

Fact Sheet No.7/Rev.1, Complaints Procedure

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Introduction

Anyone may bring a human rights problem to the attention of the United Nations and thousands of people around the world do so every year. What kinds of complaints about alleged human rights violations does the United Nations receive and how does it deal with them? This Fact Sheet explains the procedures open to individuals and groups who want the United Nations to take action on a human rights situation of concern to them.

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, non-governmental organizations (NGOs) and individuals in interpreting the contemporary meaning of the texts concerned.

Individuals have only relatively recently acquired the means to vindicate their rights at the international level. This Fact Sheet examines complaints that are brought directly under international human rights treaties and complaints filed through special procedures with the

Commission on Human Rights and the Commission on the Status of Women. Since the early 1970s international complaint mechanisms have developed apace, and you can now bring claims to the United Nations concerning violations of your rights under four of the six so-called "core" human rights treaties. The four treaties concern: (i) civil and political rights, set out in the International Covenant on Civil and Political Rights; (ii) torture and cruel treatment, defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; (iii) racial discrimination, proscribed by the International Convention on the Elimination of All Forms of Racial Discrimination; and (iv) sex discrimination, defined in the Convention on the Elimination of All Forms of Discrimination against Women. Each of these treaties establishes a quasi-judicial committee to examine complaints. The complaint mechanisms are designed to be uncomplicated and accessible to the layperson. You do not need to be a lawyer or even familiar with legal and technical terms to bring a complaint before the bodies concerned. On the contrary, the system is intended to be as straightforward as possible.

The complaint mechanisms under individual treaties are complemented by complaints procedure before the Commission on Human Rights and the Commission on the Status of Women. These two procedures, involving political bodies composed of State representatives, are among the oldest in the United Nations system. They have a different focus from complaints under the international treaties, which provide individual redress through quasi-judicial mechanisms. Complaints to the Commissions focus on more systematic patterns and trends of human rights violations and may be brought against any country in the world. As with the procedures under the treaties, the Commission mechanisms seek to avoid legal and technical terms and procedures and are open to everybody. The Fact Sheet is divided into two parts. The first examines complaints procedure under the individual treaties in greater detail and the second concentrates on the Commissions. You should be aware that these mechanisms operate on the basis of diverse mandates and procedures. As a result, each mechanism has a variety of advantages and disadvantages. You may wish to compare them before electing where your claim may be considered most fruitfully.

Part 1: Complaints under the international human rights treaties

Overview

This part of the Fact Sheet explains the complaint mechanisms that are currently available under the four international human rights treaties: the International Covenant on Civil and Political Rights, the Convention against Torture, the International Convention on the Elimination of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women. A human rights treaty is a formal document negotiated by States, which imposes binding obligations to protect and promote rights and freedoms on States parties that officially accept it (commonly through "ratification"). The full texts of the treaties are accessible on the web site of the Office of the United Nations High Commissioner for Human Rights (OHCHR). [2]

The basic concept is that anyone may bring a complaint alleging a violation of treaty rights to the body of experts set up by the treaty for quasi-judicial adjudication. These "treaty bodies", as they are often called, are committees composed of independent experts elected by States parties to the relevant treaty. They are tasked with monitoring implementation in States parties of the rights set forth in the treaties and with deciding on complaints brought against those States. While there are some procedural variations between the four mechanisms, their design and operation are very similar. Accordingly, what follows is a general description of the typical features of a complaint under any of the four treaties. Readers should then refer to the descriptions of the individual treaties, which identify aspects differing from the general norm.

Against whom can a complaint under a treaty be brought?

A complaint under one of the four treaties can be brought only against a State that satisfies two conditions. First, it must be a party to the treaty in question, having ratified or otherwise accepted it. (To check whether a State is a party to the treaty, consult the Treaty Body database on the OHCHR web site. To access the database, click on *Documents* on the home page followed by *Treaty body database, Ratifications and reservations* and *States parties*; then check the relevant country.

Alternatively, you may contact the Petitions Team or the Division for the Advancement of Women, depending on the treaty, via the contact details listed at the end of this part of the Fact Sheet.)

Second, the State party must have recognized the competence of the committee established under the relevant treaty to consider complaints from individuals. In the case of the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women, a State recognizes the Committee's competence by becoming a party to a separate treaty: the First Optional Protocol to the Covenant or the Optional Protocol to the Convention. (To see the text of the Protocols and to check whether a State is a party to either or both, consult the OHCHR web site as described above.) In the case of the Convention against Torture and the International Convention on the Elimination of Racial Discrimination, States recognize the Committee's competence by making a declaration to that effect under a specific article of the Convention, articles 22 and 14 respectively. (To check whether a State has made either of these declarations, access the OHCHR web site as described above, clicking on *Declarations on procedural articles* once you have selected the relevant State.)

Who can bring a complaint?

Anyone can lodge a complaint with a committee against a State that satisfies these two conditions, claiming that his or her rights under the relevant treaty have been violated. It is not necessary to have a lawyer prepare your case, though legal advice usually improves the quality of the submissions. Be aware, however, that legal aid is not provided under the procedures. You may also bring a claim on behalf of another person on condition that you obtain his or her written consent. In certain cases, you may bring a case without such consent. For example, where parents bring cases on behalf of young children or guardians on behalf of persons unable to give formal consent, or where a person is in prison without access to the outside world, the relevant committee will not require formal authorization to lodge a complaint on another's behalf.

What information do you need to provide in your complaint?

A complaint to a committee, also called a "communication" or a "petition", need not take any particular form. While the model complaint form [3] and guidelines [4] appended to this Fact Sheet (as annexes 1 and 2) focus on specific information, any correspondence supplying the necessary particulars will suffice. Your claim should be in writing and signed. [5] It should provide basic personal information - your name, nationality and date of birth - and specify the State party against which your complaint is directed. If you are bringing the claim on behalf of another person, you should provide proof of their consent, as noted above, or state clearly why such consent cannot be provided.

You should set out, in chronological order, all the facts on which your claim is based. A crucial requirement is that your account is as complete as possible and that the complaint contains all information relevant to your case. You should also detail the steps you have taken to exhaust the remedies available in your country, that is steps taken before your country's local courts and authorities. You should state whether you have submitted your case to another means of international investigation or settlement. On these two matters, see the section entitled "The admissibility of your case" below for further important details. Lastly, you should state why you consider that the facts you have outlined constitute a violation of the treaty in question. It is helpful, though not strictly necessary, for you to identify the articles of the treaty that have allegedly been violated. You should provide this information in one of the secretariat's working languages.

In addition, you should supply all documents of relevance to your claims and arguments, especially administrative or judicial decisions on your claim by national authorities. It is also helpful if you provide copies of relevant national laws. If they are not in an official language of the committee's secretariat, consideration of your complaint will be speeded up if you can arrange for a translation (either full or summary).

If your complaint lacks essential information, you will be contacted by the secretariat with a request for the additional details.

When can you make a complaint under the human rights treaties?

In general, there is no formal time limit after the date of the alleged violation for filing a complaint under the relevant treaties. It is usually appropriate, however, to submit your complaint as soon as possible after you have exhausted domestic remedies. Delay in submitting your case may also make it difficult for the State party to respond properly. In exceptional cases, submission after a protracted period may result in your case being considered inadmissible by the committee in question.

The procedure

If your complaint contains the essential elements outlined above, your case is registered, that is to say formally listed as a case for consideration by the relevant committee. You will receive advice of registration.

At that point, the case is transmitted to the State party concerned to give it an opportunity to comment. The State is requested to submit its observations within a set time frame. The two major stages in any case are known as the "admissibility" stage and the "merits" stage. The "admissibility" of a case refers to the formal requirements that your complaint must satisfy before the relevant committee can consider its substance. The "merits" of the case are the substance, on the basis of which the committee decides whether or not your rights under a treaty have been violated. These stages are described in greater detail below. The time within which the State is required to respond to your complaint varies between procedures and is also specified below in the sections dealing with them individually.

Once the State replies to your submission, you are offered an opportunity to comment. Again, the time frames vary somewhat between procedures (see below for details). At that point, the case is ready for a decision by the relevant committee. If the State party fails to respond to your complaint, you are not disadvantaged. Reminders are sent to the State party and if there is still no response, the committee takes a decision on your case on the basis of your original complaint.

Special circumstances of urgency or sensitivity

Each committee has the facility to take urgent action where irreparable harm would otherwise be suffered before the case is examined in the usual course. The basis for such interim action by individual committees is set out below for each procedure. The common feature is that the committee in question may, at any stage before the case is considered, issue a request to the State party for what are known as "interim measures" in order to prevent any irreparable harm. Typically, such requests are issued 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. If you wish the committee to consider a request for interim measures, it is advisable to state this explicitly. In any case, you should identify as carefully and comprehensively as possible the reasons why you consider such action to be necessary.

If there are particularly sensitive matters of a private or personal nature that emerge in the complaint, you may request that the committee suppress identifying elements in its final decision so that your identity does not become public. The committee may also, of its own motion, suppress these or other matters in the course of consideration of the complaint.

The admissibility of your case

Before the committee to which you have brought your case can consider its merits or substance, it must be satisfied that the claim meets the formal requirements of admissibility. When examining admissibility, the committee may consider one or several of the following factors:

- If you are acting on behalf of another person, have you obtained sufficient authorization or are you otherwise justified in doing so?
- Are you (or the person on whose behalf you are bringing the complaint) a victim of the alleged violation? You must show that you are personally and directly affected by the law, policy, practice, act or omission of the State party which you claim has violated or is violating your rights. It is not sufficient simply to challenge a law or State policy or practice in the abstract (a so-called *actio popularis*) without demonstrating how you are individually a victim of the law, policy or practice in question.
- Is your complaint compatible with the provisions of the treaty invoked? The alleged violation must relate to a right actually protected by the treaty. If you have filed a complaint under the Optional Protocol to the International Covenant on Civil and Political Rights, for example, you cannot claim a violation of the right to property since the Covenant does not protect that right. In such a case, your claim would be, in legal terms, inadmissible *ratione materiae*.
- Is your complaint sufficiently substantiated? If the relevant committee considers, in the light of the information before it from all sides, that you have not sufficiently developed the facts of your complaint or the arguments for a violation of the Covenant, it may reject the claim as insufficiently substantiated for the purposes of admissibility. This ground is analogous to the rejection of a case by other courts, international and domestic, as "manifestly ill-founded".
- Does your complaint relate to events that occurred prior to the entry into force of the complaint mechanism for your State? As a rule, a committee does not examine complaints dating from a period prior to this date and your complaint is regarded, in legal terms, as inadmissible *ratione temporis*. There are, however, exceptions. In cases where the effects of the event in question have extended into the period covered by the complaint mechanism, a committee may consider the overall circumstances. Further details are given in the sections on individual procedures.
- Have you exhausted all domestic remedies? A cardinal principle governing the admissibility of a complaint is that you must, in general, have exhausted all remedies in your own State before bringing a claim to a committee. This usually includes pursuing your claim through the local court system, and you should be aware that mere doubts about the effectiveness of such action do not, in the committees' view, dispense with this requirement. There are, however, limited exceptions to this rule. If the exhaustion of remedies would be unreasonably prolonged, or if they would plainly be ineffective (if, for example, the law in your State is quite clear on the point at issue) or if the remedies are otherwise unavailable to you (owing, for example, to denial of legal aid in a criminal case), you may not be required to exhaust domestic remedies. You should, however, give detailed reasons why the general rule should not apply. On the issue of exhaustion of domestic remedies, you should describe *in your original complaint* the efforts you have made to exhaust local remedies, specifying the claims advanced before the national authorities and the dates and outcome of the proceedings, or alternatively stating why any exception should apply.
- Is your claim an abuse of the complaints process? In rare cases, the committees may consider a case to be a frivolous, vexatious or otherwise inappropriate use of the complaints procedure and reject it as inadmissible, for example if you bring repeated claims to the committee on the same issue although they have already been dismissed.

- Is your complaint being examined under another mechanism of international settlement? If you have submitted the same claim to another treaty body or to a regional mechanism such as the Inter-American Commission on Human Rights, the European Court of Human Rights or the African Commission on Human and Peoples' Rights, [6] the committees cannot examine your complaint, the aim being to avoid unnecessary duplication at the international level. This is another issue of admissibility that you should cover in your original complaint, describing any claims you have made and specifying the body to which you applied, the date and the outcome.
- Is your complaint precluded by a reservation the State has made to the Optional Protocol? [7] A State may have entered a procedural reservation to the complaint mechanism limiting the committee's competence to examine certain communications. For example, States may preclude a committee's consideration of claims that have in the past been considered by another international mechanism. In very rare cases, a committee may decide that a particular reservation is impermissible and consider the communication notwithstanding the purported reservation. (The text of reservations may be found in the Treaty Body database described above.)

If you think there is a risk that your claim may be considered inadmissible on one of these grounds, it is helpful to present your counterarguments in the initial complaint. In any event, the State party, when responding to your complaint, will probably argue that your case is inadmissible if it considers that one of these grounds may apply. You will then be able to present your view when commenting on the State party's submissions.

The merits of your case

Once a committee decides your case is admissible, it proceeds to consider the merits of your complaint, stating its reasons for concluding that a violation has or has not occurred under the various articles it considers applicable. A number of States have also entered substantive reservations that may limit the scope of the human rights obligations they assume under the treaties. [8] (The text of any reservations or declarations entered may be accessed in the Treaty Body database on the OHCHR web site as described above. Be sure to check that a reservation has not been subsequently withdrawn, as in such cases the State party will have accepted, in the meantime, the full obligation imposed by the relevant article.) In most cases, a committee will decline to consider complaints falling within areas covered by a reservation, though in exceptional circumstances, as noted above, it may find a reservation impermissible and consider the case despite the purported reservation.

To form an idea of what a committee considers to be the scope of the rights contained in the treaty for which it is responsible, you may look at its previous decisions, its so-called "General Comments" expanding on the meaning of various articles, and its concluding observations on reports submitted periodically by States parties to the treaty concerned. These documents are accessible on the OHCHR web site through the Treaty Body database. There are also numerous academic articles and textbooks on the jurisprudence of the various committees that may be of assistance.

Consideration of your case

The committees consider each case in closed session. Although some have provisions for oral components of proceedings in their rules of procedure, [9] the practice has been to consider complaints 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 audio-visual evidence (such as audio cassettes or videotapes). Nor do the committees go beyond the information provided by the parties to seek independent verification of the facts. It follows that they do not consider briefs provided by third parties (often called *amicus* briefs).

Once the committee takes a decision on your case, it is transmitted to you and the State party simultaneously. One or more committee 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. The text of any final decision on the merits of your case or of a decision of inadmissibility will be posted on the OHCHR's web site as part of the committee's jurisprudence.

What happens once a committee decides your case?

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

- When the committee decides that you have been the victim of a violation by the State party of your rights under the treaty, it invites the State party to supply information within three months on the steps it has taken to give effect to its findings. See the descriptions of the specific procedures for further details.
- When the committee decides that there has been no violation of the treaty in your case or that your complaint is inadmissible, the process is complete once the decision has been transmitted to you and the State party.
- When the committee considers your case admissible, either in general or with reference to specific claims or articles, the general procedure set out above applies. That is to say, the State party is requested to make submissions on the merits within a specific time frame. You then have a period for comment on the submissions, following which the case is usually ready for consideration by the committee. See under the particular procedures for further details.

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

Introduction

The International Covenant on Civil and Political Rights covers a broad range of civil and political rights ranging from the right to life to the right to a fair trial and the right to non-discrimination. Individual rights that may be invoked before the Committee are set out in articles 6 to 27 inclusive, comprising Part III of the Covenant. The complaint mechanism for alleged violations of those articles is contained in the First Optional Protocol to the Covenant, a separate treaty open to States 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 who meet three times a year - to receive complaints from persons within their jurisdiction alleging violations of their rights under the Covenant. [\[10\]](#)

Details of the procedure

The following comments expand on the general description of procedures before the committees. Complaints under the Optional Protocol that contain the necessary elements are referred to the Committee's Special Rapporteur on New Communications. The Special Rapporteur decides whether your case should be registered under the Optional Protocol and issues any pertinent instructions.

If the case is registered, the Committee's usual course of action, given the large number of complaints received under this procedure, is to consider the admissibility and merits of the case simultaneously. To this end, the State party against whom the complaint is directed has six months to present its submissions on the admissibility and merits of the case. When it does so, you have two months to comment, following which the case is ready for a decision by the Committee. As noted above, if the State party fails to respond to your complaint, you are not disadvantaged. In such a case, the State party receives two reminders after the six-month deadline has passed. If

there is still no reply, the Committee considers the complaint on the basis of the information you initially supplied. On the other hand, if the State party presents submissions after a reminder, they are transmitted to you and you have the opportunity to comment.

Occasionally, the Committee adopts a different procedure to maximize the time at its disposal to consider communications and to spare both States parties and complainants needless effort. For example, if a State party, within two months of receiving a complaint, presents submissions relating only to admissibility and the Committee considers that there may indeed be serious doubts on that score, it may invite you to comment only on those submissions. The Committee will then take a preliminary decision on admissibility alone and proceed to the merits stage only if the case is declared admissible. If it is, the State party is given a further six months to present submissions on the merits of the communication and you are in turn requested to comment within two months. You will be informed of any such departure from the usual practice.

You should be aware that, given the large number of cases brought under the Optional Protocol, there may be a delay of several years between the initial submission and the Committee's final decision.

Special circumstances of urgency

For the Human Rights Committee, situations of urgency requiring immediate action fall under rule 86 of its rules of procedure. In such cases, the Committee's Special Rapporteur on New Communications may issue a request to the State party for interim measures with a view to averting irreparable harm before your complaint is considered. The Committee views compliance with such a request as inherent in a State party's obligations under the Optional Protocol and any failure to comply as a breach thereof.

Additional pointers on the admissibility of your case

There are two aspects of the admissibility of a case that require further comment. First, the Human Rights Committee has developed specific exceptions to the rule that the events complained of should have occurred after the entry into force of the Optional Protocol for your State. If, since the date of entry into force, the events have had continuing effects that violate the Covenant, for example if the State has failed to resolve the status of a person who "disappeared" prior to the date in question or if a person is serving a term of imprisonment following an unfair trial prior to that date, the Committee may decide to consider the whole circumstances of the complaint. Alternatively, it is usually a sufficient ground for the Committee to examine the whole complaint if, after the date of entry into force of the Optional Protocol, there has been a court decision or some other State act relating to an event preceding that date.

Two points may be made regarding the question of simultaneous examination of the same claim under another mechanism of international settlement. The Committee has decided that, for its purposes, the "1503 procedure" (described later in this Fact Sheet) and complaints to a special rapporteur of the Commission on Human Rights do not constitute such a mechanism. Accordingly, your claim to the Human Rights Committee will not be declared inadmissible if you are concurrently pursuing options such as these. Second, the Committee has taken the view that, inasmuch as the Covenant provides greater protection in some respects than is available under other international instruments, facts that have already been submitted to another international mechanism can be brought before the Committee if broader protections in the Covenant are invoked. It should be added that, in the Committee's view, complaints dismissed by other international mechanisms on procedural grounds have not been substantively examined; the same facts may therefore be brought before the Committee.

After the Committee's decision - some further remarks

- When the Committee decides that you have been the victim of a violation by the State party of your rights under the Covenant, the State is invited to provide information, within three months, on the steps it has taken to give effect to the Committee's Views. The basis for this requirement is that the State party, in article 2, paragraph 3, of the Covenant, has guaranteed you an effective remedy for any violation of your rights. Its response will be transmitted to you for comment. The Committee often indicates what an appropriate remedy would be, for instance payment of compensation or release from detention. In the event of failure by the State party to take appropriate steps, the case is referred to a member of the Committee, the Special Rapporteur on Follow-up of Views, for consideration of further measures to be taken. The Special Rapporteur may, for example, issue specific requests to the State party or meet with its representatives to discuss the action taken. Unless, exceptionally, the information is suppressed, it is published together with the action taken by the Special Rapporteur in an annual report on follow-up.
- When the Committee considers your case admissible, either in general or with reference to specific claims or articles, the State party is requested to present its submissions on the merits within six months. You then have a two-month period to comment on the submissions, following which the case is usually ready for consideration by the Committee.

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

Introduction

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted on 10 December 1984. Among other obligations, the treaty requires States parties not to return persons to States where there are substantial grounds for believing they would face torture and 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 articles 1 to 16, comprising Part I of the treaty. The complaint mechanism for invoking breaches of your rights under the Convention is contained in article 22. States parties that so wish may lodge 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 an individual or group of individuals alleging violations of their rights under the Convention by that State. [\[11\]](#)

Details of the procedure

Upon registration, the Committee invites the State party to comment within six months on the admissibility and merits of the complaint. Depending on the reaction of the State party, one of two courses will be followed.

- If the State party comments only on the admissibility of the complaint within two months, you are given four weeks to comment on its submissions. The Committee then adopts a decision on admissibility. If the case is considered inadmissible, it is closed. If it is held to be admissible, the State party has four months to comment on the merits of the case. You then have six weeks to comment on the merits, following which the Committee can take a final decision on the substance of the case.
- Alternatively, if the State party comments on both the admissibility and the merits (usually at the six-month point), you have six weeks to comment on its submissions. The Committee is then in a position to make a combined decision on the admissibility and merits of the case.

As fewer cases are brought before the Committee against Torture, a case is typically concluded within one or two years of the date of registration. In the case of a decision on admissibility alone, the period can be significantly shorter.

Special circumstances of urgency

Rule 108(1) of the Committee's rules of procedure is the basis for a complainant to seek interim measures by the Committee against Torture to prevent irreparable harm while the communication is being considered. Most commonly, such requests arise in the context of claims under article 3 of the Convention where a deportation is pending and there is a foreseeable risk of the complainant suffering torture in the receiving State. The Committee's Special Rapporteur on New Complaints and Interim Measures decides whether a request for interim measures to the State party should be made under this rule.

An additional pointer on the admissibility of your case

You should be aware that complaints to the Committee against Torture differ in some respects from the above general outline of admissibility requirements. In addition to the requirement that your complaint should not currently be under examination by another procedure of international investigation or settlement, it should not have been the subject of a decision in the past by such a mechanism. If it has, it will be deemed inadmissible. Moreover, the Committee's rules of procedure state that a complaint may be rejected as inadmissible if it is manifestly unfounded, and 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.

Consideration of your case

The rules of procedure of the Committee against Torture authorize it to seek the attendance in person of one party or the other to provide further clarifications or to answer questions when it considers the merits of a complaint. In accordance with the principle of equal procedural protection, the other party then also has the opportunity to attend. Your case will not be prejudiced by any failure to attend in person. It should be noted, however, that such instances are exceptional rather than routine. In addition, the Committee may obtain any documentation from United Nations bodies, specialized agencies or other sources that may assist it in considering the complaint.

After the Committee's decision - some further remarks

- When the Committee finds that a State action or proposed action, for example in the case of a pending deportation, has violated or would violate the State party's obligations under the Covenant, it forwards its Views to the State party with a request for information on their implementation within 90 days. The pertinent provision is rule 112(5) of the Committee's rules of procedure, under which the State party is required to report the action it has taken on the Committee's findings. In the light of the information provided, the Committee's Rapporteur for follow-up takes such further action as may be appropriate.
- When a decision is declared admissible, the State party has four months to present its submissions on the merits. You then have six weeks to comment on them.

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

Introduction

The International Convention on the Elimination of All Forms of Racial Discrimination, adopted on 21 December 1965 sets out a series of obligations for States parties to ensure legal and practical enjoyment of the right to be free from racial discrimination. While the International Covenant on

Civil and Political Rights also contains free-standing provisions concerning non-discrimination on the basis of race, the Convention is a specialized treaty that deals with a wide variety of issues arising in this area in greater detail. The Committee established under the Convention also possesses expertise on issues of race. The substantive obligations are set out in articles 1 to 7 of the Convention, comprising Part I of the treaty. As in the case of the Convention against Torture, the Convention itself establishes the mechanism for bringing claims of a breach of your rights. States parties that so wish 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 an individual or group of individuals alleging violations of their rights under the Convention by that State. [12]

Who can bring a complaint and when should you do so?

In contrast to complaints under the Optional Protocol to the International Covenant on Civil and Political Rights or the Convention against Torture, 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 details to be provided are basically those described in the general scheme above.

It is important to note that complaints to this Committee must be submitted *within six months* of the final decision by a national authority in your case.

Details of the procedure

Upon registration of a case, 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 presents arguments on admissibility, you have six weeks to comment before the Committee takes a decision on admissibility. If it considers the case to be admissible, the State party has three further months to present submissions on the merits. You 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 presents its submissions solely on the merits, you also have six weeks to comment before the Committee takes a final merits decision.

As relatively few communications come before this Committee, your claim will typically be resolved more quickly, probably within a year. If a decision is required only on admissibility, it may be taken within an even shorter period.

Special circumstances of urgency

As with the other procedures described, you may seek interim measures by the Committee to prevent irreparable damage while the communication is being considered. The basis for such a request by the Committee to a State party is rule 91(3) of the rules of procedure.

Additional pointers on the admissibility of your case

You should be aware that complaints to the Committee on the Elimination of Racial Discrimination differ on two issues of admissibility from the general procedure outlined above. First, your complaint will not be considered inadmissible if the same matter is pending before or has been the subject of a decision by another international procedure. Second, as already emphasized, complaints brought after a six-month time limit will, as a rule, be declared inadmissible.

Consideration of your case

The rules of procedure 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. Again, however, it should be noted that such instances are exceptional rather than routine.

After the Committee's decision - some further remarks

The courses of action open to the Committee are similar to those outlined above for the Committee against Torture, with one additional detail. 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 formally found 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 States parties to the Convention. Under rule 95(5) of the Committee's rules of procedure, the State party is invited to inform the Committee in due course of the action it has taken on its suggestions and recommendations. On receipt of that information, the Committee takes whatever steps it deems to be appropriate.

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

Introduction

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 sets out obligations for States parties designed to ensure legal and practical enjoyment of that right. While the International Covenant on Civil and Political Rights also contains free-standing provisions for non-discrimination on the basis of gender, the Convention is a specialized treaty that deals in greater detail with a wide variety of issues arising in this area. The Committee established under the Convention also possesses expertise on issues of discrimination against women. The substantive obligations are set out in articles 1 to 16 of the Convention, comprising Parts I to IV.

As in the case of the International Covenant on Civil and Political Rights, the complaints mechanism for the Convention is contained in an Optional Protocol, which was adopted on 6 October 1999. It is a separate treaty open to States parties to the parent 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 twice a year - to receive complaints from persons within their jurisdiction alleging violations of their rights under the Convention. The Optional Protocol contains a number of innovations that are described below.

Who can bring a complaint, what must be submitted and when can you do so?

As with the procedure under the International Convention on the Elimination of Racial Discrimination, complaints may be submitted by or on behalf of individuals or groups of individuals. If you submit a complaint on behalf of one or more persons, you must either show proof of their consent or justify acting on their behalf without their consent. While the Committee has not yet begun to interpret the circumstances that would justify acting without the consent of the alleged victim(s), the jurisprudence on this point of the other Committees, notably the Human Rights Committee, may provide some guidance.

With regard to the material to be submitted, you are referred to the procedures described above. Annex 2 to this Fact Sheet contains a set of Complaint Guidelines.

There is no time limit as such for the submission of communications but, as already noted, it is a considerable plus if complaints are filed expeditiously.

Details of the procedure

The procedure followed by the Committee is expected to be similar to that of the Human Rights Committee. If the case is registered, the Committee is likely to consider the admissibility and merits of the case simultaneously. The State party against whom the complaint is directed will then have six months to present its submissions on the admissibility and merits of the communication. Once it has done so, you will be assigned a fixed period within which to comment, following which the case will be ready for a decision by the Committee.

Occasionally, the Committee will adopt a different procedure to maximize the time at its disposal to consider communications and to spare both States parties and complainants needless effort. For example, if a State party files submissions at an early point that cast serious doubt on the admissibility of the complaint, the Committee may invite you to comment on those submissions. It will then take a preliminary decision on admissibility alone and will proceed to the merits stage only if the case is declared admissible. If it is, the State party will be given a further period to comment on the merits of the communication and you will in turn be requested to comment thereon. You will be informed of any such departure from the usual practice.

Special circumstances of urgency

Under article 5 of the Optional Protocol (as spelled out by rule 63 of the Committee's rules of procedure), the Committee may issue a request to the State party for such interim measures as may be necessary to avoid possible irreparable damage.

Additional pointers on the admissibility of your case

The requirements of admissibility build on the experience of the other treaty bodies. The grounds of inadmissibility are set out in article 4 of the Optional Protocol and follow the general pattern set out above. However, you should note two elements which differ from that description. First, as with the Committee against Torture, your complaint will be inadmissible if it has already been decided upon by another procedure of international investigation or settlement. The Committee also has explicit authority to reject at an early stage complaints that are manifestly ill-founded or, in other words, plainly unjustified.

Consideration of your case

There is one point to add to the general description of how cases are considered. The Committee may seek, through the Secretary-General of the United Nations, any documentation from United Nations or other bodies that may assist it in the disposal 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 a fixed period (yet to be determined).

After the Committee's decision - some further remarks

While the general description applies here too, the Optional Protocol itself sets out a special procedure for cases in which the Committee finds that there has been a violation of your rights under the Convention. It should first be noted that when the Committee takes a decision (formally called "Views") on the merits of a case, it may also, like the Committee on the Elimination of Racial Discrimination, make recommendations. Pursuant to the follow-up procedure set out in article 7 of the Optional Protocol, the State party is required, within six months of receiving the Committee's decision and recommendations, to submit a written response detailing any action taken thereon. The Committee may invite the State party to submit further information, either directly or through

Its next periodic report to the Committee, on the general situation of implementation of Convention rights in the State party.

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

Introduction

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 States 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 articles 7 to 71 of the Convention, comprising Parts II to VI. The Convention contains its own individual complaint mechanism. States parties that so wish 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 10 independent experts meeting annually - to consider complaints from an individual or group of individuals alleging violations of their rights under the Convention by that State. [13] It may be some time before ten States parties make the declaration under article 77 required for the complaint mechanism to enter into force.

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. It may, however, be expected to adopt similar procedures to those applied by the other treaty bodies and to interpret similarly the elements of admissibility set out in article 77.

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 is not admissible if it is anonymous, an abuse of the right of submission of such communications or incompatible with the provisions of the Convention. It is also inadmissible if the same matter has been, or is being, examined under another procedure of international investigation or settlement; or if all available domestic remedies have not been exhausted. As with the other procedures, the domestic remedies requirement does not apply if their application is unreasonably prolonged or if they are unlikely to bring effective relief. A State party has six months to present its submissions on admissibility and the merits. The Committee will then meet in closed session to examine the complaint and forward its views to the State Party concerned and to the individual.

How to direct complaints to the treaty bodies

For complaints to the Human Rights Committee, the Committee against Torture and the Committee on the Elimination of Racial Discrimination, direct your correspondence and inquiries to:

Mail	Petitions Team Office of the High Commissioner for Human Rights United Nations Office at Geneva 1211 Geneva 10, Switzerland
Fax	+ 41 22 9179022 (particularly for urgent matters)
E-mail	tb-petitions.hchr@unog.ch

For complaints to the Committee on the Elimination of Discrimination against Women, direct your correspondence and inquiries to: