



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HUMAN RIGHTS

Individual Complaint Procedures under the United Nations Human Rights Treaties

Fact Sheet No.

7

Rev.2



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INDIVIDUAL COMPLAINT PROCEDURES UNDER THE UNITED NATIONS HUMAN RIGHTS TREATIES

Fact Sheet No. 7/Rev.2



UNITED NATIONS
New York and Geneva, 2013

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Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a figure indicates a reference to a United Nations document.

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INTRODUCTION

Anyone may bring an alleged violation of human rights to the attention of the United Nations and thousands of people around the world do so every year. This Fact Sheet explains the procedures open to individuals who claim to be victims of violations of rights contained in international human rights treaties.

It is through individual complaints that human rights are given concrete meaning. In the adjudication of individual cases, international norms that may otherwise seem general and abstract are put into practical effect. When applied to a person's real-life situation, the standards contained in international human rights treaties find their most direct application. The resulting body of decisions may guide States, civil society and individuals in interpreting the contemporary meaning of these treaties.

Individuals have increasingly acquired the means to vindicate their rights at the international level. This Fact Sheet looks at complaints that are brought under international human rights treaties. Since the early 1970s international complaint mechanisms have developed apace, and individuals can now bring claims to the United Nations concerning violations of their rights contained in the nine so-called "core" human rights treaties:¹

- The International Covenant on Civil and Political Rights
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The International Convention on the Elimination of All Forms of Racial Discrimination
- The Convention on the Elimination of All Forms of Discrimination against Women
- The Convention on the Rights of Persons with Disabilities
- The International Convention for the Protection of All Persons from Enforced Disappearance
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- The International Covenant on Economic, Social and Cultural Rights
- The Convention on the Rights of the Child and its Optional Protocols.

The complaint mechanisms are designed to be accessible to the layperson. It is not necessary to be a lawyer or even to be familiar with legal and technical terms to bring a complaint under these treaties.

¹ At the time of writing, not all treaty body-based complaint mechanisms had entered into force.

There are several other avenues for bringing individual complaints to United Nations bodies. Complaints can be submitted to the Human Rights Council's complaint procedure (previously known as the 1503 procedure),² its special rapporteurs and working groups³ and to the Commission on the Status of Women. However, these procedures have a different focus from those under the above-mentioned international treaties, which provide individual redress through quasi-judicial mechanisms. Complaints can also be submitted to organizations of the wider United Nations family, such as the International Labour Organization (www.ilo.org) and the United Nations Educational, Scientific and Cultural Organization (www.unesco.org).

² For more details, see www.ohchr.org/EN/HRBodies/HRC/Pages/Complaint.aspx (accessed 28 March 2013).

³ For more details, see www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx (accessed 28 March 2013).

I. OVERVIEW

A human rights treaty is an international agreement that imposes binding obligations to protect and promote rights and freedoms on States that officially accept it (commonly through *ratification* or *accession*). Those States are referred to as State parties to the treaty. The treaties are accessible in full from the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR).⁴

The basic concept of the complaint mechanisms under the human rights treaties is that anyone may bring a complaint against a State party alleging a violation of treaty rights to the body of experts monitoring the treaty. These *treaty bodies*, as they are often called, are committees of independent experts elected by State parties to the treaty. They monitor the implementation by State parties of the rights set forth in the treaties and decide on complaints brought against those States. While there are some procedural variations among the nine mechanisms, their design and operation are very similar.

This chapter describes the typical features of a complaint under any of the nine treaties in general. Chapter II describes the aspects of the individual treaties that deviate from the general norm.

Against whom can a complaint under a treaty be brought?

A complaint under one of the nine treaties can be brought only against a State that satisfies two conditions. First, it must be a party (through ratification or accession) to the treaty that provides for the rights which have allegedly been violated. Second, the State party must have recognized the competence of the committee monitoring that treaty to receive and consider complaints from individuals.

For the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child, States recognize the committees' competence by becoming a party to their optional protocols, i.e., separate treaties adopted to complement the provisions of each of the above-mentioned covenants and conventions.⁵ For the Convention against Torture, the International Convention

⁴ See www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx (accessed 28 March 2013).

⁵ The lists of the State parties to the different treaties and optional protocols are available from <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en> (accessed 28 March 2013).

on the Elimination of All Forms of Racial Discrimination, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the International Convention for the Protection of All Persons from Enforced Disappearance, States recognize the committees' competence by making a declaration to that effect under a specific article of these conventions.⁶

Who can bring a complaint?

Anyone can lodge a complaint with a committee against a State that satisfies these two conditions (being a party to the treaty and having accepted the committee's competence to examine individual complaints), claiming that his or her rights under the relevant treaty have been violated. It is not necessary to have a lawyer prepare the case, though legal advice may improve the quality of the submissions. Individuals must be aware, however, that the United Nations does not provide legal aid under these procedures. Complaints can be brought on behalf of the alleged victim, with his or her written consent.⁷ In certain cases, such consent is not required, for example if the alleged victim is in prison without access to the outside world or is a victim of an enforced disappearance. In these cases, the complainant should state clearly why such consent cannot be provided.

What information should be included in a complaint?

While a complaint to a committee, also called a *communication* or a *petition*, need not be presented in a particular format, the use of the model complaint forms and guidelines annexed below is recommended. The complaint should be in writing, legible, preferably typed, and signed.⁸ Only communications presented in one of the official United Nations languages (Arabic, Chinese, English, French, Russian and Spanish) can be accepted. The complaint should provide basic personal information—name, nationality, date of birth, postal address and e-mail address of the complainant—and specify the State party against which it is directed. Any subsequent change in address or other contact information should be notified as soon as possible.

It is essential to set out, in chronological order, all the facts on which the complaint is based. The account must be as complete as possible and contain all the information relevant to the case. The complainant must state why he or she considers that the facts described constitute a violation of the treaty in question.

⁶ To check whether a State has made such a declaration, see <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en> (accessed 28 March 2013).

⁷ There is no requirement as to the specific form of the written consent.

⁸ Complaints sent electronically should be scanned and attached to an e-mail addressed to the OHCHR Petitions Team (see contact details at the end of this Fact Sheet).

It is highly recommended that complainants should specify the rights set out in the treaty that have allegedly been violated. It is also advisable to indicate the kinds of remedies that the complainant would like to obtain from the State party, should the committee conclude that the facts before it disclose a violation.

The complainant should also detail the steps he or she has already taken to exhaust the remedies available in the State party against which the complaint is directed, that is, steps taken before the State party's local courts and authorities. The requirement to exhaust domestic remedies means that the claims must have been brought first to the attention of the relevant national authorities, up to the highest available instance. If some of these remedies are pending or have not yet been exhausted, this should also be indicated, as well as the reasons for it. See below for further details.

Complainants should supply copies of all documents⁹ of relevance to their claims and arguments, especially administrative or judicial decisions on the claims issued by national authorities. If these documents are not in an official language of the United Nations, a full or summary translation must be submitted. The documents should be listed chronologically, numbered consecutively and accompanied by a concise description of their contents. The complaint should not exceed 50 pages (excluding annexes). If it exceeds 20 pages, it should also include a short summary of up to 5 pages highlighting its main elements.

If the complaint lacks essential information to be processed under these procedures or the description of facts is unclear, the Secretariat of the United Nations (OHCHR) will contact the complainant with a request for additional details or resubmission. Complainants should be diligent in their correspondence with the Secretariat and the information requested should be sent as soon as possible. If the information is not received within a year from the date of the request, the file will be closed.

Final decisions adopted by the committees are made public. Therefore, if complainants do not wish their identity to be disclosed in final decisions, they should indicate this at the earliest opportunity. Owing to the level of publicity that the decisions usually receive (including dissemination via the Internet, which makes it virtually impossible to correct and/or delete data), it may not be possible for the United Nations to satisfy requests for anonymity submitted after the publication of final decisions.

⁹ Only copies should be submitted, not originals.

When can a complaint be submitted under the human rights treaties?

It is important to submit the complaint as soon as possible after domestic remedies have been exhausted. Delays in doing so may make it difficult for the State party to respond properly and for the committee to evaluate the facts thoroughly. In some cases, submission after a protracted period may result in the case being considered inadmissible.

The procedure

Based on the above-mentioned requirements, the committee in question will decide whether the case should be registered, that is to say, formally listed for consideration. The complainant will be informed accordingly. At that point, the case is transmitted to the State party concerned to give it an opportunity to comment within a set time frame.

The two major stages in the examination of a complaint are known as the *admissibility* stage and the *merits* stage. *Admissibility* refers to the formal requirements that the complaint must satisfy before the relevant committee can consider its substance. *Merits* refers to the substance of the complaint, on the basis of which the committee decides whether or not the alleged victim's rights under the treaty have been violated. These stages are described in greater detail below. Once the State replies to the complaint, the complainant is offered an opportunity to comment.

Most committees request a State party to provide its observations within six months from the date on which the complaint was communicated to it. The State party can challenge the admissibility of the complaint by providing arguments within the first two months of that period. The complainant is always given an opportunity to comment on the State party's observations, within a set time frame.

When comments have been received from both parties, the case is ready for a decision by the relevant committee. If the State party fails to respond, despite receiving several reminders from the Secretariat, the committee will take a decision on the case based on the information submitted by the complainant.

Special circumstances of urgency or sensitivity

A committee may, at any stage of the procedure, request the State party to take measures to prevent any irreparable harm to the complainant or alleged victim in connection with the claims in the case. These are called *interim measures*. Typically, such requests are issued to prevent actions that cannot

later be undone, for example the execution of a death sentence or deportation to a country where the complainant would face a risk of torture. They do not imply a determination on the admissibility or the merits of the case, but for a committee to consider that the alleged victim would suffer irreparable harm, the case must have a reasonable likelihood of success on the merits. If the complainant wishes the committee to issue a request for interim measures, he/she should state this explicitly and explain in detail why such action is necessary.

It takes several working days for a committee to process a request for interim measures. Any such request should therefore reach the secretariat as early as possible before the action that the complainant is seeking to prevent could materialize.

A committee may withdraw a request for interim measures on the basis of information received from the parties to the complaint suggesting that such measures are no longer required.

Admissibility of the complaint

Before a committee can consider a complaint on its merits or substance, it must be satisfied that the formal requirements of admissibility are met. When examining admissibility, it may consider one or several of the following factors:

- **If the complainant is acting on behalf of another person, has he or she obtained sufficient authorization or otherwise justified the reasons for doing so?**
- **Is the complainant (or the person on whose behalf the complaint is brought) a victim of the alleged violation?** It has to be shown that the alleged victim is personally and directly affected by the law, policy, practice, act or omission of the State party which constitutes the object of the complaint. It is not sufficient simply to challenge a law or State policy or practice in the abstract (so-called *actio popularis*) without demonstrating how the alleged victim is individually affected.
- **Is the complaint compatible with the provisions of the treaty invoked?** The alleged violation must relate to a right actually protected by the treaty. For instance, a complaint filed under the Optional Protocol to the International Covenant on Civil and Political Rights cannot concern a violation of the right to property, since the Covenant does not protect that right. In such a case, the claim would be, in legal terms, inadmissible *ratione materiae*.

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- **Is the committee in question required to review the facts and evidence in a case already decided by national courts?** The committees are competent to consider possible violations of the rights guaranteed by the treaties concerned, but not to act as an appellate instance with respect to national courts and tribunals. They cannot, in principle, examine the determination of the administrative, civil or criminal liability of individuals, nor can they review the question of innocence or guilt.
 - **Is the complaint sufficiently substantiated?** If the relevant committee considers, in the light of the information before it, that the complainant has not sufficiently presented / described the facts and arguments, it may reject the case as insufficiently substantiated and thus inadmissible.
 - **Does the complaint relate to events that occurred after the entry into force of the complaint mechanism for the State party concerned?** As a rule, a committee does not examine complaints if the facts occurred before this date, as the complaint would be regarded as inadmissible *ratione temporis*. There are, however, exceptions to this rule, for instance if the effects of the event in question result in a continuous violation of the treaty.
 - **Has the same matter been submitted to another international body?** If it has been submitted to another treaty body or to a regional mechanism, such as the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the European Court of Human Rights, the African Commission on Human and Peoples' Rights or the African Court on Human and Peoples' Rights, the committees cannot examine the complaint. This rule aims to prevent unnecessary duplication at the international level. If the matter has been submitted to another body, the complainant should indicate this in the original complaint, specifying the body to which it was submitted.
 - **Have all domestic remedies been exhausted?** As indicated before, a cardinal principle governing the admissibility of a complaint is that the complainant must first have exhausted all relevant remedies that are available in the State party before bringing a claim to a committee. This usually includes pursuing the claim through the local court system, unless there is sufficient evidence that proceedings at the national level have been unreasonably prolonged or would plainly be ineffective. Detailed reasons must be provided as to why the complainant considers that the general rule should not apply. Mere doubts about the effectiveness of a relevant remedy do

not, in the committees' view, dispense with the obligation to exhaust it. Furthermore, if the State party concerned considers that domestic remedies have not been exhausted, it must provide details of the effective remedies available.

- **Is the complaint precluded by a reservation made by the State to the treaty in question?**¹⁰ A State may have entered a substantive reservation to the treaty or a procedural reservation to the complaint mechanism limiting a committee's competence to examine certain communications.
- **Is the complaint an abuse of the procedure?** In some cases, a committee may consider a claim to be a frivolous, vexatious or otherwise inappropriate use of the complaint procedure and reject it as inadmissible, for example if the same individual repeatedly brings claims to the committee on the same issue although the previous ones have already been dismissed.

Merits of the complaint

Once a committee declares a complaint admissible, it proceeds to consider it on its merits, stating the reasons for concluding that a violation has or has not occurred under the applicable treaty provisions. As noted above, a number of States have entered substantive reservations that may limit the scope of the human rights obligations they assume under the treaties. In most cases, a committee will decline to consider complaints concerning matters covered by a reservation, though in exceptional circumstances it may find a reservation impermissible and consider the case regardless.

Information on what a committee considers to be the scope of the rights contained in the treaty for which it is responsible can be found in its decisions on individual cases,¹¹ its so-called *general comments*, interpreting the meaning of various articles, and its concluding observations on reports submitted periodically by State parties.¹² These documents are accessible on the OHCHR website. There are also numerous academic articles and textbooks on the jurisprudence of the various committees.

¹⁰ Reservations are formal statements by which States may limit the obligations that they accept under a particular provision of a treaty. For specific reservations by States, see <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en> (accessed 28 March 2013).

¹¹ For previous decisions, search the treaty body documents database: <http://tb.ohchr.org/default.aspx> or the web page of each committee.

¹² See the Universal Human Rights Index: www.ohchr.org/EN/HRBodies/Pages/UniversalHumanRightsIndexDatabase.aspx (accessed 28 March 2013).

Consideration of the complaint

The committees consider each case in closed session. Although the rules of procedure of some committees provide for partly oral proceedings,¹³ the practice has been to consider complaints only on the basis of the written information supplied by the complainant and the State party. Accordingly, it has not been the practice to receive oral submissions from the parties or audio or audiovisual evidence. Nor do the committees go beyond the information provided by the parties to seek independent verification of the facts.

As a general rule and in order to speed up the procedure, the committees examine the admissibility and the merits of a complaint at the same time. The general procedure set out above will then apply, that is, once a communication has been received and registered, it is transmitted to the State party concerned to give it an opportunity to present observations. The complainant is then offered an opportunity to comment on the State's observations, following which the case is normally ready for the committee's examination of the admissibility and the merits. However, there are situations in which a committee decides to examine the admissibility first. In this event the State will be requested to make submissions on the merits only if the committee declares that the complaint is admissible. The complainant will in any event have an opportunity to comment on the State party's submissions on the merits.

The decision adopted by a committee is transmitted to the complainant and the State party simultaneously. One or more of its members may append a separate opinion to the decision if they come to a different conclusion from the majority or perhaps reach the same conclusion but for different reasons. Final decisions on the merits (generally called *views*) or inadmissibility are posted in full on the OHCHR website as part of the committees' jurisprudence.

What happens once a committee has decided a case?

It should be noted at the outset that there is no appeal against the committees' decisions and that, as a rule, their decisions are final. What happens to a case subsequently depends on the nature of the decision taken.

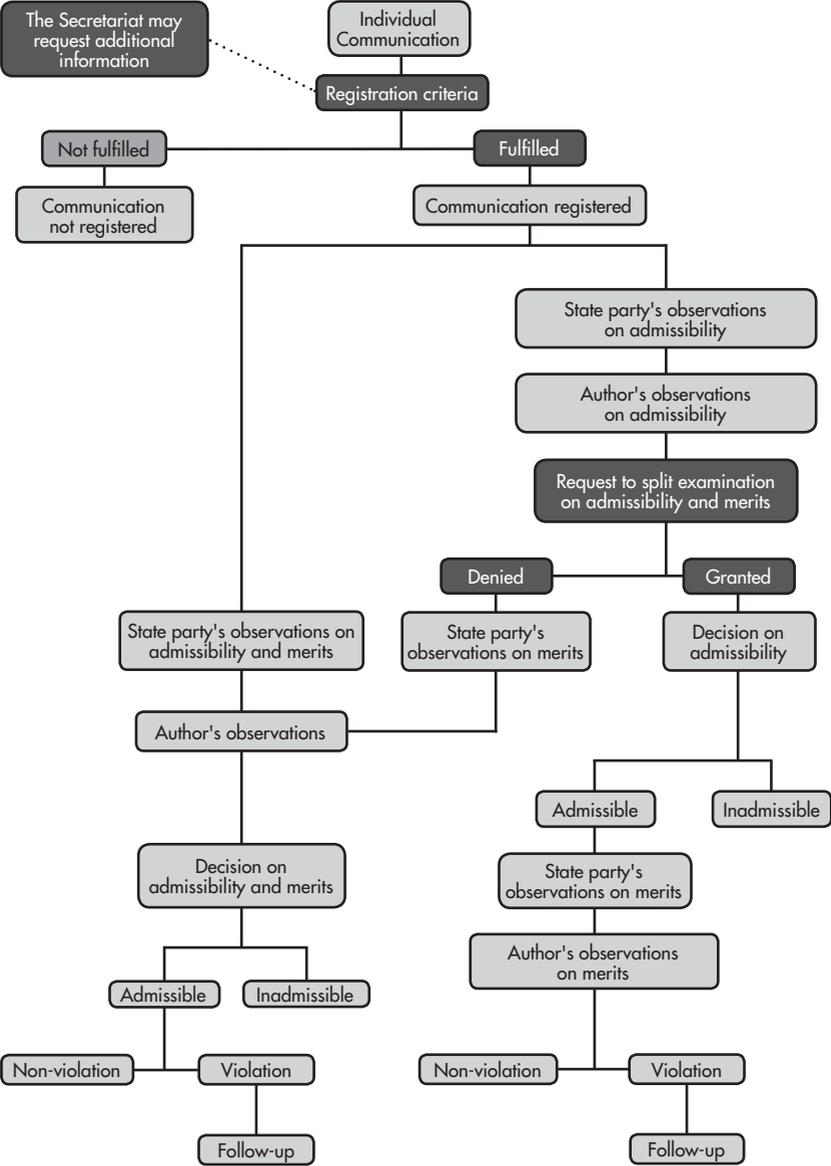
If a committee decides that the facts before it disclose a violation by the State party of the complainant's rights under the treaty, it will invite the State party to supply information on the steps it has taken to give effect to its findings and recommendations. If a committee decides that there has been no violation of the treaty or that the complaint is inadmissible, the case is closed.

¹³ See the descriptions below of the procedures of the Committee against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child.

The committees' decisions represent an authoritative interpretation of the respective treaties. They contain recommendations to the State party in question but they are not legally binding on it. All committees have developed procedures to monitor whether State parties have implemented their recommendations (so-called follow-up procedures), since they consider that, by accepting the complaint procedures, State parties have also accepted to respect the committees' findings.

If a committee concludes that a violation of a treaty has taken place, the State is invited to provide information, within 180 days, on the steps it has taken to implement the recommendations. The State's response is then transmitted to the complainant for comment. If the State party fails to take appropriate action, the committee keeps the case under consideration under the follow-up procedure. A dialogue is thus pursued with the State party and the case remains open until satisfactory measures are taken. Information related to follow-up to the committees' views and recommendations is not confidential and the meetings during which this information is discussed are public.

Case processing flow chart



II. PARTICULARITIES OF THE PROCEDURES UNDER THE DIFFERENT TREATIES

A. Procedure under the Optional Protocol to the International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights, adopted in 1966, covers a broad range of civil and political rights, such as the right to life, the right to a fair trial, freedom of expression, equality before the law and prohibition of discrimination. The individual rights that may be invoked before the Human Rights Committee are set out in Part III of the Covenant (arts. 6–27). The complaint mechanism for alleged violations of those articles is established by the first Optional Protocol to the Covenant, a separate treaty open to State parties to the Covenant. States that have become a party to the Optional Protocol recognize the competence of the Human Rights Committee—a panel of 18 independent experts that meets three times a year—to receive complaints from persons within their jurisdiction alleging violations of their rights under the Covenant.¹⁴

Additional pointers

Complaints under the Optional Protocol to the Covenant that contain the necessary prima facie elements are referred to the Committee's Special Rapporteur on new communications and interim measures, who decides whether the case should be registered and transmitted to the State party for comment. Given the large number of complaints submitted to the Committee, there may be a delay of several years between the initial submission and the Committee's final decision.

Under the Optional Protocol, there is no time limit for submitting complaints to the Committee. However, in order to prevent possible abuse in this respect, the Committee introduced a rule in its rules of procedure regarding delays in submission. According to current rule 96 (c), a delay in submission will not automatically constitute an abuse of the right of submission. However, there might be abuse if the complaint is submitted after five years from the exhaustion of domestic remedies or, where applicable, after 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 case.

The Human Rights Committee cannot examine a complaint if the same matter is being examined at the same time by another mechanism of international

¹⁴ For more information on the Human Rights Committee, see OHCHR Fact Sheet No. 15 or the Committee's web page: <http://www2.ohchr.org/english/bodies/hrc/index.htm> (accessed 28 March 2013).

investigation or settlement. Some State parties have made reservations to exclude the competence of the Committee not only in relation to cases being examined but also to cases that have been examined and decided by another international mechanism. The Committee considers that the Human Rights Council's complaint procedure, special rapporteurs or working groups do not constitute such a mechanism. Accordingly, a complaint to the Human Rights Committee will not be declared inadmissible if it has also been submitted to one of these mechanisms of the Human Rights Council.

As to what constitutes "the same matter", the Committee understands it as relating to the same author, the same facts and the same substantive rights. Facts that have been submitted to another international mechanism can be brought before the Committee if the Covenant provides for broader protection. Furthermore, complaints dismissed by other international mechanisms on procedural grounds are not considered to have been substantively examined; the same facts may therefore be brought before the Committee.

The Human Rights Committee has developed some exceptions to the rule that it cannot examine facts that occurred before the entry into force of the Optional Protocol for the State party concerned. Thus, the Committee will examine a complaint regarding facts that occurred before the date of entry into force if, subsequent to that date, there has been a court decision or some other State act validating those facts.

B. Procedure under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted on 10 December 1984. It prohibits torture and cruel, inhuman or degrading treatment or punishment and, among other obligations, requires States parties not to return persons to countries where there are substantial grounds for believing they would face torture. It also imposes a series of measures aimed at ensuring that acts of torture, wherever they are committed, are appropriately investigated and prosecuted. The substantive obligations are set out in Part I of the Convention (arts. 1–16) and the complaint mechanism is established by article 22. State parties may make a declaration under that article, recognizing the competence of the Committee against Torture—a panel of 10 independent experts that meets twice a year—to consider complaints from individuals alleging violations of their rights under the Convention.¹⁵

¹⁵ For more information on the Committee against Torture, see OHCHR Fact Sheet No. 17 or the Committee's web page: <http://www2.ohchr.org/english/bodies/cat/index.htm> (accessed 28 March 2013).

A great number of complaints are submitted by asylum seekers who claim that, if deported to their country of origin, they will be at risk of being subjected to torture. Thus, the Committee must determine whether States against which the complaint is submitted would violate article 3 of the Convention should the deportation take place.

Additional pointers

A complaint will be declared inadmissible not only if it is under examination by another procedure of international investigation or settlement but also if the same matter has in the past been the subject of a decision under such a procedure.¹⁶ Moreover, the Committee's rules of procedure state that a complaint may be rejected as inadmissible if the time elapsed since the exhaustion of domestic remedies is so unreasonably prolonged as to render consideration of the complaint by the Committee or the State party unduly difficult.

When examining the case the Committee may, on the basis of its rules of procedure, invite the parties to be present at specified closed meetings to provide further clarification or to answer questions on the merits of the complaint. However, such instances are exceptional and a case will not be prejudiced should the complainant fail to attend in person.

When the Committee finds that a State action or proposed action, for example in the case of a pending removal to a country where a person might be at risk of torture, has violated or would violate the State party's obligations under the Convention, it forwards its decision to the State party with a request for information on the implementation of the recommendations within 90 days. In the light of the information provided, the Committee will take such further action as may be appropriate under its follow-up procedure.

C. Procedure under the International Convention on the Elimination of All Forms of Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination, adopted on 21 December 1965, sets out a series of obligations for State parties to ensure the legal and practical enjoyment of the right to be free from racial discrimination. The substantive obligations are set out in Part I of the Convention (arts. 1–7). State parties may make a declaration under article 14, accepting the competence of the Committee on the Elimination of Racial Discrimination—a panel of 18 independent experts that meets twice a year—to consider complaints from individuals or groups of individuals alleging violations of their rights under the Convention.¹⁷

¹⁶ See article 22, paragraph 4 (a), of the Convention.

¹⁷ For more information on the Committee on the Elimination of Racial Discrimination, see OHCHR Fact Sheet No. 12 or the Committee's web page: <http://www2.ohchr.org/english/bodies/ceerd/index.htm> (accessed 28 March 2013).

Under article 14, paragraph 2, a State party may designate a national body which will be competent to receive and consider petitions from individuals and groups of individuals who claim to be victims of a violation of their rights set forth in the Convention and who have exhausted other available local remedies.

Additional pointers

Complaints under this Convention may be brought not only by or on behalf of individuals but also by or on behalf of groups of individuals. The complaints must be submitted *within six months* of the final decision by a national authority in the case.

The fact that the same matter is pending before or has been the subject of a decision under another international procedure will not be considered an obstacle to the admissibility of the complaint.

Upon registration of a complaint, the State party has three months to present submissions on the admissibility of the complaint or, if it has no objection to the admissibility, on the merits. If the State party challenges the admissibility, the complainant will have six weeks to comment on the State party's observations. After that, the Committee will take a decision on admissibility. If the Committee concludes that the case is admissible, the State party has three more months to present observations on the merits. The complainant will then have six weeks to comment before the Committee takes a final decision on the merits of the case. Alternatively, if the State party has no objection to the admissibility of the complaint and submits comments solely on the merits, the complainant will also have six weeks to comment before the Committee takes a final decision on the merits.

The rules of procedure¹⁸ of the Committee on the Elimination of Racial Discrimination authorize it to invite the person filing the complaint (or his/her representative) and State party representatives to attend the proceedings in order to provide additional information or to answer questions on the merits of the case. However, such instances are exceptional and a case will not be prejudiced should the complainant fail to attend in person.

When the Committee takes a decision (called an *opinion*) on the merits of a complaint, it often makes suggestions and/or recommendations, even if it has concluded that there has been no violation of the Convention. These suggestions or recommendations may be general or specific and addressed either to the State party in question or to all State parties to the Convention.

¹⁸ See rule 94, para. 5.

D. Procedure under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women, adopted on 18 December 1979, guarantees the right of all women to be free from discrimination and lays down obligations for State parties designed to ensure the legal and practical enjoyment of that right. The substantive obligations are set out in Parts I to IV of the Convention (arts. 1–16).

The Convention's complaint mechanism is established by its Optional Protocol, which was adopted on 6 October 1999. It is a separate treaty open to State parties to the Convention. States that have become a party to the Optional Protocol recognize the competence of the Committee on the Elimination of Discrimination against Women—a panel of 23 independent experts that meets three times a year—to receive complaints from persons within their jurisdiction alleging violations of their rights under the Convention.¹⁹

Claims dealt with by the Committee under the complaint procedure have covered issues such as failure on the part of State authorities to adequately protect women victims of domestic violence; coerced sterilization; stereotypes affecting women's right to a fair and just trial; absence of laws and regulations governing access to therapeutic abortion; conditions of detention not adapted to the specific needs of women; or inappropriate medical treatment in connection with pregnancy resulting in the victim's death.

Additional pointers

A complaint will be inadmissible not only if it is being examined by another procedure of international investigation or settlement but also if it has already been examined under such procedure.

When the Committee takes a decision (formally called *views*) on the merits of a case, it also makes recommendations on the remedies to be adopted by the State party. The recommendations can be of a general nature, addressing policy issues in the State party, or specific, adapted to the case in question. The kinds of recommendations that the Committee makes include: measures to end ongoing violations against the victim; restitution, compensation and rehabilitation for the victim; law reform and changes in policies and practices that are in violation of the Convention; steps to prevent the repetition of the violation.

¹⁹ For more information about the Committee on the Elimination of Discrimination against Women, see its web page: <http://www2.ohchr.org/english/bodies/cedaw/index.htm> (accessed 28 March 2013).

The State party is required, within six months of receiving the Committee's decision and recommendations, to submit a written response detailing any action it has taken. The Committee may subsequently invite the State party to submit further information. This may take the form of an update in the State party's subsequent periodic report²⁰ to the Committee.

E. Procedure under the Optional Protocol to the Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities, adopted on 13 December 2006, promotes the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and sets out obligations for State parties designed to ensure the legal and practical enjoyment of these rights and freedoms.

The complaint mechanism under the Convention is established by its Optional Protocol, which was adopted on the same day. It is a separate treaty open to State parties to the Convention. States that have become a party to the Optional Protocol recognize the competence of the Committee on the Rights of Persons with Disabilities—a panel of 18 independent experts that meets twice a year—to receive complaints from individuals subject to their jurisdiction who claim to be victims of a violation of the provisions of the Convention.²¹

Additional pointers

Complaints are to be submitted in writing or in an alternative format that enables a legible copy of its content to be transmitted to the State party.

A complaint will be inadmissible not only if the same matter is being examined under another procedure of international investigation or settlement but also if it has already been examined by such procedure or the Committee itself.

The Committee on the Rights of Persons with Disabilities applies the criteria set forth in article 12 of the Convention on the Rights of Persons with Disabilities, recognizing the legal capacity of the author or alleged victim, regardless of whether this capacity is recognized in the State party against which the complaint is directed.

Under its rules of procedure the Committee can obtain, through the Secretary-General of the United Nations, any documentation from organizations within the United Nations system or other bodies that may be of assistance

²⁰ Periodic reports submitted by State parties under article 18 of the Convention.

²¹ For more information about the Committee on the Rights of Persons with Disabilities, see its web page: www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx (accessed 28 March 2013).

in the consideration of the complaint. In this case, to preserve procedural equity, each party will be afforded an opportunity to comment on such documentation or information within fixed time limits.

F. Procedure under the International Convention for the Protection of All Persons from Enforced Disappearance

The International Convention for the Protection of All Persons from Enforced Disappearance, adopted on 20 December 2006, imposes obligations on State parties to protect all persons from enforced disappearance and to combat impunity for the crime of enforced disappearance. The substantive obligations are set out in Part I of the Convention (arts. 1–25). The Convention establishes an individual complaint mechanism. State parties may make a declaration under article 31, accepting the competence of the Committee on Enforced Disappearances—a panel of 10 independent experts meeting twice a year—to consider complaints from individuals subject to its jurisdiction alleging violations by that State of their rights under the Convention.²²

The Committee has competence solely in respect of enforced disappearances which commenced after the entry into force of the Convention. If a State became a party to the Convention after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to enforced disappearances which commenced after the entry into force of the Convention for that State.

The Committee should be distinguished from the Working Group on Enforced or Involuntary Disappearances, a body composed of five independent experts established in 1980 by the then United Nations Commission on Human Rights. The Working Group examines cases of enforced disappearance alleged to have occurred in any part of the world. However, contrary to the Committee, the Working Group's basic mandate is not to monitor the implementation of the Convention in the State parties to it, but to assist relatives to ascertain the fate and whereabouts of their disappeared family members.²³

Additional pointers

A complaint will be considered inadmissible if the same matter is being examined under another procedure of international investigation or settlement of the same nature.

When the Committee communicates a complaint to a State party, the latter must provide, within four months, written explanations or statements that relate

²² For more information about the Committee on Enforced Disappearances, see its web page: www.ohchr.org/EN/HRBodies/CED/Pages/CEDIndex.aspx (accessed 28 March 2013).

²³ See OHCHR Fact Sheet No. 6.

to the admissibility and the merits, as well as to any remedy that may have been provided in the matter.

At any time after the receipt of a complaint and before a conclusion has been reached on the merits, the Committee may consult relevant documentation from United Nations bodies, specialized agencies, funds, programmes and mechanisms and other international organizations, including regional intergovernmental organizations or bodies as well as State institutions, agencies or offices, that may assist in the examination of the case. However, the Committee must afford the State and the complainant an opportunity to comment on such information within fixed time limits.

G. Procedure under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted on 18 December 1990, imposes obligations on State parties to protect and guarantee a comprehensive range of rights on behalf of migrant workers and their families. The substantive obligations are set out in Parts II to VI of the Convention (arts. 7–71). The Convention establishes its own individual complaint mechanism. State parties may make a declaration under article 77, accepting the competence of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families—a panel of 14 independent experts that meets twice a year—to consider complaints from individuals or groups of individuals alleging violations of their rights under the Convention.²⁴ The individual complaint mechanism will enter into force when ten States parties to the Convention have made a declaration under article 77 of the Convention. As the Convention’s complaint mechanism has not yet entered into force, the Committee has not yet developed rules of procedure and practice relating to individual complaints.

Once the complaint mechanism has entered into force, individuals subject to the jurisdiction of a State party that has made the declaration under article 77 (or persons acting on their behalf) may make complaints to the Committee, claiming that their individual rights set out in the Convention have been violated by the State party.

A complaint will not be admissible if the same matter has been or is being examined under another procedure of international investigation or settlement.

²⁴ For more information on the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, see OHCHR Fact Sheet No. 24 or the Committee’s web page: <http://www2.ohchr.org/english/bodies/cmw/index.htm> (accessed 28 March 2013).

H. Procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights, adopted on 16 December 1966, imposes obligations on State parties to take steps, individually and through international assistance and cooperation, to the maximum of their available resources, with a view to achieving progressively the full realization of economic, social and cultural rights. The Covenant's complaint mechanism is established by its Optional Protocol, which was adopted on 10 December 2008. It is a separate treaty open to State parties to the Covenant. States that have become a party to the Optional Protocol recognize the competence of the Committee on Economic, Social and Cultural Rights—a panel of 18 independent experts that meets twice a year—to receive complaints from persons within their jurisdiction alleging violations of their rights under the Convention.²⁵ In 2012, the Committee adopted provisional rules of procedure to be applied to the complaints submitted under the Optional Protocol.

Under the Optional Protocol, the Committee may facilitate the friendly settlement of complaints submitted to it, at any time of the procedure and before a final decision on the merits has been reached. The friendly settlement procedure will be conducted on the basis of consent of the parties and will be confidential. The Committee may terminate its facilitation of the procedure if it concludes that the matter is not susceptible to a resolution or any of the parties does not consent to its application, decides to discontinue it, or does not display the requisite will to reach a friendly settlement based on respect for the obligations set forth in the Covenant. Once both parties have expressly agreed to a friendly settlement, the Committee shall adopt a decision with a statement of the facts and of the solution reached. In all cases, the friendly settlement must be based on respect for the obligations set forth in the Covenant. If no friendly settlement is reached, the Committee shall continue the examination of the complaint in accordance with the normal procedure.

Under the Optional Protocol, State parties are required to take appropriate measures to ensure that individuals under their jurisdiction are not subjected to any form of ill-treatment or intimidation as a consequence of communicating with the Committee in connection with a complaint submitted to it. If the Committee receives reliable information that a State party has not complied with this obligation, it may request the State to provide explanations and adopt measures to put an end to the situation.

²⁵ For more information on the Committee on Economic, Social and Cultural Rights, see OHCHR Fact Sheet No. 16 or the Committee's web page: <http://www2.ohchr.org/english/bodies/cescr/index.htm> (accessed 28 March 2013).

The Committee may, if necessary, decline to consider a complaint if it does not reveal that the author has suffered a clear disadvantage, unless the Committee considers that the complaint raises a serious issue of general importance.

Additional pointers

The Optional Protocol sets a time limit for submitting complaints to the Committee. A complaint must be submitted within one year of exhausting domestic remedies, unless the author can demonstrate that it was impossible to do so.

At any time after the receipt of a complaint and before a conclusion has been reached on the merits, the Committee may consult relevant documentation from United Nations bodies, specialized agencies, funds, programmes and mechanisms, and other international organizations, including from regional human rights systems, that may assist in the examination of the case, provided that the Committee affords the State party and the complainant an opportunity to comment on such documentation.

When examining complaints, the Committee will consider the reasonableness of the steps taken by the State party regarding the implementation of the rights set forth in the Covenant. In doing so, the Committee will bear in mind that the State party may adopt a range of policy measures to this end.

The Committee may request the State party to include information on any action taken in response to its views, recommendations or friendly settlement agreements in its periodic reports on the general implementation of the Covenant.²⁶

I. Procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure²⁷

The Convention on the Rights of the Child, adopted on 20 November 1989, imposes obligations on State parties to respect the rights of the child. The substantive obligations are set out in Part I of the Convention (arts. 1–41), as well as in its Optional Protocol on the sale of children, child prostitution and child pornography and its Optional Protocol on the involvement of children in armed conflict. The Convention's complaint mechanism is established by its Optional Protocol on a communications procedure, which was adopted on 19 December 2011. It is a separate treaty open to State parties to the Convention and its two substantive Optional Protocols. States that have

²⁶ Reports submitted under articles 16 and 17 of the Covenant.

²⁷ At the time of writing, the Optional Protocol on a communications procedure had not yet entered into force.

become a party to the Optional Protocol on a communications procedure recognize the competence of the Committee on the Rights of the Child—a panel of 18 independent experts that meets three times a year—to receive complaints from persons within their jurisdiction alleging violations of their rights under the Convention and its two substantive Optional Protocols.²⁸ In January 2013, the Committee adopted the rules of procedure to be applied to the complaints submitted under the Optional Protocol.

Complaints may be submitted by individuals or groups of individuals claiming to be victim(s) of a violation of the Convention and/or its substantive Optional Protocols, regardless of whether their legal capacity is recognized in the State party against which the complaint is directed. Complaints may also be submitted by their designated representatives or by others acting on behalf of the alleged victim(s) with their express consent. According to the Committee's rules of procedure, if there is a concern that representation, despite the victim's consent, may be a result of improper pressure or inducement, the Committee may request additional information or documents, including from third-party sources, that show that the submission of a complaint on the alleged victim's behalf is not a result of improper pressure or inducement and is in the best interests of the child.

Complaints may be submitted on behalf of the alleged victim without such express consent, provided that the complainant can justify his/her action and the Committee deems it to be in the best interests of the child. If possible, the alleged victim, on whose behalf the complaint is presented, may be informed of the complaint and his/her views shall be given due weight in accordance with his/her age and maturity.

The Committee may facilitate the friendly settlement of complaints submitted to it. A friendly settlement must be based on respect for the obligations set forth in the Convention and/or its substantive Optional Protocols. The Committee will not accept any friendly settlement that is not based on the respect of such obligations.

Additional pointers

The Optional Protocol sets a time limit for initial submissions. A complaint must be submitted within one year of exhausting domestic remedies, unless the complainant can demonstrate that it was impossible to do so.

A complaint is inadmissible if the same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement.

²⁸ For more information about the Committee, see its web page: <http://www2.ohchr.org/english/bodies/crc/index.htm> (accessed 28 March 2013).

The Committee may decide to invite the complainant and/or alleged victim as well as representatives of the State party concerned in order to provide, in person or by way of video or teleconference, further clarification or to answer questions on the merits of the case, provided that the Committee deems it to be in the best interests of the child. Any hearing shall be conducted in a closed meeting. The hearings of alleged victims will not be conducted in the presence of State representatives, unless the alleged victims so request and the Committee deems it in the best interests of the children. The Committee will guarantee child-sensitive procedures at hearings of the alleged victims and ensure that their views are given due weight in accordance with their age and maturity.

Annex I

**MODEL FORM FOR THE SUBMISSION OF COMMUNICATIONS
UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL
COVENANT ON CIVIL AND POLITICAL RIGHTS, THE CONVENTION
AGAINST TORTURE OR THE INTERNATIONAL CONVENTION ON
THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

Please indicate which of the above procedures you are invoking:

.....

Date:

I. Information on the complainant

Name: First name(s):

Nationality: Date and place of birth:

Address for correspondence on this complaint:

.....

.....

Submitting the communication:

on your own behalf or on behalf of another person

If the complaint is being submitted on behalf of another person, please provide the following details of that other person:

Name: First name(s):

Nationality: Date and place of birth:

Address or current whereabouts:

.....

.....

If you are acting with the knowledge and consent of that person, please provide that person's authorization for you to bring this complaint

.....

Or

If you are not so authorized, please explain the nature of your relationship with that person:

.....

and detail why you consider it appropriate to bring this complaint on his or her behalf:

.....

.....

II. State concerned/articles violated

Name of the State that is either a party to the Optional Protocol (for complaints to the Human Rights Committee) or has made the relevant declaration (for complaints to the Committee against Torture or the Committee on the Elimination of Racial Discrimination):

Articles of the Covenant or Convention alleged to have been violated:

III. Exhaustion of domestic remedies/application to other international procedures

Steps taken by or on behalf of the alleged victims to obtain redress within the State concerned for the alleged violation. Detail which procedures have been pursued, including recourse to the courts and other public authorities, which claims you have made, when and with which outcomes:

If you have not exhausted these remedies because their application would be unduly prolonged, they would not be effective, they are not available to you or for any other reason, please explain your reasons in detail:

Have you submitted the same matter for examination under another procedure of international investigation or settlement (e.g., the Inter-American Commission on Human Rights, the European Court of Human Rights or the African Commission on Human and Peoples' Rights)?

Yes No

If so, detail which procedure(s) have been, or are being, pursued, which claims you have made, when and with which outcomes:

IV. Facts of the complaint

Detail, in chronological order, the facts and circumstances of the alleged violations. Include all matters which may be relevant to the assessment and consideration of your particular case. Please explain how you consider that the facts and circumstances described violate your rights.
.....
.....

Author's signature:

[The dotted lines simply indicate where your responses are required. You should take as much space as you need.]

V. Supporting documentation (copies, not originals, to be enclosed with your complaint)

- Written authorization to act (if you are bringing the complaint on behalf of another person and are not otherwise justifying the absence of specific authorization)
- Decisions of domestic courts and authorities on your claim (a copy of the relevant national legislation is also helpful)
- Complaints to and decisions by any other procedure of international investigation or settlement
- Any documentation or other corroborating evidence you possess that substantiates your description in part IV of the facts of your claim and/or your argument that the facts described amount to a violation of your rights

If you do not enclose this information and it needs to be sought specifically from you, or if accompanying documentation is not provided in the working languages of the secretariat (English, French, Spanish or Russian), the consideration of your complaint may be delayed.

Annex II

MODEL FORM FOR THE SUBMISSION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

I. Information concerning the author(s) of the communication

- Family name:
 - First name:
 - Date and place of birth:
 - Nationality/citizenship:
 - Passport/identity card number (if available):
 - Sex:
 - Marital status/children:
 - Profession:
 - If relevant, ethnic background, religious affiliation, social group:
 - Present address:
.....
 - Postal address for confidential correspondence (if other than present address):
.....
.....
 - Telephone number/e-mail address:
 - Indicate whether you are submitting the communication as:
- Alleged victim(s). If there is a group of individuals alleged to be victims, provide basic information about each individual.
- On behalf of the alleged victim(s). Provide evidence of the consent of the victim(s) or reasons that justify submitting the communication without such consent.

II. Information concerning the alleged victim(s) (if other than the author)

- Family name:
- First name:
- Date and place of birth:.....
- Nationality/citizenship:
- Passport/identity card number (if available):
- Sex:
- Marital status/children:.....
- Profession:.....
- If relevant, ethnic background, religious affiliation, social group:.....
- Present address:
- Postal address for confidential correspondence (if other than present address):
- Telephone number/e-mail address:

III. Information on the State party concerned

- Name of the State party (country):

IV. Facts of the complaint and nature of the alleged violation(s)

Please detail, in chronological order, the facts and circumstances of the alleged violations, including:

- Description of the alleged violation(s) and the alleged perpetrator(s):
- Date(s):

-
- Place(s):
 - Provisions of the Convention on the Elimination of All Forms of Discrimination against Women that were allegedly violated. If the communication refers to more than one provision, describe each issue separately:.....
.....
.....
.....

V. Steps taken to exhaust domestic remedies

Describe the action taken to exhaust domestic remedies; for example, attempts to obtain legal, administrative, legislative, policy or programme remedies, including:

- Type(s) of remedy sought:
- Date(s):
- Place(s):
- Who initiated the action?
- Which authority or body was addressed?
- Name of court hearing the case (if any)
- If you have not exhausted domestic remedies because their application would be unduly prolonged, they would not be effective, they are not available to you or for any other reason, please explain your reasons in detail ...
.....
.....

Please note: Enclose copies of all relevant documentation.

VI. Other international procedures

Has the same matter already been examined or is it being examined under another procedure of international investigation or settlement?

Yes No

If so, explain:

- Type of procedure(s):

-
- Date(s):
 - Place(s):
 - Results (if any):

Please note: Enclose copies of all relevant documentation.

VII. Disclosure of your name(s)

Do you consent to the disclosure of your name(s) to the State party should your communication be registered by the Committee in accordance with article 6, paragraph 1, of the Optional Protocol and rule 69, paragraph 1, of the Committee's rules of procedure?

Yes No

VIII. Date and signature

Date/place:

Signature of author(s) and/or victim(s):

IX. List of documents attached (do *not* send originals, only copies)

.....
.....
.....

Annex III

MODEL FORM FOR THE SUBMISSION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

I. Information concerning the author(s) of the communication

- Family name:
- First name:
- Date and place of birth:.....
- Nationality/citizenship:
- Sex:
- Other relevant personal identification data (if any of the above details are not available):
- Present address:
- Postal address for confidential correspondence (if other than present address):
- Telephone or mobile number (if any):
- E-mail address (if any):.....
- Fax number (if any):
- If you are submitting the communication on behalf of the alleged victim(s), please provide evidence of the consent of the victim(s), or reasons that justify submitting the communication without such consent:.....

II. Information concerning the alleged victim(s)

- Family name:
- First name:
- Date and place of birth:.....
- Nationality/citizenship:
- Sex:
- If you consider it appropriate, please indicate whether the alleged victim(s) has a disability and, if so, the nature of their disability:
.....
- Other relevant personal identification data (if any of the above details are not available)
.....
- Present address:
.....
.....
- Postal address for confidential correspondence (if other than present address):
.....
- Telephone or mobile number (if any):
- E-mail address (if any):.....
- Fax number (if any):
- If the communication concerns a group of individuals claiming to be victims, please provide basic information about each individual, in line with the above list.

III. Information on the State party concerned

Name of the State party (country):

IV. Subject matter of the communication

.....

V. Nature of the alleged violation(s)

Please provide detailed information to substantiate your claim, including:

- Description of the alleged violation(s), specifying the acts or omissions that prompted the communication:
.....
.....
.....
.....
.....
- Details of the perpetrators of the alleged violation(s):
.....
.....
- Date(s):
- Place(s):

Insofar as possible, please indicate which provisions of the Convention were allegedly violated. If the communication refers to more than one provision, describe each issue separately:
.....
.....

VI. Steps taken to exhaust domestic remedies

Describe the action taken to exhaust domestic remedies in the State party in which the alleged violation(s) of rights protected under the Convention occurred, such as attempts to obtain legal or administrative redress. Any complaint submitted to the Committee must first have been submitted to the national courts and authorities for consideration.

In particular, please indicate:

- Type(s) of action taken by the alleged victim(s) to exhaust domestic remedies, such as decisions of domestic courts:
- Authority or body addressed:
- Name of the court hearing the case (if any):
- Date(s):
- Place(s):
- Who initiated the action or sought a solution:

- Key points of the final decision of the authority, body or court addressed:....
.....
.....
- If domestic remedies have not been exhausted, please explain why:....
.....
.....

Note: Please enclose copies of all relevant documentation, including copies of legal or administrative decisions or domestic legislation related to the case or summaries of such decisions or legislation in one of the working languages of the secretariat (English, French, Spanish or Russian).

VII. Other international procedures

Has the same matter already been examined or is it being examined under another procedure of international investigation or settlement?

Yes No

If so, explain:

- Type of procedure(s):
- Body or bodies addressed:.....
- Date(s):.....
- Place(s):
- Results (if any):.....
.....
.....

Note: Please enclose copies of all relevant documentation.

VIII. Specific requests/remedies

Please detail the specific requests or remedies that are being submitted to the Committee for consideration:

.....

.....

IX. Date, place and signature

- Date of communication:.....
- Place of signature of communication:
- Signature of author(s) and/or alleged victim(s):

X. List of documents attached

.....
.....
.....
.....
.....

Note: Do not send originals, only copies.

Annex IV

MODEL FORM FOR THE SUBMISSION OF COMMUNICATIONS UNDER THE INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE

Please provide relevant information in response to the items listed below. Your communication should not exceed 50 pages (without annexes).

I. Information on the State party concerned

- Name of the State party (country) alleged to have committed the violation
 - that *is a party* to the International Convention for the Protection of All Persons from Enforced Disappearance **and**
 - has *made the declaration* in accordance with article 31 of the Convention
-

II. Information concerning the author(s) of the communication

- Family name:
- First name:
- Address of usual residence:
- Postal address for confidential correspondence (if other than present address):
- Telephone number/e-mail address (if available):
- If you are acting with the knowledge and consent of the victim, please provide that person's authorization for you to bring this complaint; or
- If you are not so authorized, please explain the nature of your relationship with that person:
and detail why you consider it appropriate to bring this complaint on his or her behalf:
- Do you wish your identity to be disclosed in the Committee's final decision concerning your communication?
Yes No

III. Information concerning the alleged victim(s)

If there is a group of individuals alleged to be victims, provide basic information about each individual.

-
- Family name:
 - First name:
 - Sex:
 - Date of birth:
 - Place and country of birth:
 - Address of usual residence
 - Do you wish the victim's identity to be disclosed in the Committee's final decision concerning your communication?
 Yes No

If your communication refers to the enforced disappearance of a person(s), also provide the following information about the victim(s), if available (optional):

- Other names by which he or she may be known
 - Profession/ Occupation/ Other relevant activity
 - Father's name
 - Mother's name
 - If relevant, ethnic background, belonging to an indigenous people or a minority, religious affiliation, membership in political or social group
 - Identity document (passport, national identity card, voter's card or any other relevant national identity card):
 - Was the person below 18 years of age at the moment of the disappearance? Yes No
 - Marital Status / Children
 - Pregnant: Yes No
- If so, please specify if possible the number of months at the time of disappearance

IV. Facts of the communication and articles allegedly violated

- Please detail, in chronological order, the facts and circumstances of the alleged violations. Include all matters which may be relevant to the assessment and consideration of your particular case.
- If possible, identify the articles of the Convention alleged to have been violated.
- Explain how you consider that the facts and circumstances described violated rights of the Convention. If the communication refers to more than one provision, describe each issue separately.

Important: Please note that it is highly recommended to enclose copies of documentation relevant to your claims. **DO NOT SEND ORIGINALS.**

If your communication refers to the enforced disappearance of a person(s), include the following information as part of the facts (if possible):

(a) Date of arrest, abduction or disappearance:

(b) Place of arrest, abduction or where the disappearance occurred (be as precise as possible. Indicate street, city, province or any other relevant information):

(c) Date when the person was last seen, if different from the date of arrest or abduction (for example, if seen in a prison months after the initial arrest or abduction):

(d) Place where the person was last seen (if different from place of arrest or abduction. For example, if seen in a prison months after the initial arrest or abduction). Please, be as precise as possible. Indicate street, city, province or any other relevant information:

(e) If possible, please, provide a full description of how the disappearance took place:

(f) Identity, if possible, the State or State-supported forces, entity, or group believed to be responsible for the disappearance.

(i) If the perpetrators are believed to be State agents, please specify and indicate who and why they are believed to be responsible. Be as precise as possible—military, police, persons in uniform or civilian clothes, agents of security services, unit to which they belong, rank and functions, identification presented, etc.:

(ii) If identification as State agents is not possible, specify and indicate which group or entity is believed to be responsible. Please indicate if its members acted with the authorization, support or acquiescence of the State. Explain why you believe that governmental authorities, or persons linked to them, may be responsible for the incident:

(g) Additional information on the case. Please indicate any other relevant information that could be useful:

V. Exhaustion of effective available domestic remedies

Describe the action taken by or on behalf of the alleged victim(s) to obtain redress within the State concerned for the alleged violations. For example, administrative and/or legal proceedings, including:

- Type(s) of remedy sought:
- Date(s):
- Place(s):
- Who initiated the action?
- Which authority or body was addressed?
- Name of court hearing the case (if any):
- Outcome/result (if any):

Domestic remedies need not be exhausted if their application would be unduly prolonged, if they would not be effective or if they are not available to you. If you have not exhausted domestic remedies for these reasons, or for any other, please explain them in detail:

.....
.....
.....

Important: Enclose copies of all relevant documentation (e.g., administrative or court decisions). **DO NOT SEND ORIGINALS.**

VI. Application to other international procedures

Have you submitted the same matter for examination under another procedure of international investigation or settlement (e.g., the Human Rights Committee, the Committee against Torture, or other committees which monitor the implementation of core international human rights treaties; or regional mechanisms such as the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the European Court of Human Rights, the African Commission on Human and Peoples’ Rights or the African Court on Human and Peoples’ Rights)?

Yes No

If so, please detail

- Which procedure(s) have been, or are being, pursued:
- Which claims you have made:

- When you submitted your complaint:.....
.....
- What was the outcome (if any):.....
.....

Important: Enclose copies of relevant documentation (e.g., your submission, the final outcome). DO NOT SEND ORIGINALS.

VII. Request for interim measures (optional)

You must indicate expressly if you wish the Committee to request interim measures from the State concerned to prevent irreparable damage to the victim of the alleged violation. In that case:

- Describe the victim’s personal risk;
- Identify the possible irreparable damage;
- If possible, indicate the measure(s) that could be taken by the State concerned to avoid possible irreparable damage.

VIII. Date and signature

Date/place:.....

Signature of author(s) and/or victim(s):

IX. List of documents attached (do not send originals, only copies)

.....

Author(s) of a communication are required to make sure, before sending the form, that all the above-mentioned elements are included. This will allow for a smoother consideration of the case.

Annex V

CHECKLIST FOR SUBMITTING INDIVIDUAL COMMUNICATIONS TO THE UNITED NATIONS TREATY BODIES

- Have you indicated the State party against which your communication is submitted?
- Has the State against which you submitted a communication ratified the treaty concerned? Has it recognized the competence of the Committee to receive and consider communications from individuals?
- Are you (or the person on whose behalf you are bringing the complaint) the victim of the alleged violation?
- Is your communication submitted within the time limit prescribed under the treaty concerned?^a
- Have you exhausted all available domestic remedies?^b Have you detailed the steps taken to exhaust domestic remedies available in the State party against which your complaint is directed?
- Have you provided information on whether you have submitted your case to another means of international investigation or settlement?
- Does your complaint relate to events that occurred after the entry into force of the complaint mechanism for your State?^c
- Have you submitted your communication in writing, written legibly (preferably typed) and signed?
- Have you provided basic personal information such as name, nationality, date of birth, postal address and e-mail address?
- Is your communication in one of the United Nations languages (Arabic, Chinese, English, French, Russian and Spanish)?
- Have you supplied copies of all documents^d of relevance to your communication and, if necessary, translations^e into one of the United Nations languages?
- Have you ordered all documents by date, numbered them consecutively and are they accompanied by a concise description?
- If you are acting on behalf of another person, have you obtained sufficient authorization^f or are you otherwise justified in your action?

^a Applicable to communications submitted to the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child, and the Committee on Economic, Social and Cultural Rights.

^b If the application of the remedies is unreasonably prolonged, or if the remedies are plainly ineffective or otherwise unavailable, you may not be required to exhaust domestic remedies.

^c As a rule, a committee does not examine complaints dating from a period before this date and your complaint is regarded, in legal terms, as inadmissible *ratione temporis*. There are, however, exceptions, for instance if the effects of the event in question result in a continuous violation of the treaty.

^d Do not submit originals, only copies.

^e These are not required to be official translations and may summarize the documents.

^f No specific form is needed.

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- ☑ If you do not wish your identity to be disclosed in the final decision, have you indicated this in your communication?
 - ☑ Have you indicated the kinds of remedies you would like to obtain from the State party should the Committee conclude that your rights have been violated?
 - ☑ Is your complaint sufficiently substantiated? Have you provided, in chronological order, all the facts and relevant information on which the communication is based?
 - ☑ Have you explained why you consider that the facts of your communication constitute a violation of the treaty concerned? Is your complaint compatible with the provisions of the treaty concerned?
 - ☑ Does your communication consist of maximum 50 pages (excluding annexes)?
 - ☑ If your communication exceeds 20 pages, have you filed a short summary of up to 5 pages?

How to contact the treaty bodies?

For individual communications, direct correspondence and inquiries to:

Post: Petitions and Inquiries Section
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
CH-1211 Geneva 10, Switzerland

Fax: + 41 22 917 9022 (particularly for urgent matters)

E-mail: petitions@ohchr.org

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- No. 34 The Right to Adequate Food
- No. 33 Frequently Asked Questions on Economic, Social and Cultural Rights
- No. 32 Human Rights, Terrorism and Counter-terrorism
- No. 31 The Right to Health
- No. 30 The United Nations Human Rights Treaty System (Rev.1)
- No. 29 Human Rights Defenders: Protecting the Right to Defend Human Rights
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- No. 2 The International Bill of Human Rights (Rev.1)

* Fact sheets Nos. 1, 5 and 8 are no longer issued. All fact sheets are available online from www.ohchr.org.

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Enquiries should be addressed to:

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United Nations Office at Geneva
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Office of the United Nations High Commissioner for Human Rights
United Nations
New York, NY 10017
United States of America

HUMAN RIGHTS



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