

UNIVERSAL PROTECTION OF HUMAN RIGHTS

Adrienne KOMANOVICS

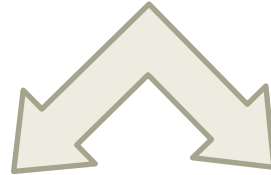
Protection of individuals at international level

- United Nations Organization
- Regional level
 - Council of Europe
 - Organization of American States
 - African Union
 - Arab League



Mrs. Eleanor Roosevelt, wife of the President of the United States, holding the Universal Declaration of Human Rights

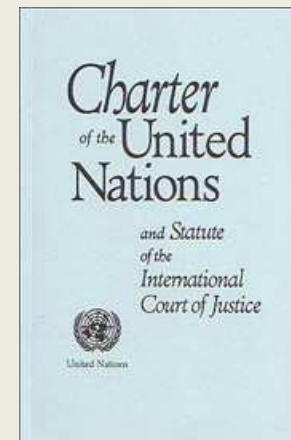
Protection of human rights in the framework of the UN



Treaty-based machinery



Charter-based procedures





Protection of human rights

Charter-based bodies:

- Derive their establishment from provisions of the UN Charter
- Hold broad human rights mandates
- Address an unlimited audience
- Take action based on majority voting

Treaty-based bodies:

- Derive their existence from provisions contained in a specific legal instrument
- Hold more narrow mandates
- Address a limited audience (only those countries that have ratified the legal instrument)
- Base their decision-making on consensus.

1. CHARTER-BASED MACHINERY

**Non-treaty
based
machinery:
UN bodies**

ECOSOC

54 members
Government representatives

Human Rights Council

47 State representatives
Advisory Committee of the Human Rights
Council (26 experts)

High Commissioner for Human Rights

From 1994
Navi Pillay (South Africa, 2008-)

The Human Rights Council and its Predecessor, the Commission on Human Rights

Commission on Human Rights

Short- comings

Membership

Undemocratic and repressive States
Quasi permanent membership of the SC
permanent members

Functioning

The working became politicised
Selectivity: country specific resolutions

Meetings

Lack of meeting time: one annual session for
a six-week period



Human Rights Council

Membership

- Elected by the GA
- Membership reduced from 53 to 47
- Prevention of quasi-permanent membership
- Selection criteria
- Suspension of membership

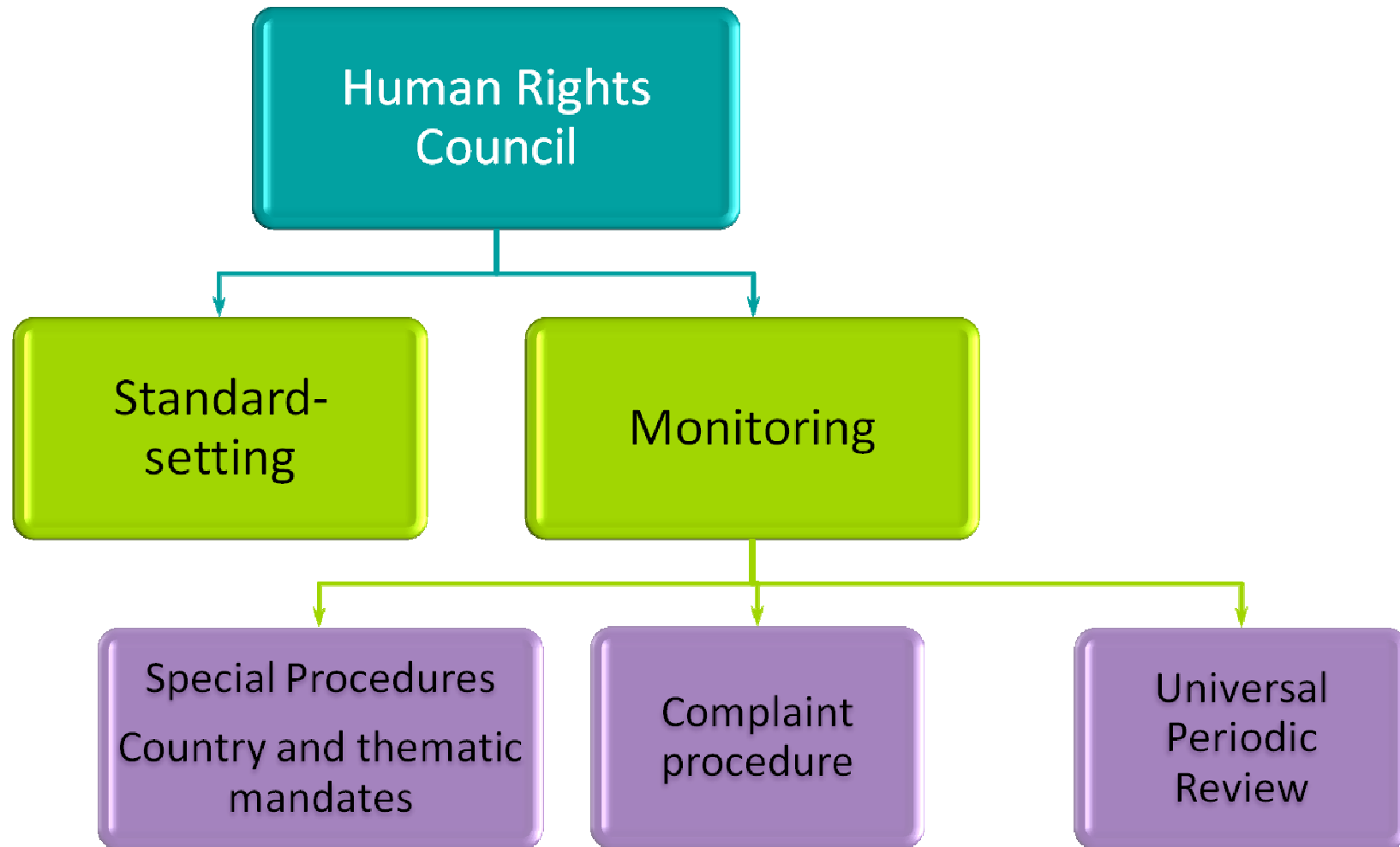
Mandate

- Standard setting
- Monitoring of human rights

Meetings

- More regular meeting schedule
- Special sessions

Mandate of the Human Rights Council



Universal Periodic Review

How the UPR works ...



All UN members reviewed every four years

48 States reviewed each year

All Council members reviewed during their term of membership

Reviews carried out by UPR Working Group (the 47 HRC members)

The UPR WG holds three two-week sessions per year

WG sessions take place at the UN Office at Geneva

Review carried out by groups of three States ("troikas"), drawn by lot who act as rapporteurs

**What
human
rights
obligations
are
addressed?**



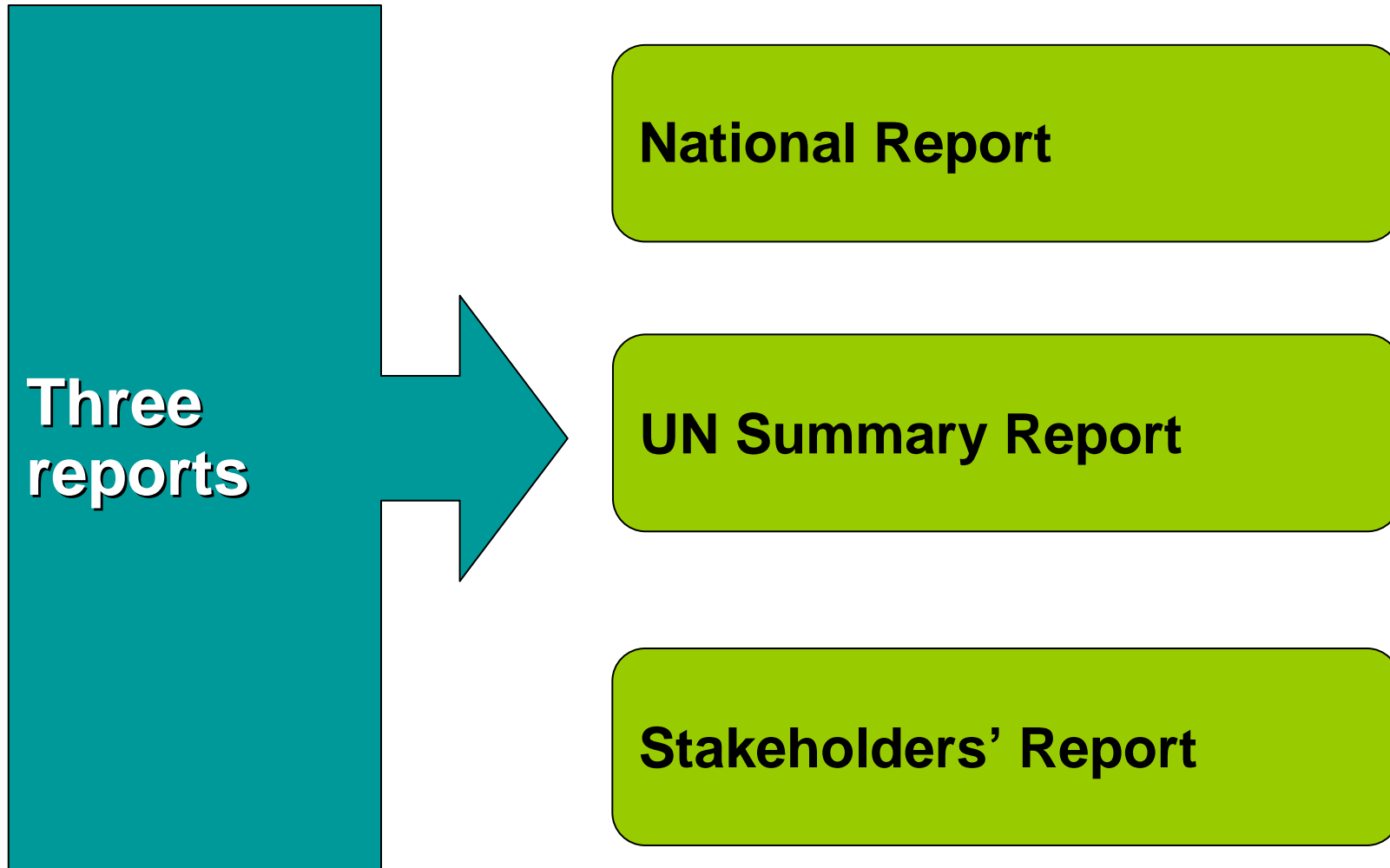
1. UN Charter

**2. Universal Declaration of
Human Rights**

**3. Human rights treaties ratified
by the State**

**4. Voluntary pledges and
commitments**

**5. International humanitarian
law**



Stage 1: Reports on SuR are prepared

1. State report
2. Compilation of stakeholder contributions
3. Compilation of human rights findings by UN on SuR

Stage 2: SuR appears before UPR Working Group

Government engages with other countries about the human rights situation in SuR and specified steps it will take to improve the enjoyment of human rights.
Any government can ask questions of SuR or make recommendations

Stage 5: Follow up processes

Government will be required to report on how it has implemented recommendations at next UPR appearance. Outcomes can also be considered in all UN processes.
Processes for implementation and follow up domestically can also be undertaken.

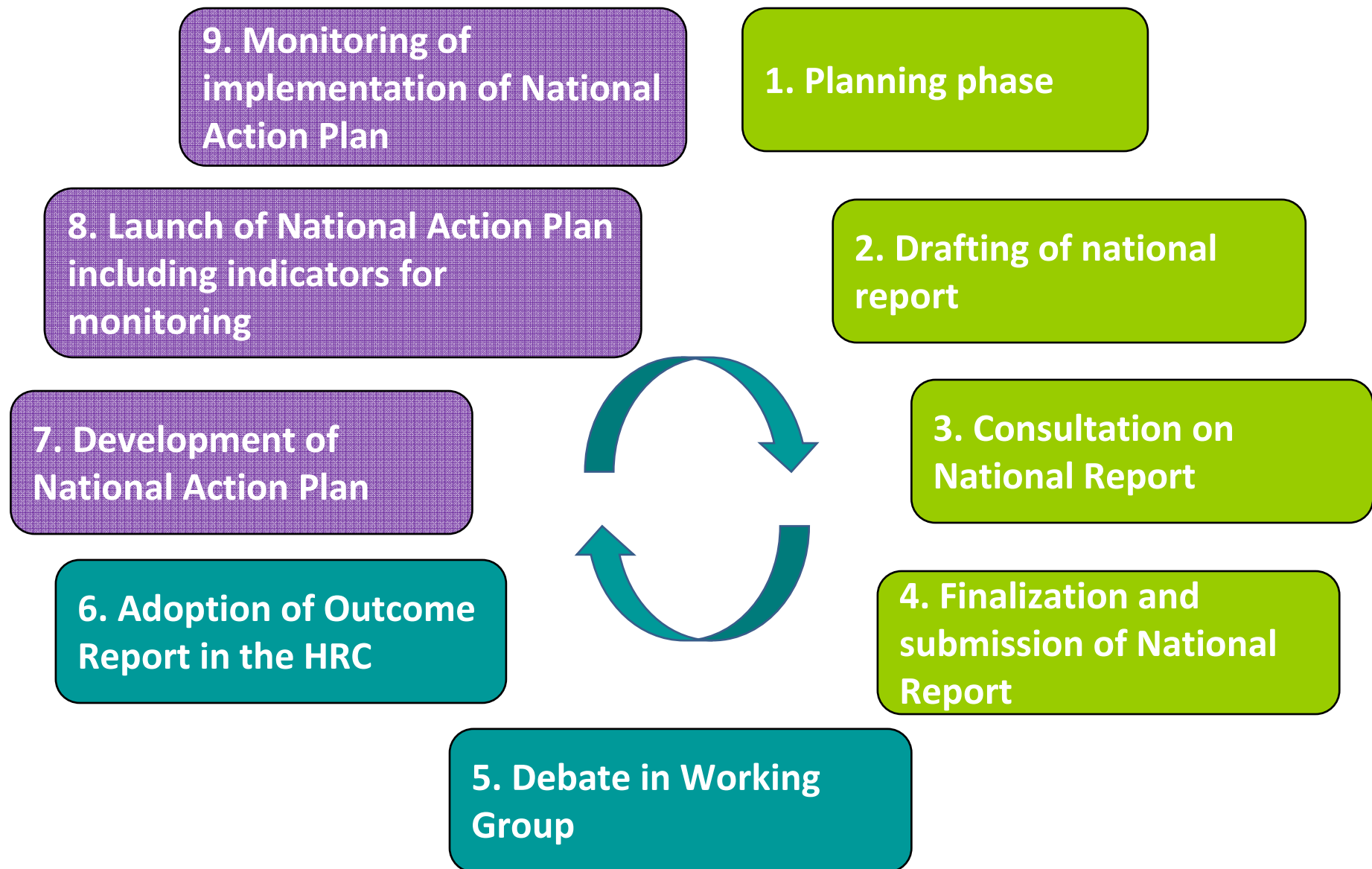
Stage 3: Report of the Working Group is prepared

Outcome report will include conclusions and recommendations for consideration by the government under review

Stage 4: Report of the Working Group is adopted at the Human Rights Council

SuR indicates which recommendations it supports and which ones it rejects

SuR = State under Review



→ Phase 1: Preparations (country)
 → Phase 2: The interactive dialogue and adoption of outcome report (Geneva)
 → Phase 3: Follow up on recommendations (country)

Statistics: State under review

Rank	State under Review	Total recommendations	% of 18 889 recommendations
1	United States	280	1.48
2	Iran	212	1.12
3	Sudan	204	1.08
4	Myanmar	197	1.04
5	Nepal	193	1.02
6	Irak	179	0.95
7	Kyrgyzstan	175	0.93
8	Viet Nam	172	0.91
9	Egypt	171	0.91
10	Austria	170	0.90
...			
34	Hungary	149	0.79
...			
59	Croatia	131	0.69

Statistics: Recommending State

Rank	Recommending State	Total recommendations	% of 18,889 recommendations
1	Canada	816	4.32
2	Norway	636	3.37
3	France	621	3.29
4	Mexico	604	3.20
5	Brazil	603	3.19
6	Spain	586	3.10
7	United Kingdom	585	3.10
8	Algeria	571	3.02
9	Netherlands	512	2.71
10	Slovenia	483	2.56
...			
25	Hungary	242	1.28
...			
122	Croatia	12	0.06

Statistics: Response

Rank	Response	Total recommendations	% of 18,889 recommendations
1	Accepted	816	72.84
2	Rejected	636	14.21
3	General response	621	7.14
4	No response	604	5.81

Statistics: Issue

Rank	Issue	Total recommendations	% of 18,889 recommendations
1	International instruments	3714	19.66
2	Women's rights	3308	17.51
3	Rights of the child	3054	16.17
4	Torture and other CID treatment	1499	7.94
5	Justice	1362	7.21
6	Human rights education & training	830	4.39
7	Detention conditions	798	4.22
8	Death penalty	796	4.21
9	Special procedures	787	4.17
10	Treaty bodies	765	4.05
11	Migrants	762	4.03
12	Minorities	757	4.01

Human Rights Council Universal Periodic Review

	1st Session (2008)	2nd Session (2008)	3rd Session (2008)	4th Session (2009)	5th Session (2009)	6th Session (2009)	7th Session (2010)	8th Session (2010)	9th Session (2010)	10th Session (2011)	11th Session (2011)	12th Session (2011)
1	Morocco	Gabon	Botswana	Cameroon	Central African Republic	Côte d'Ivoire	Angola	Guinea	Liberia	Mozambique	Seychelles	Swaziland
2	South Africa	Ghana	Burkina Faso	Djibouti	Chad	Democratic Republic of the Congo	Egypt	Guinea-Bissau	Libyan Arab Jamahiriya	Namibia	Sierra Leone	Togo
3	Tunisia	Mali	Burundi	Mauritius	Comoros	Equatorial Guinea	Madagascar	Kenya	Malawi	Niger	Somalia	Uganda
4	Algeria	Zambia	Cape Verde	Nigeria	Congo	Eritrea	Gambia	Lesotho	Mauritania	Rwanda	Sudan	United Republic of Tanzania
5	Bahrain	Benin	Turkmenistan	Senegal	Vanuatu	Ethiopia	Qatar	Kiribati	Lebanon	Sao Tome and Principe	Palau	Zimbabwe
6	India	Japan	Tuvalu	Bangladesh	Viet Nam	Bhutan	Fiji	Kuwait	Maldives	Myanmar	Papua New Guinea	Syrian Arab Republic
7	Indonesia	Pakistan	United Arab Emirates	China	Yemen	Brunei Darussalam	Iran (Islamic Republic of)	Kyrgyzstan	Marshall Islands	Nauru	Samoa	Tajikistan
8	Philippines	Republic of Korea	Uzbekistan	Jordan	Afghanistan	Cambodia	Iraq	Lao People's Democratic Republic	Micronesia (Federated States of)	Nepal	Singapore	Thailand
9	Argentina	Sri Lanka	Colombia	Malaysia	Uruguay	Cyprus	Kazakhstan	Grenada	Mongolia	Oman	Solomon Islands	Timor Leste
10	Ecuador	Tonga	Bahamas	Saudi Arabia	Belize	Democratic People's Republic of Korea	Bolivia	Guyana	Honduras	Paraguay	Saint Vincent and the Grenadines	Trinidad and Tobago
11	Brazil	Guatemala	Barbados	Cuba	Chile	Costa Rica	Nicaragua	Haiti	Jamaica	Saint Kitts and Nevis	Suriname	Venezuela (Bolivarian Republic of)
12	Netherlands	Peru	Israel	Mexico	Malta	Dominica	El Salvador	Spain	Panama	Saint Lucia	Belgium	Antigua and Barbuda
13	Finland	France	Liechtenstein	Canada	Monaco	Dominican Republic	Italy	Sweden	United States	Australia	Denmark	Iceland
14	United Kingdom	Switzerland	Luxembourg	Germany	New Zealand	Norway	San Marino	Turkey	Andorra	Austria	Greece	Ireland
15	Poland	Romania	Montenegro	Russian Federation	Slovakia	Portugal	Slovenia	Armenia	Bulgaria	Estonia	Hungary	Lithuania
16	Czech Republic	Ukraine	Serbia	Azerbaijan	The Former Yugoslav Republic of Macedonia	Albania	Bosnia and Herzegovina	Belarus	Croatia	Georgia	Latvia	Moldova

2. TREATY-BASED MACHINERY

Universal Declaration of Human Rights

Preamble

- Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
- Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,
- Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,
- ...

Article 1

- All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

- Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. ...

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination (1965)
ICCPR	International Covenant on Civil and Political Rights (1966)
ICESCR	International Covenant on Economic, Social and Cultural Rights (1966)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women (1979)
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984)
CRC	Convention on the Rights of the Child (1989)
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)
CRPD	Convention on the Rights of Persons with Disabilities (2006)
CED	International Convention for the Protection of All Persons from Enforced Disappearance (2006)

Monitoring and implementing human rights

Convention	State report	Interstate complaint	Individual petition
ICCPR	compulsory	optional	Optional Protocol
ICESCR	compulsory	---	(draft)
ICERD (racial)	compulsory	compulsory	optional
CAT (torture)	compulsory	optional	optional
CEDAW (women)	compulsory	---	Optional Protocol
CRC (child)	compulsory	---	---
ICRMW (migrant)	compulsory	---	optional
CRPD (disabilities)	compulsory	---	Optional Protocol
CED (disappearance)	compulsory	optional	optional

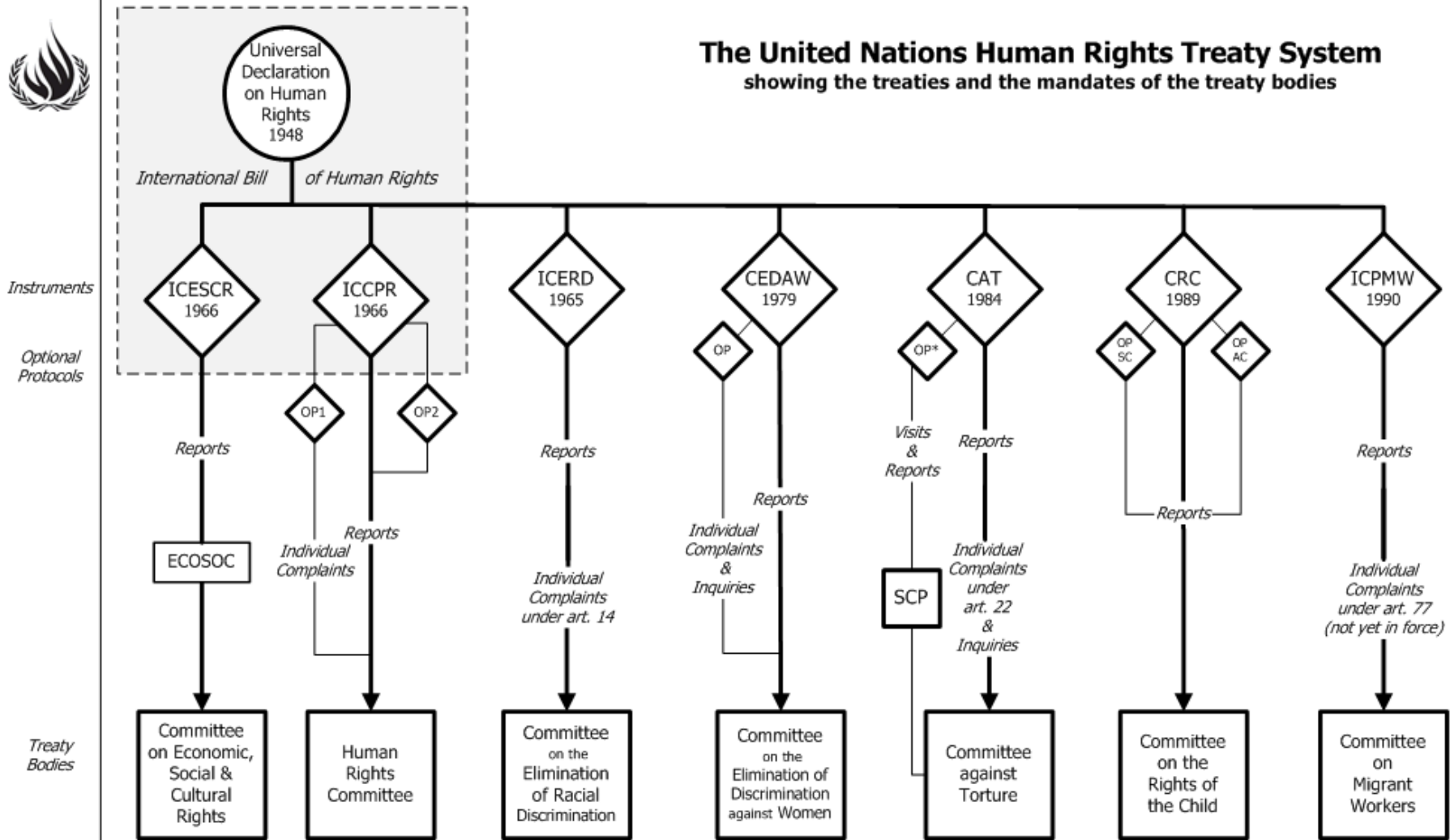
Treaty-based machinery

- ... Committee
- 10, 14, 18, 23 or 25 members, personal capacity
- Equitable geographical distribution
- Representation of the different forms of civilization
- Representation of the principal legal systems
- Procedures: state reports, interstate complaints, individual complaints, special inquiry

Treaty monitoring bodies

- Human Rights Committee (HRC)
- Committee on Economic, Social and Cultural Rights (CESCR)
- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on the Elimination of Discrimination against Women (CEDAW)
- Committee Against Torture (CAT)
- Committee on the Rights of the Child (CRC)
- Committee on Migrant Workers (CMW)
- Committee on the Rights of Persons with Disabilities (CRPD)
- Committee on Enforced Disappearances (CED)

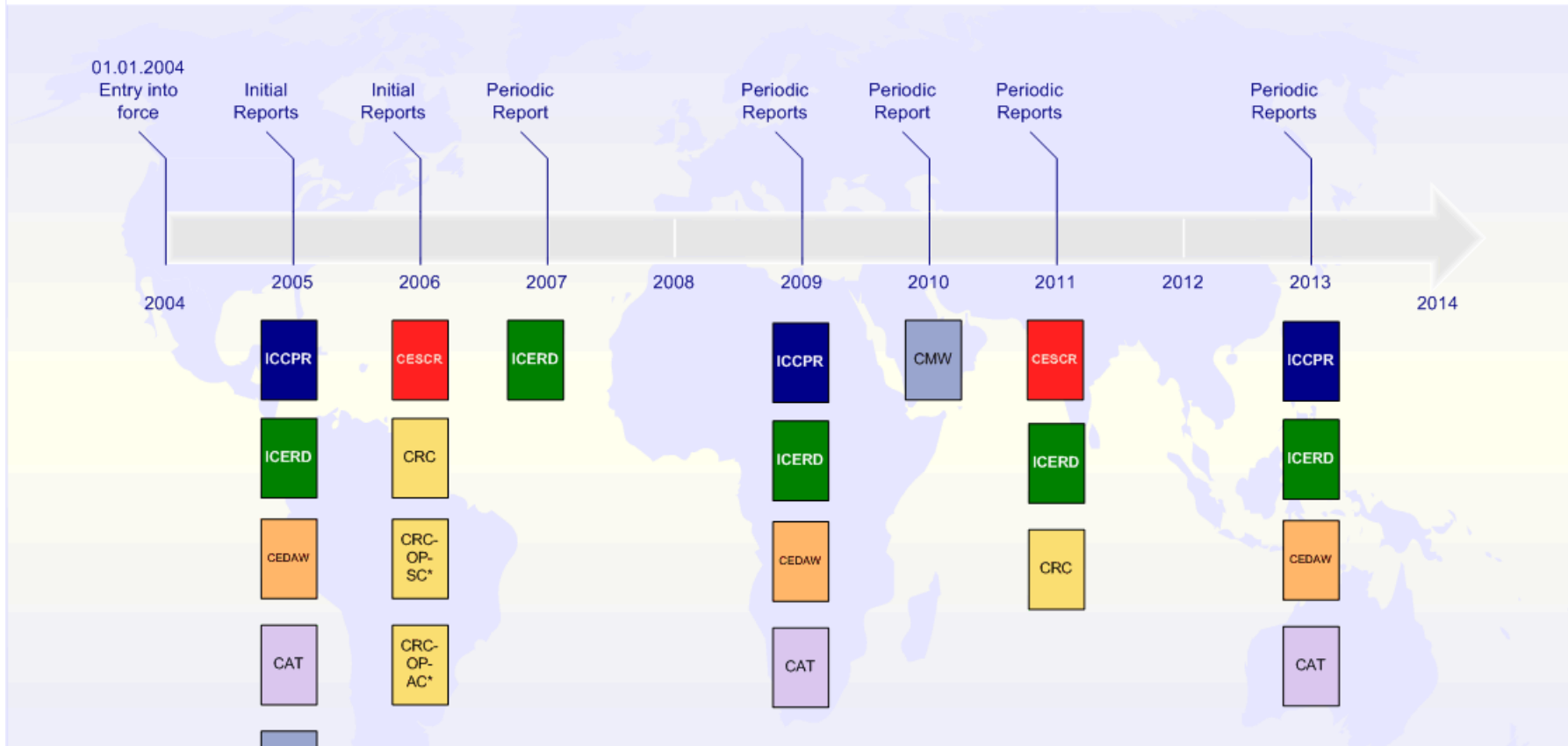
Treaty-based procedures: overview



SCP = Sub-Committee on Prevention
* OPCAT not yet in force



State party reporting obligations under the international human rights treaties



* Report required to be submitted once only. Subsequent reporting on implementation of the optional protocol to be included in periodic reports under the CRC, except where the State is not party to that convention.

The timeline shows the reporting obligations that would be incurred over a ten-year period by a State which becomes party to all seven international human rights treaties and their optional protocols on 1 January 2004
Total reporting obligation = 22 reports over ten years

Average time between submission of reports over a ten-year period = 5.45 months

States parties are also requested by some committees to respond to lists of questions from members and to report on follow-up to concluding observations.

Note: very few States in practice have become parties to all seven treaties and their optional protocols and late and non-reporting present a serious challenge to the treaty system.

Prepared by
Treaties and Commission Branch
OHCHR, Geneva, November 2004
Copyright OHCHR 2005

The reporting cycle under the human rights treaties

