Human Rights Bodies - Complaints Procedures

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<http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx>

Complaining about human rights violations

The ability of individuals to complain about the violation of their rights in an international arena brings real meaning to the rights contained in the human rights treaties.

There are three main procedures for bringing complaints of violations of the provisions of the human rights treaties before the human rights treaty bodies:

* [individual communications](http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx#individualcomm);
* [state-to-state complaints](http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx#interstate); and
* [inquiries](http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx#inquiries).

There are also procedures for complaints which fall outside of the treaty body system - through the [Special Procedures of the Human Rights Council](http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx) and the [Human Rights Council Complaint Procedure](http://www.ohchr.org/EN/HRBodies/HRC/Pages/Complaint.aspx).

Individual Communications

There are nine core international human rights treaties. Each of these treaties has established a “treaty body” (Committee) of experts to monitor implementation of the treaty provisions by its States parties.

Treaty bodies (CCPR, CERD, CAT, CEDAW, CRPD, CED, CMW, CESCR and CRC) may, under certain conditions, consider individual complaints or communications from individuals.

Not all treaty body based complaint mechanisms have entered into force.

Currently, eight of the human rights treaty bodies ([CCPR](http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx), [CERD](http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx), [CAT](http://www.ohchr.org/EN/HRBodies/CAT/Pages/CATIndex.aspx), [CEDAW](http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx), [CRPD](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx), [CED](http://www.ohchr.org/EN/HRBodies/CED/Pages/CEDIndex.aspx), [CESCR](http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx) and CRC) may, under certain conditions, receive and consider individual complaints or communications from individuals:

The [Human Rights Committee (CCPR)](http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx) may consider individual communications alleging violations of the rights set forth in the [International Covenant on Civil and Political Rights](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx) by States parties to the [First Optional Protocol to the International Covenant on Civil and Political Rights](http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCCPR1.aspx);

The [Committee on Elimination of Discrimination against Women (CEDAW)](http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx) may consider individual communications alleging violations of the [Convention on the Elimination of All Forms of Discrimination against Women](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx) by States parties to the [Optional Protocol to the Convention on the Elimination of Discrimination against Women](http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCEDAW.aspx);

The [Committee against Torture (CAT)](http://www.ohchr.org/EN/HRBodies/CAT/Pages/CATIndex.aspx) may consider individual complaints alleging violations of the rights set out in the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx) by States parties who have made the necessary declaration under [article 22 of the Convention](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx);

The [Committee on the Elimination of Racial Discrimination (CERD)](http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx) may consider individual petitions alleging violations of the [International Convention on the Elimination of All Forms of Racial Discrimination](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx) by States parties who have made the necessary declaration under [article 14 of the Convention](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx);

The [Committee on the Rights of Persons with Disabilities (CRPD)](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx) may consider individual communications alleging violations of the [Convention on the Rights of Persons with Disabilities](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx) by States parties to the [Optional Protocol to the Convention](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/OptionalProtocolRightsPersonsWithDisabilities.aspx);

The [Committee on Enforced Disappearances (CED)](http://www.ohchr.org/EN/HRBodies/CED/Pages/CEDIndex.aspx) may consider individual communications alleging violations of the [International Convention for the Protection of All Persons from Enforced Disappearance](http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx) by States parties who have made the necessary declaration [under article 31 of the Convention.](http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx)

The [Committee on Economic, Social and Cultural Rights (CESCR)](http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx) may consider individual communications alleging violations of the [International Covenant on Economic, Social and Cultural Rights](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx) by States parties to the [Optional Protocol to the International Covenant on Economic, Social and Cultural Rights](http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCESCR.aspx).

The Committee on the Rights of the Child (CRC) may consider individual communications alleging violations of the Convention on the Rights of the Child or its two first Optional Protocols on the sale of children, child prostitution and child pornography (OPSC), and on the involvement of children in armed conflict (OPAC) by State Parties to the Third Optional Protocol on a communications procedure (OPIC).

For the [Committee on Migrant Workers (CMW)](http://www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx), the individual complaint mechanism has not yet entered into force:

Article 77 of the [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx) gives the [Committee on Migrant Workers (CMW)](http://www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx) competence to receive and consider individual communications alleging violations of the Convention by States parties who made the necessary declaration under article 77. This individual complaint mechanism will become operative when 10 states parties have made the necessary declaration under article 77. For status of ratifications, [click here](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&lang=en).

*Who can complain?*

Anyone can lodge a complaint with a Committee against a State:

* That is party to the treaty in question (through ratification or accession) providing for the rights which have allegedly been violated;
* That accepted the Committee’s competence to examine individual complaints, either through ratification or accession to an Optional Protocol (in the case of ICCPR, CEDAW, CRPD, ICESCR and CRC) or by making a declaration to that effect under a specific article of the Convention (in the case of CERD, CAT, CED and CMW).

Complaints may also be brought by third parties on behalf of individuals, provided they have given their written consent (without requirement as to its specific form). In certain cases, a third party may bring a case without such consent, for example, where a person is in prison without access to the outside world or is a victim of an enforced disappearance. In such cases, the author of the complaint should state clearly why such consent cannot be provided.

For more information on how to complain under the treaty bodies' complaint procedures, [click here](http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#proceduregenerale).

Inter-State Complaints

Several of the [human rights treaties](http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx) contain provisions to allow for State parties to complain to the relevant treaty body (Committee) about alleged violations of the treaty by another State party.

Note: these procedures have never been used.

CAT, CMW, CED, ICESCR and CRC: Article 21 [CAT,](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx)article 74 [CMW](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx), article 32 [CED](http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx), article 10 of the [Optional Protocol to ICESCR](http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCESCR.aspx), and article 12 of the [Optional Protocol (on a communications procedure) to the Convention on the Rights of the Child](http://treaties.un.org/doc/source/signature/2012/CTC_4-11d.pdf) set out a procedure for the relevant Committee itself to consider complaints from one State party which considers that another State party is not giving effect to the provisions of the Convention. This procedure applies only to States parties who have made a declaration accepting the competence of the Committee in this regard.

CERD, CCPR and CRC: Articles 11-13 [ICERD](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx), articles 41-43 [ICCPR](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx) set out a more elaborate procedure for the resolution of disputes between States parties over a State's fulfilment of its obligations under the relevant Convention/Covenant through the establishment of an *ad hoc* Conciliation Commission. The procedure normally applies to all States parties to ICERD, but applies only to States parties to the ICCPR and CRC which have made a declaration accepting the competence of the relevant Committees in this regard.

*Resolution of inter-State disputes concerning interpretation or application of a convention*

CERD, CEDAW, CAT, CMW and CED : Article 22 [ICERD](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx), article 29 [CEDAW](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx), article 30 [CAT](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx), article 92 [CMW](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx) and article 32 [CED](http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx) provide for disputes between States parties concerning interpretation or application of the Convention to be resolved in the first instance by negotiation or, failing that, by arbitration. One of the States involved may refer the dispute to the [International Court of Justice](http://www.icj-cij.org/) if the parties fail to agree arbitration terms within six months. States parties may exclude themselves from this procedure by making a declaration at the time of ratification or accession, in which case, in accordance with the principle of reciprocity, they are barred from bringing cases against other States parties.

Inquiries

Upon receipt of reliable information on serious, grave or systematic violations by a State party of the conventions they monitor, the [Committee against Torture](http://www.ohchr.org/EN/HRBodies/CAT/Pages/CATIndex.aspx) (article 20 CAT), the [Committee on the Elimination of Discrimination against Women](http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx) (article 8 of the Optional Protocol to CEDAW),  the [Committee on the Rights of Persons with Disabilities](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx) (article 6 Optional Protocol to CRPD), the [Committee on Enforced Disappearances](http://www.ohchr.org/EN/HRBodies/CED/Pages/CEDIndex.aspx) (article 33 of CED), the [Committee on Economic, Social and Cultural Rights](http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx)(article 11 of the Optional Protocol to ICESCR) and the [Committee on the Rights of the Child](http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx) (article 13 of the Optional Protocol (on a communications procedure) to CRC)may, on their own initiative, initiate inquiries if they have received reliable information containing well-founded indications of serious or systematic violations of the conventions in a State party.

*Which States may be subject to inquiries?*

Inquiries may only be conducted with respect to States parties that have recognized the competence of the relevant Committee in this regard. States parties may opt out from the inquiry procedure, at the time of signature or ratification or accession (article 28 CAT; article 10 of the Optional Protocol to CEDAW; article 8 of the Optional Protocol to CRPD; article 13(7) of the Optional Protocol (on a communications procedure) to CRC) or anytime (article 11(8) of the Optional Protocol to ICESCR) by making a declaration that they do not recognize the competence of the Committee in question to conduct inquiries. In this regard CED is an exception as the competence to conduct inquiries is not subject to the acceptance by States parties (article 33 ICPPED).

*Inquiry Procedure*

1. The procedure may be initiated if the Committee receives reliable information indicating that the rights contained in the Convention it monitors are being systematically violated by the State party.
2. The Committee invites the State party to co-operate in the examination of the information by submitting observations.
3. The Committee may, on the basis of the State party's observations and other relevant information available to it, decide to designate one or more of its members to conduct an inquiry and report urgently to the Committee. Where warranted and with the consent of the State party concerned, an inquiry may include a visit to its territory.
4. The findings of the member(s) are then examined by the Committee and transmitted to the State party together with any comments and recommendations.
5. The State party is requested to submit  its own observations on the Committee's findings, comments and recommendations within a specific time frame (usually six months) and, where invited by the Committee, to inform it of the measures taken in response to the inquiry.
6. The inquiry procedure is confidential and the cooperation of the State party shall be sought at all stages of the proceedings.