

VIII. SUBMITTING A COMPLAINT ON AN ALLEGED HUMAN RIGHTS VIOLATION



Complaint procedures at a glance

What are they?

Human rights complaint procedures are mechanisms for bringing cases of alleged human rights violations to the attention of the United Nations. There are three such mechanisms:

- Individual complaints under the international human rights treaties (petitions);
- Individual communications under the **special procedures** of the **Human Rights Council**; and
- The **complaint procedure** of the Human Rights Council.

How do they work?

Each procedure has its own requirements, advantages and limitations.

These need to be carefully considered before deciding which one(s) to use:

- Individual complaints of human rights violations can be submitted under five of the core **international human rights treaties**;
- Individual communications operate under the thematic and geographic mandates of the special procedures of the Human Rights Council; and
- The Council's complaint procedure addresses consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances.

How to access and work with the complaint procedures

Any civil society actor, with due regard for the specific requirements of each procedure, is able to access these mechanisms, regardless of status with the United Nations. Complaints under each of these procedures can be submitted by the individual who has suffered the alleged human rights violation or on that person's behalf by third parties, for example, by a non-governmental organization (NGO). Civil society actors can often act as a conduit for individuals seeking redress from human rights abuses by preparing, submitting or lodging a complaint on

The Handbook is available in digital format on the OHCHR website at:

<http://www.ohchr.org/civilsocietyhandbook/>

There you will find the Handbook's chapters available for download, as well as links to all the references contained in the publication.

their behalf. However, anyone submitting a complaint on behalf of an individual should ensure that they obtain the

consent of that individual and that the individual is aware of the implications of making a complaint. The requirements for each

procedure should be carefully followed to ensure that the complaint is admissible.



Key contacts for the human rights complaint mechanisms

Complaints under the human rights treaties

(To the **Human Rights Committee**, the **Committee against Torture**, the **Committee on the Elimination of Discrimination against Women**, the **Committee on the Elimination of Racial Discrimination** or the **Committee on the Rights of Persons with Disabilities**)

Petitions Team

Office of the United Nations High Commissioner for Human Rights

Palais des Nations

8–14, avenue de la Paix

CH–1211 Geneva 10 - Switzerland

Fax: +41 (0)22 917 90 22

E-mail: tb-petitions@ohchr.org

Communications under special procedures

Special Procedures Division

Office of the United Nations High Commissioner for Human Rights

Palais des Nations

8–14, avenue de la Paix

CH–1211 Geneva 10 - Switzerland

Fax: +41 (0)22 917 90 06

E-mail: urgent-action@ohchr.org

Human Rights Council's complaint procedure

Human Rights Council Branch (complaint procedure)

Office of the United Nations High Commissioner for Human Rights

Palais des Nations

8–14, avenue de la Paix

CH–1211 Geneva 10 - Switzerland

Fax: +41 (0)22 917 90 11

E-mail: CP@ohchr.org

What are the complaint procedures?

The United Nations system focuses largely on the obligations of States and operates at the level of Governments. However, its human rights system also provides for different procedures that are open to individuals and groups seeking United Nations action on a human rights situation of concern to them. These are called human rights complaint procedures.

Through these procedures, individuals may bring a human rights concern to the attention of the United Nations; thousands of people around the world do so every year.

Human rights complaints may be submitted under these three mechanisms:

- The **international human rights treaties** (petitions);
- The **special procedures mechanisms** of the **Human Rights Council**; and
- The **complaint procedure** of the Human Rights Council.

Under certain circumstances, these different procedures may be complementary and more than one may be used.

How do the complaint procedures work?

It is important to consider carefully which complaint procedure is best suited to a particular case. Each has its own strengths, specific requirements and limitations. They need to be considered in the interests of the victim(s) and of the individual(s) or organization(s) presenting the complaint.

A. Individual complaints under the international human rights treaties

Seven international human rights treaties allow for individual complaints to human rights treaty bodies:

- The **International Covenant on Civil and Political Rights** under its **First Optional Protocol**;
- The **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** under its article 22;
- The **Convention on the Elimination of All Forms of Discrimination against Women** under its **Optional Protocol** (this treaty also allows communications from groups of individuals);
- The **International Convention on the Elimination of All Forms of Racial Discrimination** under its article 14 (this treaty also allows communications from groups of individuals);

- The **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families** under its article 77. However, this provision will come into force only after 10 States parties have made a declaration to that effect.⁶⁹
- The **Convention on the Rights of Persons with Disabilities** under its **Optional Protocol** (this treaty also allows communications from groups of individuals); and
- The **International Convention for the Protection of All Persons from Enforced Disappearance** under its article 31. By September 2008 this Convention had not yet entered into force.

Upon its entry into force, the Optional Protocol to the **International Covenant on Economic, Social and Cultural Rights**⁷⁰ will also allow for individual complaints.

Strengths

- An important advantage of submitting a complaint to a treaty body is that, once a State party has made the relevant declaration under the treaty, it **should comply with its obligations** under that treaty, including the obligation to provide an effective remedy for breaches of the treaty. The relevant human rights treaty body, through individual complaints, authoritatively determines whether there has been a violation, and the State concerned has an obligation to give effect to the treaty body's finding(s);
- Human rights treaty bodies can issue interim measures in urgent cases to preserve a situation until they make a final decision on the matter. This interim measure will stay in place until the decision is made;
- Decisions of human rights treaty bodies can go beyond the circumstances of the individual case and provide proactive guidelines to prevent a similar violation occurring in the future;
- Human rights treaty bodies can also consider complaints that are being or have been addressed by a special procedure.

Specific requirements and limitations

- The complainant's case must fall within the scope of application of one of the treaties that allow for individual complaints;
- The State in question must be a party to the treaty and must have ratified the relevant optional protocol or accepted the competence of the specific human rights treaty body to accept complaints;
- When submitting an allegation to a human rights treaty body, a number of requirements must be met, including the consent or authorization of the victim. If any of these requirements are not met or are missing, the complaint may not be considered;

⁶⁹ By September 2008 only one State had made such a declaration.

⁷⁰ The Optional Protocol was adopted by the Council on 18 June 2008 and is expected to be adopted by the General Assembly later in 2008.

- Under the International Convention on the Elimination of All Forms of Racial Discrimination, complaints must be lodged within six months of the final decision by a national authority in a given case;
- The complainant must have exhausted all available and effective domestic remedies before sending a complaint to a treaty body—a remedy is considered effective if it offers a reasonable prospect of redress for the complainant;
- It takes two to three years, on average, for a final decision to be taken on a complaint;
- Generally, a complaint addressed to a human rights treaty body does not relate to a widespread pattern of human rights violations;
- Human rights treaty bodies may not consider a case that is already being considered by another international or regional adjudicative complaint procedure.⁷¹



For detailed information on the **human rights treaty bodies**, please refer to **chapter IV (Human rights treaty bodies)** of this *Handbook*.

B. Communications under special procedures

A number of the special procedures mechanisms allow for allegations to be made concerning either individual cases or a more general pattern of human rights abuse. All individuals, or others acting on an individual's behalf, can submit individual cases to special procedures mandate-holders, if the mandate allows for this. Civil society actors can often support individuals seeking protection from human rights abuses.

Strengths

- Individual communications under special procedures are a procedure that may be used for individual cases as well as for a more general pattern of violations;
- They can be a useful tool in urgent cases as they allow for urgent or preventive action (known as **urgent appeals**);
- Cases may be brought **regardless of the State** in which they occur and of whether that State has ratified any of the human rights treaties;
- It is not necessary to have exhausted all domestic remedies before using the procedure;
- The communication is not required to be made by the victim, although the source must be reliable; and
- A complaint may be lodged simultaneously before a human rights treaty body and a special procedure (if there is a relevant mandate).

⁷¹ This can be another treaty body, the European Court of Human Rights or the Inter-American Court of Human Rights, but does not include the special procedures of the Human Rights Council.

Limitations

- There must be a special procedure in place covering that specific human rights issue or that specific country (not all special procedures mandate-holders can act on individual cases);
- Special procedures are not legally binding mechanisms: it is at each State's discretion to comply with the recommendations of special procedures mandate-holders; and
- Procedures vary depending on the mandate.



For detailed information on the **special procedures**, please refer to **chapter VI (Special procedures)** of this *Handbook*.

C. Human Rights Council's complaint procedure

Any individual or group claiming to be the victim of human rights violations may submit a complaint under this procedure, as may any other person or group with direct and reliable knowledge of such violations. The Council's complaint procedure is the only universal complaint procedure covering all human rights and all fundamental freedoms in all States.

Communications under it are not tied to the acceptance of treaty obligations by the country concerned or the existence of a special procedures mandate. The complaint procedure deals with consistent patterns of gross human rights violations in a State. It neither compensates alleged victims, nor does it seek a remedy for individual cases.

Strengths

- The procedure can deal with **violations of all human rights and fundamental freedoms**; a State does not need to be a party to a treaty for a complaint against it to be submitted under this procedure;
- Complaints may be brought **against any State**;
- Complaints may be submitted by the victim or anyone acting on the victim's behalf and does not necessarily require the victim's written authorization;
- Complainants (authors of communications) are informed of the decisions taken at the various key stages of the process; and
- The admissibility criteria are generally less strict than for other complaints mechanisms.

Possible limitations

- The process can be lengthy, since the complaint goes through several stages of consideration, and therefore may not be suitable for urgent cases;
- The complainant must have exhausted all available and effective domestic remedies before sending information under this procedure;
- There are no provisions for urgent interim measures of protection;
- Communications must generally refer to a consistent pattern of human rights violations, in other words affecting a larger number of people, rather than individual cases;
- Due to its confidentiality, this procedure may not draw public attention to the human rights situation in a given State; and
- Cases that appear to reveal a consistent pattern of gross violations of human rights already being dealt with by a special procedure, a treaty body or other United Nations or similar regional human rights complaint procedure are not admissible under this procedure.



For more information on the **complaint procedure**, please refer to **chapter V (Human Rights Council)** of this *Handbook*.

How to access and work with the complaint procedures

Any civil society actor, with due regard for the specific requirements of each procedure, is able to access the complaint procedures. Complaints under each of these procedures can be submitted by an individual who has suffered an alleged human rights violation or by third parties on that person's behalf, for example, by an NGO.

Civil society actors often act as a conduit for individuals seeking redress from human rights abuses by preparing, submitting or lodging a complaint on their behalf. However, anyone submitting a complaint on behalf of an individual should ensure that they obtain the consent of that individual and that the individual is aware of the implications of making a complaint. For example, when information is submitted to the special procedures, the mandate-holder sends a communication to the State regarding the case, which will ultimately be included in a public report. When a complaint is submitted to a human rights treaty body, the identity of the individual will be disclosed to the Government. It is therefore fundamental for the alleged victim to be familiar with how each of the complaint procedures operates.

The requirements for each procedure should also be carefully followed to ensure that the complaint is admissible.

A. Individual complaints under the international human rights treaties

Complaints may be brought by individuals or by duly authorized third parties, for example lawyers, non-governmental organizations (NGOs) or professional groups, on behalf of individuals who claim to be victims of human rights violations. This section examines the requirements and the main elements of individual complaints.

Requirements

1. State party ratification

A complaint of a human rights violation under a human rights treaty may be made against a State if:

- The State is a party to the treaty in question, having ratified or otherwise accepted it; and
- The State party has recognized the competence of the human rights treaty body established under that treaty to consider such complaints. Depending on the treaty, this requires the State either to have become a party to the relevant optional protocol or to have made the necessary declaration under the treaty.

It should be noted that a number of States parties have entered substantive reservations or declarations that may limit the scope of the human rights obligations that they assume under the treaties. These should be reviewed when determining whether or not a complaint can be made under a certain section of a treaty.⁷²

2. Individual violations

Individual complaints under treaty bodies may be used only for **cases of human rights violations concerning one or more specific individuals**, and are not usually suited for general patterns of human rights violations where individuals are not identified.

3. Domestic remedies

Individual complaints under international human rights treaties can be submitted only if **effective domestic remedies have been exhausted**, i.e., the case/complaint has completed the various steps of the domestic court system or through any administrative instances capable of providing an available and effective remedy within a reasonable period of time. This rule does not apply if domestic remedies are **ineffective or unduly prolonged**. What constitutes “undue prolongation” cannot be determined generally and must be assessed case by case.

⁷² To learn more about both the status of ratification and State party declarations/reservations to each treaty and the relevant optional protocols [click here](#).

4. Bringing a complaint on behalf of the victim

A person or organization can bring a complaint on behalf of another person provided the individual victim has given **written consent** in the form of a “power of attorney” or an “authority to act”.⁷³

5. Other complaint processes

If a case is **already being considered by the adjudicative complaint procedures of another United Nations body, international or regional organization**, it generally cannot be considered by a United Nations treaty body. If the case has previously been considered and rejected by the **Inter-American Court of Human Rights** or the **European Court of Human Rights**, then the same complaint may sometimes be eligible for consideration by a treaty body. Cases submitted under a special procedures mandate can also be submitted to a treaty body.

6. Form of the complaint

While complainants are encouraged to use model complaint forms (see annexes I and II to this chapter), any form of correspondence including the relevant information is in principle sufficient. This should be submitted in one of the working languages of the relevant human rights treaty body.⁷⁴

⁷³ Such consent is not necessary if there are strong grounds for believing that it is impossible to obtain under the circumstances.

⁷⁴ These languages are usually Arabic, Chinese, English, French, Russian and Spanish, but complainants are advised to check the OHCHR website to confirm the working languages of each body.



What information should individual complaints under treaty bodies include?

- **Basic personal information** on the person whose human rights have allegedly been violated (name, nationality, date of birth);
- Name of the **State party** against which the complaint is directed;
- If the complaint is made on behalf of another individual, **proof of** that person's **consent** or authorization (“power of attorney”, in hard copy) or, alternatively, a justification of why such consent or authorization is unavailable or cannot be provided;
- A thorough **account of the facts** on which the complaint is based, clearly presented in chronological order;
- Details of the **steps taken to exhaust all available judicial remedies in the local courts, as well as any effective administrative remedies** which might be available in the State concerned;
- Details of **other submissions of the case or the facts involved** to another means of international investigation or settlement, if any;
- Account of **arguments as to why the facts in the case amount to a violation** of the human rights contained in the treaty whose provisions are invoked. It is useful for the **relevant articles of the treaty** to be identified;
- **All documents relevant** to the claims and arguments (court decisions, etc.);
- Copies of **relevant national laws**, where available;

As a general rule, communications containing abusive language are not considered.

7. Time limits

The International Convention on the Elimination of All Forms of Racial Discrimination is the only human rights treaty that has set a formal deadline for the filing of complaints. Nonetheless, complaints should ideally be submitted **as soon as possible** after the alleged violation has occurred and the domestic remedies have been exhausted. Delayed submission may make it difficult for the State party to respond properly and for the treaty body to evaluate the factual background thoroughly. Complaints concerning violations which occurred prior to the entry into force of the complaint mechanism for the relevant State party will not be examined (except if they have a continuous effect in violation of the treaty). Complaints submitted under the International Convention on the Elimination of All Forms of Racial Discrimination must be submitted within **six months** of the final decision by a national authority in the case.

8. Urgent action

Each committee may take urgent action by way of interim measures if irreparable harm would otherwise be suffered before a given case is examined in the usual course. Typically, such initiatives are undertaken to prevent actions that cannot later be undone, for example the execution of a death sentence or the deportation of an individual facing a risk of torture. **Individuals or organizations requesting a human rights treaty body to consider undertaking interim measures are encouraged to clearly state this in their complaint.**

9. Sensitive matters

If there are **sensitive matters** of a private or personal nature that emerge in the complaint, it is possible to request the committee to suppress the victim's name in its final decision so that his/her identity does not become public.

Elements of the procedures

If the complaint contains the essential elements outlined above, the case is formally listed for consideration (that is, **registered**) by the relevant human rights treaty body.

The case will then be transmitted to the State party concerned to give it an opportunity to comment. Once the State party replies, the complainant is offered an opportunity to comment on the State's response. At that point, the case is ready for a decision by the human rights treaty body. If the State does not reply, despite one or several reminders, the human rights treaty body will take a decision on the case giving due weight to the claims formulated by the complainant.

The two major stages of the human rights treaty body review process are known as the "admissibility" stage and the "merits" stage. At the admissibility stage, the treaty body considers whether the complaint meets the requirements of the procedure. If it determines the case to be admissible, it considers the merits of the complaint. Although these stages are usually considered together, they may be split at the request of the State party. If a case fails at the admissibility stage, the merits of the case may not be considered.

The human rights treaty bodies consider each case in closed meetings. Once a human rights treaty body has taken a decision on a case, the decision is transmitted to the complainant and the State simultaneously. If a human rights treaty body decides that a complainant has indeed been the victim of a human rights violation by a State party under the relevant treaty, it generally identifies the remedy that should be provided and invites the State party to supply follow-up information within a specific period of time (usually six months) on the steps it has taken to give effect to the human rights treaty body's findings.

The text of any final decision on the merits of a case or of a decision of inadmissibility is posted on the OHCHR website as part of the human rights treaty body's jurisprudence.



Where to send an individual complaint under the international human rights treaties

Complaints should be sent to:

Petitions Team

Office of the United Nations High Commissioner for Human Rights

Palais des Nations

8–14, avenue de la Paix

CH–1211 Geneva 10 - Switzerland

Fax: +41 (0)22 917 90 22 (particularly for urgent matters, should include all relevant documents in hard copy)

E-mail: tb-petitions@ohchr.org

Always specify which human rights treaty body you are writing to.

B. Communications under special procedures

This mechanism allows for communications to be made concerning either individual cases or more general patterns of human rights abuses. Any individual or group or an organization acting on an individual's behalf can submit cases to special procedures mandate-holders.

Civil society actors can often act as a conduit for individuals seeking protection from human rights abuses. Individuals or organizations wishing to submit a case under any of the special procedures mandates should first check whether there is a country or thematic mandate relevant to their case. In addition, they should carefully read the specific criteria of the mandate that must be fulfilled before the communication can be accepted. In particular, the **Working Group on Arbitrary Detention** and the **Working Group on Enforced or Involuntary Disappearances** have specific criteria that differ from those of other mandates.

On receipt of an individual case, the decision to intervene is at the discretion of the special procedure mandate-holder. It will depend on the criteria that the mandate-holder has established and should be in line with the **Code of Conduct for Special Procedures Mandate-holders**. The criteria will generally relate to:

- The reliability of the source, which should not exclusively be based on media reports;
- The credibility of the information received, which should not be politically motivated;

- The detail provided; and
- The scope of the mandate itself.

To facilitate the examination of reported violations, **questionnaires** relating to several mandates are available online for persons wishing to report alleged violations (see below). It should, however, be noted that communications from individuals or other authors are considered even when they are not submitted in the form of a questionnaire. Authors of communications are encouraged to send regular updates of the information they have submitted.



What information should individual complaints under special procedures include?

- Identification of the alleged **victim(s)**;
- Identification of the alleged **perpetrators** of the violation;
- Identification of the **person(s) or organization(s) submitting the communication** (this information will be kept confidential);
- **Date and place** of the incident; and
- A **detailed description of the circumstances** of the alleged violation.

Note:

- As a general rule, communications that contain abusive language are **not** considered;
- Communications should be **clear and concise**;
- Always specify **which special procedure mechanism** the complaint is addressed to;
- Always **consult the requirements established by each mandate** for the submission of individual complaints; and
- Communications can be written in English, French or Spanish.



Where to send an individual complaint under special procedures

Special Procedures Division
Office of the United Nations High Commissioner for Human Rights
Palais des Nations
8–14, avenue de la Paix
CH–1211 Geneva 10 - Switzerland
Fax: +41 (0)22 917 90 06
E-mail: urgent-action@ohchr.org

Please specify which special procedure mechanism the complaint is addressed to in the subject line of the e-mail or fax or on the envelope. Note that some special procedures mandates have established specific requirements that the complaints must meet. Details of these requirements can be found on the OHCHR website, under each mandate.

On the basis of credible and reliable information received from victims of alleged human rights abuses, special procedures mandate-holders can send **communications to Governments**. These are transmitted through OHCHR and may take the form of an **urgent appeal**, if a serious violation appears ongoing or imminent, or a **letter of allegation**, if a violation has allegedly already occurred. Through communications, the mandate-holder asks the Government concerned for clarification on a specific case and/or adequate remedial measures. Mandate-holders can also request Governments to communicate the results of their investigation and actions.

Depending on the response received, they may decide to further inquire or make specific recommendations. In some instances they can also decide to issue a public statement on the case.

Under the rules of the Human Rights Council, all special procedures are required to **report** on their activities at its annual sessions. Communications sent and received are usually confidential and remain so until the annual report of the relevant special procedure is made public, unless the mandate-holder decides to issue a press statement.⁷⁵

Please note that the alleged victims are named in the reports of special procedures mandate-holders, except in the case of children or specific circumstances. Given the public nature of the reports of special procedures mechanisms, it is important that individuals or organizations acting on behalf of victims of human rights violations ensure that the victims are aware that their case is being transmitted to the special procedures mechanisms, that their names may be communicated to the authorities concerned, and that their names (or initials) may appear in the public report of the relevant special procedure.

⁷⁵ In addition to annual reports, some mandate-holders issue other documentation that helps to explain their work and the scope of their mandates. In particular, the Working Group on Arbitrary Detention issues “deliberations” on general matters and “opinions” on individual complaints; and the Working Group on Enforced or Involuntary Disappearances issues “general comments” on the Declaration on the Protection of All Persons from Enforced Disappearance.



Standard questionnaires are available for reporting alleged violations under the following mandates:

- **Working Group on Arbitrary Detention**
- **Working Group on Enforced or Involuntary Disappearances**
- **Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination**
- **Special Rapporteur on extrajudicial, summary or arbitrary executions**
- **Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**
- **Special Rapporteur on the human rights of migrants**
- **Special Rapporteur on the sale of children, child prostitution and child pornography**
- **Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**
- **Special Rapporteur on trafficking in persons, especially in women and children**
- **Special Rapporteur on violence against women, its causes and consequences;** and
- **Special Rapporteur on the situation of human rights defenders.**

However, communications from individuals and other sources will be considered even when they are not submitted in the form of a questionnaire.

C. The Human Rights Council's complaint procedure

Under the Human Rights Council's complaint procedure, communications may be submitted by any individual or group claiming to be a victim of human rights violations or having direct, reliable knowledge of such violations. The important elements of this procedure are set out below.



What information should complaints under the Human Rights Council's complaint procedure include?

- Identification of the **person(s) or organization(s) submitting the communication** (this information will be kept confidential, if requested). Anonymous complaints are not admissible;
- **Description of the relevant facts** in as much detail as possible, providing names of alleged **victims, dates, locations and other evidence**;
- Purpose of the complaint and the **rights allegedly violated**;
- **Explanation** of how the case may reveal a **pattern of gross and reliably attested human rights violations** rather than individual violations; and
- Details of how **domestic remedies have been exhausted**, or explanation of how such remedies would be ineffective or unreasonably prolonged.

Note:

- All complaints must be in writing. Please note that it is not sufficient to rely on mass media reports. If you intend to submit a human rights report as evidence, attach a cover letter to identify yourself, explain the case you want to make and that you wish the complaint to be dealt with under the Human Rights Council's complaint procedure.
- It is advisable to limit the complaint to 10-15 pages. Additional information may be submitted at a later stage.
- Complaints can be written in English, French, Russian or Spanish. Documents in other languages should be translated or summarized in one of these languages; and
- Communications that contain language deemed abusive or insulting will not be considered.

The detailed modalities and procedures of this complaint mechanism are laid out in Council **resolution 5/1**. The information provided in this section is based on the provisions of that resolution. It is expected that these initial provisions and working methods, in particular in relation to feedback-sharing with complainants through the various stages of the process, will be further developed.

The stages of the complaint procedure are:

Stage 1: Initial screening

The OHCHR secretariat, together with the Chairperson of the **Working Group on Communications**, screens all communications (complaints) as they arrive on the basis of the admissibility criteria, and discards those found to be manifestly ill-founded or anonymous. If a communication is admitted to the next stage of the procedure, the author receives a written acknowledgement and the communication is sent to the Government concerned for reply.

Stage 2: Working Group on Communications

The **Working Group on Communications** is composed of five appointed members of the **Human Rights Council Advisory Committee** and is mandated to meet at least twice a year for five days each session. This Working Group examines complaints that have passed the initial screening stage and any replies received from Governments with a view to bringing to the attention of the Working Group on Situations any particular situation appearing to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms.

Stage 3: Working Group on Situations

The **Working Group on Situations** is composed of five members of the Human Rights Council, who serve in their personal capacity, and is mandated to meet at least twice a year, for five days each session, to consider situations referred to it by the Working Group on Communications. It assesses the cases referred to it and produces a report for the Human Rights Council with specific recommendations on the action to be taken with regard to any situation that reveals a consistent pattern of gross violations. Alternatively, it may decide to keep a situation under review or to dismiss a case.



For more information on the **Human Rights Council Advisory Committee**, please refer to **chapter V (Human Rights Council)** of this *Handbook*.

Stage 4: Human Rights Council

The Human Rights Council considers, in plenary, situations brought to its attention by the Working Group on Situations as frequently as needed, but at least once a year. It examines the reports of the Working Group on Situations referred to it in a confidential manner, unless it decides otherwise. Based on its consideration of a situation the Council may take action, usually in the form of a resolution or decision. It may decide on the following measures:

- To discontinue considering the situation when further consideration or action is not warranted;

- To keep the situation under review and request the State concerned to provide further information within a reasonable period of time;
- To keep the situation under review and appoint an independent and highly qualified expert to monitor the situation and report back to it;
- To discontinue reviewing the matter under the confidential complaint procedure in order to take up public consideration of the same;
- To recommend that OHCHR should provide technical cooperation, capacity-building assistance or advisory services to the State concerned.

All material provided by individuals and Governments regarding a situation under consideration, as well as the decisions taken at the various stages of the procedure, remains **confidential**. This also applies to situations that have been discontinued.



Where to send a complaint under the Human Rights Council's complaint procedure

Human Rights Council Branch (complaint procedure)

Office of the United Nations High Commissioner for Human Rights

Palais des Nations

8–14, avenue de la Paix

CH–1211 Geneva 10 - Switzerland

Fax: +41 (0)22 917 90 11

E-mail: CP@ohchr.org

Annex I - Model complaint form for communications under:

- The **Optional Protocol to the International Covenant on Civil and Political Rights**
- The **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**; 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:

- Family name
- First name(s)
- Nationality
- Date and place of birth
- Address for correspondence on this complaint
- Indicate whether you are submitting the communication:
 - On your own behalf
 - On behalf of another person.

[If the complaint is being submitted on behalf of another person:]

- Please provide the following personal details of that other person:
 - Family 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 (in the case of a complaint to the Human Rights Committee) or has made the relevant declaration (in the case of 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 victim(s) 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, at which times, 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)?;
- If so, detail which procedure(s) have been or are being pursued, which claims you have made, at which times, and with which outcomes.

IV. Facts of the complaint

- Detail, in chronological order, the facts and circumstances of the alleged violations. Include all matters that 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.

V. Checklist of 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 (above) 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, the consideration of your complaint may be delayed.

Annex II - Complaint guidelines for communications under:

- The **Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women**

1. 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
- Ethnic background, religious affiliation, social group (if relevant)
- Present address
- Postal address for confidential correspondence (if other than present address)
- Fax/telephone/e-mail
- Indicate whether you are submitting the communication as:
 - Alleged victim(s); if there is a group of alleged victims, provide basic information about each individual.
 - On behalf of the alleged victim(s); provide evidence showing the consent of the victim(s), or reasons that justify submitting the communication without such consent.

2. 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
- Ethnic background, religious affiliation, social group (if relevant)
- Present address
- Postal address for confidential correspondence (if other than present address)
- Fax/telephone/e-mail.

3. Information on the State party concerned

- Name of the State party (country).



4. Nature of the alleged violation(s)

Provide detailed information to substantiate your claim, including:

- Description of alleged violation(s) and 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.

5. 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 domestic remedies have not been exhausted, explain why

Note: Enclose copies of all relevant documentation.

6. Other international procedures

Has the same matter already been examined or is it being examined under another procedure of international investigation or settlement? If so, explain:

- Type of procedure(s)
- Date(s)
- Place(s)
- Results (if any)

Note: Enclose copies of all relevant documentation.

7. Date and signature

Date/place: _____

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

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