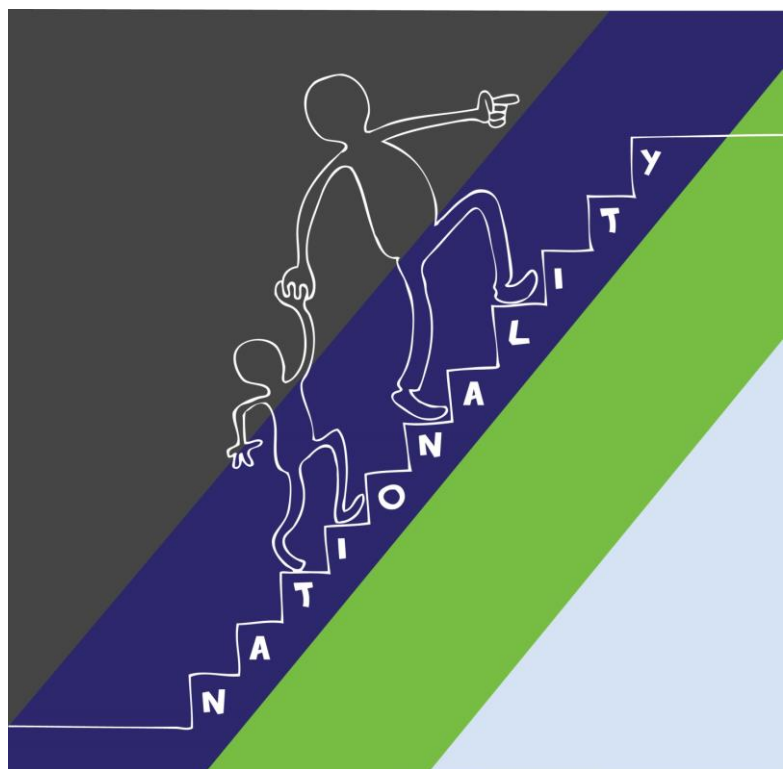


Addressing the Right to a Nationality through the Convention on the Rights of the Child

A Toolkit for Civil Society

Section 4: The Convention on the Rights of the Child reporting cycle and opportunities for civil society engagement



4. The CRC reporting cycle and opportunities for civil society engagement

This section of the Toolkit provides an overview of the CRC reporting cycle – its different stages and the opportunities they each present for civil society engagement, the role that civil society actors can play in this process and relevant considerations for civil society actors in this regard. This section provides an overview of some of the practical information related to the CRC reporting cycle, which can be found in much greater detail in the Child Rights Connect mini site on “[Engaging in the Reporting Cycle of the UN Committee on the Rights of the Child](#)”. Indeed, this section is not meant to replace the Child Rights Connect mini site, which all readers who would like to learn more about the CRC reporting cycle are encouraged to visit. The OHCHR website also provides useful information on [monitoring the core international human rights treaties](#).

Where do civil society actors come in?

All around the world, civil society actors play a crucial role in promoting the national-level implementation of international human rights norms, including child rights. Whatever the focus of their work – monitoring, advocacy, individual assistance, etc. – civil society actors are often able to get “close to” an issue and the people who are affected by it. This puts them in a good position to understand what barriers exist with respect to the full realisation of particular rights and to provide useful information on the impact of laws, policies and practices. Such insights can, in turn, help international monitoring bodies such as the Committee on the Rights of the Child to engage in an effective and well-informed dialogue with States about the implementation of their international obligations. Indeed, the Committee is reliant on NGOs, NHRIs and other civil society actors to provide it with independent and credible information in relation to various aspects of Article 7, and the lack of such information makes it difficult for the Committee to make in-depth recommendations to States. Civil society actors also play a crucial role in transmitting information, standards and interpretations of rights across mechanisms. Thus for example, CRC Recommendations to a given State Party on the lack of safeguards against statelessness, can be fed by NGOs and NHRIs into the Universal Periodic Review (UPR) process,¹ resulting in other States making recommendations to the State under Review that draw on those made by the Committee.

NGOs

A wide range of Non-Governmental Organisations (NGOs) engage with issues relating to children’s right to a nationality. These include NGOs with a focus on statelessness, citizenship, migration or related themes which may uncover situations of childhood statelessness in the course of their activities on these broader issues; and NGOs dedicated to the promotion of child rights, which may identify the right to a nationality as one area of concern within their wider child rights work.

Lawyers for Human Rights is an NGO that engages in human rights advocacy and public interest litigation in South Africa. Its work covers a broad spectrum of issues, including refugee and migrant rights. In 2011, they

¹ For more information on the UPR process, why it is an important tool and how to use it, visit: <http://www.upr-info.org/en>.

launched a dedicated project on statelessness within this broader programme and it has since undertaken activities to address different aspects of this issue, including childhood statelessness. Drawing from the experience of assisting stateless children in seeking to access a nationality in South Africa – including through litigation – Lawyers for Human Rights was able to identify obstacles within the country's Citizenship Act and Births and Death Registration Act that are causing the safeguards to fail that should be protecting children born on the territory from statelessness.² The NGO submitted information on these problems to the Committee on the Rights of the Child in 2015³ and briefed the Committee during its pre-session in early 2016. To draw further attention to the issue at the national level and grow support for the necessary law and policy reforms, Lawyers for Human Rights followed up this international advocacy with the publication of a short report on *Childhood Statelessness in South Africa*, which tells the stories of children affected.⁴

NHRIs and Ombudspersons

National Human Rights Institutions and Commissions (NHRIs) and Ombudspersons fulfil an important role in promoting and monitoring the implementation of States' human rights obligations at the domestic level. In some countries, the special post of Ombudsperson for children exists to ensure adequate focus on the implementation of child rights. Like NGOs, these bodies can also engage in international human rights reporting processes by passing information to, for instance, UN treaty bodies such as the Committee on the Rights of the Child – including in respect of the right to a nationality.

The European Network of National Human Rights Institutions, ENNHRI (a network of 40 National Human Rights Commissions, Institutes and Ombudspersons from across Europe) adopted a Position Paper on *The Eradication of Statelessness in Europe* in September 2014. It directs recommendations to States, as well as the Council of Europe and the European Union, on a number of topics relating to statelessness – including addressing the situation of stateless children in the region. The ENNHRI recognises nationality to be part of a child's identity and the prevention of statelessness to be of "utmost importance". It calls on States to, among other issues, "ensure acquisition of nationality for children born in the territory who would otherwise be stateless".⁵ One way for members of the ENNHRI network to follow up on the implementation of this Position Paper is to provide information on gaps in domestic safeguards and procedures to relevant international bodies, such as the Committee on the Rights of the Child.

² See, for instance, the short video *Belonging, Part 2*, produced by LHR in 2005, available at: <https://www.youtube.com/watch?v=ih5keCYFHmM>.

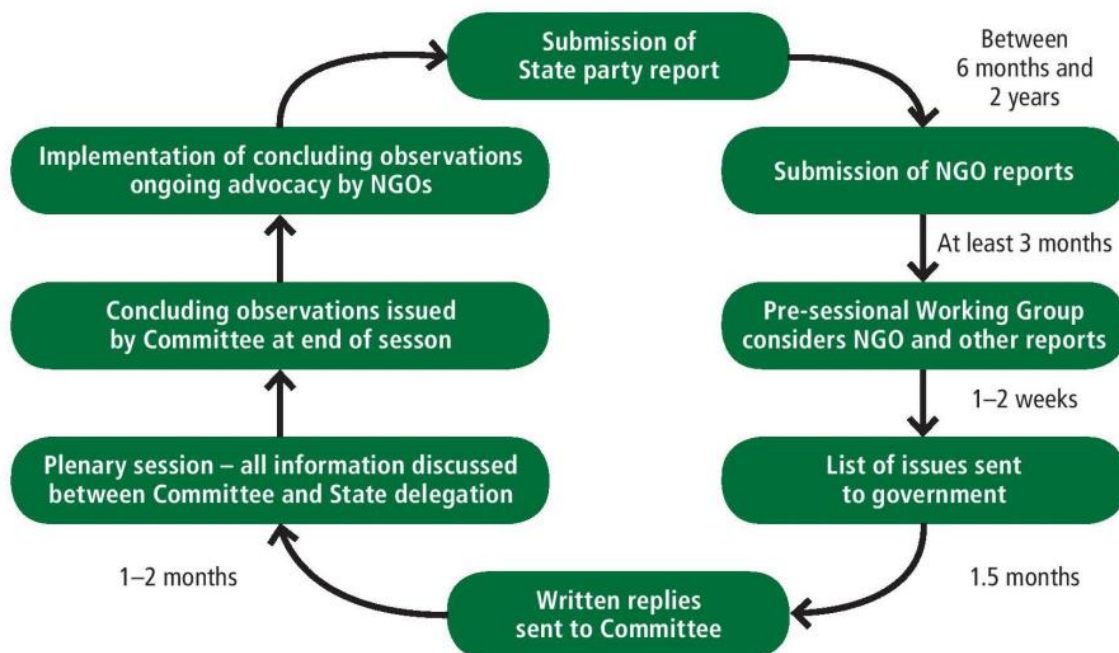
³ This was a joint submission, in collaboration with the Institute on Statelessness and Inclusion, which is available at: http://www.institutesi.org/CRC_SouthAfrica_2015.pdf.

⁴ The report can be accessed via: http://www.lhr.org.za/sites/lhr.org.za/files/lhr_stateless_booklet_5.pdf.

⁵ The position paper is available at: <http://www.mensenrechten.nl/sites/default/files/ENNHRI%20Statement%20on%20Statelessness.September.2014%20pdf.pdf>.

What is the reporting process of the Committee on the Rights of the Child?

As shown in the CRC reporting process diagram of [Child Rights Connect](#) below,⁶ the reporting process of the Committee on the Rights of the Child is a cycle of many stages with which civil society can engage. At its culmination and following the consideration of State Party reports, the Committee adopts “Concluding Observations” in which it points out positive achievements and raises concerns about any issues arising in



the State in respect of the rights protected under the CRC. The Committee also makes recommendations on how these concerns are to be addressed and compliance with the Convention can be improved.

Civil society actors are able to enter the cycle at any stage, and add value. Understanding what these stages are and how civil society can engage, will help actors navigate and maximise their interaction with CRC Reporting. Successful contributions to and use of this procedure can result in strong, relevant Concluding Observations and Recommendations from the Committee to the State under review. In addition to providing the State being reviewed with authoritative guidance on the steps it should take to strengthen its compliance with the CRC, this process can also:

- Influence parallel UN and regional human rights processes including the Universal Periodic Review and State reviews by other Treaty Bodies.
- Influence/support action under complementary frameworks, including the Sustainable Development Goals.
- Raise awareness on the scope and impact of childhood statelessness in the country.
- Ultimately contribute to law and policy reform as well as better practices to safeguard against childhood statelessness.

And so, the Concluding Observations and Recommendations of the Committee can lead to improved performance by States Parties. However, it must be noted that States cannot be ‘compelled’ to respond, and so, it is essential that civil society actors continue to engage in follow-up activities throughout the implementation phase.

⁶ Diagram: Childs Right Connect, <http://www.childrightsconnect.org/connect-with-the-un-2/crc-reporting/>.

In order to find out when a particular State is scheduled for consideration by the Committee or other UN Treaty Bodies, as well as to access already available reports, civil society actors may access and search the OHCHR [calendar of country reviews by treaty bodies](#).⁷

Step 1: State Party report

All States Parties are obliged to submit an initial report to the Committee two years after acceding to the Convention, and to submit subsequent periodic reports every five years. While civil society actors do not have a formal role to play in the development of the State Party report, States often consult with and seek their input when preparing the State Party report. Through sustained engagement with the State and other actors operating in the national child protection space – including, where they do exist, National Child Rights Coalitions - civil society actors may be able to contribute to the State report and ensure that the State addresses its performance in relation to the child’s right to acquire a nationality. Engaging in this process may also provide civil society actors with insight into the State’s perspective and attitude towards the issues at hand, which can be helpful when developing alternative reports. This process may also help civil society to develop stronger relationships with government, which may help with future advocacy efforts.

For answers to Frequently Asked Questions, tips, challenges and further resources on civil society engagement in relation to the State Party report, visit this page of the Child Rights Connect mini-site: <http://crcreporting.childrightsconnect.org/state-report/>.

Step 2: Alternative reports

Alternative reporting is the formal entry-point for civil society actors into the process. Alternative reports provide the Committee with a different perspective to that presented by the State in its report, and therefore are a crucial element of the process, which can help ensure that the Committee receives comprehensive information on the issues at hand. In particular, as the quality and scope of information received by the Committee during this stage is beyond the Committee’s control but crucial to the outcomes, it is very important that civil society actors adequately address the child’s right to a nationality in their reporting. Therefore, it is important to determine:

- a. Whether to contribute to the process;
- b. If yes, how to contribute to the process; and
- c. Who to collaborate with (if any) in contributing to the process.

A. Should you contribute to the process:

The question of should you contribute, and in what capacity, depends on a range of factors including:

- Are there serious concerns in your country related to the child’s right to acquire a nationality, childhood statelessness and connected issues? To help ascertain this, please utilise this **Checklist** found in **Section 5**.
- Does your organisation work with affected children and/or have information to share on this issue? (i.e., can you add value to the process?) Can your organisation include the views of children in its report, and have children meaningfully participate in the monitoring process?
- Does your organisation have the capacity to engage in the process?

⁷ Available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx?Type=Session&Lang=En.

- Does your organisation have suitable partners to collaborate with?
- Is there sufficient political space in your country, which would allow civil society to freely participate in this process? Would your organisation face any risks from the authorities if you engage in the process? How can such risks be mitigated? (NB: alternative reports and participation in the pre-session working group meeting can be kept confidential. While this does not guarantee safety, it does increase the space for civil society actors who operate in difficult environments to engage in this process).

B. How you can contribute to the process:

There are various ways in which civil society actors can contribute to the process. Options, which are not mutually exclusive include:

- Contributing a section on Article 7 to a National Child Rights Coalition Report (if such a coalition exists)
- Submitting a separate thematic report on Article 7
- Encouraging children’s participation
- Advocating for UN agencies to address this issue in their reports

The process followed in Step A should help civil society actors determine whether the issue is relatively significant in their country, whether they have adequate capacity and value to add to warrant a separate thematic contribution, and whether they have the political space to safely do so. Even if it is determined that a separate thematic report is not warranted, where possible, civil society actors are encouraged to strongly consider contributing a section on Article 7 to the alternative report of the National Child Rights Coalition where such a coalition exists in your country. Facilitating children’s participation, while a powerful and important means of engagement, should not be taken lightly or be forced or tokenistic. Civil society actors that work with children will be better placed to facilitate this process. Children’s participation can be ensured in various ways, from including the views of children in alternative reports to encouraging children to submit their own reports (written or audio/visual). Civil society actors interested in exploring this option further, are encouraged to look at the Committee’s [‘Working Methods for the Participation of Children in the Reporting Process’](#)⁸, and also seek advice from Child Rights Connect.

Civil society actors would also do well to, where possible, coordinate with UN agencies in their country. The UNHCR and UNICEF are the two UN agencies that submit reports to the Committee for each State Party under consideration, therefore sharing information with and encouraging them to also address the child’s right to a nationality in their reports can have a strong impact.

C. Who you can collaborate with:

This is an important issue. Strong and successful collaborations with independent and credible partner organisations can strengthen the quality and credibility of the report and also ease the pressure on resources. This is particularly so, when considering further engagement down the line (see below). Participation in a National Child Rights Coalition Report would obviously entail collaboration with all coalition members. But thematic reports may also benefit from collaboration with strong national, regional and international partners. Furthermore, particularly in contexts where there is little political space to safely engage in this process, collaboration with UN agencies and NHRIs may be an effective way to ensure the Committee receives important information. Things to consider when considering collaboration:

- Is there a National Child Rights Coalition with which your organisation can collaborate?
- Is there a national organisation that brings a complementary perspective to the table? For example, if yours is a legal organisation, is there a suitable organisation that provides psychological support or other services to affected persons?

⁸ Available at: <http://www.ohchr.org/EN/HRBodies/CRC/Pages/WorkingMethods.aspx>.

- Is there a regional statelessness network that you would consider collaborating with? See for example, the [European Network on Statelessness](#) or the [Americas Network on Nationality and Statelessness](#).
- Are there organisations/campaigns/networks working on thematic issues relevant to your country? For example, if gender discrimination in nationality laws is an issue, consider the [Global Campaign on Equal Nationality Rights](#).
- Would you consider collaborating with an international organisation such as the [Institute on Statelessness and Inclusion](#)?

If your organisation decides to submit a thematic report to the Committee, you may wish to look at this **Template (Section 6)** for guidance and ideas on how to structure your submission. Once a report has been submitted, your organisation may choose to make it public by making it available on your website and indicating to OHCHR that it can be included on the session webpage, or you may choose to keep it confidential. If your organisation decides not to participate at this stage of the process, there will be other opportunities down the line, though more limited, to highlight the topic of childhood statelessness.

Finally, it is important to note that the deadlines for submitting alternative reports (and additional information), as well as the CRC sessions and Pre-sessions are fixed. This table, which is available on the [OHCHR website](#)⁹ is a useful tool in this regard:

Alternative reports for the pre-session			Additional submissions between the pre-session and the session		
	Electronic copies	Paper copies		Electronic copies	Paper copies
February pre-session working group	1 November	20 November	September session	15 August	20 August
June pre-session working group	1 March	20 March	January session	15 December	20 December
October pre-session working group	1 July	20 July	May session	15 April	20 April

For answers to Frequently Asked Questions and tips on format and content of alternative reports, visit this page of the Child Rights Connect mini-site: <http://cocreporting.childrightsconnect.org/convention-on-the-rights-of-the-child-alternative-report/>.

Step 3: Pre-session working group considers alternative reports

The Committee invites some (not all) submitters of alternative reports to participate in the closed and confidential pre-session working group meeting. If invited, this is a great opportunity to directly brief Committee Members and answer their questions. Significantly, the pre-sessions are a forum through which the Committee can be briefed on gaps in information in the State report, which can be addressed by including relevant questions in the List of Issues. Pre-sessions take place in Geneva and can therefore be expensive to attend. However, it may be possible to seek funding to attend them. One of the advantages of collaborating with a wider coalition for your submission is that one of the co-submitting organisations may be able to attend and represent the entire coalition. However, it must be noted that it is most effective if national civil society actors attend the pre-session.

All civil society actors invited to attend the pre-session on a particular country are required to plan ahead, coordinating their presentations and working as a team, to ensure that collectively, they cover all of the important child rights issues in the country. Working effectively with this wider group of civil society actors

⁹ Available at: <http://www.ohchr.org/EN/HRBodies/CRC/Pages/InfoPartners.aspx>.

will ensure a more cohesive and impressive contribution at the pre-session. However, all actors must be willing to invest time into this process. Given the wide range of child rights issues prevalent in most countries, it is possible that the authors of a thematic report on Article 7 will not be invited to attend the pre-session. Even in such instances, organisations can reach out to a partner organisation or the other child rights' organisations who have been invited to participate. By briefing them in advance, you can still ensure that the Committee receives relevant information during the pre-session.

Pre-sessions are not open to the public and the content of the exchange between the invited experts and Committee members are confidential. The confidentiality of these proceedings creates space for civil society actors working in difficult and dangerous environments to also participate.

For more information on pre-sessions and answers to Frequently Asked Questions, visit this page of the Child Rights Connect mini-site: <http://crcreporting.childrightsconnect.org/convention-on-the-rights-of-the-child-pre-session/>. Civil society actors are also encouraged to visit the Committee's [Working Methods](#)¹⁰ which provide more information on the invitation process for the pre-sessions.

Step 4: List of Issues

While there is no formal role for civil society actors to play at this stage, it is important to monitor the List of Issues and assess if they satisfactorily address gaps in information that the Committee has received. Civil society actors can send feedback to the Committee on the List of Issues, including on whether you feel the Committee could have addressed issues which it has not. Providing feedback to the Committee at this stage can help strengthen the process.

For more information on List of Issues and answers to Frequently Asked Questions, visit this page of the Child Rights Connect mini-site: <http://crcreporting.childrightsconnect.org/convention-on-the-rights-of-the-child-list-of-issues/>.

Step 5: Written replies sent to the Committee

Once the State being reviewed submits its written replies to the Committee, there is an opportunity for civil society actors to provide additional information. This is the final phase at which formal engagement in the process is possible. As it is a few weeks before the plenary session, it is a good opportunity to provide the Committee with:

- updated information (new developments since the first submission and/or pre-session) including law and policy reform, new statistics etc.;
- comments on the State's written responses (including where you feel the State has not accurately or adequately addressed questions in the List of Issues);
- suggestions to the Committee in terms of questions to raise at the plenary session and recommendations to make to the State being considered; and
- any other relevant information.

As an example, the Institute of Statelessness and Inclusion, which had not participated earlier in the process, submitted additional information in relation to the review of Iran at the Committee's 71st Session, particularly with regard to gender discrimination in a proposed amendment to nationality laws. The Committee subsequently made the following concluding observation:

The Committee strongly urges the State Party to review the provisions of the Act on Determination of the Nationality of

¹⁰ Available at: <http://www.ohchr.org/EN/HRBodies/CRC/Pages/WorkingMethods.aspx>.

Children Born into Marriages of Iranian Women with Men of Foreign Nationality amending the Civil Code, and to ensure that all children who are born to Iranian mothers, including children born out of wedlock, are entitled to Iranian citizenship on the same conditions as children born to Iranian fathers. The Committee also recommends that the State Party provide information on the number of children born to Iranian mothers who have been naturalized, in its next periodic report.

For more information on Written Replies and Additional Submissions, answers to Frequently Asked Questions and advocacy tips, visit this page of the Child Rights Connect mini-site: <http://crcreporting.childrightsconnect.org/written-replies-additional-submissions/>.

Step 6: Plenary session

Unlike the pre-session, the plenary session or dialogue with the State Party, is open to the public. There will not be an opportunity for civil society to speak during the plenary session, but they are encouraged to attend and participate as observers. Attending the session will provide civil society stakeholders an opportunity to witness the dialogue with the government. On the margins of the session, you may informally engage with Committee Members and government representatives, which may be useful for future follow-up activities. Monitoring the plenary sessions, noting the commitments and statements made by the State on Article 7 and the level of engagement of Committee Members will be useful for future advocacy. Please note that the plenary session is [streamed online](#) and therefore civil society actors can observe it without being physically present.¹¹

For more information on the Session, answers to Frequently Asked Questions and advocacy tips, visit this page of the Child Rights Connect mini-site: <http://crcreporting.childrightsconnect.org/convention-on-the-rights-of-the-child-session/>.

Step 7: Concluding Observations issued by the Committee

Once the Concluding Observations are issued by the Committee, it is important to reassess your engagement with the process. Have you been able to contribute to positive and strong recommendations? It is also important to provide the Committee with constructive feedback. Significantly, the Concluding Observations and Recommendations of the Committee as well as your organisation's submissions to the Committee are valuable resources for engagement with other UN and regional human rights processes (including the UPR, other UN treaty monitoring bodies such as CEDAW, ICCPR and CERD, and regional mechanisms). By adapting and reusing submissions and relating the authoritative statements and recommendations of one framework to another, it is possible to maximise impact.

For more information on the Concluding Observations, answers to Frequently Asked Questions and tips, visit this page of the Child Rights Connect mini-site: <http://crcreporting.childrightsconnect.org/convention-on-the-rights-of-the-child-concluding-observations/>.

Step 8: Follow-up Advocacy to ensure National Implementation of Concluding Observations and Recommendations

The Committee does not have a formal follow-up procedure to ensure that States are implementing the recommendations they have received. However, the review and reporting process is cyclical, and States will

¹¹ Live streams can be accessed via this link: www.treatybodywebcast.org

be reviewed on their implementation of previous recommendations. Hence, the role of civil society stakeholders is key for this stage:

- by offering to cooperate with governments by providing specialised and technical assistance in the implementation of the recommendations (the **analytical database** will help civil society navigate the existing body of concluding observations);
- by helping governments make good use of existing measures of implementation (as referred to both in the policy paper and the submission template); and
- by helping to develop such measures at the national level.

Likewise, civil society plays a fundamental role in monitoring State implementation of relevant recommendations, not only those provided by the Committee on the Rights of the Child but across other treaty monitoring bodies, such as CEDAW, CRMW, as well as the State's commitments and recommendations under the Universal Periodic Review. Recommendations across the UN human rights mechanisms should be used in a complementary manner in order to follow up on State implementation as well as to further ongoing advocacy efforts at the national level. Civil society organisations can also do a lot of awareness raising and media engagement work, to raise the profile of the issue and the Committee's Recommendations, in pushing for national implementation.

Significantly, the more civil society actors engage in follow-up work related to the implementation of Recommendations, the more likely that the entire CRC process will result in real change.

For more information on what can be done in the follow-up stage, including answers to Frequently Asked Questions, other relevant UN mechanisms that can be engaged and further tips, visit this page of the Child Rights Connect mini-site: <http://crcreporting.childrightsconnect.org/convention-on-the-rights-of-the-child-follow-up/>.