

4. Access to justice at the global level

Script

Access to justice at the global level; what to do when local and national systems haven't worked

As we mentioned in the other films on access to justice the primary level at which we should be able to access legal justice is at the local and national level. But in some contexts local and national systems don't exist or don't work effectively. So what do you do when all your domestic options are used up or if domestic options don't exist?

There are two possibilities, regional human rights systems and global mechanisms. In this film we're going to focus on global mechanisms – on the human rights mechanisms of the United Nations.

It's important to remember that UN human rights mechanisms are not courts. They don't have legal authority and can't order international intervention into the affairs of sovereign states. There is no international police force. What UN human rights mechanisms can do is put international pressure on states to respect, protect and promote human rights.

Three United Nations bodies that it's useful to know about are the Office of the High Commissioner for Human Rights, the Human Rights Committee, and the Human Rights Council.

1. The Office of the High Commissioner supports the human rights work of the United Nations as a whole. The Office assists States in upholding human rights, for example by providing technical training on legislative reform or the administration of justice. The office also empowers individuals for example through human rights education.
2. The governments of the world have agreed on nine core human rights conventions or treaties. For each one of these treaties there is a so called treaty body. A Treaty Body is a committee of independent experts that monitors what states are doing to implement the treaty. Freedom of religion or belief is provided in article 18 of the International Covenant on Civil and Political Rights or ICCPR. The treaty body that monitors the ICCPR is called the **human rights committee**. If your government has signed the ICCPR then once every four years it has to submit a report to the Committee on how the rights in the covenant are being implemented. The Committee examines the report and puts its concerns and recommendations to the government in a document called "concluding observations". Civil society organisations can contribute to this process by producing shadow reports and engaging in dialogue with the committee to highlight violations.

Do you know if your country has signed a document called the First Optional Protocol to the ICCPR? If you don't know then find out! If your country has signed, then it's given the Human Rights Committee permission to consider individual complaints. That means that anyone in your country can complain to the committee if their freedom or religion or belief, or other civil and political rights, have been violated. A complaint can be brought either by the individuals affected or by a third party working on their behalf (like an NGO). A third party can only bring a complaint if they have written consent from the individuals affected or if those affected are in prison without access to the outside world.

So treaty bodies like the Human Rights Committee monitor how states are implementing human rights treaties, make recommendations to states and receive and act upon individual complaints.

"<http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCCPR1.aspx>"

3. The Human Rights Council has been set up by the UN General Assembly – in other words by all 193 member countries of the UN. And the General Assembly elects 47 countries to sit on the Council. So the council is an inter-governmental body – with diplomats sitting on it.

The Human Rights Council's task is to strengthen and promote all human rights in all countries and to address human rights violations. The Council has two ways of working that are particularly important to know about – the Universal Periodic Review and appointing special rapporteurs, including the special rapporteur on freedom of religion or belief.

The Universal Periodic Review or UPR reviews the situation for all human rights in all of the UN's 193 member states. It's the only process in the world where the human rights records of all UN member states are examined in the same way regardless of whether the countries are powerful or weak, rich or poor.

The UPR is a system of peer review, where good practices and experiences from one country can be shared with others. But there's also an element of "naming and shaming". States don't like having their human rights weaknesses pointed out publicly by other states so many states do make efforts to improve even if there are others that don't.

You can find a separate film on how the UPR works in practice and how civil society organisations can participate in it on the website.

So the Human Rights Council is responsible for the Universal Periodic review. Another way in which the Council works is to appoint so called 'special procedures', these are independent experts who look at a specific theme or country as part of a working group or individually, holding the title independent expert or special rapporteur.

The special rapporteur on freedom of religion or belief, the special rapporteur on freedom of expression and the special rapporteur on minority issues are three examples of thematic 'special procedures'. There are also special rapporteurs for some countries where the Council regard the human rights situation as being

particularly bad, like Eritrea and Iran. You can find more information about what countries and themes have special rapporteurs or working groups on the OHCHR's website. If there is a special rapporteur for your country it's important to know about it!

But let's focus on the role of the special rapporteur on freedom of religion or belief – Mr Ahmed Shaheed.

The special rapporteur's role is:

- to encourage governments to take action to promote and protect freedom of religion or belief;
- to identify obstacles to freedom of religion or belief and recommend ways to overcome them;
- to examine violations of freedom of religion or belief;
- and to apply a gender perspective.

The rapporteur has several ways of working:

One is to make fact finding country visits to investigate incidents or learn about good practices. Visits are made on invitation from the government concerned.

The special rapporteur also receives complaints about violations from individuals and organisations. Complaints can be submitted through an online form on the Office of the High Commissioner for Human Rights' website. When submitting a complaint it's good to keep in mind that the information needs to be accurate, include details of the event you are complaining about and what state action has been taken. Remember that the rapporteur will only act on the complaint if permission is given by the victim or their family or legal counsel.

Complaints are important because if they provide enough evidence that a violation of freedom of religion or belief is taking place, the special rapporteur can write an urgent appeal or allegation letter asking the state concerned to provide explanations and suggest solutions.

Unlike complaints to regional courts or UN Treaty Bodies, victims can raise their case with special rapporteurs before exhausting national remedies and even when the State concerned has not ratified the relevant human rights conventions.

Communications between the special rapporteur and the government concerned are initially confidential, but the full text of all communications sent and replies received are published in communications reports to the Human Rights Council three times a year. The names of alleged victims are usually included in communications and reports, although they're sometimes removed due to concerns about privacy or protection. The identity of the source of information is always kept confidential: It's not included in the communication sent to the Government or in the public communications report.

Reports from the Special Rapporteur to the Human Rights Council are useful resources and important inputs to the UPR process. Special Rapporteurs work

hard but they do have limited time. That's because they are not paid and have to do the work of the rapporteur at the same time as having another job.

If you haven't related to the United Nations before then all this information probably sounds very bureaucratic and complicated. But don't be put off! It is possible for ordinary people and organisations to use this knowledge. Getting in touch with the special rapporteur, for example, is easier than you might think.

To sum up

When local and national systems of justice haven't worked you can highlight violations through to the global human rights mechanisms of the United Nations.

The Human Rights Committee monitors what states are doing to live up to the rights specified in the International Covenant on Civil and Political Rights, including freedom of religion or belief. States have to report to them once every four years and the Committee recommends steps that the government could take to improve the situation. The committee also receives individual complaints.

The Human Rights Council oversees the Universal Periodic Review, which looks at the state of human rights in each country of the world once every four and a half years. There are several ways for civil society to feed information about violations into the review so watch the separate film on this for more information.

The Council also appoints special procedures. The special rapporteur on freedom of religion or belief is one of these and undertakes country visits, receives and acts upon complaints about violations and produces reports on freedom of religion or belief.

Together with local, national and regional systems of justice, these global human rights mechanisms form the framework through which we can try to find justice in relation to human rights violations, including of course violations of freedom of religion or belief.