the Optional Protocol to the Covenant affirms that

"The Views of the Committee under the Optional Protocol represent an authoritative determination by the organ established under the Covenant itself charged with the interpretation of that instrument. These Views derive their character, and the importance which attaches to them, from the integral role of the Committee under both the Covenant and the Optional Protocol."<sup>4</sup>
6. Despite the accepted significance of the Committee's assessment of individual communications and efforts to encourage States to give effect to the Committee's Views, **implementation of Views remains low.** Most recently in its 2015 Annual Report the "Committee again note[d] that many States parties have failed to implement the Views adopted under the Optional Protocol."<sup>5</sup> Where the Committee's Views remain unimplemented, this can result in re-victimisation, hinder trust towards domestic authorities and international human rights mechanisms, and undermine the effectiveness of these mechanisms.
7. The establishment of the position of the Special Rapporteur for follow-up on Views in 1990 was a positive development and the mandate's contributions, as well as the introduction of the current grading system, have been important.<sup>6</sup> However, our organisations suggest that more can be done in order to achieve a higher rate of implementation.

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<sup>3</sup> The Office of the United Nations High Commissioner for Human Rights (OHCHR) publication: *Human Rights Civil and Political Rights: The Human Rights Committee Fact Sheet No. 15 (Rev.1 May 2005)*, p. 27, available at: <http://www.ohchr.org/Documents/Publications/FactSheet15rev.1en.pdf>

<sup>4</sup> HRC, *General Comment No. 33 Obligations of States Parties under the Optional Protocol to the International Covenant on Civil and Political Rights*, UN Doc. CCPR/C/GC/33, 25 June 2009, para. 13. (Hereinafter, HRC, *General Comment No. 33*).

<sup>5</sup> HRC, *2015 Annual Report*, para. 40.

<sup>6</sup> HRC, *1990 Annual Report*, UN Doc. A/45/40, Vol I, para 633, p. 144-145. (Hereinafter, HRC, *1990 Annual Report*, Vol. I).

### III. ACHIEVING GREATER COMPLIANCE WITH VIEWS

#### a. Precision of measures of redress indicated in Views

8. We are of the view that there is a correlation between the measures of redress recommended by the Committee, and the specificity of those measures, and the effective implementation of Views. For example, in one case during discussions with the Special Rapporteur a State party “expressed the need for more guidance from the Committee on the remedies expected with respect to its Views,”<sup>7</sup> while in another case the Committee was informed in a follow-up submission that a Ministerial Committee did not recommend that compensation be paid to the victim “given the absence of a specific remedy recommended by the Committee.”<sup>8</sup>
9. We note that at the Committee’s 117th session, Committee members discussed a draft document dealing with reparations and remedies to the victims of human rights violations. We welcome the Committee’s attention to redress for victims of violations of the Covenant and note that the Committee plans to hold a further discussion on the draft paper at its upcoming 118<sup>th</sup> session “with the view of adopting it.”<sup>9</sup> We urge the Committee to use this discussion to also consider the significance of the precision of the remedies awarded for the implementation of the Committee’s Views.
10. **The content of the measures of redress that are indicated in the Views adopted by the Committee can provide important guidance to the relevant State party on measures required to implement the Committee’s Views,** thereby facilitating implementation. We believe that greater specificity and consistency in relation to measures of redress included in the Views would assist States who are committed to complying with the Views adopted. Similarly, in cases where a State party is reluctant to implement, greater specificity would assist authors, their representatives, and civil society advocating for effective implementation. The inclusion of more precise measures of redress in the text of the Views would also serve the purpose of facilitating the subsequent task of supervision by the Committee and the Special Rapporteur.
11. In our experiences working on cases before the Committee we have further found that effective implementation and engagement with governments in certain States parties has been hampered by a failure to assign responsibility for coordination of implementation to a particular entity and a failure to identify which domestic authority is responsible for implementation. Identifying responsible authorities could thus help to achieve more effective implementation.

#### **BOX A: SUGGESTIONS IN RELATION TO PRECISION OF MEASURES OF REDRESS INDICATED IN VIEWS**

##### **A (i) More Precision in the Measures of Redress Indicated**

The Committee should provide more details on the measures of redress recommended in Views on individual communications, for instance by specifying what kind of damages should be

<sup>7</sup> Report of the Human Rights Committee, eighty-fifth, eighty-sixth and eighty-seventh sessions, UN Doc. A/61/40. Vol. II, 2006, p. 696. (Hereinafter, HRC, *2006 Annual Report*, Vol. II)

<sup>8</sup> Report of the Human Rights Committee, Vol. I, UN Doc. No. A/52/40, 1997, para 535, p. 95. (Hereinafter, HRC, *1997 Annual Report*, Vol. I)

<sup>9</sup> UN Human Rights Committee, *Human Rights Committee closes one hundred and seventeenth session*, 15 July 2016. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20277&LangID=E>.

included in the calculation of amounts of pecuniary compensation to the authors of the communications.<sup>10</sup>

Similarly, the Committee should provide more details when indicating to States to “provide medical and psychological support to the authors of the communication”. For instance, the Committee may specify that the State should cover the cost of a medical assessment conducted by an expert appointed by mutual agreement between the parties, to determine the treatment needed and the related costs and expenses.

#### **A (ii) Inclusion of Timeframes for the Implementation of Remedies**

In order to achieve more expeditious implementation, the Committee should identify in its Views, the timeframes within which it expects the specific measures of redress indicated to be implemented.<sup>11</sup> These timeframes could be shorter for measures such as the payment of compensation, while measures such as the investigation of violations and the prosecution and sanction of those responsible would be allotted longer timeframes with more flexibility, taking into account the circumstances of each specific case. The State party should identify whether it is meeting these timeframes in its follow-up reports to the Committee and, if not, should provide reasons and indicate what remedial action will be taken. The timeframes for implementation would be independent from the deadlines to regularly submit follow-up reports to the Committee.

#### **A (iii) Identifying the Domestic Authorities Responsible for Implementation**

In its Views, the Committee should request the State party, to identify the domestic authorities responsible for implementation in its 180-day response. Where the State party has not designated the implementation of decisions of international or regional human rights bodies to a specific ‘implementation mechanism’, the State should identify:

- a) The domestic authority(ies) in charge of coordinating the implementation of the Views; and
- b) The domestic authorities responsible for implementation, clarifying which specific measure recommended by the Committee each authority concerned is responsible for.

#### **A (iv) Explicitly Referring to the Participation of the Authors in the Implementation Process**

The Committee should include in its Views an explicit reference to the obligations of the State party vis-à-vis the authors and/or their representatives in the implementation phase. It should explicitly mention that the domestic authorities must consult and inform the author of the communication and/or his or her representative about decisions adopted in the implementation process, and guarantee full participation (to the extent desired by the author) throughout the

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<sup>10</sup> In this regard, see Principle 20, UN *Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005.

<sup>11</sup> This would be in line with the practice of the Inter-American Court of Human Rights and the European Court of Human Rights.

implementation process.

## **b. Monitoring Process**

12. Once the Committee's Views are published, States parties are requested to reply within six months (180 days), explaining the measures that they intend to take to give effect to the remedies recommended in the Views. The case is then taken up by the Special Rapporteur and when a State's reply is received it is transmitted to the author or his/her representative, who may respond to the State's submission.
13. In some of the cases that we have brought to the Committee, the State party concerned has failed entirely to respond to the Committee's Views, while in others we have found that the responses do not always address all of the measures of redress recommended. This hampers the ability of authors and/or their representatives to engage effectively with the State party and hinders the Committee's assessment of the State party's implementation efforts. Furthermore, the concerned States parties have regularly failed to outline how they intend to implement the Committee's Views. We consider that the monitoring process could be enhanced by introducing concrete measures aimed at rationalising the procedure, establishing a regular system of reviews, and increasing the transparency of the exchanges among the different actors concerned.

### **BOX B: SUGGESTIONS IN RELATION TO THE MONITORING PROCESS**

#### **B (i) Developing a Common Reporting Form to be Filled by the Parties**

To contribute to the harmonisation of the reporting process, the Committee could develop a form that both the State party and the author of the communication or his or her representatives should fill when submitting their follow-up reports on the status of implementation of the Committee's Views. In the form, each measure included in the remedies section of the Views adopted by the Committee should be dealt with autonomously, in order to prevent omission of information from any of the parties. The form could include standard sections regarding measures that are consistently included in Views (such as the requirement that Views should be published) but should be adapted to each case to reflect the measures of redress indicated by the Committee in that particular case. Further, the standard form could include additional questions, for instance concerning the involvement of the authors of the communication in the design and implementation of the measures of redress at the domestic level and an open question on the difficulties encountered by the parties in the implementation phase.

This form should be provided to the parties with the Views and should be developed by the Petitions Unit staff member who is already familiar with the Views. The State party's 180-day response should be based on this form.

#### **B (ii) Implementation Plan**

As a standard approach, States should be encouraged to develop an implementation plan which sets out how they will implement the Views adopted by the Committee and provides a timeframe for implementation. This plan should be shared with the Committee and the author

and/or his or her representatives as part of the follow-up process, with the 180-day response.

### **B (iii) Regular Communications System**

After the 180-day response is received, follow-up would continue to follow the current approach of regular submissions by both the authors and the State party, communicated via the Committee, with the enhancements discussed in section C below. The Committee should assign deadlines for each party to provide such submissions depending on the circumstances of the case. The submissions should follow the new form proposed in B (i) above.

In order to encourage States to implement Views and to engage in the follow-up process, the Petitions Unit should send annual reminders to authors and/or authors' representatives and States parties seeking updates in cases where none have been provided. If the State fails to respond this should be graded in the review process using grade D1 or D2 (see section C below).

### **c. Implementation Assessment**

14. At its 109th session, the Committee started to include in its reports on follow-up to Views an assessment of the States parties' reply/ action, based on the criteria of the follow-up procedure to concluding observations. Though initially adopted on an experimental basis the use of the grading system has remained the Committee's practice to date.<sup>12</sup> We note the Committee's decision to publish reports on follow-up on individual communications on its website separately from the Annual Report and welcome the resulting increased accessibility of such reports.
15. We welcome the adoption of this **more detailed grading system by the Committee but note that there is a lack of information about the application of the grading system. Increased clarity regarding the meaning of each grade when it is assigned, the criteria the Committee applies when assigning grades, and the timing and operation of the grading system would thus be beneficial.**
16. Assigning grades alone does not provide the relevant State party with concrete information on how to improve compliance with its Covenant obligations. We thus suggest that an improvement to the application of the grading system would be to **include explanatory notes and recommended actions in order to better explain the grades assigned by the Committee in the reports on follow-up on individual communications** and to outline actions required in order to implement the recommendations. This could provide essential guidance to States parties and would allow for more effective implementation.

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<sup>12</sup> The assessment criteria used by the Committee is: A: Reply largely satisfactory; B1: Substantive action taken, but additional information required; B2: Initial action taken, but additional information required; C1: Reply received but actions taken do not implement the recommendation; C2: Reply received but not relevant to the recommendation; D1: No reply received within the deadline, or no reply to any specific question in the report; D2: No reply received after reminder(s); E: The reply indicates that the measures taken go against the recommendations of the Committee.



## **BOX C: SUGGESTIONS IN RELATION TO IMPLEMENTATION ASSESSMENT**

### **C (i) Regular Assessments and Reports on Follow-up on Individual Communications**

In order to maintain momentum on implementation of Views and to increase the effectiveness of the follow-up process, implementation of Views should be assessed on at least an annual basis, taking the date of publication of the Views as a reference.

We suggest that the Committee reverse its decision adopted at its 110<sup>th</sup> session to prepare and adopt only two reports on follow-up to Views each year (as opposed to three reports previously) and to publish such reports after each of its three sessions. Follow-up reports should include assessments of implementation of individual communications as well as explanatory notes and recommended actions discussed in C (ii).

### **C (ii) Including Explanatory Notes and Recommended Actions in the Assessments of Implementation on Individual Communications**

In its assessments of implementation, the Committee should follow the existing grading system. To provide greater clarity, it should include an explanatory paragraph in which it provides the reasons for the grades assigned to the State. Moreover, where the level of implementation of the measures is deemed non satisfactory, the Committee should formulate concrete actions required by the State party concerned in order to implement the recommendations included in the Views. Should the Committee and Petitions Unit consider it useful, these concrete actions could be included in updated versions of the form proposed at B (i).

Recalling the limited capacity of the Petitions Unit, we note that the identification of such actions would generally occur in the first two assessments after the Views are adopted (within 24 months after adoption) and subsequent assessments could refer back to the actions previously identified.

Where the Views have not been implemented and no explanation is provided, the Committee could identify specific questions regarding efforts to implement the Views, to be answered by the State party in the subsequent follow-up submission. For example, in the process of follow-up to Concluding Observations, the Committee systematically includes concrete questions in follow-up letters sent to the Government.

### **C (iii) Application of Assessment Criteria**

The Committee should prepare an explanatory note on application of the assessment criteria. This note on application of the assessment criteria would be used by the Committee in assessing the adequacy of the implementation of Views and assigning relevant grades. It would also provide useful clarity to States parties and authors and their representatives.

It should be made clear that the grading system is not a linear process but one that continues to monitor the effectiveness of the implementation of Views. Thus a State may be assigned a

lower grade after having initially received a grade that welcomes progress if implementation stalls. For example, the commencement of an investigation may result in a positive grade but if it becomes clear that the investigation is not effective a subsequent grade should be lower.

#### **C (iv) Consistently Grading the Failure to Respond**

It is essential that the Committee grade a State party's failure to provide a response. In such cases grades of D1 and D2 would be appropriate. In order for such grading systems to be effective, deadlines for submissions must be clearly established.

Reminders sent by the Petitions Unit in situations where a deadline has passed should identify a new deadline for the response to be submitted. When a deadline passes without receipt of a submission, a reminder should be sent by the Petitions Unit as soon as possible after the deadline has expired.

#### **C (v) Duplicate Submissions**

If a submission sent as part of the follow-up process is an exact duplicate of a previous submission, this should be identified in a communication from the Petitions Unit to both parties and in the subsequent grades assigned. The communication should call on the relevant party to provide a new submission which responds to issues raised in previous communications. We submit that a grade of C2 (reply received but not relevant to the recommendation) should be assigned in cases where a submission is a duplicate.

#### **C (vi) Communication with States and Author's Representatives**

When adopted, grades should be communicated both to the State party and to the author and/or his or her representatives. Such communication would enhance the effectiveness of the follow-up process and would encourage engagement and dialogue. These communications providing the grades should be made public, available online on the OHCHR website. Furthermore, the Committee's regular reports on follow-up on Views should be posted online without undue delay following adoption.

### **d. The Role of the Special Rapporteur for Follow-up on Views**

17. The role of the Special Rapporteur for Follow-up on Views was first established in 1990 and in 1997 the modalities of the Special Rapporteur's duties were formalised under the Committee's Rules of Procedure. Today the Special Rapporteur is given a broad mandate, with the Rules stating that:

"1. The Committee shall designate a Special Rapporteur for follow-up on Views adopted under article 5, paragraph 4, of the Optional Protocol, for the purpose of ascertaining the measures taken by States parties to give effect to the Committee's Views.

2. The Special Rapporteur may make such contacts and take such action as appropriate for the due performance of the follow-up mandate. The Special Rapporteur shall make such recommendations for further action by the Committee as may be necessary.



3. The Special Rapporteur shall regularly report to the Committee on follow-up activities.
4. The Committee shall include information on follow-up activities in its annual report.”<sup>13</sup>
18. The Special Rapporteur pursues this mandate through a variety of means, including written submissions and personal meetings with diplomatic representatives of the relevant State party in which he or she “urges compliance with the Committee’s views and discusses factors that may be impeding their implementation.”<sup>14</sup> In General Comment No. 33, the Committee noted that “[i]n a number of cases this procedure has led to the acceptance and implementation of the Committee’s views where previously the transmission of those views had met with no response.”<sup>15</sup>
19. The Special Rapporteur’s mandate allows for **follow-up visits to countries regarding implementation of the Committee’s Views**. For example, in 1995, the Special Rapporteur undertook a visit to Jamaica. However, over the years, budgetary issues have been encountered in seeking to carry out further similar visits. For example, in its 1999 Annual Report the Committee “again expresse[d] its regret that its recommendation, formulated in its three previous Reports, to the effect that at least one follow-up mission per year be budgeted by the Office of the United Nations High Commissioner for Human Rights, has still not been implemented.”<sup>16</sup>
20. We note that the Special Rapporteur’s mandate provides that he “may make such contacts and take such action as appropriate for the due performance of the follow-up mandate. The Special Rapporteur shall make such recommendations for further action by the Committee as may be necessary.” Pursuant to his mandate the Special Rapporteur may introduce new methods to achieve more effective implementation of Views. We suggest that, to further strengthen the follow-up procedure, several steps could be taken to enhance **the Special Rapporteur’s impact on implementation of Views**:

**BOX D: SUGGESTIONS IN RELATION TO THE ROLE OF THE SPECIAL  
RAPPORTEUR FOR FOLLOW-UP ON VIEWS**

**D (i) Notification of Meetings with State Representatives**

In advance of a planned meeting with State party’s representatives, the Special Rapporteur should notify the authors of the communication and/or their representatives and invite the author and/or his or her representatives to submit an update on developments regarding implementation of the measures of redress outlined in the Views before the meeting takes place.

<sup>13</sup> Rules of Procedure of the HRC, UN Doc. CCPR/C/3/REV.10 of 11 January 2012, Rule 101.

<sup>14</sup> HRC, *General Comment No. 33*, para. 16.

<sup>15</sup> *Ibid.*

<sup>16</sup> HRC, *1999 Annual Report*, 54<sup>th</sup> session, UN Doc. A/54/40 of 1 January 1999, para. 474.

#### **D (ii) Publication of the Outcome of Meetings**

After the meeting has taken place, information regarding the relevant discussions should be provided to the author and/or his representative and if appropriate publicly reported.<sup>17</sup> This is currently not the common practice. Although the Committee's reports continue to note that a meeting took place or that a meeting is anticipated, more detailed information regarding the discussions and outcome of the meetings is not provided.

#### **D (iii) Country Visits**

The Committee should consider undertaking visits to relevant States parties to encourage implementation of Views on individual communications. In determining which countries to visit, the Committee should take into consideration factors such as the number of cases decided against a specific State and the general level of implementation. (This would be clearly identifiable in the compilation of information discussed at section E(ii) below). Such visits are already carried out in an informal manner regarding follow-up to concluding observations in collaboration with the CCPR-Centre. In years where adequate funding is not available to the Committee, NGOs could facilitate such follow-up visits regarding implementation of Views, provided there is no conflict of interest, in order to ensure that visits are consistently undertaken.

#### **D (iv) Hearings**

The Committee could organise implementation hearings at which all the parties to the process would be duly represented. These hearings could consider submissions - from the author and/or his representatives and the State party - regarding progress on implementation of Views as part of the follow-up process and would allow a dialogue to take place. Participation of victims in such hearings, either in person or via phone or video call, should be facilitated. Where possible, in order to rationalise the use of resources, these hearings (generally organised to discuss a State party's record of implementation of Views and not for each View delivered by the Committee) could take place when the State concerned is undergoing the examination of its periodic report. If the Committee or the Special Rapporteur deems it necessary, exceptional hearings could be convened during a country visit or in relation to individual Views, for example where implementation raises particularly complex issues.<sup>18</sup>

### **e. Effectively Utilising the Views and Implementation Assessments, in particular throughout the UN System**

21. Views adopted by the Committee represent important acknowledgements of violations of Covenant rights and provide authoritative guidance on the requirements on States parties to comply with their treaty obligations, including measures to provide redress. Efforts to strengthen the follow-up process should aim to optimise the impact of the Views and

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<sup>17</sup> In the past the outcomes of such meetings were regularly reported in the Committee's Annual Reports (See for example, HRC, *2006 Annual Report*, Vol. II, p. 696.)

<sup>18</sup> Hearings on follow-up in various forms have been utilised by various human rights mechanisms including the African Commission on Human and Peoples' Rights, the Inter-American Court of Human Rights and the European Court of Human Rights.

implementation assessments, to standardise best practices and to ensure that the various bodies of the UN system coordinate and share information on these matters consistently.

### **BOX E: SUGGESTIONS IN RELATION TO AN EFFECTIVE USE OF THE VIEWS AND IMPLEMENTATION ASSESSMENTS**

#### **E (i) Setting Up a Database on Implementation of Views**

The Committee should create a database on the implementation of its Views that includes, in a graphic way, the assessment made by the Committee in each case,<sup>19</sup> and allows filtering data both for each State party and for each measure of redress recommended in the Views concerned. The database should be publicly accessible from the Committee's website and it should be regularly updated.

#### **E (ii) Information regarding States Parties' Implementation Records**

Information regarding each State party's record of implementation of Views should be consistently compiled and published in the Committee's Annual Reports or Follow-up progress reports on individual communications. In order to maximise the impact of the follow-up process, these compilations of the State party's record of implementation should be provided to:

- (i) relevant UN Special Procedures in advance of country visits; and
- (ii) the OHCHR team preparing the compilation of United Nations information on a relevant State when that country's human rights record is being examined as part of the Universal Periodic Review.

#### **E (iii) Considering Record on Implementation of Views as Part of State Party's Periodic Examination**

States who have ratified the Optional Protocol are also regularly required to be present in Geneva for periodic examinations of their compliance with obligations under the ICCPR. The monitoring of implementation of Views through the follow-up process should be linked to the regular reviews of the relevant State party by the Committee and questions on implementation of cases should systematically be added to the List of Issues prior to the review. The Petitions Unit should consistently share the compilation of the State's record of implementation of Views with the country rapporteurs in advance of the examination. Direct reference to the follow-up assessment should be made.

As is currently the informal practice, meetings with delegations who attend periodic reviews should regularly be scheduled and follow the procedure suggested in D(i) and D(ii) above.

#### **E (iv) Sharing Views and Follow-up Reports with Field Presence of the Office of the High Commissioner for Human Rights (OHCHR)**

When Views are adopted they should be provided to relevant OHCHR regional and country offices, as is currently the practice. Similarly, the compilation of the State's record of

<sup>19</sup> For example, TRIAL International and REDRESS have created the website [www.realrightsnow.org](http://www.realrightsnow.org) with a graphic representation of the level of implementation of HRC Views in relation to Nepal.

implementation of Views referenced in E(ii) should be provided. A focal point for implementation of Treaty Body Views should be appointed in such offices who would have a mandate to monitor implementation and would receive training to that effect. Such training should be based on best practices from those offices which are already actively engaged in working towards implementation.

#### **f. Periodic Review of the Follow-up Process**

22. The Committee's 1990 Annual Report initially set out the competencies of the Rapporteur, including "to submit to the Committee, at suitable intervals, recommendations on possible ways of rendering the follow-up procedure more effective."<sup>20</sup> While rule of procedure 95,<sup>21</sup> which formalised the mandate of the Special Rapporteur, did not contain this exact provision the Committee reconfirmed in subsequent Annual Reports "that it will keep the functioning of the follow-up procedure under regular review."<sup>22</sup> Thus, **in light of ongoing challenges in achieving implementation of Views it is important that the Committee identifies new ways in which compliance with its Views can be improved.**

#### **BOX F: SUGGESTIONS IN RELATION TO THE PERIODIC REVIEW OF THE FOLLOW-UP PROCESS**

##### **F (i) Ensuring a Regular Revision of the Follow-up Process**

The Committee should formally confirm the need for regular revision of its follow-up process. Such review should take place every 5 to 10 years in consultation with relevant stakeholders, taking into account best practices, including lessons learned from other human rights mechanisms worldwide. □

## **IV. CONCLUSION**

23. In its 1990 Annual Report, the Committee noted that it had "received letters of complaint from a number of victims stating that their situation remained unchanged or that no appropriate remedy had been provided."<sup>23</sup> Despite the passage of time, implementation remains an ongoing challenge and in 2015 the "Committee again note[d] that many States parties have failed to implement the Views adopted under the Optional Protocol."<sup>24</sup> The proposals outlined in this submission are intended to contribute to the Special Rapporteur's and the Committee's efforts to prevent such situations in the future, to enhance the effectiveness of the Committee's follow-up process and to ensure that the Committee's Views are implemented and that violations of the Covenant are repaired and prevented.

<sup>20</sup> HRC, *1990 Annual Report*, UN Doc. A/45/40 of 4 October 1990, Vol. I, at 144-45 and Vol II, Appendix XI, at 205-206.

<sup>21</sup> Revised as Rule of Procedure 101.

<sup>22</sup> HRC, *1997 Annual Report*, Vol. I, para 556.

<sup>23</sup> HRC, *1990 Annual Report*, Vol. I, para 633, p. 144-145.

<sup>24</sup> HRC, *2015 Annual Report*, para. 40.

24. The organisations submitting this document remain at the Committee's and Special Rapporteur's disposal to engage in a constructive dialogue to further explore these and other measures to strengthen the follow-up process and the level of implementation of Views on individual communications.

## INFORMATION ABOUT THE ORGANISATIONS CO-SIGNING THIS SUBMISSION

### **CENTRE FOR CIVIL AND POLITICAL RIGHTS**

The Centre envisions the full implementation of and respect for all human rights worldwide, as proclaimed in the International Covenant on Civil and Political Rights (ICCPR). The Centre promotes the implementation of the recommendations adopted by the UN Human Rights Committee in the Reporting Procedure and in the Views under the ICCPR-OP1, mainly through engaging with national NGOs, Governments and Parliamentarians, as well as with other key stakeholders.

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### **REDRESS**

REDRESS is an international human rights organisation based in the United Kingdom with a mandate to assist torture survivors to seek justice and other forms of reparation, hold accountable the governments and individuals who perpetrate torture, and develop the means of ensuring compliance with international standards and securing remedies for victims. REDRESS was established in 1992 and has been in consultative status with the Economic and Social Council since 2011.

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### **TRIAL INTERNATIONAL**

TRIAL International is a non-governmental organisation fighting impunity for international crimes and supporting victims in their quest for justice.

TRIAL International takes an innovative approach to the law, paving the way to justice for survivors of unspeakable sufferings. The organisation provides legal assistance, litigates cases, develops local capacity and pushes the human rights agenda forward.

TRIAL International believes in a world where impunity for international crimes is no longer tolerated. Only when victims are heard and perpetrators held accountable can the rule of law prevail.

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### **THE HUMAN RIGHTS IMPLEMENTATION CENTRE**

The Human Rights Implementation Centre (HRIC) of the University of Bristol provides expertise, advice and scholarship on the role of institutions, at a national, regional and international level, in the implementation of human rights. Notably the HRIC currently holds a grant from the Economic & Social Research Council for a three year collaborative project to examine factors that influence the implementation of decisions on individual communications from the UN and regional treaty bodies.

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