

---

# **Working Paper: Human Rights, the Sustainable Development Goals and Gender Equality**

Dr Meghan Campbell, University of Birmingham

# Contents

---

The Aims of the UN Human Rights System	3
UN Treaty-Based and Charter-Based Accountability Bodies	5
Periodic Review Process	6
Individual Communications	8
Inquiry Procedure	9
General Recommendations	9
Conclusions	11

International human rights law and the Sustainable Development Goals (SDGs) contain strong commitments to gender equality and women's empowerment. Each regime brings strengths to the struggle to achieve gender equality. The strength of the SDGs lies in mobilising global political will through a series of targets and benchmarks while the strength of international human rights law is in accountability. The synergy between these two regimes opens up exciting potential for refining and innovating international human rights law *and* development policies. The British Academy report *Working Together: Human Rights, the Sustainable Development Goals and Gender Equality* (authored by Sandra Fredman FBA) explores this potential and goes into depth on the role of UN treaty bodies in holding States to account for realising the SDG to achieve gender equality and women's empowerment. This background paper provides contextual knowledge on the complex multi-layered accountability structure at the UN. It analyses the role of the UN accountability bodies, the legal authority of their outputs and their potential to participate in realising the SDGs.

## The Aims of the UN Human Rights System

The central tension that permeates the UN human rights system is the need for collective action to protect human rights and the desire to preserve the State's sovereignty. After the Second World War, there was a renewed impetus to create international mechanisms to prevent mass atrocities. The founding document of the new international movement, the UN Charter,<sup>1</sup> holds:

*“With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:*

- a. higher standards of living, full employment, and conditions of economic and social progress and development;*
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and*
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”<sup>2</sup>*

State Parties pledge themselves in Article 56 of the UN Charter to take joint and separate action in co-operation with the UN to achieve these aims. Building upon this commitment, the Universal Declaration of Human Rights encapsulates a vision of a world committed to human rights.<sup>3</sup> The preamble explains the founding motivations of the UN:

*“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*

---

<sup>1</sup> Adopted 24 October 1945, 1 UNTS XVI.

<sup>2</sup> Article 55.

<sup>3</sup> Adopted by General Assembly Resolution 217 A(III), 10 December 1948.

*speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people...*

*Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realisation of this pledge..."*

Human rights are no longer the exclusive purview of the State. Moreover, this regime has universalist aspirations. The global community has a stake in respecting, protecting and fulfilling human rights. Through working together and through the UN mechanisms, the international system can shine the spotlight on a State's internal human rights record and point the way forward to ensure rights are fully enjoyed all over the world.

While the need to pursue collective action to protect human rights permeates the UN's foundational documents, it is in tension with the bedrock principle of international law: State sovereignty. As Alston and Goodman note, State sovereignty is a difficult concept to pin down.<sup>4</sup> At its core, it is the idea that the State should have absolute power over its own territory and people and that no State can interfere with the internal workings of another State. States often rebuke global efforts to realise human rights in the name of State sovereignty. This is particularly common in relation to gender equality. States often enter into treaties but have reservations in relation to certain provisions. The Convention on the Elimination of All Forms of Discrimination Against Women "bears the unfortunate distinction of being the human rights treaty subject to the largest number of reservations by ratifying States... these widespread reservations... erode the Committee's capacity to effectively monitor the Convention."<sup>5</sup> Measures designed to advance women's human rights are often dismissed as undermining local culture.<sup>6</sup> The accusation then arises that international law is in fact an imposition from Western countries in the guise of UN human rights bodies. When States are held accountable by UN bodies, they often respond by questioning the legitimacy of UN agencies and accuse these bodies of political bias. As one example, the US Ambassador to the UN said it "was inappropriate and illegitimate for an international civil servant to second-guess" the US's use of secret prisons.<sup>7</sup>

The UN human rights bodies, both treaty- and Charter-based, discussed in more detail below, seek to mediate these difficult tensions. They aspire to universal, collective measures to protect human rights while at the same time respecting State sovereignty and local culture. These tensions come to the fore mostly clearly in respect to the enforcement of international human rights law. In the domestic legal system, we speak of "judgments", "adjudicating" and "court orders". In contrast, the UN uses a softer language. Human rights bodies express "concerns", make "decisions" and provide "recommendations". The precise legal weight of the outputs of the UN human rights bodies is unclear. They are not legally binding or directly enforceable in the same manner as domestic court judgments. The most compelling understanding is that UN human rights outputs are significant and persuasive authority for understanding the scope of human rights obligations. The work of UN human rights bodies has also been drawn upon to understand domestic human rights instruments.<sup>8</sup> UN human rights bodies have expertise in human rights law and as such their interpretation and understanding is entitled to serious consideration. This view has been adopted by the International Court of Justice which ascribes great weight to the outputs of UN treaty-based bodies.<sup>9</sup> As a result of the legal difference, the UN system relies on different enforcement procedures. It seeks to use "naming and shaming" techniques to spark transformative legal and

---

<sup>4</sup> Philip Alston and Ryan Goodman, *International Human Rights* (OUP, 2012).

<sup>5</sup> Catherine O'Rourke and Aisling Swaine, 'CEDAW and the Security Council: Enhancing Women's Rights in Conflict' (2018), 67 *International and Comparative Law Quarterly*, pp. 167, 175.

<sup>6</sup> Frances Raday, 'Culture, Religion and Gender' (2003), 1(4) *International Journal of Constitutional Law*, p. 663.

<sup>7</sup> Alston and Goodman (see supra note 4), p. 745.

<sup>8</sup> Machiko Kanetake, 'UN Human Rights Treaty Monitoring Bodies Before Domestic Court' (2018), 67 *International and Comparative Law Quarterly*, p. 201.

<sup>9</sup> Case Concerning Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo), (2010), ICJ Rep., p. 693.

policy change. UN human rights bodies also provide best practice guidance that can open new lines of arguments for lawyers and courts and that can be used by civil society organisations (CSOs) in legal and political activism.<sup>10</sup>

## UN Treaty-Based and Charter-Based Accountability Bodies

To concretise the rights in the UN Charter and the Universal Declaration of Human Rights, the UN has created a complex system of human rights accountability. There are numerous bodies that derive their author from the UN Charter including the Security Council and the General Assembly. The General Assembly established the Human Rights Council, “an inter-governmental body... made up of 47 States responsible for the promotion and protection of all human rights around the globe.”<sup>11</sup> The Human Rights Council appoints special mandate holders, such as Special Rapporteurs and Working Groups. Mandates are either State-specific or on a particular human rights issue; for example, extreme poverty and human rights or discrimination against women in law or practice. Mandate holders are selected “on the basis of their expertise, experience, independence, impartiality, integrity and objectivity.”<sup>12</sup> They are meant “to promote awareness, to foster respect and to respond to violations” of human rights.<sup>13</sup> Special Rapporteurs investigate alleged violations, undertake fact-finding missions, study a particular right and advocate human right issues to States.<sup>14</sup> Special mandates are an attempt by the UN “to pierce the veil of national sovereignty... to handle serious cases of human rights violations.”<sup>15</sup> Subedi, the Special Rapporteur on the situation of human rights in Cambodia, notes that “because they are not part of an intergovernmental body [Special Rapporteurs] have greater freedom of action, greater flexibility, and fewer political constraints on speaking their mind.”<sup>16</sup> The reports of special mandate holders are authored by one individual or a small group of people and can be adopted after a “strongly contested majority voting.”<sup>17</sup> This can create factional and political battles, but it also allows them to take a stronger stance on human rights.

States have created numerous human rights treaties.<sup>18</sup> The two cornerstone treaties are the International Covenant on Civil and Political Rights (ICCPR)<sup>19</sup> and the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>20</sup> There were concerns that the ICCPR and ICESCR were insufficiently attentive to how minority and disadvantaged groups experience human rights violations.<sup>21</sup> This prompted a series of identity and situation-specific human rights treaties including:

- The Convention on the Elimination of All Forms of Racial Discrimination (CERD)<sup>22</sup>
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>23</sup>
- The Convention on the Rights of the Child (CRC)<sup>24</sup>
- The Convention Against Torture (CAT)<sup>25</sup>

---

<sup>10</sup> Kanetake (see supra note 8); Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge University Press, 2009) pp. 253-4.

<sup>11</sup> United Nations Human Rights Council, <https://www.ohchr.org/en/hrbodies/hrc/pages/home.aspx>.

<sup>12</sup> UN General Assembly Resolution 48/141 (1993).

<sup>13</sup> *Ibid.*

<sup>14</sup> Manual of Operation of the Special Procedures of the Human Rights Council, [http://www.ohchr.org/Documents/HRBodies/SP/Manual\\_Operations2008.pdf](http://www.ohchr.org/Documents/HRBodies/SP/Manual_Operations2008.pdf).

<sup>15</sup> Surya Subedi, ‘Protection of Human Rights Through the Mechanism of UN Special Rapporteurs’ (2011), 33(1) *Human Rights Quarterly*, pp. 201, 202.

<sup>16</sup> *Ibid.*, p. 218.

<sup>17</sup> Alston and Goodman (see supra note 4), p. 693.

<sup>18</sup> This section is drawn from Meghan Campbell, *Women, Poverty, Equality: The Role of CEDAW* (Hart, 2018).

<sup>19</sup> Adopted 16 December 1966, entry into force 23 March 1976), 999 UNTS 171.

<sup>20</sup> Adopted 16 December 1966, entry into force 3 January 1976), 993 UNTS 3.

<sup>21</sup> Division for the Advancement of Women, ‘Short History of CEDAW Convention’, <http://www.un.org/womenwatch/daw/cedaw/history.htm>.

<sup>22</sup> Adopted 21 December 1965, entry into force 4 January 1969), 660 UNTS 194.

<sup>23</sup> Adopted 18 December 1979, entry into force 3 September 1981), 1239 UNTS 13.

<sup>24</sup> (adopted 20 November 1989, entry into force 2 September 1990) 1577 UNTS 3.

<sup>25</sup> (adopted 10 December 1984, entry force 26 June 1987) 1465 UNTS 85.

- The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)<sup>26</sup>
- The Convention for the Protection of All Persons with Enforced Disappearance (CPED)<sup>27</sup>
- The Convention on the Rights of Persons with Disabilities (CRPD)<sup>28</sup>

In essence, the UN has a two-pronged complementary approach to women's human rights through the "principles of non-discrimination and equality in [the] *mainstream* human rights treaties and through these principles in [the] *identity*-specific human rights treaties."<sup>29</sup> To prevent these treaties falling into empty rhetorical statements and to ensure that rights are "connected to real people's, real experiences"<sup>30</sup>, each treaty has a treaty body to *monitor* (not enforce) the implementation of the treaty. The treaty bodies are made up of individuals who are independent of their government and have expertise in human rights. The treaty bodies strive for geographic and regional basis but have been critiqued for a lack of gender diversity.<sup>31</sup> The treaty bodies are chronically under-funded and supported. Members work part-time, only receive a small honorarium and are given a limited amount of time to process thousands of pages of documents and conduct accountability reviews. Decisions are made on the basis of consensus. While this mode of decision making prevents factionalism, it can result in "compromise, the blunting of positions [and] the failure to take the bolder step",<sup>32</sup> for example, around LGBTQI issues and women's sexual and reproductive health rights.<sup>33</sup>

Despite these shortcomings, the treaty bodies have significantly contributed to the collective understanding of human rights norms in the treaties. The CEDAW Committee, in particular, is the "key institution advancing feminist-informed normative and legal developments on women's rights under international law."<sup>34</sup> In their monitoring role, treaty bodies consider State reports in the periodic review process, make General Recommendations, decide Individual Communications and conduct Inquiry Procedures into systemic abuses. Using CEDAW as a case study, the following sections will detail the use of these different accountability mechanisms in relation to the SDGs.

### Periodic Review Process

The *periodic review process* is the central accountability procedure. Under Article 18 of CEDAW, States are obligated to submit a report every four years detailing the measures the State has taken to implement CEDAW. The CEDAW Committee has developed a multi-layered review process. The starting point is the State report which is meant to paint "a complete picture" of the situation of women in the State.<sup>35</sup> The UN Office of the High Commissioner of Human Rights and all of the UN treaty bodies, including the CEDAW Committee, have provided reporting guidelines to assist the State in preparing these documents. These guidelines request that the State provide information on the "integration of a gender perspective... in all efforts aimed at the achievement" of the SDGs.<sup>36</sup> Alongside the State report, the State also submits a common core document. This document "should contain information of a general and factual nature relating to the implementation of the treaties to which the reporting State is party and which may be of relevance to all or several treaty bodies."<sup>37</sup>

---

<sup>26</sup> Adopted 18 December 1990, entry into force 1 July 2003), A/RES/45/158.

<sup>27</sup> Adopted 12 January 2007, entry into force 23 December 2010), A/RES/ 61/177.

<sup>28</sup> Adopted 24 January 2007), A/RES/61/106.

<sup>29</sup> Fleur Van Leeuwen, 'Women's Rights are Human Rights!': The Practice of the United Nations Human Rights Committee and the Committee on Economic, Social and Cultural Rights' in Anne Hellum and Henriette Sinding Aasen (eds.), *Women's Human Rights: CEDAW in International Regional and National Law* (CUP, 2013), p. 246.

<sup>30</sup> See Justice L'Heureux-Dube dissent in *Egan v Canada* (1995), 2 SCR, p. 513.

<sup>31</sup> International Service for Human Rights, 'Gender Diversity in UN Human Rights Bodies: Words Must be Matched by Facts' (2016), <https://www.ishr.ch/news/gender-diversity-un-human-rights-bodies-words-must-be-matched-facts>.

<sup>32</sup> Alston and Goodman (see supra note 4), p. 765.

<sup>33</sup> Martha Nussbaum, 'Women's Progress and Women's Human Rights', 38(3) *Human Rights Quarterly*, p. 589.

<sup>34</sup> O'Rourke and Swaine (see supra note 5), p. 173.

<sup>35</sup> Office of the High Commissioner of Human Rights (OHCHR), 'Compilation of Guidelines on the Form and Content of Report to be Submitted by State Parties to the International Human Rights Treaties, Report of the Secretary General' (2009), HRI/GEN/2/Rev.6 [3].

<sup>36</sup> *Ibid.*, [1.2].

<sup>37</sup> *Ibid.*, [27].

A CEDAW Committee member provides a briefing note, which is not publicly available, pinpointing the key gender equality issues in the State to be discussed in the periodic review process. A sub-group of the CEDAW Committee, the pre-session working group, drawing on the briefing note, then reviews the State report.<sup>38</sup> There is then a written dialogue session, where the working group asks a series of targeted questions and the State can submit a written reply.<sup>39</sup>

To offset any biases, factual inaccuracies or omissions in the State report, CSOs are encouraged to submit State-specific information to the pre-session working group.<sup>40</sup> Given that the CEDAW Committee has no fact-finding ability in the periodic reporting process, CSOs' reports have been described as an essential element to obtain an "accurate picture of the human rights situation."<sup>41</sup> Unlike CSOs, there is formal recognition of the role of UN agencies in the reporting process. By Article 22 of CEDAW and the working methods of the CEDAW Committee, other UN agencies are given the opportunity to contribute to the work of the CEDAW Committee.<sup>42</sup> There is very little evidence of UN agencies submitting information on the implementation of the SDGs. UN agencies can also submit material during closed sessions of the CEDAW Committee.<sup>43</sup>

The last step is the oral dialogue session between the State representatives and the CEDAW Committee. This is meant to be a constructive interaction. The session will try "to focus on issues identified by the pre-session working group"<sup>44</sup> because only issues "raised during the constructive dialogue are included in the Concluding Observations."<sup>45</sup> The CEDAW Committee draws on all these sources to release the Concluding Observations which point out gender equality successes, evaluate where CEDAW could be further implemented and provide recommendations.

There are multiple sites where the SDGs could potentially feed into the periodic reporting process including the State reporting guidelines, the State report, CSO submissions, and the written and oral dialogue session between the State and the treaty body and in the Concluding Observations. It is disappointing that the CEDAW Committee does not significantly use the periodic review process and the Concluding Observations to address the overlaps between human rights and the SDGs on gender equality. There are only a few limited questions on the SDGs in the list of issues or summary records.<sup>46</sup> State and CSOs reports rarely engage with the SDG process. As mentioned in the British Academy report *Working Together: Human Rights, the Sustainable Development Goals and Gender Equality*, the references in the Concluding Observations to the SDGs tend to be formulaic. As one example from Chile in March 2018:

*2030 Agenda for Sustainable Development  
53. The Committee calls for the realisation of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development.*<sup>47</sup>

---

<sup>38</sup> The CEDAW Committee, 'Overview of the Current Working Methods of the Committee on CEDAW' (2004), CEDAW/C/2004/1/4/Add.1.

<sup>39</sup> *Ibid.*, [6].

<sup>40</sup> *Ibid.*, [30].

<sup>41</sup> Laura Theytaz-Bergman 'State Reporting and the Role of Non-Government Organisations' in Anne Bayesky (ed.), *The UN Human Rights Treaty System in the 21<sup>st</sup> Century* (Kluwer Law International Publishers, 2000) cited in Felice Gaer, 'Implementing International Human Rights Norms: UN Human Rights Treaty Bodies and NGOs' (2002), 2(3) *Journal of Human Rights*, pp. 339, 348.

<sup>42</sup> The CEDAW Committee, 'Ways and Means of Expediting the Work of the Committee on the Elimination of Discrimination Against Women' (2007), CEDAW/C/2007/1/4/Add.1 [34], [37].

<sup>43</sup> The CEDAW Committee, 'Report on the Committee on the Elimination of Discrimination Against Women: 55<sup>th</sup> Session' (2013), A/69/38, Decision 55/VII.

<sup>44</sup> 'Overview of Working Methods' (see *supra* note 38), [12].

<sup>45</sup> *Ibid.*, [18].

<sup>46</sup> The CEDAW Committee, 'Summary Record: 985<sup>th</sup> Meeting' (2011), CEDAW/C/SR.985 [7].

<sup>47</sup> The CEDAW Committee, 'Concluding Observations: Chile' (2018), CEDAW/C/CHL/CO/7 [53].

## Individual Communications

Upon coming into force there were concerns that CEDAW was a second-class instrument.<sup>48</sup> Unlike some other UN treaties, it did not have an individual right or an inquiry procedure to petition the CEDAW Committee. The comparatively smaller number of remedial mechanisms was seen as a weakness to CEDAW.<sup>49</sup> After a sustained CSO campaign, States came together to create two further accountability procedures under the Optional Protocol to the CEDAW.<sup>50</sup> States need to sign and ratify the Optional Protocol and there are 109 State parties to the Optional Protocol to CEDAW. Individual communications enable individuals to submit a communication, via an email to the CEDAW Committee, that their State has failed to implement CEDAW (Articles 1 and 2 of the OP-CEDAW). All of the evidence in the individual communications procedure is through written submissions, there is no oral evidence and the CEDAW Committee, again, has no fact-finding ability. The CEDAW Committee evaluates the communication (Article 5 of the OP-CEDAW) and it communicates its views and recommendations to the individual and the State (Article 7 of the OP-CEDAW). The individual decisions of the CEDAW Committee are designed to provide individual relief, to contribute to a deeper understanding of CEDAW and spark transformative change so similarly situated women do not suffer further human rights violations.<sup>51</sup>

Since coming into force in 2000, there has been an ever-growing body of individual communications mostly centered on gender-based violence and women's sexual and reproductive health rights. Again, it is disappointing that in decisions on forced sterilisation of Roma women,<sup>52</sup> access to abortion<sup>53</sup> and maternal mortality<sup>54</sup> the CEDAW Committee does not refer to either the SDGs or the previous iteration of the SDGs, the Millennium Development Goals. The overlap in concern between CEDAW and the SDGs should be an invitation to explore the potential between these regimes. To transcend the evidentiary limits—bias or inaccuracies in the written submissions—the rules of procedure under the individual communications allows the CEDAW Committee to seek information from UN agencies and other bodies.<sup>55</sup> States are encouraged to report annually on their efforts to achieve the SDGs, including in lowering maternal mortality.<sup>56</sup> The CEDAW Committee could use these reports, which are authored by the State, to evaluate if the death of the individual in childbirth is a result of structural gender inequality in the health care system. The CEDAW Committee could also shine a spotlight on how far the State has gone towards achieving the SDGs and thereby provided much needed accountability for specific benchmarks. If the CEDAW Committee appreciates the current development policies, its recommendations upon finding a failure to implement CEDAW can build upon and refine these policies and efforts. This can ensure that the recommendations under the individual communications procedure speak to the on-the-ground reality of human rights violations.

Development goals are perceived as largely being relevant to the global South. The MDGs only applied to developing countries. The SDGs recognise that amongst other things poverty,<sup>57</sup> maternal mortality<sup>58</sup> and lack of clean water<sup>59</sup> are all problems that plague developed countries. The SDGs in fact apply to all countries. However, the momentum and energy of the SDGs will likely remain concentrated on developing countries. A striking number of individual communications come from the global North: Denmark, the Netherlands, Spain, Canada and Austria. Thus, the individual

---

<sup>48</sup> Theodor Meron, 'Enhancing the Effectiveness of the Prohibition of Discrimination Against Women' (1990), 84 *American Journal of International Law*, p. 213.

<sup>49</sup> Jane Connors, 'Optional Protocol' in Marsha Freedman, Christine Chinkin and Beate Rudloff (eds.), *CEDAW: Commentary* (Oxford University Press, 2012).

<sup>50</sup> Adopted 6 October 1999, entered into force 22 December 2000), 2131 UNTS 83.

<sup>51</sup> Meghan Campbell, 'Women's Rights and CEDAW: Unlocking the Potential of the Optional Protocol' (2016), 34(4) *Nordic Journal of Human Rights*, p. 247.

<sup>52</sup> *AS v Hungary* (2006), CEDAW/C/36/D/4/2004.

<sup>53</sup> *LC v Peru* (2011), CEDAW/C/50/D/22/2009.

<sup>54</sup> *Teixeira v Brazil* (2011), CEDAW/C/49/D/17/2008.

<sup>55</sup> The CEDAW Committee, 'Report of the CEDAW Committee—Twenty-Fourth Session' (2001) A/56/38, Annex I, Parts XVI and XVII. Amendments to the rules were adopted by the Committee, 'Report of the CEDAW Committee—Thirty-Ninth Session' (2007) UN Doc A/62/38.

<sup>56</sup> UN Development Programme, 'Voluntary National Review Programme', <https://sustainabledevelopment.un.org/vnrs/>.

<sup>57</sup> UN Special Rapporteur on Extreme Poverty and Human Rights, 'Report on Mission to the United States of America' (2018), A/HRC/38/33/Add.1/.

<sup>58</sup> *Ibid.*, [57].

<sup>59</sup> Human Rights Watch, 'Make it Safe: Canada's Obligation to End the First Nations Water Crisis' 7 June 2016, [www.hrw.org/report/2016/06/07/make-it-safe/canadas-obligation-end-first-nations-water-crisis](http://www.hrw.org/report/2016/06/07/make-it-safe/canadas-obligation-end-first-nations-water-crisis), accessed 25 June 2018.



communications are an opportunity for the CEDAW Committee to engage with developed countries on the efforts they are taking to ensure the SDGs. To date, the CEDAW Committee has not taken up this opportunity.

### Inquiry Procedure

There is a further accountability procedure under the Optional Protocol to CEDAW, the Inquiry Procedure. Under Article 8, an inquiry procedure may be initiated if the CEDAW Committee receives reliable information indicating that CEDAW has been grievously and systematically violated. The Committee has conducted four inquiries to date: into murdered and missing women in Ciudad Juárez, Mexico;<sup>60</sup> murdered and missing indigenous women in Canada;<sup>61</sup> access to modern contraception in Manila, the Philippines<sup>62</sup> and access to abortion in Northern Ireland.<sup>63</sup> For the four inquiries, the CEDAW Committee undertook fact-finding missions and went to the State to consult with CSOs, government officials, individual women and other stakeholders. It then released its final report assessing the claim. In all four inquiries, the Committee concluded that there had been grave and systemic violations of CEDAW.

By examining gender inequality through a structural lens, these inquiries have made significant contributions to gender equality and women's rights.<sup>64</sup> However, despite engaging with multiple stakeholders and local grassroots organisations, there is no evidence of the CEDAW Committee engaging with the SDGs.

### General Recommendations

The CEDAW Committee brings together this expertise from the periodic review process, Individual Communications and the Inquiry Procedure in the General Recommendations. Philip Alston argues that General Comments and Recommendations are “one of... the most significant and influential tools available to... human rights treaties bodies.”<sup>65</sup> The authority of General Recommendations stems from Article 21 of CEDAW. The CEDAW Committee uses the General Recommendations to advance an evolutionary interpretation of CEDAW. Most notably, it used the General Recommendations to identify gender-based violence against women as a matter of gender discrimination under Article 1 of CEDAW.<sup>66</sup> General Recommendations serve overlapping purposes. They provide a legal analysis of the text, a framework for evaluating if States are in compliance with CEDAW and policy recommendations and best practice directions.<sup>67</sup>

The General Recommendations post-2015 contain references to the SDGs. Repeatedly, the CEDAW Committee refers to the SDGs to justify its engagement with certain aspects of women's rights and its proposed interpretation of CEDAW. In General Recommendation No. 34 on the rights of rural women, the CEDAW Committee explains:

*“As many of the Sustainable Development Goals address the situation of rural women and provide an important opportunity to advance both process and outcome indicators, the specific intent of the present general recommendation is to provide guidance to*

---

<sup>60</sup> The Committee, 'Report of the Inquiry concerning Mexico of the CEDW Committee under Article 8 OP-CEDAW' (2005), CEDAW/C/OP.8/MEX/1.

<sup>61</sup> The CEDAW Committee, 'Report of the inquiry concerning Canada of the CEDAW Committee under Article 8 of OP-CEDAW' (2015), CEDAW/C/OP.8/CAN/1.

<sup>62</sup> The CEDAW Committee, 'Report of the inquiry concerning the Philippines of the CEDAW Committee under Article 8 of OP-CEDAW' (2015), CEDAW/C/OP.8/PHI/1.

<sup>63</sup> The CEDAW Committee, 'Report of the inquiry concerning the UK and Northern Ireland of the CEDAW Committee under Article 8 OP-CEDAW' (2017), CEDAW/C/OP.8/GBR/1.

<sup>64</sup> Meghan Campbell, 'Reimagining Accountability for Grave and Systemic Human Rights Abuses' (forthcoming)

<sup>65</sup> Philip Alston, 'The Historical Origins of the Concept of 'General Comments' in Human Rights Law' in L. Boisson de Chazournes and V. Gowland Debbas (eds.), *The International Legal System in Quest of Equity and Universality: Liber Amicorum Georges Abi-Saab* (Martinus Nijhoff, 2001).

<sup>66</sup> The CEDAW Committee, 'General Recommendation No 19 on Gender-Based Violence' (1992), CEDAW/C/GC/19; The CEDAW Committee, 'General Recommendation No 35 on Gender-Based Violence Against Women' (2017), CEDAW/C/GC/35.

<sup>67</sup> Helen Keller and Leena Grover, 'General Comments of the Human Rights Committee and Their Legitimacy' in Helen Keller and Geir Ulfstein (eds.) *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press, 2012).

*States parties on the implementation of their obligations with respect to rural women... In recent years, the Committee has developed a significant body of jurisprudence on the rights of rural women and the challenges that they face... Several United Nations conferences have recognised the role of rural women in agriculture, rural development, food and nutrition, and poverty reduction. Hence, there is a need for further specific attention to rural women, as recognised in the Sustainable Development Goals.*<sup>68</sup>

The engagement with the SDGs, however, remains superficial as they are not integrated into the legal analysis on rural women's rights. For example, the CEDAW Committee discusses the impact of water scarcity on women—the long distances to walk for water, the increased risks of violence, lack of privacy for sanitation needs—and recommends that States ensure that rural women have access to clean water and adequate sanitation and hygiene, and that States invest in renewable energy sources and low-cost technology to reduce the time women spend collecting water.<sup>69</sup> Although there is remarkable overlap in the SDGs on clean water and sanitation (Goal 6) and the CEDAW Committee's discussion of water, it is striking that there is no mention of the points of overlap.

In General Recommendation No. 36 on girls' right to education, the CEDAW Committee uses the SDGs to justify a General Recommendation on education<sup>70</sup> and to ground the relationship between gender equality and education:

*“The need to ensure inclusive and quality education for all and promote lifelong learning is a priority of Sustainable Development Goal 4, as contained in General Assembly resolution 70/1, adopted with a view to transforming the world by 2030. Two critical education targets to be met are ensuring that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes; and eliminating gender disparities in education and ensuring equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations.”*<sup>71</sup>

The most extensive use of the SDGs in the General Recommendations is the latest General Recommendation No. 37 on the gender-related dimensions on disaster risk reduction in the context of climate change. This perhaps is not surprising as the understanding of human rights and climate change is still in its infancy. Drawing on the SDGs situates the evolution in CEDAW in existing international frameworks.<sup>72</sup> By drawing on the SDGs, including clean water and sanitation (Goal 6); affordable and clean energy (Goal 7); sustainable cities and communities (Goal 11);

---

<sup>68</sup> The CEDAW Committee, 'General Recommendation No. 34 on the Rights of Rural Women' (2016), CEDAW/C/GC/34 [2]-[3].

<sup>69</sup> *Ibid.*, [81]-[85].

<sup>70</sup> The CEDAW Committee, 'General Recommendation No. 36 on the Rights of Girls and Women to Education' (2017), CEDAW/C/GC/36 [12].

<sup>71</sup> *Ibid.*, [3].

<sup>72</sup> The CEDAW Committee, 'Gender Related Dimensions of Disaster Reduction Risks in the Context of Climate Change' (2018), CEDAW/C/GC/37 [22].

responsible consumption and production (Goal 12); climate action (Goal 13); life below water (Goal 14) and life on land (Goal 15), the CEDAW Committee can draw on development expertise in gender and climate change. General Recommendation No. 37 explains that “the gender dimensions of disaster risk reduction and the impacts of climate change are often not well understood” and as a result there is a paucity of data on gender and climate change.<sup>73</sup> The CEDAW Committee recommends that States integrate and coordinate with the SDGs when developing indicators and monitoring mechanisms to empower and provide resources to national institutions and local levels engaged in SDG planning.<sup>74</sup> It further advocates that States “enable meaningful participation of civil society and women’s organisations in the SDGs’ implementation and follow-up process.”<sup>75</sup> It also diverges from the SDGs. It notes that the SDGs advocate public-private partnerships. The CEDAW Committee, drawing on the UN Guiding Principles on Business and Human Rights, warns that businesses have direct responsibility for human rights and urges States to ensure that private sectors are accountable for gender, disaster risk reduction and climate change.<sup>76</sup>

## Conclusions

The UN treaty bodies use innovative methods to hold States to account for human rights. Despite the overlap between the SDGs and human rights, the treaty bodies have minimally engaged with the SDGs. When the treaty bodies do draw on the SDGs, their use of them tends to be superficial. The one exception to this trend is in relation to climate change. Here the CEDAW Committee actively encourages States to integrate and use the SDG framework when taking a human rights-based approach to disaster reduction, climate change and gender equality. It also explains where it diverges with the SDGs and provides reasons and authority for its different understanding of human rights. This is a good example of fruitful dialogue between the regimes.

Given the enforceability gap in international law, the siloed approach to the SDGs and human rights may not appear overtly problematic. However, this ignores the cultural and expressive value of CEDAW and the other human rights treaties. Merry notes that “culture is as much present in...UN institutions as in local villages”.<sup>77</sup> By advocating for an integrated approach, the UN treaty bodies can “foster broader cultural change within the international human rights system.”<sup>78</sup> If the treaty bodies more routinely engage with the SDGs, they can contribute to and foster a cultural discourse on accountability for human rights and global political commitments.

---

<sup>73</sup> *Ibid.*, [39].

<sup>74</sup> *Ibid.*, [40]-[41].

<sup>75</sup> *Ibid.*, [55].

<sup>76</sup> *Ibid.*, [47].

<sup>77</sup> Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (UCP, 2006), p. 16.

<sup>78</sup> Rourke and Swaine (see *supra* note 5), p. 182.