

Module 11

**INTRODUCTION
TO UN
MECHANISMS**

*Modules on Litigating
Freedom of Expression
and Digital Rights
in South and Southeast
Asia*



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MODULE 11

INTRODUCTION TO UN MECHANISMS

- The United Nations has several mechanisms that contribute to the promotion of human rights, including treaty bodies tasked with overseeing the implementation of core human rights treaties.
- UN treaty bodies may consider individual complaints against states that have recognised their jurisdiction to do so.
- The UN Human Rights Committee (UNHRCttee) is the treaty body most relevant to freedom of expression and digital rights claims.
- Another mechanism of particular relevance is the special procedures, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

INTRODUCTION

While human rights activism has long been a feature of human society in many different forms, the internationalisation of that movement only truly took root when the United Nations General Assembly adopted the [Universal Declaration of Human Rights](#)¹ (UDHR) on 10 December 1948. This document was at least in part motivated from a desire to avoid, as noted in its preamble, “barbarous acts which [...] outraged the conscience of mankind” during the Second World War. The UDHR was a landmark statement of the basic civil, political, economic, social and cultural rights to which all human beings are entitled. However, the UDHR is not legally binding because it is a declaration. Two subsequent legally binding instruments were eventually elaborated, namely the [International Covenant on Civil and Political Rights](#)² (ICCPR) and its two Optional Protocols, and the [International Covenant on Economic, Social and Cultural Rights](#)³ (ICESCR). The ICCPR, UDHR and ICESCR form the International Bill of Human Rights. Numerous other treaties, such as the [Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment](#)⁴, have also been developed under the auspices of the United Nations. The United Nations has a variety of mechanisms to encourage compliance with the human rights guaranteed under these instruments. This Module presents an overview of these mechanisms with a focus on treaty bodies and the special procedures system.

¹ United Nations, Statute of the International Court of Justice, 18 April 1946.

² UN General Assembly Resolution 2200A (XXI), adopted 16 December 1966, in force 23 March 1976.

³ UN General Assembly Resolution 2200A (XXI), adopted 16 December 1966, in force 3 January 1976.

⁴ UN General Assembly Resolution 39/46, Annex, A/39/51 (1984), 1465 UNTS 85, adopted 4 February 1985, in force 26 June 1987.

OVERVIEW OF UN MECHANISMS

*Treaty Bodies*⁵

In order to monitor and encourage implementation of human rights obligations under UN treaties, a number of committees of independent experts known as 'treaty bodies' were created under various human rights treaties to monitor the implementation of obligations under the treaties over which they have jurisdiction.

Treaty Bodies and Corresponding Conventions	
Treaty	Corresponding Treaty Body
International Convention on the Elimination of All Forms of Racial Discrimination	Committee on the Elimination of Racial Discrimination
International Covenant on Economic, Social and Cultural Rights	Committee on Economic, Social and Cultural Rights
International Covenant on Civil and Political Rights	Human Rights Committee
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment	Committee against Torture
Convention on the Rights of the Child	Committee on the Rights of the Child
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Committee on Migrant Workers
Optional Protocol of the Convention against Torture	Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
International Convention on the Rights of Persons with Disabilities	Committee on the Rights of Persons with Disabilities
International Convention for the Protection of All Persons from Enforced Disappearance	Committee on Enforced Disappearances

The exact mandates of the treaty bodies vary, but they share many features. Each treaty body, with the exception of the Subcommittee on the Prevention of Torture:⁶

- Considers regular reports on respect for treaty rights which are submitted by State parties;
- Publishes observations and recommendations to guide specific states in implementing their obligations under the treaty; and

⁵ For more information on treaty bodies, see International Service for Human Rights, 'Simple Guide to the UN Treaty Bodies' (2015) (accessible at: <https://ishr.ch/defenders-toolbox/resources/updated-simple-guide-to-the-un-treaty-bodies-guide-simple-sur-les-organes-de-traites-des-nations-unies/>)

⁶ The Subcommittee on the Prevention has a distinct preventative mandate and is different from the Committee against Torture, the mandate of which more closely resembles that of other treaty bodies.

- Elaborates and publishes 'general comments', which are authoritative interpretations of specific articles or subject matters covered in their treaty.⁷

Additional activities that certain treaty bodies are mandated to perform include considering and issuing opinions on individual and (more rarely) inter-state complaints and conducting or initiating investigations through country visits.⁸

The Human Rights Council

The Human Rights Council is a UN intergovernmental body, with a mandate to promote human rights compliance. The Council was created in 2006 through a UN General Assembly resolution⁹ as a replacement for the UN Human Rights Commission in response to perceived failings of that body.¹⁰ The Human Rights Council consists of 47 states elected for fixed terms "based on equal geographical distribution."¹¹

The Human Rights Council holds three regular sessions annually, in addition to certain 'special sessions' held to address urgent human rights situations.¹² A key outcome of many of these sessions are Human Rights Council resolutions addressing thematic issues or pressing country-specific situations. Although non-binding, these resolutions often have significant persuasive force and have helped contribute to the progressive development of human rights standards. However, as the direct product of an intergovernmental body, they are inevitably influenced by certain political considerations and are sometimes the product of compromises due to the need to build sufficient support among the states which sit on the Council.

One prominent mechanism associated with the UN Human Rights Council is the Universal Periodic Review (UPR) process. The UPR is a process whereby states undergo regular reviews of their human rights record. Previously, this occurred every four years although the review has moved to a four-and-a-half-year schedule.¹³ The UPR is based on a consultative and cooperative process whereby reviewed states present a report and other states are afforded the chance to provide comments, questions and recommendations.¹⁴ Civil society cannot directly participate in the review, although non-governmental organisations may observe proceedings, provide submissions and suggest questions be put forward by states which with they may have good relations.¹⁵

⁷ International Service for Human Rights, 'Simple Guide to the UN Treaty Bodies', above n 5, p. 14.

⁸ *Id.*

⁹ UN Doc. A/RES/60/251(2006) (accessible at: <http://www.un-documents.net/a60r251.htm>).

¹⁰ For more background on the impetus for creating the Human Rights Council, see Rosa Freedman, 'The Human Rights Council' in Philip Alston and Frédéric Mégret (eds.), *The United Nations and Human Rights: A Critical Appraisal*, 2nd ed (2020, Oxford University Press).

¹¹ GA Res 60/251 (2006), above n 5 at para. 7.

¹² Child Rights International, 'A Guide to UN Human Rights Mechanisms' at p. 5 (accessible at: https://static1.squarespace.com/static/5afadb22e17ba3eddf90c02f/t/60d1e2790208354614305583/1624367738499/UN+mechanisms_+A+guide_2015.pdf).

¹³ Rosa Freedman, 'The Human Rights Council' in Philip Alston and Frédéric Mégret (eds.), above n 10 at p. 220.

¹⁴ For more on the UPR process, see Office of the High Commissioner for Human Rights, 'Universal Periodic Review' (accessible at: <https://www.ohchr.org/en/hr-bodies/upr/upr-main>).

¹⁵ For more information on civil society participation in this process, see Office of the High Commissioner for Human Rights, 'Universal Periodic Review: a Practical Guide for Civil Society' (2014) (accessible at: <https://www.ohchr.org/en/publications/universal-periodic-review-practical-guide-civil-society>).

Another key mechanism mandated by the UN Human Rights Council is the special procedures system. The special procedures are mandates created to address thematic or geographic issues and take the form of individuals (either Special Rapporteurs or Independent Experts) or Working Groups consisting of five members drawn equally from five different regional groups.¹⁶ These special mechanisms engage in a variety of activities, such fact-finding, country missions and reporting, publishing thematic reports, addressing UN bodies, and receiving and following up on individual communications.

The Principal Organs of the United Nations

The principal organs of the UN (the General Assembly, the Economic and Social Council, the Security Council and the International Court of Justice) all play a role in the UN human rights system. The General Assembly is the primary deliberative body of the UN and regularly issues non-binding resolutions, many of which address country-specific or thematic human rights issues. Also of relevance to human rights are the activities, such as debates and resolutions, of certain subcommittees of the General Assembly, notably the Third Committee (which covers social, humanitarian and cultural matters) and the Sixth Committee (which covers legal affairs).¹⁷ The human rights activities of the Economic and Social Council have waned over the years, although it still plays a role in respect of economic, social and cultural rights, including preparing reports and recommendations in relation to these rights.¹⁸

In contrast to the Economic and Social Council and the General Assembly, the Security Council can in certain cases issue resolutions that are formally binding as a matter of international law. Although the Council is not in essence a human rights body, certain matters of peace and security inevitably involve human rights issues (for example, in respect of peacekeeping missions that include a human rights mandate or serious situations of human rights abuse which are deemed to pose a threat to security).¹⁹ The International Court of Justice is the UN's main judicial organ. Its decisions are formally legally binding on states that have accepted the jurisdiction of the Court. Although the International Court of Justice is not a human rights court and not mandated to accept individual complaints, some of its decisions have played a key role in the development of international human rights jurisprudence.²⁰

The Office of the High Commissioner for Human Rights

The UN [Office of the High Commissioner for Human Rights](#) (OHCHR) has a coordinating role in respect of the UN's human rights activities and works closely with the various UN bodies, including

¹⁶ *Id.* at p. 229.

¹⁷ See Andrew Clapham, 'The General Assembly' in Philip Alston and Frédéric Mégret (eds.), above n 10, pp. 104-105. For more background on the General Assembly, see Council on Foreign Relations, 'Backgrounder: The Role of the UN General Assembly' (2021) (accessible at: <https://www.cfr.org/backgrounder/role-un-general-assembly>).

¹⁸ Frédéric Mégret, 'The Economic and Social Council' in Philip Alston and Frédéric Mégret (eds.), above n 10 at p. 132.

¹⁹ On the role of the Security Council in human rights protection, see Bardo Fassbender (ed.), *Securing Human Rights?: Achievements and Challenges of the UN Security Council* (2012, Oxford University Press).

²⁰ On the role of the International Court of Justice in human rights protection, see Eva Rieter, 'The International Court of Justice and Its Contribution to Human Rights Law: Final Report of the ILA International Human Rights Law Committee', pp. 19-15 of *Judging International Human Rights* (2019, Springer).

the treaty bodies, the UN Human Rights Council and the special procedures, as well as working directly with states to encourage compliance with human rights norms. Of particular use for legal practitioners is the OHCHR's centralised [database](#) of the jurisprudence of human rights treaty bodies.

RECOURSE UNDER TREATY BODIES

Individual Complaints

One of the key activities of many treaty bodies is considering individual complaints (also known as petitions or individual communications) from rights holders or their duly appointed counsel. Through these complaints, the treaty bodies consider allegations by petitioners that a state has violated its treaty obligations. After hearing from the petitioner and responses from the concerned state, the treaty body issues its decision, formally called 'views', on whether or not the petitioners' claims of a human rights violation are made out and makes a recommendation.²¹ The treaty bodies' recommendations are not formally (legally) binding, but their bodies' views have considerable normative weight.²²

Currently the complaint mechanisms of eight treaty bodies have entered into force, namely:

- The [Human Rights Committee](#)
- The [Committee on Elimination of Discrimination against Women](#)
- The [Committee against Torture](#)
- The [Committee on the Elimination of Racial Discrimination](#)
- The [Committee on the Rights of Persons with Disabilities](#)
- The [Committee on Enforced Disappearances](#)
- The [Committee on Economic, Social and Cultural Rights](#)
- The [Committee on the Rights of the Child](#)

For a complaint to be admissible, the state must have accepted the jurisdiction of the treaty body over individual complaints. The mechanism for authorising this differs according to the treaty. For example, in the case of the ICCPR, the individual complaints mechanism is contained in the (first) [Optional Protocol](#) to the ICCPR. As a result, it is only where a state has ratified the Optional Protocol that the Committee is authorised to consider individual communications against that state. For other committees, the procedure through which individual complaints are authorised is contained within the core human rights treaty. For example, for the Committee against Torture to consider complaints,

²¹ Office of the High Commissioner for Human Rights, 'Individual Complaint Procedures under the United Nations Human Rights Treaties', Fact Sheet No. 7/Rev.2 (2013) at p. 10 (accessible at: <https://www.ohchr.org/sites/default/files/2021-08/FactSheet7Rev.2.pdf>).

²² The UN Human Rights Committee describes its views as 'authoritative determinations' and refers to the right to a remedy and the obligation of state parties to act in good faith in relation to their obligations under the ICCPR in underscoring the need for state parties to cooperate with the Committee. See Human Rights Committee, '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 (2009) at paras. 13-15 (accessible at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no33-obligations-states-parties>).

the relevant state must have recognised the Committee's competence over individual complaints through a declaration made under Article 22 of the Convention against Torture.

The UNHRCtte will likely be the Committee best placed to consider complaints about digital rights and freedom of expression issues because this right (and the right to privacy) is explicitly guaranteed in the ICCPR. However, other treaty bodies may also be appropriate for such a complaint. For example, in cases involving freedom of expression of children, complainants may consider making a complaint to the Committee on the Rights of the Child, which oversees the Convention on the Rights of the Child, which also guarantees freedom of expression for children. A violation of freedom of expression may have gendered other discriminatory aspects, in which case a complaint may be appropriate to, respectively, the [Committee on Elimination of Discrimination against Women](#) or the [Committee on the Elimination of Racial Discrimination](#).

When deciding whether to make an individual complaint to a UN treaty body, the following considerations should be kept in mind:

- It is important first to determine the state which is responsible for the alleged human rights violation. Usually, this is straightforward. However, the transnational nature of digital rights issues may mean that this requires some consideration. For example, a complaint might involve states' failure to fulfil positive obligations in relation to private actors that may have connections to more than one jurisdiction.
- Petitioners must determine which treaty bodies have geographical jurisdiction (known as competence *ratione loci*) over the complaint. A useful tool for this is the OHCHR's interactive [dashboard](#), which lists the status of human rights treaty ratifications for UN member states.²³ For example, the Maldives, Nepal, the Philippines and Sri Lanka are parties to the (first) Optional Protocol to the ICCPR, and thus recognise the competence of the UNHRCtte over individual communications.²⁴
- Where a state party accepts the jurisdiction of different treaty bodies, thought should be given to the most effective way to pursue a complaint, as one of the general criteria for the admissibility of complaints to treaty bodies is that no complaint regarding the same matter may be pending before another international body.²⁵ A key consideration as to which committee to choose will be which violation is most central to the complaint. However, at a practical level, counsel may consider whether different treaty bodies have different processing times, in view of the lengthy backlogs of certain committees of up to several years to process individual complaints. Information on processing times may be inferred from the annual reports of the treaty bodies.²⁶ Despite the lengthy backlog of many treaty bodies,

²³ In order for this resource to be useful, counsel must, however, be familiar with the way the authorisation to consider an individual communication is made, for example, through an optional protocol or a declaration directly under the treaty.

²⁴ Office of the High Commissioner for Human Rights, 'Ratification Status for CCPR-OP1 - Optional Protocol to the International Covenant on Civil and Political Rights' (2022) (accessible at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR-OP1).

²⁵ See, for example, Article 5(2)(a) of the Optional Protocol to the ICCPR, which provides that the Human Rights Committee must determine that "the same matter is not being examined under another procedure of international investigation or settlement".

²⁶ For example, the Human Rights Committee's 2020 annual report indicates a significant backlog before that Committee, noting that in 2020 155 cases were concluded and 1,193 cases remained pending by 31 December 2020. See 'Report of the Human Rights Committee to the General Assembly', UN Doc. A/76/40 (2021) at para 24 (accessible at:

when complaints involve particularly urgent matters, petitioners may be able to apply for 'interim measures', whereby a treaty body requests that a state refrain from taking certain actions to avoid 'irreparable damage' before the underlying complaint is considered on its merits.²⁷

- For complaints to be deemed admissible, petitioners must generally be able to show that domestic remedies have been exhausted, although there are some exceptions, for example, where no effective or realistic domestic remedy is available. In addition, complaints should be submitted as soon as possible after the exhaustion of domestic remedies, with certain treaty bodies specifying an exact time limit.²⁸ For the UNHRCtee, there is no absolute cut off. However, "a communication may constitute an abuse of the right of submission, when it is submitted five years after the exhaustion of domestic remedies by the author of the communication, or, where applicable, three years from the conclusion of another procedure of international investigation or settlement, unless there are reasons justifying the delay, taking into account all the circumstances of the communication."²⁹
- Another criterion of admissibility is that the treaty body must have temporal competence over the complaint (known as *ratione temporis*). This generally means that the violation occurred after the relevant instrument came into force for the state party. However, treaty bodies may also have jurisdiction over a 'continuous violation', defined by the Human Rights Committee as "an affirmation, after the entry into force of the Optional Protocol, by act or by clear implication of the previous violations of the State party."³⁰
- The complainant must have standing to bring a complaint. In contrast to strategic litigation involving public interest litigants before domestic courts and some regional human rights courts, the UNHRCtte requires complainants be actually, personally aggrieved human beings and does not permit public interest actions (known as '*actio popularis*').³¹ Corporations and

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=A%2f76%2f40&Lang=en).

²⁷ For an application of interim measures in the context of freedom of expression (specifically the UN Human Rights Committee's request not to destroy a painting), see Human Rights Committee, *Shin v. Republic of Korea*, Communication 926/2000 (2004), UN Doc. CCPR/C/80/D/926/2000 at para. 1.2 (2004) (accessible at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f80%2fD%2f926%2f2000). For more on interim measures, see Helen Keller and Cedric Marti 'Interim relief compared: use of interim measures by the UN Human Rights Committee and the European Court of Human Rights', Max-Planck-Institut, ZaöRV 73 (2013) (accessible at: https://www.researchgate.net/publication/278752013_Interim_relief_compared_use_of_interim_measures_by_the_UN_Human_Rights_Committee_and_the_European_Court_of_Human_Rights).

²⁸ International Service for Human Rights, 'Simple Guide to the UN Treaty Bodies', above n 5, p. 26.

²⁹ UN Human Rights Committee, Rules of Procedure (2021), UN Doc. CCPR/C/3/Rev.12 at R 99(c) (accessible at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=65).

³⁰ *Könye v. Hungary*, Communication 520/1992, UN Doc. CCPR/C/50/D/520/1992 (1994) at para 6.4 (accessible at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f50%2fD%2f520%2f1992).

³¹ *S.B. v. Kyrgyzstan*, Communication No 1877/2009, UN Doc. CCPR/C/96/D/1877/2009 (2009) at para. 4.2 (accessible at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f96%2fD%2f1877%2f2009).

other non-human entities do not have standing to make complaints before that Committee,³² although groups of similarly impacted individuals may submit a collective complaint.³³ The petition can be made by the person or persons alleging the violation(s) or through a duly appointed representative.

The above considerations are generally applicable to the individual complaint process before treaty bodies. However, counsel must do their own research when deciding whether to bring forward and in drafting individual complaints and should consult the specific admissibility criteria of the relevant treaty body. The most up-to-date version of the relevant UN treaty body's rules should be consulted, along with any relevant case law of the treaty body, as well as the text of the treaty and any relevant protocols. Complaints should explicitly outline how they meet all criteria for admissibility and clearly identify which articles are alleged to have been violated and the remedy or remedies sought. It is helpful to refer in submissions to any pertinent case law of the treaty body, as well as any pertinent general comments, such as the UNHRC's [General Comment No. 34](#), which focuses on freedom of expression.³⁴

Treaty body reviews

Another key function of treaty bodies is the obligation to report regularly, whereby state parties are required to report periodically on their performance in terms of their progress or lack thereof in terms of respecting treaty rights. Once a state has lodged its initial report, there is a process of review involving the oversight treaty body, which ends up with the latter publishing a report with their observations on the status of the state's implementation of treaty obligations and recommendations for improvements. There are opportunities for civil society members to play a role in this process as the treaty bodies invite submissions. As a result, where a state is a party to a human rights treaty, rights-holders may be able to bring their concerns to the relevant treaty body when their state is up for review, even if it has not recognised the treaty body's jurisdiction over individual complaints.³⁵

RECOURSE UNDER THE SPECIAL PROCEDURES

Another way to raise human rights concerns before the UN is through communications to the UN's independent experts (the Special Procedures), which consist of both [thematic](#) and [country](#) mandates.

³² See, for example, *Lamagna v. Australia*, Communication No 737/1997, U.N. Doc. CCPR/C/65/D/737/1997 (1999) at para. 6.2 (accessible at: <http://hrlibrary.umn.edu/undocs/session65/view737.htm>).

³³ *Kitok v. Sweden*, Communication No 197/1985, UN Doc. CCPR/C/33/D/197/1985 (1988) (accessible at <https://juris.ohchr.org/Search/Details/543>).

³⁴ 'General Comment No. 34: Article 19: Freedoms of opinion and expression' (2011) (accessible at <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>).

³⁴ CCPR/C/103/D/1815/2008/Rev.1 (2008) (accessible at <https://juris.ohchr.org/Search/Details/1613>).

³⁵ For background on the Human Rights Committee's treaty body review process, see Office of the High Commissioner for Human Rights, 'Guidelines and tools for treaty body reporting' (2022) (accessible at: <https://www.ohchr.org/en/treaty-bodies/guidelines-and-tools-treaty-body-reporting>).

Of particular relevance here is the [Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#), a position that was first mandated in 1993.³⁶ The Special Rapporteur undertakes a number of activities in support of freedom of expression, including engaging in fact-finding country visits, preparing thematic reports, responding to individual communications and preparing urgent appeals to states on alleged violations.³⁷ In addition to receiving communications about urgent cases, the Special Rapporteur periodically issues calls for input into thematic reports and welcomes relevant submissions from members of civil society. Another Special Rapporteur of particular relevance to digital rights is the UN [Special Rapporteur on the right to privacy](#), who undertakes similar tasks to help advance privacy rights.

Often in cases of cross-cutting human rights concerns, special rapporteurs issue joint statements. For example, in June 2021, the Special Rapporteur on freedom of expression, the Special Rapporteur on freedom of peaceful assembly and association, and the Special Rapporteur on the right to privacy issued a joint communication to India highlighting human rights concerns with newly published rules issued under India's Information and Technology Act.³⁸

Certain working groups may also provide freedom of expression recourse in some circumstances. For example, freedom of expression issues sometimes involve arbitrary detentions and, in such cases, individuals or their counsel may consider a complaint to the [Working Group on Arbitrary Detention](#).³⁹

CONCLUSION

Although there is not yet a regional human rights court in South or Southeast Asia, and only a limited human rights system in Southeast Asia (and none in South Asia), the UN human rights system can still play an important role in upholding human rights in these regions. Among the most effective tools that individual rights-holders may have is to bring, directly or through their counsel, individual complaints to treaty bodies. Another tool that is not dependent on states' having accepted the jurisdiction of treaty bodies in relation to individual complaints is to raise concerns through communications with the UN special procedures, notably the UN Special Rapporteur on freedom of expression and the Special Rapporteur on the right to privacy. Engagements with states by the UN treaty bodies and special procedures can prove highly impactful for those seeking to hold their states to account for rights violations, whether in individual cases or more generally.

³⁶ For more the Special Rapporteur, see Office of the High Commissioner for Human Rights, 'About the mandate: Special Rapporteur on freedom of expression and opinion' (2022) (accessible at: <https://www.ohchr.org/en/special-procedures/sr-freedom-of-opinion-and-expression/about-mandate>).

³⁷ *Id.*

³⁸ Communication OL IND8/2021 (2021) (accessible at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26385>).

³⁹ For background on the jurisprudence of this Working Group, see Jared Genser, *The UN Working Group on Arbitrary Detention: Commentary and Guide to Practice* (2020, Cambridge, Cambridge University Press) (accessible at: <https://www.perseus-strategies.com/wpcontent/uploads/2020/04/Jared-Genser-The-UN-Working-Group-on-Arbitrary-DetentionCambridge-University-Press-2019.pdf>)