



United Nations
Educational, Scientific and
Cultural Organization

German Commission
for UNESCO



HOW TO FILE COMPLAINTS ON HUMAN RIGHTS VIOLATIONS

A Manual for Individuals and NGOs

Klaus Hübner

edited by the
German Commission for UNESCO
and the
United Nations Association of Germany

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Bonn 2010 (fifth, updated and enlarged edition)

A publication of the
German Commission for UNESCO, Bonn /
Deutsche UNESCO-Kommission e.V. (DUK)
Colmantstraße 15, 53115 Bonn, Germany

The present version has been arranged by Benjamin Hanke (DUK).

Cover picture: Human Rights Council
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Foreword

“First they came for the Communists, and I didn’t speak up because I wasn’t a Communist.

Then they came for the Jews, and I didn’t speak up because I wasn’t a Jew.

Then they came for the Catholics, and I didn’t speak up because I was a Protestant.

Then they came for me, and by that time there was no one left to speak up for me.”

Reverend Martin Niemöller (1945)

In 1998, on the occasion of the 50th anniversary of the Universal Declaration of Human Rights the German United Nations Association together with the German Commission for UNESCO decided to publish a manual on how existing UN human rights mechanisms and procedures function and how they can be used more effectively by victims of human rights violations as well as by NGOs in the field of human rights.

In the course of the preparatory work, the two German NGOs further decided to publish two versions:

- (a) an English publication referring only to the existing mechanisms and procedures of the UN system which does not cover regional human rights mechanisms and procedures; and
- (b) a German publication addressed to the interested public in Germany which also includes in more specific terms information about the German human rights policy as well as about existing European mechanisms and procedures concerning the protection of human rights.

So far, three English versions served as a basis for translations into eleven languages. Taken together, 19 editions in 12 languages appeared, inter alia, in Greek (1998), Turkish (1998), French (2000), Georgian (2002), Armenian (2003), Arab (2003) and Hebrew (2009). Adaptations to the specific country situations were published in German (1998 and 2004), Russian (2000 and 2003), and Bulgarian (2001 and 2002).

This manual is the fifth revised, updated and enlarged edition of the 2005 English publication which has been prepared to initiate other national publications which should include details about the specific national states reports and the full texts of the reactions of the corresponding treaty bodies (“concluding observations/comments”) within the United Nations.

Regarding the financial constraints the United Nations have to face due to its Member States’ policy, and the increasing consciousness about the existing human rights instruments of the UN, the celebration of the 50th anniversary of the Universal Declaration of Human Rights in 1998 gave the unique opportunity for NGOs to develop their influence towards a strengthening of the human rights instruments of the United Nations. The preparation of the manual has been guided by optimistic, not by sceptical realism. Referring to the increasing number of

ratifications of UN human rights instruments, of the treaty bodies in charge of the supervision of state-reporting systems, and of NGOs engaged in human rights activities as well as of NIHRs, the fight against human rights violations – whenever and wherever they occur – is important and a must for all citizens. Of course, the silence of governments when other governments abuse the human rights of their own citizens occurs too often. And national sovereignty remains a reality although Article 2, para 7, of the UN Charter no longer offers a legal defence mechanism to Member States violating human rights. Unfortunately, the United Nations has failed so far to achieve its stated goal, namely to stop gross violations of human rights in many countries around the world. But all this means that NGOs must increase their efforts together with the governments of good will and with the UN machinery responsible for human rights.

The world-wide fight against human rights violations demands a higher degree of transparency both at the international and national level. The United Nations Human Rights Website opened on 10 December 1996 was a very important and most successful step towards that end (<http://www.ohchr.org>). This Website improved tremendously in terms of content and presentation over the last decade. It became the major source of information and guarantees a high degree of transparency.

Progress has been made in setting up national institutions for monitoring human rights instruments (NIHRs); these as well as the regional approaches, such as the African Court on Human and Peoples' Rights, the Inter-American Commission on Human Rights and the European Court of Human Rights, are – although of equal importance – not covered in this manual.

In view of grave violations and atrocities in Rwanda and the former Yugoslavia, two ad hoc tribunals were established by the Security Council. For a long time, an international criminal court remained the missing link in the international legal system which could remedy the deficiencies of ad hoc tribunals and could take over when national criminal justice institutions are unwilling or unable to act. The Rome Statute of the International Criminal Court (ICC) adopted in 1998 entered into force on 1 July 2002 and led to the establishment of a permanent international court with the power to exercise its jurisdiction over individuals who have committed the most serious crimes of concern to the international community as a whole.

Dramatic changes and enormous progress has been made in recent years. At the 2005 World Summit, the UN Member States agreed to establish the Human Rights Council to replace the Commission on Human Rights (see sections I and II). Special attention deserves the Universal Periodic Review of the Human Rights Council as a new mechanism under which the human rights record of all UN Member States will be reviewed until 2011. In 2006, the UN General Assembly adopted the International Convention for the Protection of All Persons from Enforced Disappearance, and in 2008 the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights has been adopted. In 2008, new legal instruments entered into force: the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (see section III.8).

This manual is written for individuals and NGOs with the intention of offering practical guidance and of increasing transparency. It includes, inter alia, important addresses, e-resources, charts describing the different procedures, and model forms for communications. This fifth, updated and enlarged English edition is available as a ready-to-print manuscript as well as in a CD-ROM format. On the occasion of the 65th anniversary of the United Nations the author sincerely hopes that many National Commissions for UNESCO and National United Nations Associations intend to prepare translations into their national languages. In order to do so, the present English version should be used as an “umbrella text” to be enlarged into the following directions:

- (a) by including the contents of the latest national states reports to the UN human rights treaty bodies and the concluding remarks of them;
- (b) by including the content of the Universal Periodic Review of the Human Rights Council and its impact upon national implementation;
- (c) by adding a chapter on regional human rights mechanisms (again with special reference to national states reports, etc.); and
- (d) by adding actual primary and secondary literature in the national language to the references.

The author wishes to express his thanks for the technical support received from the two editors and for the assistance of Claudia Schlaak during the preparation process. All opinions expressed in this manual are, of course, those of the author in his personal capacity and not of the two institutions he is affiliated to.

Berlin, January 2010
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List of Abbreviations

CAC	(Human Rights) Council Advisory Committee
CAT	Committee against Torture / Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCPR	Human Rights Committee
CEACR	(ILO) Committee of Experts on the Application of Conventions and Recommendations
CEART	(ILO/UNESCO) Committee of Experts on the Recommendation concerning Teaching Personnel
CED	Committee on Enforced Disappearances
CEDAW	Committee on the Elimination of Discrimination against Women / Convention on the Elimination of all Forms of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CFA	(ILO) Committee on Freedom of Association
CHR	Commission on Human Rights
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
CR	(UNESCO) Committee on Conventions and Recommendations
CRC	Committee on the Rights of the Child / Convention of the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities / Convention on the Rights of Persons with Disabilities
CSW	Commission on the Status of Women

DAW	United Nations Division for the Advancement of Women
DPI	Department of Public Information
ECOSOC	(United Nations) Economic and Social Council
GA	(United Nations) General Assembly
GAOR	General Assembly Official Records
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICED	International Convention for the Protections of All Persons from Enforced Disappearances
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
ILO	International Labour Organization / International Labour Office
NGOs	Non-governmental organizations
NHRIs	National Human Rights Institutions
OHCHR	Office of the High Commissioner for Human Rights
OP	Optional Protocol to the Convention on the Rights of Persons with Disabilities
OP-CAT	Optional Protocol to the Convention against Torture

How to File Complaints on Human Rights Violations

OP1	Optional Protocol to the International Covenant on Civil and Political Rights
OP2-DP	Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the Abolition of the Death Penalty
OP-AC	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
OP-SC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
SPT	Sub-Committee on Prevention of Torture
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNA	United Nations Association
UNCHR	United Nations Commission on Human Rights
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UPR	Universal Periodic Review
WGC	Working Group on Communications
WGS	Working Group on Situations
WHO	World Health Organization

I. Introduction:

The United Nations and Human Rights

“Human rights are as fundamental to the poor as to the rich, and their protection is as important to the security and prosperity of the developed world as it is to that of the developing world. It would be a mistake to treat human rights as though there were a trade-off to be made between human rights and such goals as security or development. We only weaken our hand in fighting the horrors of extreme poverty or terrorism if, in our efforts to do so, we deny the very human rights that these scourges take away from citizens. Strategies based on the protection of human rights are vital for both our moral standing and practical effectiveness of our actions.

Since its establishment, the United Nations has committed itself to striving for a world of peace and justice grounded in universal respect for human rights – a mission reaffirmed five years ago by the Millennium Declaration. But the system for protecting human rights at the international level is today under considerable strain. Change is needed if the United Nations is to sustain long-term, high-level engagement on human rights issues, across the range of the Organization’s work”

Kofi Annan, 2005

When the Charter of the United Nations was adopted in 1945, as a consequence of the crimes against humanity committed by Fascism, one of the most sacred trusts placed in the hands of the new World Organization was the promotion of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

Human rights is woven as an important guiding thread throughout the fabric of the UN Charter (see Articles 1, para. 3, 13, para. 1 b., 55 c., 56, 68, and 76 c. in annex VI.1): The Preamble to the Charter and its Article 1, para. 3, contain explicit references to human rights; furthermore, the Charter also charges specifically the General Assembly (Article 13, para. 1 b.) and the ECOSOC (Article 55 c.) with promoting respect for human rights and gives a similar mandate to the Trusteeship System (Article 76 c.). Through the Charter all UN Member States are legally bound to strive towards the full realization of all human rights and freedoms.

Although the San Francisco Conference decided in 1945 not to include an international bill of human rights in the Charter itself, it explicitly demanded in Article 68 the establishment of a commission for the promotion of human rights which had as its first task the drafting of the international bill of human rights.

The Universal Declaration of Human Rights

The centerpiece of this code is the Universal Declaration of Human Rights adopted by the General Assembly on 10 December 1948 (see the full text in annex VI.2). Although it has only the character of a recommendation, the Declaration played a key role in the further

development of human rights instruments and became the foundation upon which the international system for the protection and promotion of human rights has been built.

The Declaration, which contains 30 Articles, claims a “common standard of achievement for all peoples and all nations” and is formulated in general terms; it contains fundamental freedom rights (Articles 3-19), political rights (Articles 20-21), and also economic, social and cultural rights (Articles 22-28) without any hierarchy among them. The basic rights laid down in the Universal Declaration have given birth to over 100 international treaties, declarations or other instruments within the UN system (see document 1). One can mention:

- the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the International Covenant on Civil and Political Rights (ICCPR);
- the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- the Convention on the Elimination of Discrimination against Women (CEDAW);
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- the Convention on the Rights of the Child (CRC);
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW);
- the Convention on the Rights of Persons with Disabilities (CRPD);
- the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED); and
- other declarations and/or conventions dealing with such matters as discrimination, genocide, slavery, and social welfare, progress and development.

Towards a System of Human Rights Protection

In order to create a system of human rights protection, the following order of steps was necessary: (a) the conceptualization of a programme; (b) the definition of human rights; (c) the creation of compulsory norms; and (d) a system for the implementation and monitoring of human rights in political and legal terms. In the UN Charter we find the programme as expressed in Article 1, para. 3, where the UN shall “achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”. This programme formulation increasingly led to the exclusion of the universal observance of human rights from “matters which are essentially within the domestic jurisdiction of any state” (Article 2, para. 7) – a position which is not shared by all UN Member States. Organs of the UN are allowed to discuss those issues. Moreover, actual human rights violations could be dealt with after the creation of the necessary instruments.

The International Bill of Rights

The Universal Declaration of Human Rights of 1948 contained a first, yet not comprehensive attempt of defining human rights. It took almost 20 years of drafting the two International Covenants which – together with the Universal Declaration – form the International Bill of Rights. In 1966, the General Assembly adopted the documents which entered into force ten years later, in 1976.

The two Covenants together with the Optional Protocol to the International Covenant on Civil and Political Rights (OP1) and the Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty (OP2-DP) also contain instructions for the implementation of human rights which takes place through national and international procedures. Many countries have included provisions from the basic instruments of the UN directly in their national constitutions or have directly incorporated them in national law. The UN itself developed a wide range of procedures for observing respect for the international code of human rights. In this context, four major methods can be identified:

- (1) the examination of reports from States parties by committees of independent experts where issues such as respect for civil and political rights, economic, social and cultural rights, the elimination of racial discrimination, equality of women, and the prohibition of torture are discussed with representatives of governments – often at the ministerial level;
- (2) the consideration by the Human Rights Council (see section II and charts 4-6), through special rapporteurs or working groups, of individual reports of particularly serious violations of human rights, such as arbitrary or summary executions, torture, disappearances and arbitrary detention.

Under these procedures, the practice of sending urgent action cables has been developed. Each year, over 1,000 particularly urgent cases are transmitted to governments by e-mail, fax and telegram and much more are sent by letter. The results of these initiatives and the responses of the governments are contained in public reports debated in the UN Human Rights Council;

- (3) the study of the human rights situation in specific countries or territories by the Human Rights Council, such as in Burundi, Cambodia, Democratic People's Republic of Korea, Haiti, Myanmar, Palestinian territories occupied since 1967, Somalia and Sudan. In this connection, working groups, committees or special rapporteurs are appointed to investigate the facts; their reports, with conclusions and recommendations, are discussed by UN policy-making bodies including the General Assembly; and
- (4) the consideration by human rights organs of petitions/complaints (“communications”) from individuals and organizations (NGOs) which allege serious and systematic violations of human rights. These cases of systematic human rights violations (“situations”) are studied in private meetings by the Human Rights Council (see chart 6).

In sum, it can be concluded that the UN in its standard-setting and international implementation of human rights had a significant impact on the improvement of the human rights situation in many parts around the world. Together with the preservation of international peace and security and the furtherance of economic and social development, the promotion of human rights constitutes one of the three principal objectives of the UN that has undergone a great expansion both in terms of mandates and activities.

Over the last 20 years we have witnessed a major expansion of UN activities in the field of human rights. This relates not only to the human rights treaty system but also to the UN human rights programme as a whole. These developments are generally recognized as most impressive achievements of the UN human rights programme. Other “proxies”, such as the number of States parties to the human rights instruments listed in annex VI.3, which reached a total of 1,808 as of 11 January 2010, are good indicators for this development. In its resolution 43/115 the General Assembly of the UN stated that: “The effective implementation of instruments on human rights, involving periodic reporting by States parties to the relevant treaty bodies and the efficient functioning of the treaty bodies themselves, not only enhances international accountability in relation to the protection and promotion of human rights but also provides States parties with a valuable opportunity to review policies and programmes affecting the protection and promotion of human rights and to make any appropriate adjustments”.

Today, the UN human rights treaty system (see chart 2) has reached a critical point where additional measures must be undertaken in order to further guarantee an efficient and effective implementation of UN instruments on human rights:

- Excessive delays by States parties in the submission of their reports can be observed as mentioned above. The treaty bodies are confronted with serious difficulties in seeking to induce the relevant States parties to submit their overdue reports. Also, the problem of inadequate reports must be attacked; a one-page report, for instance, cannot serve as a serious basis for discussion.
- On the other hand, there is a growing burden imposed on many States by the expansion and overlapping of reporting obligations; the right to freedom of association, for instance, is recognized in five treaties; it is also contained in the conventions dealing with the rights of the child and of migrant workers; moreover, two ILO conventions deal with that right.
- The financial resources (less than three percent of the UN regular budget) are insufficient to enable the UN human rights to function effectively; the meeting time available to some of the treaty bodies is inadequate; this is also true with regard to the staffing levels of the Office of the High Commissioner for Human Rights (OHCHR).

The Vienna World Conference on Human Rights Machinery

The World Conference on Human Rights in June 1993, where representatives of over 170 States met for the first time in 25 years to reaffirm their commitment to protect human rights, was unequivocal in confirming the universality, interdependence, indivisibility and interrelatedness of all human rights and fundamental freedoms. A call was made on all States to

observe international standards of behavior, to ratify international instruments and to strengthen the human rights machinery at both the national and international level.

The Conference examined in detail the progress achieved in human rights, and obstacles to their full enjoyment, as well as the application of international instruments and the effectiveness of the methods and machinery established by the UN in the field of human rights.

Emphasis was placed on protecting the rights of the most vulnerable groups, including racial, religious and ethnic minorities, indigenous populations, women and children, casualties of war, the poor, and the disabled.

Through the Vienna Declaration and Programme of Action adopted at the World Conference, the States declared their commitment to ensure that human rights remain a priority objective of the UN. In fact, the World Conference resulted in an upgrading of human rights within the UN. To-day, human rights are recognized as one of the three pillars, alongside security and development, of the UN.

The High Commissioner for Human Rights

The 48th session of the General Assembly confirmed the Vienna Declaration and Programme of Action; in addition, the Assembly decided to create the post of a High Commissioner for Human Rights (Resolution 48/141 of 20 December 1993) and devoted three decades to human rights: the Third Decade against Racism and Racial Discrimination (1993-2003); a Decade for Indigenous People (1994-2004); and a Decade for Human Rights Education (1995-2005). In its resolution, the General Assembly listed the High Commissioner's specific responsibilities. They include:

- to promote and protect the effective enjoyment by all of civil, cultural, economic, political and social rights, including the right to development;
- to provide advisory services, technical and financial assistance in the field of human rights to States that request them;
- to coordinate United Nations education and public information programmes in the field of human rights;
- to play an active role in removing the obstacles to the full realization of human rights and in preventing the continuation of human rights violations throughout the world;
- to engage in a dialogue with governments in order to secure respect for human rights;
- to enhance international cooperation for the promotion and protection of human rights;
- to coordinate human rights promotion and protection activities throughout the United Nations system; and
- to rationalize, adapt, strengthen and streamline the United Nations machinery in the field of human rights in order to improve its efficiency and effectiveness.

With the approval of the General Assembly the UN Secretary-General appointed José Ayala-

Lasso (Ecuador) who served as High Commissioner for Human Rights at the rank of Under-Secretary-General from 5 April 1994 to 15 March 1997. Since 15 September 1997, Mary Robinson (Ireland) served a four-year term as High Commissioner for Human Rights; then, she asked for a one-year extension to September 2002. Her successor, Sergio Viera de Mello (Brazil), was elected to serve a four-year term. He was nominated special representative of the Secretary-General for Iraq on 27 Mai 2003 for a period of four months, where he became victim of a terrorist attack on the UN Headquarters in Baghdad. On 1 July 2004, Louise Arbour (Canada) took up her assignment as High Commissioner for Human Rights. On 28 July 2008, the General Assembly approved of Navanethem Pillay (South Africa) as the fifth High Commissioner for Human Rights.

The Office of the United Nations High Commissioner for Human Rights

Human rights activities have been expanding as a result of recent global events after the end of the East-West confrontation which led to a series of new mandates by legislative organs for peaceful and constructive solutions to human rights problems: the role of the various organs in the human rights field has progressively become operational which required a change of the activities of the Centre for Human Rights both in terms of functions as well as of magnitude. Following this necessity, the UN Secretary-General has merged on 12 September 1997 the Office of the High Commissioner for Human Rights and the Centre for Human Rights into a single Office of the High Commissioner. This Geneva-based Office of the UN High Commissioner is a body of the United Nations Secretariat (see chart 3).

The OHCHR is the “heart” of the international community to promote and protect all human rights; it supports the work of the UN human rights mechanisms, such as the Human Rights Council (see section II) and the human rights treaty bodies (see section III). The Office employs more than 850 staff, based in Geneva and New York and in seven regional offices and in eleven country offices.

The address of the Office of the High Commissioner for Human Rights is the following:

• Office of the United Nations High Commissioner for Human Rights
• United Nations Office at Geneva
• Palais Wilson
• 52, rue des Pâquis
• CH-1201 Geneva
• Switzerland
• Phone: xx 41-22-917 9220
• E-mail: InfoDesk@ohchr.org
• Internet: <http://www.ohchr.org/EN/Pages/WelcmePage.aspx>

The UN Commission on Human Rights

Article 68 of the Charter (see annex VI.1) requests the Economic and Social Council (ECOSOC; see chart 1) to set up commissions in economic and social fields and for the promotion of human rights. In consequence, the Commission on Human Rights (CHR) was established as a "functional commission" by ECOSOC at its first session in 1946; it was the only human rights body established through an explicit provision of the Charter. Originally, the Commission consisted of nine core members acting in their individual capacity; later, the Commission of representatives of 53 Member States was elected for three-year terms by ECOSOC on the following regional basis: 15 from Africa; 12 from Asia; 11 from Latin America and the Caribbean states; ten from Western Europe and Other states (WEO); and five from Eastern Europe.

In 1947, the Commission met for the first time; its sole function was to draft the Universal Declaration of Human Rights (for the full text see annex VI.2). The Commission accomplished this task within one year: on 10 December 1948 the Universal Declaration was adopted by the UN General Assembly. Since then, the 10 December has been celebrated annually as "Human Rights Day" around the world.

For the first 20 years (1947-1966) the Commission concentrated its activities on standard-setting. Based upon the Universal Declaration, the Commission worked on the drafting of the two human rights covenants, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), which were adopted by the General Assembly in 1966.

The progress achieved can be best characterized by the fact that in 1947 the Commission "recognized that it had no competence to deal with any complaint about violations of human rights". 20 years later, the Commission was authorized to start to deal with these problems. Since then, the Commission has developed special procedures for the protection of human rights. These non-treaty procedures, country-orientated or thematic (operating through special rapporteurs and working groups), shall monitor the compliance by States with international human rights law and investigate alleged violations of human rights, among others, through fact-finding missions to countries in all parts of the world. During the 1970s and 1980s, these implementation and fact-finding procedures became the focus of the Commission's activities.

In the 1990s, the Commission has increasingly turned its attention to the provision of advisory services and technical assistance in order to overcome the existing obstacles and to secure the enjoyment of human rights by all.

Also, more emphasis has been put on the promotion of economic, social and cultural rights, including the right to development and the right to an adequate standard of living, as well as on the protection of the rights of the vulnerable groups in society, such as minorities and indigenous people, and of the rights of women (see section III.4) and of the child (see section III.6).

The Commission acted as the main policy-oriented UN body responsible for the promotion and protection of human rights. During recent years, the Commission has discussed such issues as

the human rights situation in various countries, economic, social and cultural rights, self-determination, torture, “disappearances”, capital punishment, detention for exercising the rights to freedom of expression, rights of the child, racial discrimination, apartheid, rights of minorities, the International Covenants on Human Rights.

Since 1990, the Commission has been authorized to meet exceptionally to consider particularly grave human rights situations provided that a majority of at least 27 of its 53 members so agreed (for instance, human rights violations in former Yugoslavia (1992 and 1993), Rwanda (1994), East Timor (1999) and in Palestine (2000) have been treated in special sessions).

In 2005, the year before the Commission was replaced by the Human Rights Council (see section II), seven working groups established by the Commission dealt with the following issues:

- enforced or involuntary disappearances (since 1980);
- right to development (since 1998);
- arbitrary detention (since 1991);
- human rights situations (since 2000);
- indigenous people (since 1995);
- structural adjustment programmes (since 1996); and
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (since 2002).

The Commission met once a year in Geneva for six weeks, beginning in March. In general, its meetings were public, except when it met for several days to discuss situations which appear to reveal a consistent pattern of gross violations under the “1503 procedure”. During the public meetings governments which are not members of the Commission and non-governmental organizations (NGOs) which have been granted consultative status with ECOSOC could attend and make written and oral statements concerning issues on the agenda. The input of the NGOs has had a significant impact on the Commission’s work. Often, NGO investigations and reports provided useful information available to the Commission about human rights abuses in various parts of the world.

The 60th session of the Commission took place in Geneva in March/April 2004. For the first time, more than 40 national human rights institutions (NHRIs) were invited to take part in the work of the Commission. On the one hand, the UN Secretary-General underlined in his Annual Report of 2004 to the General Assembly that the Commission on Human Rights developed to an important forum for the partnership of governmental and non-governmental representatives within the UN system. On the other hand, the problems of increasing political polarization of the CHR were mentioned: “This year the Commission on Human Rights attracted almost 5,000 participants, including representatives of Member States, non-governmental organizations, independent experts, United Nations agencies and national human rights institutions. ... Despite broad participation, however, there continues to be disquiet over the fact that a number of Governments accused of gross violations of human rights are elected to membership in the

Commission, about the high level of politicization of the Commission's debates and about the lack of consideration of certain situations involving grave human rights violations" (para. 205).

In principle, the UN Secretary-General repeated his criticism he mentioned already in his Annual Report of 2003. It is against this background that he did not take up the concrete proposals put forward by the High-level Panel on Threats, Challenges and Change which included:

- membership of the Commission on Human Rights should be made universal;
- all members of the CHR should designate prominent and experienced human rights figures as the heads of their delegations;
- the CHR should be supported in its work by an advisory council or panel consisting of some 15 individuals appointed for their skills for a period of three years by the CHR on the joint proposal of the Secretary-General and the High Commissioner.

But the High-level Panel also mentioned that: "In the longer term, Member States should consider upgrading the Commission to become a 'Human Rights Council' that is no longer subsidiary to the Economic and Social Council but a Charter body standing alongside it and the Security Council, and reflecting in the process the weight given to human rights, alongside security and economic issues, in the Preamble of the Charter" (para. 291).

Instead of reflecting on long-term options, the Secretary-General developed the concept of a mutually interdependent trias of security, development and human rights and proposed to replace the Commission of Human Rights by a smaller standing Human Rights Council in the context of necessary structural reform measures to be undertaken on the occasion of the 60th anniversary of the United Nations in 2005 (see below).

"Interim Results" of Reform Measures

The UN human rights programme is now evolving from standard-setting activities to the implementation and monitoring of the international standards of human rights. Its operational activities are moving towards creating the conditions necessary for the implementation process and for a universal culture of human rights which will, hopefully, lead to a considerable reduction of world-wide human rights violations. On the one hand, universal ratification of the various human rights conventions should be pursued; on the other hand, a further strengthening of the efficiency of implementing human rights through the UN Human Rights Council, human rights treaty bodies, monitoring bodies of various covenants, preventive diplomacy, and the participation of NGOs will be necessary which also includes a better co-ordination within the UN system.

In his Programme for Reform 1997, UN Secretary-General Kofi Annan set out the promotion and protection of human rights as one of the five central tasks of the United Nations. Accordingly, the issue of human rights has been designated as cutting across each of the four substantive fields of the Secretariat's work programme (peace and security, economic and social affairs, development cooperation, and humanitarian affairs): "A major task for the

United Nations, therefore, it is to enhance its human rights programme and fully integrate it into the broad range of the Organization's activities" (UNITED NATIONS / GENERAL ASSEMBLY (1997), para. 79).

The present work of the United Nations in the field of human rights is very complex and still needs to be reformed. Five years later, in its follow-up report "Strengthening of the United Nations: An Agenda for Further Change", UN Secretary-General Kofi Annan announced measures to improve the work of the UN:

- the capacity of the United Nations to help individual countries to build strong human rights institutions will be strengthened;
- the procedures of the treaty bodies will be reviewed in order to simplify reporting obligations;
- the system of special procedures (rapporteurs, working groups, etc.) will be reviewed, with a view to making it more effective by ensuring greater consistency; and
- the management of the Office of the United Nations High Commissioner for Human Rights will be strengthened (UNITED NATIONS / GENERAL ASSEMBLY (3 September 2002), p. 2).

In the following, the UN Secretary-General pointed out four concrete measures according to which the High Commissioner will

- develop and implement a plan to strengthen human rights-related United Nations actions at the country level;
- consult with treaty bodies on new streamlined reporting procedures and submit his recommendations to him;
- undertake a review on the special procedures and report back to him with recommendations on how to enhance their effectiveness and improve the support provided;
- develop a plan to strengthen management, taking into account the recommendations emerging from the management review conducted by the Office of Internal Oversight Services (OIOS).

As will be shown in section III, the reporting obligations of States parties exceed the capacity of treaty bodies to consider them in a timely manner. Also, many countries experience extreme difficulties in coping with the burden of separate reporting to each treaty body. Therefore, as part of his proposals of reform of the human rights machinery, the UN Secretary-General proposed to reform the reporting procedures of the treaty bodies by standardizing the reporting guidelines and introducing a single report, thereby reducing significantly the reporting burden for States parties to the UN human rights treaty bodies. The introduction of a single report was, however, rejected by all treaty bodies. Instead, it was decided to develop an expanded core document and to examine the possibility of harmonization and streamlining the reporting procedures. In fact, the treaty bodies have already broadly similar working methods. Both with regard to working methods and substantive issues, the annual meetings of chairpersons allow further improvements in the streamlining efforts.

In his report “In Larger Freedom: Towards Development, Security and Human Rights for All” of 2005, the UN Secretary-General informed that the UN human rights machinery has expanded its protection work and technical assistance at the country level. At the same time he stressed that this programme urgently needs more financial resources and staff. He demanded the incorporation of human rights into discussion and decision-making throughout the work of the Organization and deplored that the concept of “mainstreaming” human rights has still not been adequately reflected in key policy and resource decisions.

In conclusion, the UN Secretary-General developed a concept for a comprehensive reform of the UN human rights machinery which includes, inter alia, the following measures:

- The Office of the High Commissioner must be involved in the whole spectrum of UN activities;
- the proclaimed commitment of the Member States to human rights must be matched by corresponding financial resources;
- the human rights treaty bodies (see section III) must be more effective and more responsive to human rights violations; they should finalize and implement harmonized guidelines on the reporting so that these bodies can function as unified system; and
- the Commission on Human Rights should be transformed into a smaller standing Human Rights Council “which should be the central pillar of the United Nations human rights system” (for further details see section II).

Meanwhile, human rights are fully recognized as one of the three pillars of the UN. The amount of funding allocated to the UN human rights programme has grown in recent years, both in absolute as well as in relative terms. Whereas during the 1990s funding went down to about 1.5 percent of the UN regular budget, its share increased to almost three percent in 2008-2009. During the same period over 60 percent of OHCHR expenditure was covered by voluntary contributions. It must be taken into account that extra-budgetary income is generated on a voluntary basis, for a limited time period and often determined to serve a particular purpose. Despite recent increases in its share of the UN regular budget, the OHCHR remains heavily reliant on voluntary contributions. Hopefully, donors of voluntary contributions make more funding available on an unearmarked basis in order to strengthen OHCHR’s political independence.

References

ALFREDSSON, Gudmundur; et al. (Ed): International Human Rights Mechanisms. Essays in Honour of Jakob Th. Möller. The Hague / Boston / London: Martinus Nijhoff, 2009, XI, 725 (2nd revised edition).

ALSTON, Philip; CRAWFORD, James (Ed): The Future of UN Human Rights Monitoring. Cambridge: Cambridge University Press, 2000, XXV, 563.

ALSTON, Philip (Ed): The United Nations and Human Rights. A Critical Appraisal. Oxford: Clarendon Press, 1992, 778 (second edition to appear in December 2005).

BAYEFSKY, Anne F.: How to Complain to the UN Human Rights Treaty System. The Hague / London / New York: Kluwer Law International, 2003, XXIII, 358.

BAYEFSKY, Anne F. (Ed): The UN Human Rights Treaty System. Universality at the Crossroads. The Hague / London / New York: Kluwer Law International, 2001, XIX, 811.

BAYEFSKY, Anne F. (Ed): The UN Human Rights Treaty System in the 21st Century. The Hague / London / New York: Kluwer Law International, 2000, XX, 1116.

BERNSTORFF, Jochen von: The Changing Fortunes of the Universal Declaration of Human Rights: Genesis and Symbolic Dimensions of the Turn to Rights in International Law. In: The European Journal of International Law 19/5: 903-924, November 2008.

BOYLE, Kevin (Ed): New Institutions for Human Rights Protection. Oxford / New York: Oxford University Press, 2009, XIX, 217.

FAGAN, Andrew: Human Rights: Confronting Myths and Misunderstandings. Northampton, MA: Edward Elgar, 2009, VI, 166.

FORSYTHE, David P. (Ed): Encyclopedia of Human Rights. Oxford: Oxford University Press, 2009, 2672 (five volumes).

FORSYTHE, David P.: Human Rights in International Relations. Cambridge: Cambridge University Press, 2006, XII, 285 (second edition).

GOODHART, Michael (Ed): Human Rights. Politics and Practice. Oxford / New York: Oxford University Press, 2009, XX, 455.

GRIFFIN, James: On Human Rights. Oxford: Oxford University Press, 2008, 339.

HAAS, Michael: International Human Rights: A Comprehensive Introduction. London and New York: Routledge, 2008, XIX, 440.

HOFFMANN-HOLLAND, Klaus (Ed): Ethics and Human Rights in a Globalized World. An Interdisciplinary and International Approach. Tübingen: Mohr Siebeck, 2009, IX, 351.

JOSEPH, Sarah; SCHULTZ, Jenny; CASTAN, Melissa: The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary. Oxford: Oxford University Press, 2005, 1048.

KÄLIN, Walter; KÜNZLI, Jörg: The Law of International Human Rights Protection. Oxford / New York: Oxford University Press, 2009, XLVIII, 539.

KRAUSE, Catarina; SCHEININ, Martin (Ed): Protection of Human Rights: A Textbook. Turku / Åbo: Institut for Human Rights, Åbo Akademi University, 2009, XIV, 677.

KRETZMER, David; KLEIN, Eckart (Ed): The Concept of Human Dignity in Human Rights Discourse. The Hague, New York: Kluwer Law International, 2002, X, 313.

LANDMANN, Todd; CARVALHO, Edzia: Measuring Human Rights. London: Routledge, 2010, XI, 162.

LAUREN, Paul Gordon: "To Preserve and Build on its Achievements and to Redress its Shortcomings": The Journey from the Commission on Human Rights to the Human Rights Council. In: *Human Rights Quarterly* 29/2: 307-345, May 2007.

MERTUS, Julie A.: *The United Nations and Human Rights. A Guide for a New Era*. London / New York: Routledge, 2009, XXII, 202 (second edition).

MUTUA, Makau: Standard Setting in Human Rights: Critique and Prognosis. In: *Human Rights Quarterly* 29/3: 547-630, August 2007.

NORMAND, Roger; ZAIDI, SARAH: *Human Rights at the UN: The Political History of Universal Justice*. Bloomington and Indianapolis: Indiana University Press, 2008, XIII 486 (United Nations Intellectual History Project Series).

O'FLAHERTY, Michael: *Human Rights and the UN: Practice Before the Treaty Bodies*. The Hague / London / New York: Kluwer Law International, 2002, XI, 226 (second edition).

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: *High Commissioner's Strategic Management Plan 2010-2012*. Geneva: OHCHR, January 2010, 160.

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: *2008 Report. Activities and Results*. Geneva: OHCHR, 2009, 219.

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: *Working with the United Nations Human Rights Programme. A Handbook for Civil Society*. New York / Geneva: UN, 2008, 192.

RAMCHARAN, Bertrand G.: *A UN High Commission in Defense of Human Rights. "No License to Kill or Torture"*. Leiden / Boston / Mass.: Nijhoff, 2005, XIII, 854.

RAMCHARAN, Bertrand G.: *The United Nations High Commissioner for Human Rights. The Challenge of International Protection*. The Hague / London / New York: Nijhoff, 2002, XX, 250.

SALOMON, Margot E.; MARKS, Stephen P.: *Global Responsibility for Human Rights: World Poverty and Development of International Law*. Oxford: Oxford University Press, 2007, 288.

SIMMONS, Beth A.: *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press, 2009, XVI, 451.

SMITH, Rhona K.M.: *Textbook on International Human Rights*. Oxford: Oxford University Press, 2009, 500 (fourth edition).

SPECIAL ISSUE: Reform of the UN Human Rights Machinery. In: *Human Rights Law Review* 7/1: 3-265, 2007.

This special issue of the Review is devoted to the reform process of the UN human rights machinery; it contains 11 articles.

STEINER, Henry J.; ALSTON, Philip; GOODMAN, Ryan: *International Human Rights in Context Law, Politics, Morals: Text and Materials*. Oxford / New York: Oxford University Press, 2008, XXXIX, 1492 (third edition).

SYMONIDES, Janusz (Ed): Human Rights: International Protection, Monitoring, Enforcement. Aldershot / Burlington VT: Ashgate, 2003, XXI, 421.

SYMONIDES, Janusz (Ed): Human Rights: Concepts and Standards. Aldershot / Burlington, VT: Dartmouth; Ashgate, 2000, XVI, 373.

SYMONIDES, Janusz (Ed): Human Rights: New Dimensions and Challenges. Aldershot / Brookfield, VT: Dartmouth; Ashgate, 1998, XIV, 318.

SYMONIDES, Janusz; VOLODIN, Vladimir: Access to Human Rights Documentation. Documentation, Bibliographies and Data Bases on Human Rights. Paris: UNESCO, 1997, VII, 188 (also available in French).

This third, updated and revised edition contains, inter alia, collected basic texts on human rights, publications of the UN, FAO, WHO, and UNESCO as well as references to the secondary literature catalogued by subjects. Chapter V offers a list of annotated periodicals dealing with human rights.

TOMUSCHAT, Christian: Human Rights. Between Idealism and Realism. Oxford / New York: Oxford University Press, 2003, XLVI, 333.

UNITED NATIONS: World Conference on Human Rights. The Vienna Declaration and Programme of Action, June 1993. With the Opening Statement of United Nations Secretary-General Boutros Boutros-Ghali. New York: UN Department of Public Information: August 1993, 71 (also available in other official languages of the UN).

UNITED NATIONS / GENERAL ASSEMBLY: In Larger Freedom: Towards Development, Security and Human Rights for All. Report by the Secretary-General. New York: UN, 21 March 2005, 62 (A/59/2005).

UNITED NATIONS / GENERAL ASSEMBLY: Management Review of the Office of the United Nations High Commissioner for Human Rights. New York: UN, 21 October 2002, 18 (A/57/488).

UNITED NATIONS / GENERAL ASSEMBLY: Strengthening of the United Nations: An Agenda for Further Change. Report of the Secretary-General. New York: UN, 2 September 2002, 34 (A/57/387).

VANDENHOLE, Wouter: The Procedures Before the UN Human Rights Treaty Bodies: Divergence or Convergence? Antwerpen-Oxford: Intersentia, 2004, XX, 331.

WHITE, Nigel D.; KLAASEN, Dirk (Ed): The UN, Human Rights and Post-conflict Situations. Manchester: Manchester University Press, 2005, XVI, 500.

E-Resources

United Nations:

<http://www.un.org>

Office of the High Commissioner for Human Rights:

<http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

Reference Material of the OHCHR:

<http://www.ohchr.org/EN/PublicationsResources/Pages/Publications.aspx>

Chart 1: United Nations System

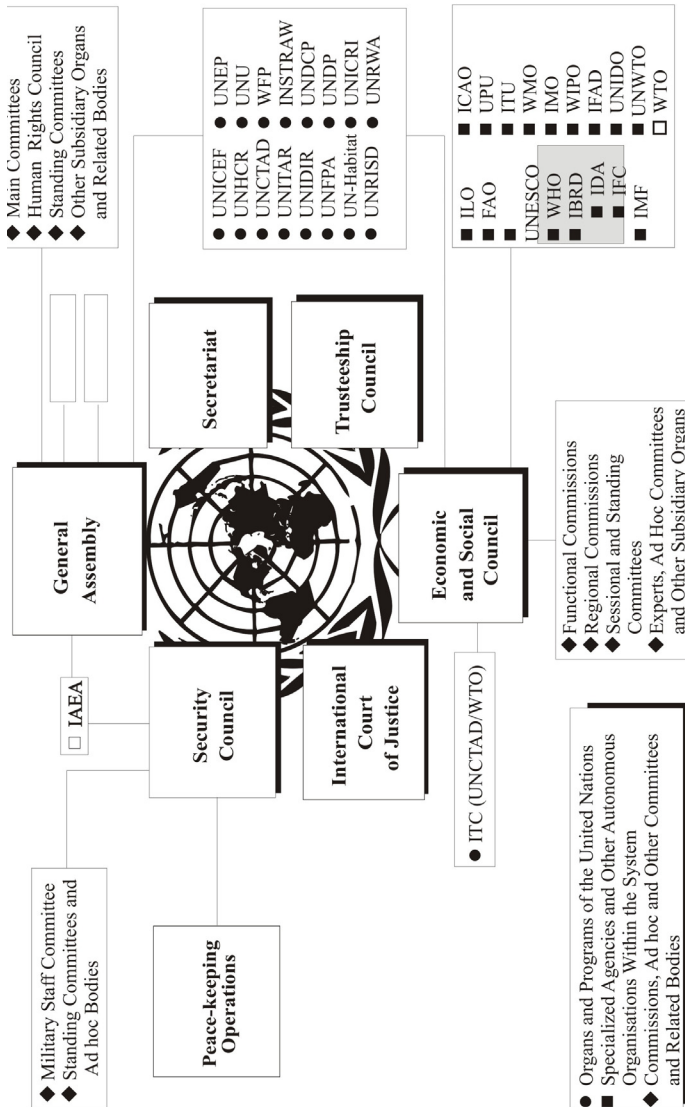
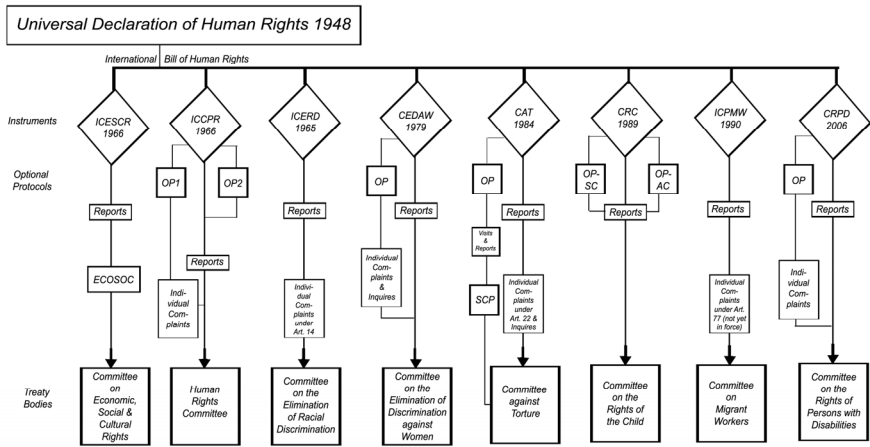


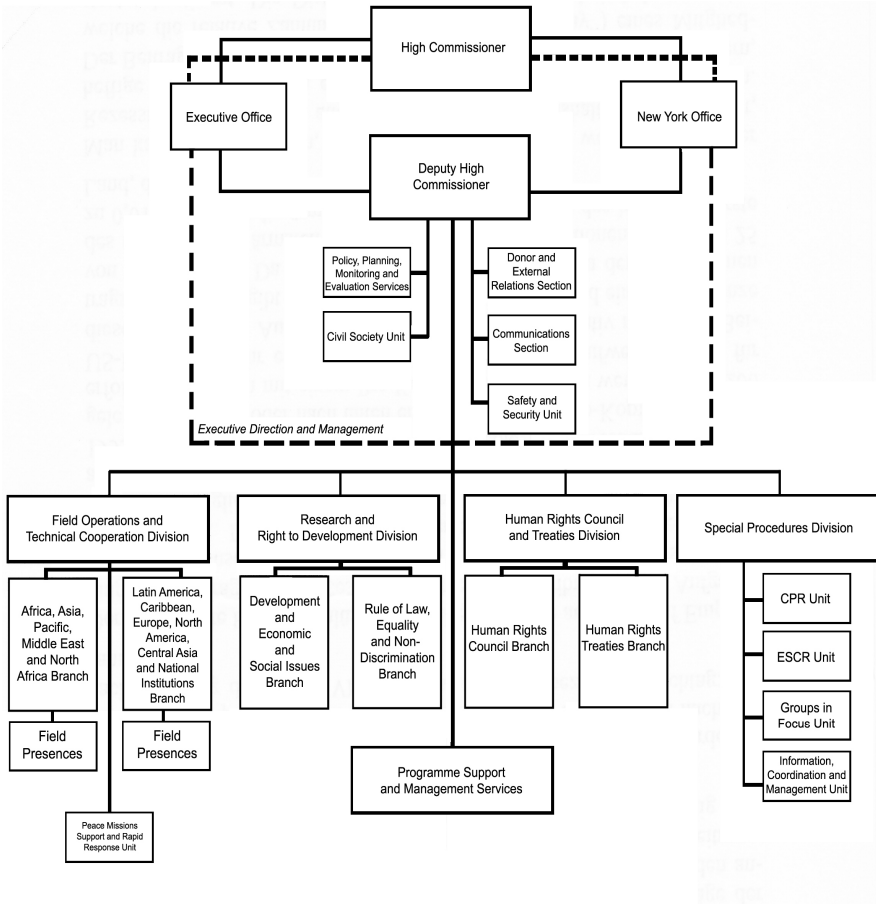
Chart 2:
The United Nations Human Rights Treaty System



Sources:

Office of the United High Commissioner for Human Rights: The United Nations Human Rights Treaty System. Geneva: Office of the UNHCR, June 2005, p.4, and updates.

Chart 3:
Office of the UN High Commissioner for Human Rights,
Geneva



Source:

Adapted from: Office of the High Commissioner for Human Rights: High Commissioner's Strategic Management Plan 2008-2009, p. 117.

<http://www.ohchr.org/Documents/Press/SMP2008-2009.pdf>

Document 1:
Chronology of Main Human Rights Instruments*

1945	Charter of the United Nations (1945)
1948	Convention on the Prevention and Punishment of Genocide (1951)
1948	Universal Declaration of Human Rights
1949	ILO Convention (No. 98) on the Right to Organize and Collective Bargaining (1951)
1949	Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1951)
1949	ILO Migration for Employment Convention (Revised) (No. 97) (1952)
1951	ILO Equal Remuneration Convention. Convention (No. 100) Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (1953)
1951	Convention on the Status of Refugees (1954)
1952	Convention on the Political Rights of Women (1954)
1953	Protocol amending the 1926 Slavery Convention (1953)
1954	Convention relating to the Status of Stateless Persons (1960)
1955	Standard Minimum Rules for the Treatment of Prisoners
1956	Supplementary Convention on the Abolition of Slavery (1957)
1957	Convention on the Nationality of Married Women (1958)
1957	ILO Abolition of Forced Labour Convention (No. 105) (1959)
1958	ILO Discrimination (Employment and Occupation) Convention (No. 111) (1960)
1959	Declaration of the Rights of the Child
1960	Declaration on the Granting of Independence to Colonial Countries and Peoples
1960	UNESCO Convention against Discrimination in Education (1962)

* The year on the left side is the year of adoption; the year in brackets indicates in which year the human rights instrument entered into force.

How to File Complaints on Human Rights Violations

1962	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1964)
1963	Declaration on the Elimination of All Forms of Racial Discrimination
1965	International Convention on the Elimination of All Forms of Racial Discrimination (1969)
1966	International Covenant on Economic, Social and Cultural Rights (1976)
1966	International Covenant on Civil and Political Rights (1976)
1966	Optional Protocol to the International Covenant on Civil and Political Rights (1976)
1966	Protocol relating to the Status of Refugees (1967)
1967	Declaration on the Elimination of Discrimination against Women
1968	Proclamation of Teheran
1969	Declaration on Social Progress and Development
1973	International Convention on the Suppression and Punishment of Apartheid (1976)
1974	Universal Declaration on the Eradication of Hunger and Malnutrition
1974	Declaration on the Protection of Women and Children in Emergency and Armed Conflict
1975	Declaration on the Rights of Disabled Persons
1975	Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
1975	ILO Migrant Workers (Supplementary Provisions) Convention (No. 143) (1978)
1978	Declaration on Race and Racial Prejudice
1979	Convention on the Elimination of All Forms of Discrimination against Women (1981)
1981	Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
1984	Convention against Torture and Inhuman or Degrading Treatment or Punishment (1987)
1985	International Convention against Apartheid in Sport (1988)
1986	Declaration on the Right to Development

1989	ILO Convention (No. 169) Concerning Indigenous and Tribal Peoples in Independent Countries (1991)
1989	Convention on the Rights of the Child (1990)
1989	Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty (1991)
1990	International Convention for the Protection of Human Rights of All Migrant Workers and Their Families (2003)
1992	Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
1992	Declaration on the Protection of All Persons from Enforced Disappearance
1993	Vienna Declaration and Programme of Action
1998	Rome Statute of the International Criminal Court (2002)
1998	Declaration on Human Rights Defenders
1999	ILO Convention (No. 182) on the Worst Forms of Child Labour (2000)
1999	Optional Protocol to the Convention on the Elimination on All Forms of Discrimination against Women (2000)
2000	Optional Protocol of the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (2002)
2000	Optional Protocol of the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2002)
2002	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2006)
2006	Convention on the Rights of Persons with Disabilities (2008)
2006	Optional Protocol to the Convention on the Rights of Persons with Disabilities (2008)
2006	International Convention for the Protection of All Persons from Enforced Disappearance
2008	Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

II. The UN Human Rights Council

This section deals with the newly founded Human Rights Council (HRC) which was established by General Assembly resolution A/RES/60/251 of 15 March 2006. The resolution was approved by 170 Member States. Three countries abstained (Belarus, Venezuela, Iran), whereas Israel, Marshall Islands and Palau joined the United States in voting against the resolution. The following section III describes the work of the so-called UN treaty bodies in the field of human rights as well as procedures developed by them.

The new Council which is an intergovernmental body is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all; it replaces the Commission on Human Rights which had lost credibility primarily because of the presence of Member States with poor human rights records and the increasing tendency of politicization.

Kofi Annan, former UN Secretary-general, criticized in his follow-up to the outcome of the Millennium Summit that “States have sought membership of the Commission not to strengthen human rights but to protect themselves against criticism or to criticize others” (para. 182). He therefore suggested that Member States

- should agree to replace the Commission on Human Rights with a smaller standing Human Rights Council,
- need to decide if they want the Human Rights Council to be a principal organ of the UN or a subsidiary body of the General Assembly;
- should decide whether its members would be elected directly by the General Assembly by a two-thirds majority of members present and voting.

After intensive political negotiations the General Assembly created in March 2006 the new Council which differs from its predecessor in status, composition and duration of membership, election criteria and procedures, and number and duration of sessions (for details see chart 4)

The HRC is a subsidiary body of the General Assembly and meets as a quasi-standing body. It comprises 47 Member States which are elected by the General Assembly “directly and individually by secret ballot by the majority of the members of the General Assembly” (A/RES/60/251, para. 7). The membership is based on equitable geographical distribution on the following basis: Africa 13 seats, Asia 13, Eastern Europe six, Latin America and the Caribbean eight, Western Europe and Other States seven. The members of the Council serve for a period of three years; after two consecutive terms members are not eligible for immediate re-election. When electing members of the Council, “Member States shall take into account the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto” (para. 8).

By a two-thirds majority of the members present and voting, the General Assembly may suspend the rights of membership in the Council of a member that commits gross and systematic violations of human rights.

The Council meets for at least ten weeks a year, spread over three regular sessions including a

main session. Special sessions at the request of a Council member and with the support of one third of the Council membership are possible. Since July 2006, the Human Rights Council held 13 special sessions (on the Palestine territories, Lebanon, Myanmar, Dem. Rep. of the Congo, Haiti and specific issues such as the food crisis and the global economic crisis).

Among the Council's new elements are the Universal Periodic Review, the Advisory Committee, and the revised Complaints Procedure mechanism. The HRC also continues to work closely with the UN Special Procedures which were established by the former Commission on Human Rights and assumed by the Council.

Universal Periodic Review

The Universal Periodic Review (UPR) is a new mechanism which involves the review of the human rights records of all 192 UN Member States once every four years. It is regarded as the most innovative element of the reform process. According to UN Secretary-General Ban Ki-moon, the UPR “has great potential to promote and protect human rights in the darkest corners of the world”. Each country's situation will be examined during a three-hour debate. The UPR takes place in Geneva in the Working Group of the UPR, composed of the 47 Member States of the Human Rights Council, and takes the form of an interactive dialogue held between the State concerned and the Member and Observer States of the Human Rights Council. The Working Group sessions are structured in the following way: (1) presentation by the Member State concerned (30 minutes), (2) questions and answers (two hours), and (3) closing comments by the Member State concerned and the President of the Council.

The Working Group meets in three two-week sessions each year and reviews 16 Member States at each session – a total of 48 Member States each year. On 21 September 2007, the Council adopted a calendar detailing the order in which the 192 Member States of the UN will be considered during the first four-year cycle of the UPR mechanism.

The UPR provides the opportunity for each Member State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations. The fact that equal treatment for every country is ensured is a unique feature of this mechanism.

According to the terms and procedures set out, all Member States of the Human Rights Council will be reviewed while they sit at the Council, and the initial members of the Council were first. The review will be carried out by a working group composed of members of the Human Rights Council that will meet three times per year for two weeks and will be facilitated by groups of three State members of the Council elected by lot which will act as rapporteurs (or “troikas”) appointed by the Human Rights Council.

In addition to the report the State concerned, recommendations from the special procedures (see below) and from the human rights treaty bodies (see section III) as well as information from other sources, such as NGOs and NHRIs will be considered as elements for the review. The final outcome of the UPR will consist of recommendations to be implemented primarily by the State concerned. The report contains both recommendations which are accepted by the Member State concerned and those which are not. For the time being, no concrete follow-up

mechanism such as the appointment of a follow-up rapporteur is foreseen. Therefore, it will be difficult to measure at least the effectiveness of the recommendations accepted.

To be more precise, it should be mentioned that the UPR process is based on three documents:

- (a) information prepared by the State concerned, for instance, in the form of a national report, on the basis of General Guidelines adopted by the Human Rights Council at its sixth session, and any other information considered relevant by the State concerned (the written presentation shall not exceed 20 pages);
- (b) a compilation prepared by OHCHR of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official UN documents (the text shall not exceed 10 pages); and
- (c) additional, credible and reliable information provided by other relevant stake-holders (such as NHRIs, NGOs, human rights defenders) to the UPR. OHCHR will prepare a summary of such information which shall not exceed 10 pages. Stakeholders are encouraged to consult with one another at the national level; joint submissions by a large number of them are encouraged.

The UPR mechanism is conducted on the basis of public documents. Therefore, the mechanism does not provide for confidentiality. Submissions, as originally received, will be made available on-line on OHCHR's website.

Human Rights Council Advisory Committee

The Human Rights Council Advisory Committee (CAC) which is composed of 18 experts replaces the former Sub-Commission on the Promotion and Protection of Human Rights of the Commission on Human Rights. It has been established to function as a think-tank for the Council (see chart 5). Its work should be founded mainly on studies and research-based, implementation-oriented advice and be undertaken only at the request of the Council. The Committee shall not adopt any resolutions or decisions. However, it may propose to the Council, within its mandate, suggestions which could enhance its procedural efficiency as well as further research activities. In other words: unlike its predecessor, it cannot act on its own initiative.

The members of the Advisory Committee are elected by the Council, in secret ballot, from a list of candidates. Due consideration should be given to gender balance and appropriate representation of different civilizations and legal systems. The geographical distribution is as follows: five members each from Africa and Asia, three members each from Latin America and the Caribbean, and Western Europe and Other States, two members from Eastern Europe. The members shall serve for a period of three years and can be re-elected once.

The Committee will convene up to two sessions for a maximum of ten working days per year with the possibility of additional sessions to be held on an ad hoc basis if approved by the Council. Its inaugural session took place from 4 to 15 August 2008 in Geneva.

Complaint Procedure

On 18 June 2007, the Human Rights Council adopted Resolution 5/1 to establish a Complaint Procedure to address 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. The procedure is very similar to the procedure of the Commission on Human Rights based on ECOSOC resolution 1503 (XLVIII) of 27 May 1970 as revised by resolution 2000/3 of 19 June 2000; it is to be victims-oriented and conducted in a timely manner. It retains its confidential nature, with a view to enhancing cooperation with the State concerned. The procedure will ensure that also the complainant is informed of the proceedings at the key stages of the review. Despite its name, the Complaint Procedure as set up by the Council is not an instrument to address violations of human rights in individual cases (see chart 6).

Two distinct working groups are established to examine complaints (“communications”) received: the Working Group on Communications (WGC) and the Working Group on Situations (WGS). Both Working Groups shall work on the basis of consensus. Otherwise, decisions shall be taken by simple majority of the votes.

The WGC consists of the five independent and highly qualified experts designated by the Advisory Committee from among its members and geographically representative of five regions. The experts serve for three years (mandate renewable once). They meet in closed session twice a year for a period of five working days and shall determine whether a complaint alone or in combination with other complaints deserves further investigation. If this is the case, the WGC passes the complaint to the WGS. Manifestly ill-founded and anonymous communications are screened out by the Chair of the WGC, together with the Secretariat, based on the admissibility criteria. All other communications will be transmitted to the State concerned to obtain the views on the allegations of violations (see chart 6).

The WGS consists of five Council members appointed by the respective regional groups for a term of one year and meets in closed session twice a year for a period of five working days. Each member’s term is renewable once, provided the State concerned is a Council member. The WGS reports to the Human Rights Council about the complaints received from the WGC as well as the replies received from the States concerned and makes recommendations about the course of action the Human Rights Council should take if consistent patterns of gross violations of human rights and fundamental freedoms are identified.

As mentioned above, the Complaint Procedure is confidential so that cooperation with the State concerned is enhanced. However, the WGS can recommend that the Council considers a country situation in public.

Both working groups shall, to the greatest extent possible, work on the basis of consensus. In the absence of consensus, decisions shall be taken by simple majority of votes.

A complaint is admissible, which means accepted for examination, if

- its object is consistent with the UN Charter, the Universal Declaration of Human Rights and other applicable human rights instruments;
- it has no manifestly political motivation;
- it contains a factual description of the alleged violations, including the rights which are

alleged to be violated;

- it is not exclusively based on mass media reports; and
- the domestic remedies have been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.

Complaints should be addressed to:

• *Human Rights Council and Treaty Division*
• *Complaint Procedure*
• *OHCHR – UNOG*
• *CH – 1211 Geneva 10*
• *Switzerland*
• *Fax: xx 41-22 9179011*
• *E-mail: CP@ohchr.org*

Forum on Minority Issues

The Forum on Minority Issues has been established by the Human Rights Council in September 2007 (Resolution A/HRC/RES/6/15). The Forum is intended to provide a platform for promoting dialogue and cooperation of all relevant stakeholders on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities. It shall identify and analyze best practices, challenges, opportunities and initiatives for the further implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (see General Assembly Resolution A/RES/47/135 of 18 December 1992).

The Forum meets once a year for two working days allocated to thematic discussions; the Independent Expert on minority issues shall guide its work, prepare its annual meetings, and report to the Human Rights Council.

The Forum is open to the participation of Member States, UN mechanisms, bodies and Specialized Agencies, funds and programmes, regional organizations and mechanisms in the field of human rights as well as to NHRIs and other national bodies, academics and NGOs.

The Forum's inaugural session was held in Geneva in December 2008 and focused on Minorities and Right to Education. The second session which took place in November 2009 focused on Minorities and Effective Political Participation.

• *Secretariat for the Forum on Minority Issues:*
• *minorityforum@ohchr.org*

Social Forum

The Social Forum serves as a unique space for interactive dialogue between the UN human rights machinery and Member States, global and regional inter-governmental organizations,

NGOs and the private sector on issues linked with the national and international environment needed for the promotion of the enjoyment of human rights by all. The Social Forum was originally an initiative of the former Sub-Commission on the Promotion and Protection of Human Rights which was the main subsidiary body of the Commission on Human Rights. The idea of a Social Forum had been discussed since 1997 in response to concerns about the effects of the globalization process on the enjoyment of economic, social and cultural rights. The Human Rights Council decided in its resolution A/HRC/RES/6/13 of 28 September 2007 to preserve the Social Forum.

Compared with its predecessor, the renewed Social Forum has a number of distinguishing attributes:

- it is not linked to the Advisory Committee, which replaced the former Sub-Commission of the Commission on Human Rights, but to the Human Rights Council;
- its Chairperson is no longer a member of the Advisory Committee, but a government representative from the Human Rights Council;
- it meets annually for three instead of two working days;
- four mandate holders of thematic procedures (in particular the Independent Expert on the question of human rights and extreme poverty and the Independent Expert on human rights and international solidarity) assist the Chairperson as resource persons; and
- the OHCHR is asked to present a detailed background contribution for the Social Forum dialogue and debates.

Expert Mechanism on the Rights of Indigenous Peoples

The Expert Mechanism on the Rights of Indigenous Peoples is a new mechanism created by the HRC as a subsidiary expert mechanism with a specific mandate (see chart 5).

The Expert Mechanism will provide thematic expertise focusing mainly on studies and research-based advice; it may suggest proposals to the HRC for consideration and approval.

NGO Participation

The participation of NGOs in the Human Rights Council is based on the same arrangements and practices observed by its predecessor, the Commission on Human Rights. This means that their participation in the regular and special sessions of the HRC – as well as the sessions of the Working Group on the Universal Periodic Review described above – is limited to NGOs enjoying consultative status with ECOSOC. They are allowed to attend the review session without the right to ask questions. However, they can contribute with “general comments” before the adoption of the report.

Special Procedures

The former Commission on Human Rights established a number of mechanisms assumed by

the Human Rights Council to examine, monitor, advise and publicly report on human rights situations in specific countries or on specific human rights themes in all parts of the world (“non-treaty-based mechanisms”). Those mechanisms are called “special procedures” which are normally entrusted to individuals (called “Special Rapporteur”, “Special Representative of the Secretary-General” or “Independent Representative”) who are independent human rights experts or working groups usually composed of five members (one from each region). These experts are not paid and serve in their individual capacity for a maximum of six years (for country mandates six one-year terms and for thematic mandates two three-years terms).

Special procedures are an integral part of the UN human rights system. Various activities can be undertaken; among others, the following activities are carried out:

- country missions in which the experts meet with local authorities, NGOs, human rights defenders, NHRIs, and other stakeholders and visit relevant facilities, such as prisons and detention centres (as of September 2009, 65 countries have issued “standing invitations”, which means that they are, in principle, prepared to receive a visit from any of the special procedures mandate holders);
- sending communications (urgent appeals or letters of allegations) to the government concerned requesting the national authorities to respond to the allegations and to take corrective action (in 2008, a total of 911 communications were sent to governments in 118 countries);
- issuing public statements and press releases calling on the governments concerned to stop human rights violations;
- identifying trends or emerging issues of human rights violations to be analyzed in the annual reports of the experts;
- submitting annual reports to the Human Rights Council in which individual cases of human rights violations, trends and emerging issues are described.

In order to fulfil their tasks successfully, the special procedure mandate holders depend on close cooperation with NGOs and other stake-holders. They need specific information which depends on the following criteria: the reliability of the source and the credibility of information received and the details provided.

The following minimum information must be provided for all special procedures:

- identification of the alleged victim(s);
- identification of the alleged perpetrations 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;
- a detailed description of the circumstances of the incident in which the alleged violation occurred.

Communications should not be based solely on media reports nor contain abusive language or

be obviously politically motivated. To facilitate the consideration of reported violations, questionnaires relating to the following nine mandates are available on the website of the Office of the UNHCHR:

- Working Group on arbitrary detention;
- Working Group on enforced or involuntary disappearances;
- Working Group on the use of mercenaries;
- 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 sale of children, child prostitution and child pornography;
- Special Rapporteur on the question of torture;
- Special Rapporteur on violence against women, its causes and consequences;
- Special Representative of the Secretary-General on human rights defenders.

Since June 2006, the Human Rights Council started an institution-building process which also included a review of the special procedures system conducted throughout 2007 and 2008. As a result, all thematic mandates have been extended and some new ones established.

With the exception of Belarus, Cuba, the Democratic Republic of the Congo and Liberia, all other country mandates have been also extended. As of 1 November 2009, the following eight country mandates exist (in brackets: year of being established): Burundi (2004), Cambodia (1993), Democratic People's Republic of Korea (2004), Haiti (1995), Myanmar (1992), Palestinian territories occupied since 1967 (1993), Somalia (1993), and Sudan (2009).

In addition, the following thematic mandates exist:

- Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (2000),
- Working Group on people of African descent (2002),
- Working Group on arbitrary detention (1991),
- Special Rapporteur on the sale of children, child prostitution and child pornography (1990),
- Independent Expert in the field of cultural rights (2009)
- Special Rapporteur on the right to education (1998),
- Working Group on enforced or involuntary disappearances (1980),
- Special Rapporteur on extrajudicial, summary or arbitrary executions (1982),
- Independent Expert on foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and

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cultural rights (2000),

- Independent Expert on the question of human rights and extreme poverty (1998),
- Special Rapporteur on the right to food (2000),
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (1993),
- Special Rapporteur on freedom of religion or belief (1986),
- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2002),
- Special Rapporteur on the situation of human rights defenders (2000),
- Special Rapporteur on the independence of judges and lawyers (1994),
- Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (2001),
- Representative of the Secretary-General on the human rights of internally displaced persons (2004),
- Independent Expert on human rights and international solidarity (2005),
- Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (2005),
- Special Rapporteur on the human rights of migrants (1999),
- Independent Expert on minority issues (2005),
- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (1993),
- Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2007),
- Independent Expert on human rights and international solidarity (2005)
- Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2005),
- Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (1985),
- Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (1995),
- Special Rapporteur on trafficking in persons, especially in women and children (2004),
- Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (2005),

- Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation (2008),
- Special Rapporteur on violence against women, its causes and consequences (1994).

Further information can be received from:

• *Special Procedure Division*
• *c/o OHCHR – UNOG*
• *8-14 Avenue de la Paix*
• *CH- 1211 Geneva 10*
• *Switzerland*
• *Fax: xx 41-22 9179096*
• *E-mail: SPDInfo@ohchr.org*

The Future of the Council

As mentioned above, the General Assembly decided that the Council shall review its work and functioning in 2011. The key question is whether the Council will perform in a more effective way than its predecessor body in ensuring that UN Member States uphold human rights. Since the HRC is – as its predecessor – an intergovernmental body exercising a rigid political control over its subsidiary bodies the answer depends upon the policy action of individual Member States in the HRC. Since the UN is composed of Member States that have very different views on human rights, and as long as there is no consensus across the North-South divide in identifying and fighting human rights violations, it will be difficult to expect major progress.

Although the founding resolution mentioned “the importance of ensuring universality, objectivity and non-selectivity in the consideration of human rights issues, and the elimination of double standards and politicization”, bloc politics in the working of the Council dominated so far and led to mixed results. Also, the UPR mechanism without follow-up activities necessarily remains ineffective.

Since a further “up-grading” of the HRC as a principal UN organ implies a complex process of revising the UN Charter such an initiative is unlikely to be successful.

Therefore, it can be assumed that the work of the HRC will continue after 2011 without major organizational-institutional changes. Future success will depend very much about ways and means of overcoming bloc politics in the Council.

References

ABEBE, Alletone Mulugeta: Of Shaming and Bargaining: African States and the Universal Periodic Review of the United Nations Human Rights Council. In: *Human Rights Law Review* 9/1: 1-35, 2009.

ALSTON, Philip; MORGAN-FORSTER, Jason; ABRESCH, William: the Competence of the UN Human Rights Council and Its Special Procedures in Relation to Armed Conflicts: Extrajudicial Execution in the 'War on Terror'. In: The European Journal of International Law 19/1: 183-209, February 2008.

BREEN, Claire: Revitalizing the United Nations Human Rights Special Procedures Mechanisms as a Means of Achieving and Maintaining International Peace and Security. In: Max Planck Yearbook of United Nations Law 12: 177-203, 2008.

CALLEJON, Claire: Developments at the Human Rights Council in 2007: A Reflection of its Ambivalence. In: Human Rights Law Review 8(2): 323-342, 2008.

NIFOSI, Ingrid: The UN Special Procedures in the Field of Human Rights. Antwerpen-Oxford: Intersentia, 2005, XV, 179.

RAMCHARAN, Bertrand G.: The Protection Roles of UN Human Rights Special Procedures. Leiden / Boston: Martinus Nijhoff, 2008, X, 2/3.

SEN, Puma; VINCENT, Monica (Ed): Universal Periodic Review of Human Rights. Towards best Practice. London: Commonwealth Secretariat, 2009, IX, 138.

SWEENEY, Gareth; SAITO, Yusi: An NGO Assessment of the New Mechanisms of the UN Human Rights Council. In: Human Rights Law Review 9/2: 203-223, 2009.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Human Rights Council. New York: UN, 2009, 9 (GAOR Sixty-fourth session. Supplement No. 53 (A/64/53/Add.1)).

The report of the twelfth special session (15 and 16 October 2009) deals with the human rights situation in the Occupied Palestinian Territory, including East Jerusalem.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Human Rights Council. New York: UN, 2009, 171 (GAOR Sixty-fourth session. Supplement No. 53 (A/64/53)).

The report contains the resolutions and decisions adopted by the HRC at its 10th-11th session and at its 8th-11th special session.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Human Rights Council. New York: UN, 2008, 257 (GAOR Sixty-third session. Supplement No. 53 (A/63/53)).

The publication contains the resolutions and decisions adopted by the Council at its 6th-8th session and at its 5th-7th special session, as well as the President's statements adopted by the Council of its 6th and 8th session.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Human Rights Council. New York: UN, 2008, 51 (GAOR Sixty-third session. Supplement No. 53 (A/63/53/Add.1)).

The report covers the outcomes of the 9th session (resolutions, decisions and President's statements).

E-Resources

Universal Periodic Review (UPR):

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

Human Rights Complaints Procedure:

<http://www2.ohchr.org/english/bodies/chr/complaints.htm>

Forum on Minority Issues:

<http://www2.ohchr.org/english/bodies/hrcouncil/minority/forum.htm>

How to submit communications concerning special procedures:

<http://www2.ohchr.org/english/bodies/chr/special/communications.htm>

Chart 4:
UN Commission on Human Rights vs.
UN Human Rights Council: Major Differences

	Commission on Human Rights	Human Rights Council
Status	Functional commission of the Economic and Social Council	Subsidiary organ of the General Assembly
Members <ul style="list-style-type: none"> ● African States ● Asian States ● Latin American and Caribbean States ● Western European and other States ● Eastern European States 	53 15 (= 28.3 %) 12 (= 22.6 %) 11 (= 20.8 %) 10 (= 18.9 %) 5 (= 9.4%)	47 13 (= 27.7 %) 13 (= 27.7 %) 8 (= 17.0 %) 7 (= 14.9 %) 6 (= 12.8 %)
Duration of Membership	Period of three years; immediate re-election possible.	Period of three years, limited to six years (members shall not be eligible for immediate re-elections after two consecutive terms).
Election	Simple majority of ECOSOC required (de facto confirmation of the proposals of the regional groupings).	Member states “shall be elected directly and individually by secret ballot by the majority of the members of the General Assembly”.

	Commission on Human Rights	Human Rights Council
Election criteria	None.	“Member States shall take into account the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments”.
Suspension of a member	Not possible.	“The General Assembly, by a two-thirds majority of the members present and voting, may suspend the rights of membership in the Council of a member that commits gross and systematic violations of human rights”.
Number and duration of sessions	One session each year in March/April; duration of six weeks.	At least three sessions per year, including a main session, for a total duration of no less than ten weeks. Special sessions at the request of a member of the Council with the support of one third of the membership of the Council are possible.
Universal periodic review mechanism	No review mechanism which covers all Member States.	All Member States, starting with the members of the Council during their term of membership.

Chart 5:
The United Nations Human Rights Council

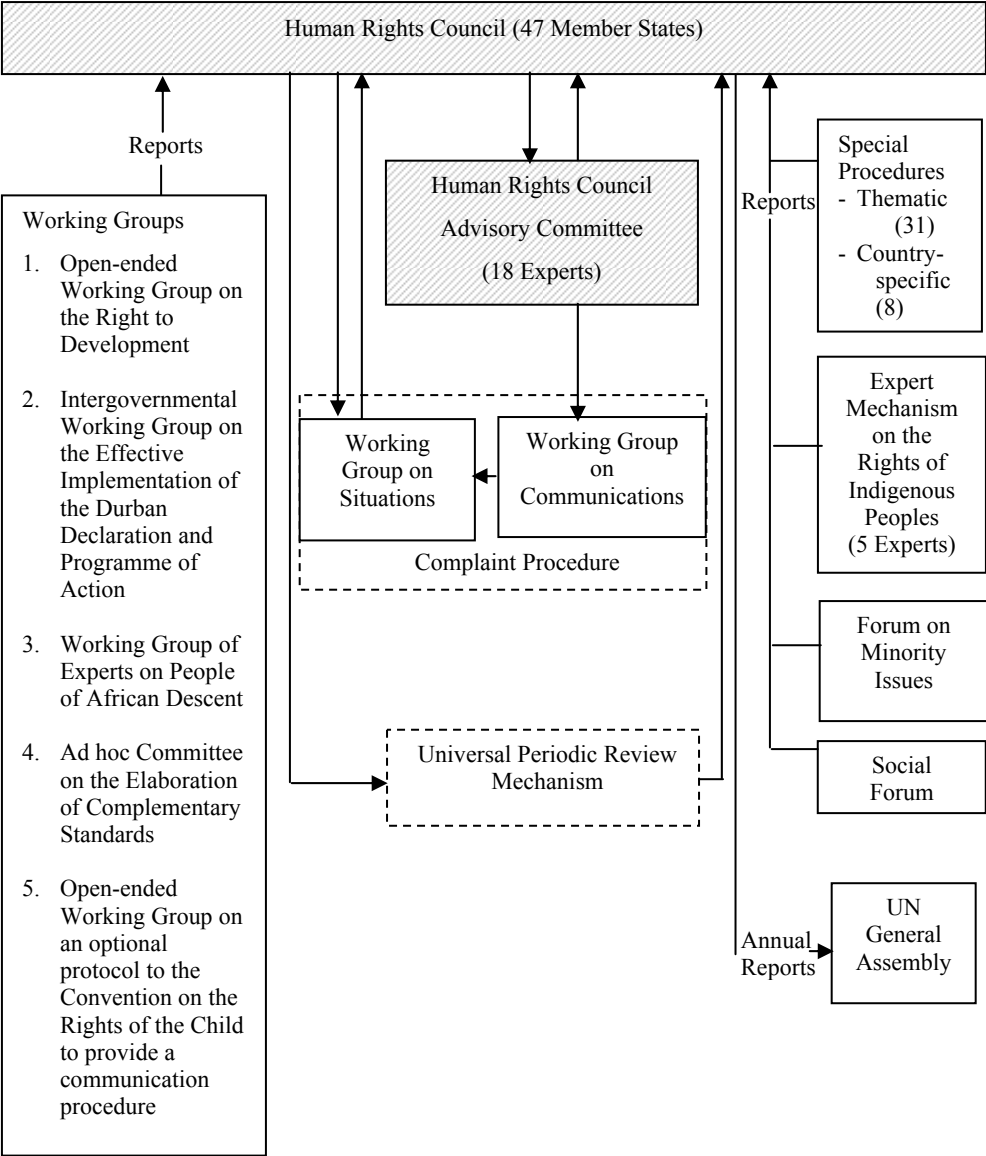
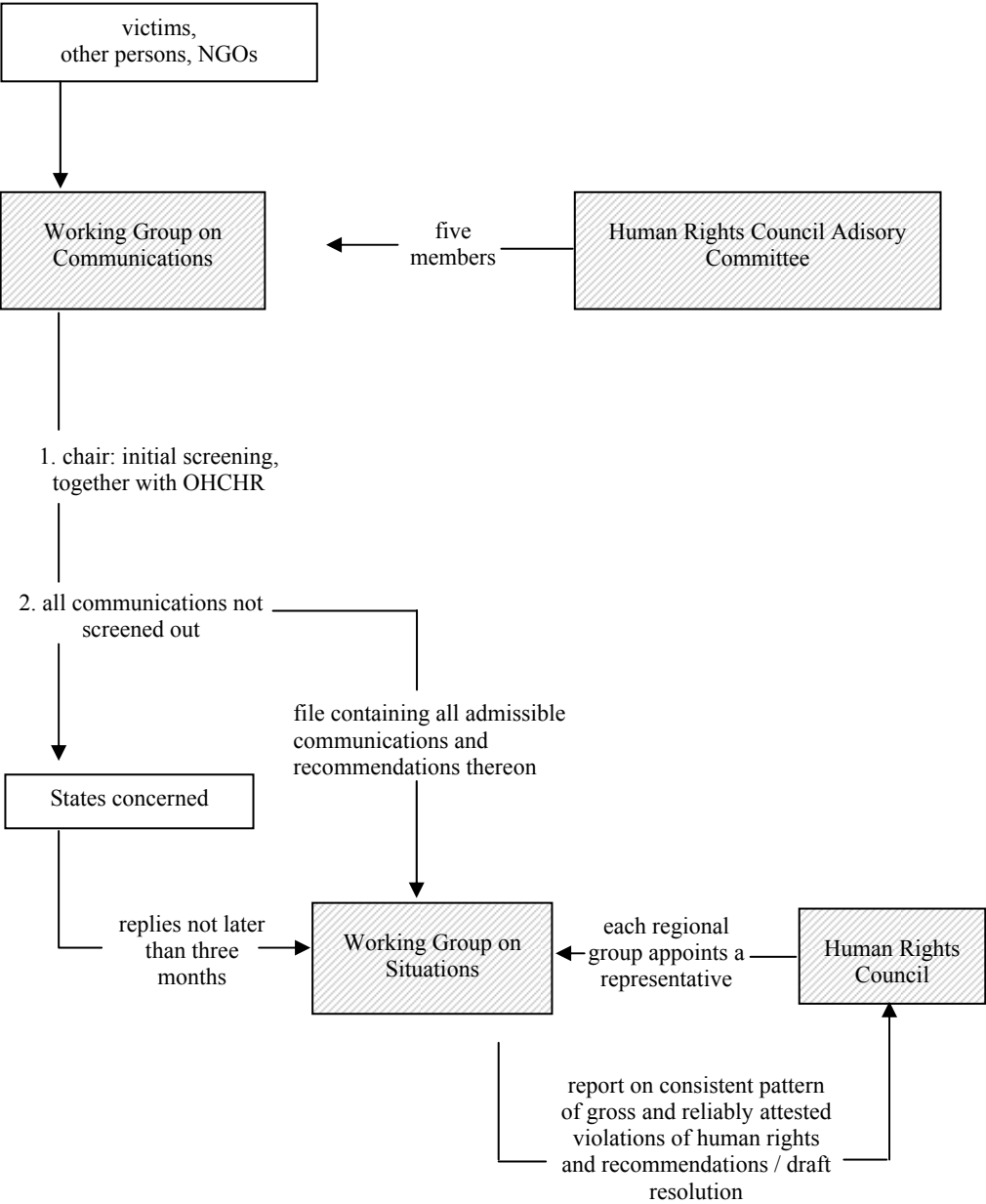


Chart 6:
The United Nations Human Rights Council: Complaint
Procedure



III. Bodies created to supervise the implementation of Treaties (“Treaty Bodies”)

Eight treaty bodies of the United Nations are presented here. In addition, the Committee on Enforced Disappearances is also included although the International Convention for the Protection of Persons from Enforced Disappearances is not yet in force. Each section consists of an introductory text including a bibliography, followed by charts illustrating the states reports procedure as well as the individual communications procedure with model communications, if available.

III.1 The Committee on Economic, Social and Cultural Rights (CESCR)

This Committee is charged with monitoring the implementation by States parties of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which entered into force on 3 January 1976. It is composed of 18 members elected by ECOSOC by secret ballot from a list of persons nominated by States parties to the CESCR for a term of four years. They serve in their personal capacity as experts in the field of human rights and may be re-elected if renominated. Due consideration is to be given to equitable geographical distribution as well as to the representation of different forms of social and legal systems. The Committee normally meets twice a year in Geneva for two three-week sessions in May and November; its meetings are open to the public. Prior to each of the Committee’s sessions, a one-week pre-session working group meets composed of five members which prepares concise lists of issues concerning the States reports to be examined by the Committee. Those lists are given directly to the representatives of the States concerned with the understanding that they are neither exhaustive nor to be interpreted as limiting or prejudging the type and range of questions to be discussed.

The Committee submits an annual report on its activities to ECOSOC; it contains, inter alia, the concluding observations of the Committee relating to each State party’s report in order to assist ECOSOC to fulfill its responsibilities under Articles 21 and 22 of the Covenant (see references).

Article 2, para. 1, of the Covenant imposes a duty on all States parties to “take steps, ..., to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”. This principle of “progressive realization” acknowledges that some of the rights may be difficult to achieve in a short period of time, for instance, due to financial resource constraints, but requires States parties to act as best they can within their means available.

Articles 16 and 17: Reports by States parties

The Committee examines reports by States parties concerning steps they have taken to implement human rights set forth in the ICESCR (see chart 7). It contains economic (Articles 6-9), social (Articles 10-12) and cultural rights (Articles 13-15). As of 11 January 2010, there were 160 States party to the Covenant (for details see annex VI.3). States parties are requested to submit a comprehensive report within two years of the entry into force of the Covenant for the State party concerned, and thereafter at five-year intervals (rule 58 of the rule of procedures). Since 2000, the Committee has reduced this period in light of the timelines of submission of reports and the quality of information as well as of the quality of the constructive dialogue with the State party concerned. The due date of the next periodic report is indicated in the concluding observations. Since 2004, the Committee has also accepted combined reports more commonly. These state reports are public documents; its examination takes place at public meetings at which representatives of the government introduce the report and answer to questions by Committee members. In general, the Committee devotes three meetings of three hours each to its examination of States parties' reports. The Committee seeks to determine through a constructive dialogue whether the norms contained in the Covenant are being adequately applied and how the State party might improve its implementation of the Covenant. On the final day of the session, the Committee adopts in closed session concluding observations summarizing its main concerns and making appropriate suggestions and recommendations to the State party. The concluding observations, once formally adopted, are generally made public on the final day of the session. They are forwarded as soon as possible to the State party concerned and included in the report of the Committee.

In order to structure the reporting process and the dialogue with each State party's representatives and to improve the effectiveness of the monitoring system as a whole, the Committee has adopted detailed reporting guidelines in 1991 (for an updated version see E/2009/22; E/C.12/2008/3, annex VIII). The Committee strongly urges all States parties to report to it in accordance with the guidelines to the greatest extent possible.

In December 1999, the Committee decided that it would in its concluding observations request the State party to inform the Committee in its next periodic report about steps taken to implement the recommendations. The Committee may also ask the State party to provide more information or to respond to any pressing specific issue prior to the date of the next report to be submitted. If the Committee considers that it is unable to obtain the required information, it may request that the State party concerned accepts a mission consisting of one or two members of the Committee. This procedure has already been applied with positive results.

The Committee is confronted with serious organizational problems related to persistent non-reporting by States parties. In May 2006, the Committee decided to review three lists of States parties whose reports are overdue: States parties with reports that were due (a) within the past 8 years, (b) from 8 to 12 years ago, and (c) more than 12 years ago. Three letters will be sent step-by-step to the States parties. If no responses are received, the third letter will confirm that the Committee will consider the implementation of the Covenant in light of all available information. In order to increase the reporting morale, the Committee agreed that it would

consider the situation in at least one non-reporting State party at each of its sessions.

NGO Participation

While only members of the Committee and representatives of the relevant State party may take part in the discussion of the State report, NGOs may submit relevant information in writing at anytime prior to the consideration of a given State party's report. NGOs may also present their concerns to the members of the Committee during the pre-sessional working group concerning States whose reports are due to be considered at the forthcoming session. Such information should: (a) focus specifically on the ICESCR; (b) be of direct relevance to matters under consideration by the Committee; (c) be credible; and (d) not be abusive.

There are three possibilities for NGOs to contribute to the work of the pre-sessional working group: prior to the meeting of the working group, relevant information may be submitted (a) to the country rapporteur concerned or (b) to the Secretariat for distribution to the full working group; (c) oral statements may be made by NGO representatives in person during the first morning of the pre-sessional working group meeting. NGOs with a consultative status are also encouraged to submit to the Committee written information or reports that might contribute to the full and universal recognition and realization of the rights set forth in the ICESCR.

In order to strengthen the co-operation with NGOs the Committee decided to invite them to the second meeting of its working group. It instructed the Secretariat to inform the NGOs about this possibility. Copies of the reports under examination in this session shall be sent to the national NGOs relating to the States concerned.

In 2000, the Committee published an annex which serves to provide detailed guidelines for NGOs active in the field of economic, social and cultural rights – local, national and international, those in consultative status with ECOSOC and those without such a status (E/2001/22; E/C.12/2000/21, annex V). The main activities of the Committee that are open to NGO participation are: (a) consideration of State party reports; (b) days of general discussion; and (c) drafting of general comments. Interested NGOs are well advised to read those guidelines carefully. Further information is available from the Secretariat of the Committee at the following address:

Secretary to the Committee on Economic, Social and Cultural Rights
UNOG – OHCHR
CH-1211 Geneva 10
Switzerland
Phone : xx 41-22-917 9000
Fax: xx 41-22-917 9022
E-mail: InfoDesk@ohchr.org

Other Activities of the Committee

At each session, the Committee devotes one day, usually the Monday of the third week, to a general discussion of a particular right or a particular aspect of the Covenant. The purpose is threefold: (1) to assist the Committee in developing in greater depth its understanding of the relevant issues; (2) to enable the Committee to encourage inputs into its work from all interested parties; and (3) to lay the basis for a future general comment. Most recently, the following issues have been the focus of discussion: a draft optional protocol to the Covenant (13th, 14th and 15th session); revision of the general guidelines for reporting (16th session); the normative content of the right to food (17th session); globalization and its impact on the enjoyment of economic, social and cultural rights (18th session); the right to education (19th session); the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author (24th session); the equality between men and women in the enjoyment of economic, social and cultural rights (28th session); the right to work (31st session); the right to social security (36th session); the right to take part in cultural life (40th session); and non-discrimination and economic, social and cultural rights (41st session).

From its third session, the Committee decided to prepare general comments based on the various articles and provisions of the ICESCR in order to assist the States parties in fulfilling their reporting obligations. So far, the Committee has adopted 21 general comments relating to, for instance, the nature of States parties' obligations (Article 2, para. 1, of the Covenant), the right to adequate food and the right to adequate housing (Article 11, para. 1), the right to the highest attainable standard of health (Article 12), the right to education (Article 13), plans of action for primary education (Article 14) and the right to water (Articles 11 and 12), the equal right of men and women to the enjoyment of all economic, social and cultural rights (Article 3), the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (Article 15, para. 1 (c)), the right to work (Article 6), the right to social security (Article 9), non-discrimination in economic, social and cultural rights (Article 2, para. 2), and the right of everyone to take part in cultural life (Article 15, para. 1(a) of the Covenant).

The Committee also adopts statements in order to classify and confirm its position vis-à-vis major international development issues that bear upon the implementation of the Covenant. As at 21 November 2008, the Committee had adopted 17 statements (for a list see <http://www2.ohchr.org/English/bodies/cescr/statements.htm>).

In order to strengthen cooperation with other treaty bodies of the UN System, the Committee held meetings with members of the International Labour Organization Committee of Experts on the Application of Conventions and Recommendations (see section IV.2). The UNESCO Committee on Conventions and Recommendations (CR)/ CESCR Joint Expert Group on the Monitoring of the Right to Education held its ninth and tenth meeting on 25 November 2008 and 8 May 2009 (section IV.1).

Optional Protocol to the ICESCR

The elaboration of an optional protocol to the ICESCR granting the right of individuals or groups to submit communications concerning non-compliance with the Covenant was recommended by the World Conference on Human Rights in 1993. The general principle of permitting complaints to be submitted under an international procedure in relation to economic, social and cultural rights is neither new nor innovative, given the precedents that exist in UNESCO (see IV.1) and ILO (see IV.2) as well as in the complaints procedure by the Human Rights Council (see section II). If the principle of the indivisibility, interdependence and interrelatedness of the civil and political and economic, social and cultural rights is to be upheld in the work of the United Nations, it is essential that such a complaints procedure be established under the CESCRR in order to redress the imbalance that currently exists. The Committee concluded its work at the end of 1996; in 1997, the Commission on Human Rights started to discuss a draft optional protocol.

On 18 June 2008 the Human Rights Council adopted the Optional Protocol to the Covenant and recommended that the General Assembly adopts and opens it for signature, ratification and accession. The Optional Protocol was finally adopted by the General Assembly on 10 December 2008. It was opened for signature on 24 September 2009, and has been signed by 31 States as of 11 January 2010. It will enter into force when ratified by 10 States parties.

Article 1, para. 2, of the Optional Protocol states that “no communication shall be received by the Committee if it concerns a State party to the Covenant which is not a party to the present Protocol”.

According to Article 2, communications may be submitted by or on behalf of individuals or groups of individuals claiming to be victims of a violation of any of the economic, social and cultural rights set fourth in the Covenant by that State party. The Optional Protocol also states that the Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted. This shall not be the rule where the application of such remedies is unreasonably prolonged (Article 3, para. 1, of the Optional Protocol).

The Committee shall declare a communication inadmissible if

- it is not submitted within one year after the exhaustion of domestic remedies;
- the facts that are the subject of the communication occurred prior to the entry into force of the Optional Protocol for the State party concerned;
- the same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- it is manifestly ill-founded, not sufficiently substantiated or exclusively based on reports disseminated by mass media;
- it is anonymous or not in writing.

References

ARAMBULO, Kitty: Strengthening the Supervision of the International Covenant on Economic, Social and Cultural Rights: Theoretical and Procedural Aspects. Antwerpen / Groningen / Oxford: Intersentia-Hart, 1999, 449.

BEITER, Klaus Dieter: The Protection of the Right to Education by International Law. Including a Systematic Analysis of Article 13 of the International Covenant on Economic, Social and Cultural Rights. Leiden/Boston: Martinus Nijhoff, 2006, XLVII, 719.

CRAVEN, Matthew C. R.: The International Covenant on Economic, Social and Cultural Rights: A Perspective on Its Development. Oxford: Clarendon, 1995, 413.

DANDAN, Virginia: The Committee on Economic, Social and Cultural Rights and Non-Governmental Organizations. In: BAYEFSKY, Anne F. (Ed): The UN Human Rights Treaty System in the 21st Century. The Hague / London / New York: Kluwer Law International, 2000, 227–230.

DOWELL-JONES, Mary: Contextualizing the International Covenant on Economic, Social and Cultural Rights. Assessing the Economic Deficit. Leiden/Boston: Martinus Nijhoff, 2004, VIII, 214.

EIDE, Asbjørn: Economic, Social and Cultural Rights. In: SYMONIDES, Janusz (Ed): Human Rights: Concepts and Standards. Aldershot / Burlington, VT: Dartmouth; Ashgate, 2000, 109–174.

EIDE, Asbjørn; KRAUSE, Catarina; ROSAS, Allan (Ed): Economic, Social and Cultural Rights. A Text Book. Dordrecht: Nijhoff, 2001, XVI, 785 (second edition).

EIDE, Asbjørn, et al. (Ed): Economic, Social and Cultural Rights. A Text Book. Dordrecht: Nijhoff, 1995, 506.

FELICE, William F.: The Global New Deal. Economic and Social Rights in World Politics. Lanhan: Rowman & Littlefield, 2003, XVI, 275.

HERTEL, Shareen; MINKLER, Lanse (Ed): Economic Rights. Conceptual, Measurement, and Policy Issues. Cambridge/New York: Cambridge University Press, XIII, 403.

HOLMSTRÖM, Leif (Ed): Concluding Observations of the UN Committee on Economic, Social and Cultural Rights. Eighth to Twenty-seventh sessions (1993-2001). The Hague/London/New York: Martinus Nijhoff, 2003, XVI, 716.

LECKIE, Scott: The Committee on Economic, Social and Cultural Rights: Catalyst for Change in a System Needing Reform. In: ALSTON, Philip; CRAWFORD, James (Ed) : The Future of UN Human Rights Monitoring. Cambridge: Cambridge University Press, 2000, 129–144.

LECKIE, Scott: Another Step Towards Indivisibility: Identifying the Key Features of Violations of Economic, Social and Cultural Rights. In: Human Rights Quarterly 20/1: 81–124, 1998.

LEEUEWEN, Fleur van: Woman's Rights are Human Rights. The Practice of the United Nations; Human Rights Committee and the Committee on Economic, Social and Cultural Rights. Antwerp: Intersentia, 2010, XXI, 318.

SSENYONJO, Manisuli: State Reservations to the ICESCR: A Critique of Selected Reservations. In: Netherlands Quarterly of Human Rights 26/3: 315-358, September 2008.

UNITED NATIONS / ECONOMIC AND SOCIAL COUNCIL: Committee on Economic, Social and Cultural Rights. Report on the Fortieth and Forty-first Sessions (28 April–16 May 2008, 3–21 November 2008). New York and Geneva: UN, 2009, 158 (E/2009/22; E/C.12/2008/3) (also available in other official languages of the UN).

Chapter IV contains the consideration of 9 reports submitted by States parties under Articles 16 and 17 of the ICESCR. In annex VIII the guidelines on treaty-specific document are reproduced.

UNITED NATIONS / ECONOMIC AND SOCIAL COUNCIL: Committee on Economic, Social and Cultural Rights. Report on the Thirty-eighth and Thirty-ninth Sessions (16 May 2007, 5-23 November 2007). New York and Geneva: UN, 2008, 170 (E/2008/22; E/C.12/2007/3) (also available in other official languages of the UN).

Chapter IV contains the concluding remarks on the ten reports submitted by the States parties.

UNITED NATIONS / ECONOMIC AND SOCIAL COUNCIL: Committee on Economic, Social and Cultural Rights. Report on the Thirty-sixth and Thirty-seventh Sessions. New York and Geneva: UN, 2007, 153 (E/2007/22; E/C.12/2006/1) (also available in other official languages of the UN).

In chapter IV one finds the concluding remarks on the consideration of ten reports submitted by the States parties. The annex contains the status of submission of reports.

VANDENHOLE, Wouter: Completing the UN Complaint Mechanisms for Human Rights Violations Step by Step: Towards a Complaints Procedure Complementing the International Covenant on Economic, Social and Cultural Rights. In: Netherlands Quarterly of Human Rights 21/3: 423–462, September 2003.

WELLING, Judith V.: International Indicators and Economic, Social, and Cultural Rights. In: Human Rights Quarterly 30/4: 933-958, November 2008.

E-Resources

General:

<http://www2.ohchr.org/english/bodies/cescr/index.htm>

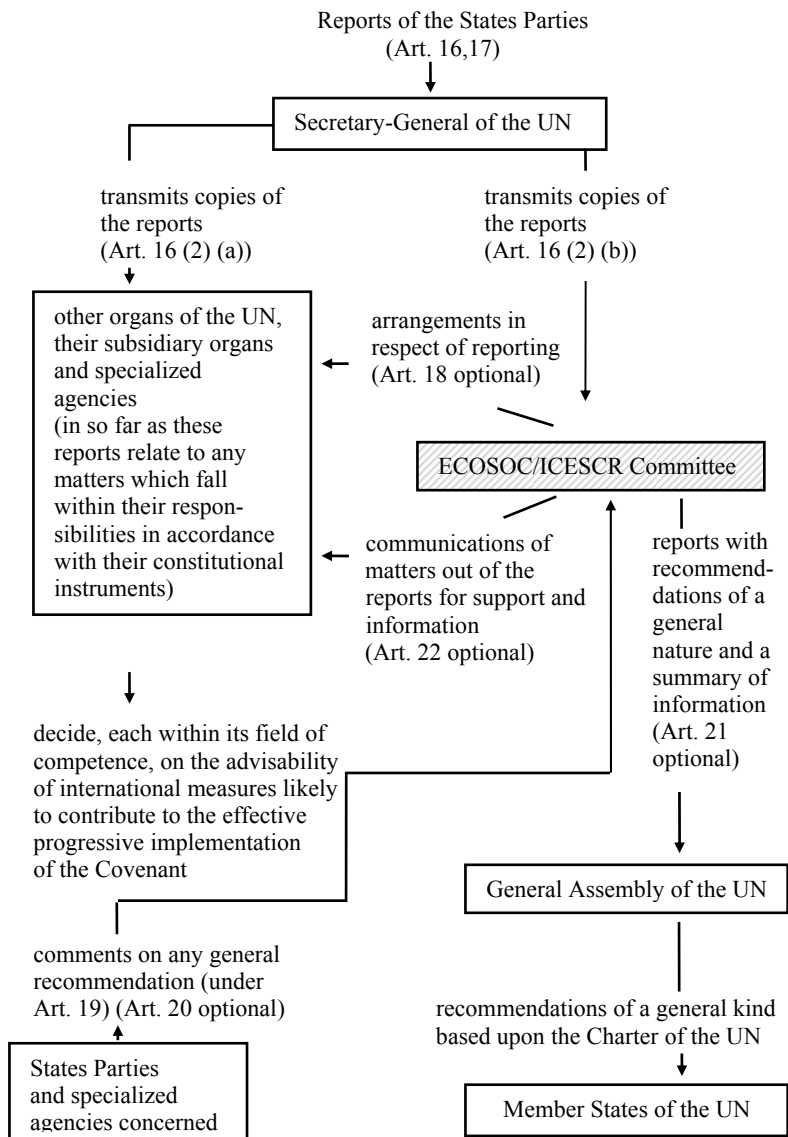
General Comments:

<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

States reports:

<http://www2.ohchr.org/english/bodies/cescr/sessions.htm>

Chart 7:
International Covenant on Economic, Social and Cultural Rights: Reports of the States Parties



III.2 The Human Rights Committee (CCPR)

The Committee consists of 18 members serving in their personal capacity and elected for a term of four years. It is created by the International Covenant on Civil and Political Rights, in accordance with the provisions of Articles 28 to 32, in order to monitor the implementation by States parties of the provisions of the ICCPR and its Optional Protocol. “States parties” are those countries whose governments have ratified or acceded to treaties; they are legally bound to follow the treaty provisions. As of 11 January 2010, there were 165 States party to the Covenant and 113 States party to the Optional Protocol (OP1; for details see annex VI.3). The Second Optional Protocol, aiming at the abolition of the death penalty, entered into force on 11 July 1991. As at 11 January 2010, there were 72 States party to OP2-DP (see annex VI.3). States which have signed but not yet ratified have expressed their intention to become a party; meanwhile they are obliged to refrain from acts which would defeat the object and purpose of the treaty.

In its General Comment No. 26 the Committee stated unequivocally that the states cannot withdraw from the Covenant on Civil and Political Rights once it is ratified. Likewise, States parties may not denounce the Second Optional Protocol. Article 12 of the Optional Protocol, aiming at the individual complaints procedure, however explicitly allows the cancellation (1997: Jamaica, 2000: Trinidad and Tobago).

The Committee is empowered to consider reports on measures adopted and progress made in achieving the observance of the rights enshrined in the ICCPR. In addition, under the Optional Protocol to this Covenant, States parties have recognized the competence of the Committee to consider communications (written complaints) from individuals alleging that their rights have been violated (for a model communication see document 2).

The Committee normally meets three times a year for three weeks per session, usually as follows: March-April at the UN in New York, July and October-November at the UN Office in Geneva.

Article 40: States Reports on Implementation

The Human Rights Committee examines reports by States parties about how they have implemented rights set forth in the Covenant (see chart 8). Such reports are to be submitted by a State within one year of becoming a State party to the Covenant and thereafter every four years. But the Committee may vary the date the next report is due, depending on the State party’s level of compliance with the Covenant’s provision, including the reporting record. The Committee currently examines an average of four reports per session.

All these State reports are public documents. The Committee shows a great interest for the input of NGOs. It therefore recommended that States make their reports fully public and available to national NGOs well in advance of the Committee’s examination (States reports to be examined are listed two sessions ahead).

The examination takes place at public meetings at which representatives of the government concerned introduce the report and then answer questions put by Committee members. The review and discussion of each report usually takes about two days.

In March 1999, the Committee decided that the list of issues for the examination of States parties' reports should be adopted at the session prior to the examination of the report, thereby allowing for States parties a preparation period of at least two months for the discussion with the Committee. In addition, in October 1999, the Committee adopted new consolidated guidelines, once again modified in October 2000, on States parties' reports which are designed to facilitate the preparation of the reports. Those lists of issues concerning the States parties' reports were prepared by a working group on Article 40 which has been replaced since July 2002 by country report task forces.

Since March 1992, the Committee publishes concluding observations which are taken as a starting point in the preparation of the list of issues for the examination of the subsequent report of a State party. The Committee also introduced a follow-up procedure to the concluding observations: the States parties will be requested to report back to the Committee within a specified period (usually within 12 months) with responses to the Committee's recommendations, indicating what steps have been taken. A Special Rapporteur on Follow-up to Concluding Observations has been assigned to evaluate the information; since 2003, a special chapter on follow-up activities of the States parties is enclosed in the annual reports (see references). According to its 2004 annual report the Committee noted with appreciation that the great majority of States parties have provided follow-up information. Since October 2006, the follow-up procedure is also applied in cases where the Committee examines implementation of the Covenant by a State party in the absence of a report and, if necessary, in the absence of a delegation.

Many States parties are in default of their reporting obligations. As at 31 July 2009, 50 States parties have reports overdue for more than five years or have not submitted a report requested by a special decision of the Committee; among them, 24 States parties have reports overdue since more than ten years. Moreover, 21 initial reports have not been submitted yet. In addition, the Committee has expressed deep concern that some States parties submitted inadequate reports which were too brief and general and has encouraged States parties to submit reports which frankly discuss difficulties in implementation as well as progress achieved.

Faced not only with the problem of overdue reports, but also with a backlog of reports already received but not considered, the Committee has decided in July 2000 to consider some periodic reports together even if they were issued as separate documents; the Committee has also accepted the submission of periodic reports which combine two overdue reports in a single document.

Article 41: Inter-State Complaints

The Committee may review a complaint by one State party that another State party is not fulfilling its obligations under the Covenant, but only if both States have made a declaration pursuant to Article 41 of the Covenant recognizing the competence of the Committee to take

such action. Some 48 States have recognized the competence of the Committee to receive and consider communications by one States party against another. No such complaint has yet been made. Apparently the States parties want to avoid “countercharges”.

General Comments

Through the development and adoption of general comments on Articles of the Covenant the Committee intends to clarify the scope and meaning of the provisions of the Covenant. Between 1981 and 2008 33 General Comments were adopted. Article 40, para. 4, of the Covenant provides that the Committee may transmit “such general comments as it may consider appropriate” to the States parties.

Individual Complaints

The Committee may consider individual complaints only concerning States parties to the ICCPR and the Optional Protocol (see chart 9). The “communication” must be submitted by the alleged victim or by someone assigned by the victim to act on his/her behalf (see document 2). The Committee is prohibited from considering a communication if “the same matter is being examined under another procedure of international investigation or settlement”. Individual complaints are examined in closed meetings. The other conditions of admissibility are the following: (a) not anonymous; (b) no abuse of the right of submission of such communication; (c) compatibility with the provisions of the Covenant; and (d) exhaustion of all domestic remedies.

Since the Committee started its work under the Optional Protocol in 1977, 1,888 communications concerning 83 States parties have been registered for consideration until 31 July 2009. The status was as follows: (a) concluded by Views under Article 5, para. 4, of the Optional Protocol: 681, including 543 in which violations of the Covenant were found; (b) declared inadmissible: 533; (c) discontinued or withdrawn: 264; (d) not yet concluded: 410.

In July 1990, the Committee created the mandate of a Special Rapporteur on Follow-up to Views. Since 1991, follow-up information has systematically been requested in order to find out whether the States parties concerned took appropriate steps to remedy the violation, such as providing adequate compensation for the violations suffered.

NGOs’ Participation

The Committee shows a great interest in the input of NGOs. It therefore recommended that States make their reports fully public and available to national NGOs well in advance of the Committee’s examination (States reports to be examined are listed two sessions ahead). NGOs not only comment on states reports but also on individual complaints. Furthermore, they take part in the discussion of the general comments and render suggestions.

The Committee welcomed the increasing interest shown by and the participation of NGOs. In 2000/2001, the working groups of the Committee considered oral and written preparation by

representatives of NGOs, including Amnesty International, Human Rights Watch, PEN International, the International Service for Human Rights, the International League for Human Rights, the Lawyers' Committee for Human Rights and several national human rights NGOs.

References

ANDO, Nisuke (Ed): Towards Implementing Universal Human Rights. Festschrift for the Twenty-Fifth Anniversary of the Human Rights Committee. Leiden / Boston: Martinus Nijhoff, 2004, XV, 262.

BOEREFJUN, Ineke: The Reporting Procedure under the Covenant on Civil and Political Rights. Practice and Procedures of the Human Rights Committee. Antwerpen / Groningen / Oxford: INTERSENTIA-HART, 1999, 417.

BUERGENTHAL, Thomas : The U.N. Human Rights Committee. In: Max Planck Yearbook of United Nations Law 5: 341–398, 2001.

GHANDHI, P.R.: The Human Rights Committee and the Right of Individual Communication. Aldershot: Ashgate, 1998, XXIV, 522.

HAKKI, Murat Metin: The Silver Anniversary of the UN Human Rights Committee: Anything to Celebrate? In: The International Journal of Human Rights 6/3: 85–102, Autumn 2002.

HANSKI, Raija; SCHEININ, Martin: Leading Cases to the Human Rights Committee. Turku / Åbo: Åbo Akademi University, 2003, VII, 474.

In this volume 50 particular cases are presented in order to give an overview of the Human Rights Committee's jurisdiction practice since its 25 year long existence.

JOSEPH, Sarah; SCHULTZ, Jenny; CASTAN, Melissa: The International Covenant on Civil and Political Rights. Cases, Materials, and Commentary. Oxford: Oxford University Press, 2004, 985 (second edition).

LEEUEWEN, Fleur van: Woman's Rights are Human Rights. The Practice of the United Nations; Human Rights Committee and the Committee on Economic, Social and Cultural Rights. Antwerp: Intersentia, 2010, XXI, 318.

MCGOLDRICK, Dominic: The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights. Oxford: Clarendon Press, 1991, LXVI, 576 (reprinted 2001).

MÖLLER, Jakob Th.; ZAYAS, Alfred de: United Nations Human Rights Committee Case Law 1977-2008. A Handbook. Kehl and Strasbourg, N.P.: Engel, 2009, XXIV, 604.

NOWAK, Manfred: UN Covenant on Civil and Political Rights: CCPR Commentary. Kehl am Rhein / Strasbourg / Arlington, Va.: N.P. Engel, 2005, XXXIX, 1277 (second, revised edition).

A detailed analysis of all substantive, organizational and procedural provisions of the Covenant and its two Optional Protocols.

NOWAK, Manfred: Civil and Political Rights. In: SYMONIDES, Janusz (Ed): Human Rights: Concepts and Standards. Aldershot / Burlington, VT: Dartmouth; Ashgate, 2000, 69–107.

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: Civil and Political Rights: The Human Rights Committee. Geneva: UN, May 2005, 65 (Fact Sheet No. 15 (Rev. 1)).

STEINER, Henry J.: Individual Claims in a World of Massive Violations: What Role for the Human Rights Committee? In: ALSTON, Philip; CRAWFORD, James (Ed): The Future of UN Human Rights Monitoring. Cambridge: Cambridge University Press, 2000, 15–53.

UNITED NATIONS: Selected Decisions of the Human Rights Committee under the Optional Protocol. Seventy-fifth to eighty-fourth sessions (July 2002 – July 2005). New York and Geneva: UN, 2007, 429 (Volume 8).

UNITED NATIONS: Selected Decisions of the Human Rights Committee under the Optional Protocol. Sixty-sixth to seventy-fourth sessions (July 1999 – March 2002). New York and Geneva: UN, 2006, 174 (Volume 7).

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Human Rights Committee. Volume I. Ninety-fourth session (13–31 October 2008). Ninety-fifth session (16 March–3 April 2009). Ninety-sixth session (13–31 July 2009). New York: UN, 2009, XV, 233 (GAOR Sixty-fourth Session Supplement No. 40 (A/64/40)).

The present annual report informs about the consideration of 12 periodic reports under Article 40 (see chapter IV). Under the Optional Protocol procedure, the Committee adopted Views on 46 communications and declared six communications admissible and 29 inadmissible (see chapter V). The text of the adopted General Comment No.33 on obligations of States parties under the Optional Protocol to the Covenant is reproduced in annex V.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Human Rights Committee Volume II. New York: UN, 2009, (GAOR Sixty-fourth Session Supplement No. 40 (A/64/40)).

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Human Rights Committee. Volume I. Ninety-first session (15 October–2 November 2007). Ninety-second session (17 March – 4 April 2008). Ninety-third session (7–25 July 2008). New York: UN, 2008, 203 (GAOR Sixty-third Session Supplement No. 40 (A/63/40)).

Chapter IV contains 13 considerations of States reports. Annex V reproduces the Views of the Committee under Article 5, para. 4, of the Optional protocol to the Covenant, whereas annex VI deals with the communications declared inadmissible.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Human Rights Committee Volume II. New York: UN, 2008, 553 (GAOR Sixty-third Session Supplement No. 40 (A/63/40)).

UNITED NATIONS: Official Records of the Human Rights Committee (formerly issued as Yearbooks of the Human Rights Committee). New York: UN, 1977/78–1992/93 (also available in other official languages of the UN).

UNIVERSITY OF UTRECHT: The Human Rights Committee's Jurisprudence under the Optional Protocol (SIM Documentation Site: <http://sim.law.uu.nl>).

E-Resources

General:

<http://www2.ohchr.org/english/bodies/hrc/index.htm>

General Comments:

<http://www2.ohchr.org/english/bodies/hrc/comments.htm>

States reports:

<http://www2.ohchr.org/english/bodies/hrc/sessions.htm>

Chart 8:
International Covenant on Civil and Political Rights:
Reports of the States Parties

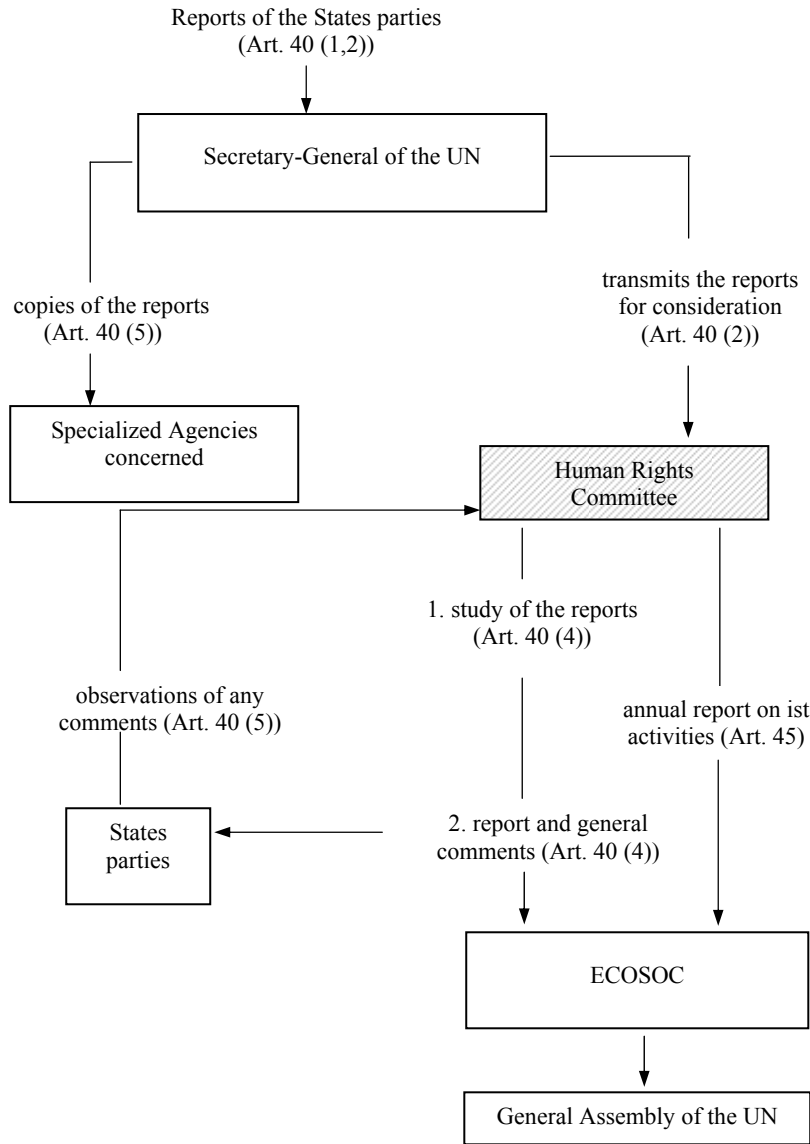
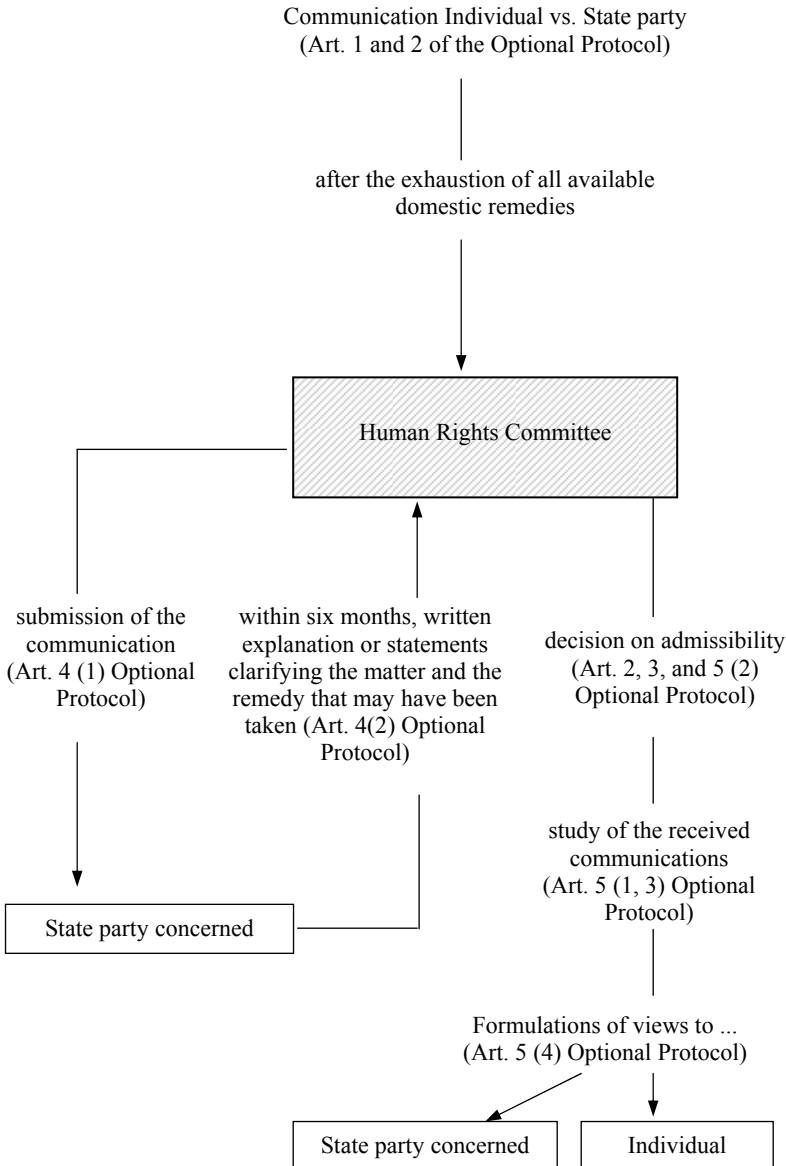


Chart 9:
Optional Protocol to the International Covenant on Civil
and Political Rights: Individual Complaints Procedure



Document 2:
Form for Communications Concerning the Optional
Protocol to the International Covenant on Civil and
Political Rights

Date:

Communication to:

Petitions Team
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
CH-1211 Geneva 10
Switzerland

Fax: xx 41-22-917 9022
E-mail: tb-petitions@ohchr.org

submitted for consideration under the Optional Protocol to the International Covenant on Civil and Political Rights.

I. Information concerning the author of the communication

Name First name(s)

Nationality..... Profession

Date and place of birth

Present address
.....
.....

Address for exchange of confidential correspondence (if other than present address).....
.....
.....

Submitting the communication as:

- (a) Victim of the violation or violations set forth below..... ☐
- (b) Appointed representative/legal counsel of the alleged victim(s) ☐
- (c) Other ☐

If box (c) is marked, the author should explain:

(i) In what capacity he/she is acting on behalf of the victim(s) (e.g. family relationship or other personal links with the alleged victim(s)):

.....
.....

(ii) Why the victim(s) is (are) unable to submit the communication himself/herself (themselves):

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

An unrelated third party having no link to the victim(s) cannot submit a communication on his/her (their) behalf.

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

Name First name(s)

Nationality..... Profession

Date and place of birth

Present address or whereabouts.....

.....
.....

III. State concerned/articles violated/domestic remedies

Name of the State party (country) to the International Covenant and the Optional Protocol against which the communication is directed:

.....

Articles of the International Covenant on Civil and Political Rights allegedly violated:

.....
.....

How to File Complaints on Human Rights Violations

Steps taken by or on behalf of the alleged victim(s) to exhaust domestic remedies-recourse to the courts or other public authorities, when and with what results (if possible, enclose copies of all relevant judicial or administrative decisions):

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

If domestic remedies have not been exhausted, explain why:

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

IV. Other international procedures

Has the same matter been submitted for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Court on Human Rights)? If so, when and with what results?

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

V. Facts of the claim

Detailed description of the facts of the alleged violation or violations (including relevant dates)*

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

Author's signature:

* Add as many pages as needed for this description.

III.3 The Committee on the Elimination of Racial Discrimination (CERD)

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance having met in Durban, South Africa, in September 2001, noted with grave concern “that despite the efforts of the international community, the principal objections of the three Decades to Combat Racism and Racial Discrimination have not been attained and that countless human beings continue to the present day to be victims of racism, racial discrimination, xenophobia and related intolerance”. Moreover, grave forms of racism, anti-Semitism, Islam phobia and violence against persons of African descent, indigenous populations, migrants, and Roma and Sinti exist worldwide. In its Final Declaration the Conference stated “that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism and that human rights violations against members of such groups occur widely in the context of discriminatory, xenophobic and racist practices”.

The Programme of Action calls upon the different actors such as, for instance, governments, political parties, the United Nations and other international organizations, NGOs, the youth, the private sector and the media, to take appropriate measures to combat racism on the different levels, regional, national and international. The Programme of Action contains numerous suggestions for the strengthening of national and international mechanisms for the protection of racial discrimination. It urges States which have not yet done so, to consider ratifying or acceding to the international and national human rights instruments which combat racism, racial discrimination, xenophobia and related intolerance, in particular to accede to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) as a matter of urgency, in view to universal ratification by the year 2005 (see document 3).

The Committee on the Elimination of Racial Discrimination

This Committee of 18 experts monitors the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in 1965 and entered into force on 4 January 1969. The members of the Committee are elected by States parties (as of 11 January 2010: 173; for details see annex VI.3) from amongst their nationals, “who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems”.

Normally, the Committee meets twice a year for three weeks per session, in February and August in Geneva (between 1984 and 1986 the Committee met in alternation in Geneva and in New York in order to better communicate with those States parties having diplomatic representation in New York but not in Geneva). Since 1987 all sessions were held in Geneva although the Committee expressed its wish to meet in New York again. In 2008, the Committee decided to request the General Assembly to approve one additional week of

meeting time per session as of 2010.

Under Article 8, para. 6, States parties are responsible for the expenses of the members of the Committee. However, a number of sessions had to be cancelled because some States parties had not met their financial obligations under the Convention. In 1994, those difficulties could be solved; the activities are now financed through the regular budget of the UN.

The Committee is exercising four functions: examinations of reports, deployment of preventive procedures (early warning measures; urgent action procedures), reviews in case of overdue reports, and the issuance of opinions on individual communications. The Committee must report annually to the General Assembly on its activities and may make suggestions and recommendations based on its examination of the reports provided by the States parties which are reviewed by the Committee (Article 9, para. 2).

Article 9, Para. 1: States Reports

Each State party has to submit every two years a report on the legislative, judicial, administrative and other measures which it has adopted to give effect to the provisions of the Convention (see chart 10). To-day, the Committee requests detailed reports only in five-year-terms and requires that a short report every two years informs about the recent developments in the country given. In August 2004, the Committee appointed a Coordinator mandated to monitor the follow-up by States parties to the observations and recommendations of the Committee (guidelines appeared on 2 March 2006). CERD examines an average between eight and 11 reports per session.

Nevertheless, little is done by the States parties to secure the timely submission of reports. In its 2008 Report to the General Assembly, the Committee mentioned 20 States parties with reports overdue by at least 10 years and 30 States parties with reports overdue by at least five years (see pp. 103-104). The Committee requested the UN Secretary-General to continue sending reminders automatically to those States parties whose reports are overdue.

In order to accelerate the consideration of the States reports the Committee applies since 1989 a new procedure: for every State report a rapporteur is nominated. Following the model of the Human Rights Committee, a general comment proposed by the country rapporteur of the Committee is made on the States reports since 1991. This comment highlights those aspects which are relevant to the fulfillment of the obligations arising under the Convention, and also those where shortcomings or deficiencies are apparent. In addition, a procedure for the consideration of States reports which are overdue was introduced by consensus. It allows to review older reports submitted by the State party as basis for a renewed discussion in the case when States reports are overdue by five years or more. The States concerned are informed in advance. This procedure was practiced for the first time on the 40th session in 1991. A few years later, the Committee decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of the implementation of the Convention. The Committee agreed to consider not only all information submitted by the State party to other organs of the UN but also relevant information from other sources, including from NGOs, whether it is an initial or periodic report that is overdue by five years or more.

Articles 11–13: Inter-State Complaints

The Committee is also authorized to review any complaint by one State party against another State party claiming that the latter is not giving effect to the provisions of the Convention. However, no such complaint has yet been made even though the procedure comprises an Ad hoc Conciliation Commission with a view to an amicable solution of the matter. As in case of the Human Rights Committee it can be assumed that States parties are reluctant to make use of this procedure in order to avoid complaints against themselves.

Article 14: Individual Communication Procedure

Individuals or groups of people who claim that their rights, as set out in the Convention, are being violated, may since 1984 – as laid down in Article 14 of the Convention – write to the Committee, asking that their complaint be considered (see chart 11 and document 4). They must first have exhausted all available domestic remedies.

However, the Committee cannot receive a communication if it concerns a State which, although a party to the Convention, does not recognize the competence of the Committee to do so. Only 53 of the 173 States that had ratified or acceded to the Convention by 15 August 2008 recognize the competence of the Committee to receive and consider communications under Article 14. They are:

Algeria	Malta
Andorra	Mexico
Argentina	Monaco
Australia	Montenegro
Austria	Morocco
Azerbaijan	Netherlands
Belgium	Norway
Bolivia	Peru
Brazil	Poland
Bulgaria	Portugal
Chile	Republic of Korea
Costa Rica	Romania
Cyprus	Russian Federation
Czech Republic	San Marino
Denmark	Senegal
Ecuador	Serbia
Finland	Slovakia
France	Slovenia
Georgia	South Africa
Germany	Spain
Hungary	Sweden
Iceland	Switzerland

How to File Complaints on Human Rights Violations

Ireland	The former Yugoslav Republic of
Italy	Macedonia
Kazakhstan	Ukraine
Liechtenstein	Uruguay
Luxembourg	Venezuela

The proceedings before the Committee are entirely confidential; anonymous communications will not be accepted. When the Committee decides that an individual communication is admissible, it transmits the communication to the State party concerned, but the identity of the petitioner is not revealed without his or her expressed consent. Within three months, the State party concerned submits to the Committee written explanations or statements as it considers appropriate having regard to the allegations made (see chart 11).

After completing consideration of a communication, the Committee drafts its opinion which is communicated to the petitioner and to the State party concerned. If the Committee finds a violation of the Convention, the State party should revise its law and/or practice in the light of the Committee's opinion. The Committee invites the State party to inform it in due course of the measures it has taken in connection with the suggestions and recommendations of the Committee. In 2005, the Committee adopted a new rule of its rules of procedure which allows it to designate one or several Special Rapporteurs for follow-up on opinions in order to ascertain the measures taken by States parties in the light of the Committee's suggestions and recommendations.

Since 1984, individual complaints which are treated in closed sessions can be submitted. Until August 2008, the Committee received 40 communications. On 25 communications the Committee adopted its opinion (in 10 cases, the Committee found a violation of the provisions of the Convention); the Committee declared 13 communications inadmissible.

Thematic debates

In order to specify the extent of its responsibilities, the Committee held a number of thematic debates on issues related to the application and interpretation of the provisions of the Convention, including in particular on issues related to

- discrimination against Roma (2000)
- descent-based discrimination (2002)
- non-citizens and racial discrimination (2004)
- prevention of genocide (2005)
- special measures / affirmative action (2008)

The outcome of these thematic debates is reflected in the Committee's general comments 27, 29, and 30.

The Role of NGOs

Only in the 1990s, the Committee has started to receive any information from NGOs commenting upon State reports. In 1993, the Anti-Racism Information Service (ARIS) was founded which collects information from various sources and feeds it to Committee members; they sometimes meet with NGO representatives before a State report is considered. The Committee maintains weaker links with NGOs than the other UN treaty bodies. In 2003, the position was reaffirmed that NGOs can only provide information to State reports on a personal level and in informal meetings to members of the Committee. But the Committee as a whole can also hold informal meetings with NGOs on issues of major importance for the implementation of the Convention.

In 2007, the Committee amended rule 40 of its rules of procedure which now offers the possibility for NHRIs which are accredited to take part in the deliberations of the Human Rights Council to address the Committee on issues related to the dialogue with a State party on a report, if the State party agrees.

References

BANTON, Michael: Decision-Taking in the Committee on the Elimination of Racial Discrimination. In: ALSTON, Philip; CRAWFORD, James (Ed): *The Future of UN Human Rights Treaty Monitoring*. Cambridge: Cambridge University Press, 2000, 55–78.

BANTON, Michael: *International Action Against Racial Discrimination*. Oxford: Clarendon Press, 1996, XVI, 362.

BOVEN, Theo van: Discrimination and Human Rights Law – Combating Racism. In: FREDMAN, Sandra (Ed): *Discrimination and Human Rights – The Case of Racism*. Oxford: Oxford University Press, 2001, 111–133.

BOVEN, Theo van: ICERD and Article 14: The Unfulfilled Promise. In: ALFREDSSON, Gudmundur; et al. (Ed): *International Human Rights Monitoring Mechanisms. Essays in Honour of Jakob Th. Möller*. The Hague / Boston / London: Nijhoff, 2001, 153–166.

BOVEN, Theo van: The Petition System under the International Convention on the Elimination of All Forms of Racial Discrimination. In: *Max Planck Yearbook of United Nations Law* 4: 271–287, 2000.

FELICE, William F.: The UN Committee on the Elimination of All Forms of Racial Discrimination: Race, and Economic and Social Human Rights. In: *Human Rights Quarterly* 24/1: 205–236, February 2002.

HOLMSTRÖM, Leif (Ed): *Concluding Observations of the UN Committee on the Elimination of Racial Discrimination: Forty-third to Fifty-seventh Session, (1993–2000)*. The Hague/New York/London: Martinus Nijhoff, 2002, XVIII, 789.

TANAKA, Atsuko; NAGAMINE, Yoshinobu: *The International Convention on the Elimination of All Forms of Racial Discrimination: A Guide for NGOs*. Tokyo: International Movement Against All Forms of Discrimination and Racism; London: Minority Rights Group International, 2001, 48.

UNESCO: United to Combat Racism. Selected Articles and Standard-setting Instruments. Paris: UNESCO, 2001, XII, 638.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Committee on the Elimination of Racial Discrimination. Seventy-second session (18 February – 7 March 2008). Seventy-third session (28 July-15 August 2008). New York: UN, 2008, 144 (GAOR Sixty-third Session, Supplement No. 18 (A/63/18) (also available in other official languages of the UN).

15 reports submitted by States parties are considered by the Committee in chapter III. Decisions and opinions of the Committee under Article 14 of the Convention can be found in annex III.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Committee on the Elimination of Racial Discrimination. Seventieth session (19 February 2007). Seventy-first session (30 July - 17 August 2007). New York: UN, 2009, 167 (GAOR, Sixty-second Session, Supplement No. 18 (A/62/18).

Chapter III contains the Concluding Remarks of 15 reports submitted by States parties. Chapter VI deals with individual complaints; commentaries on particular cases (communications no. 36, 37 and 40) are listed in annex V.

VANDENHOLE, Wouter: Non-discrimination and Equality in the View of the UN Human Rights Treaty Bodies. Antwerp / Oxford: Intersentia, 2005, XIII, 293.

WOLFRUM, Rüdiger: The Committee on the Elimination of Racial Discrimination. In: Max Planck Yearbook of United Nations Law 3: 489–519, 1999.

WOLFRUM, Rüdiger: The Implementation of International Standards on Prevention and Elimination of Racial Discrimination: Achievements and Challenges. In: SYMONIDES, Janusz (Ed): The Struggle Against Discrimination. A Collection of International Instruments Adopted by the United Nations System. Paris: UNESCO, 1996, 45–78.

E-Resources

General:

<http://www2.ohchr.org/english/bodies/cerd/index.htm>

General Comments:

<http://www2.ohchr.org/english/bodies/cerd/comments.htm>

States reports:

<http://www2.ohchr.org/english/bodies/cerd/sessions.htm>

Chart 10:
International Convention on the Elimination of All Forms
of Racial Discrimination: Reports of the States Parties

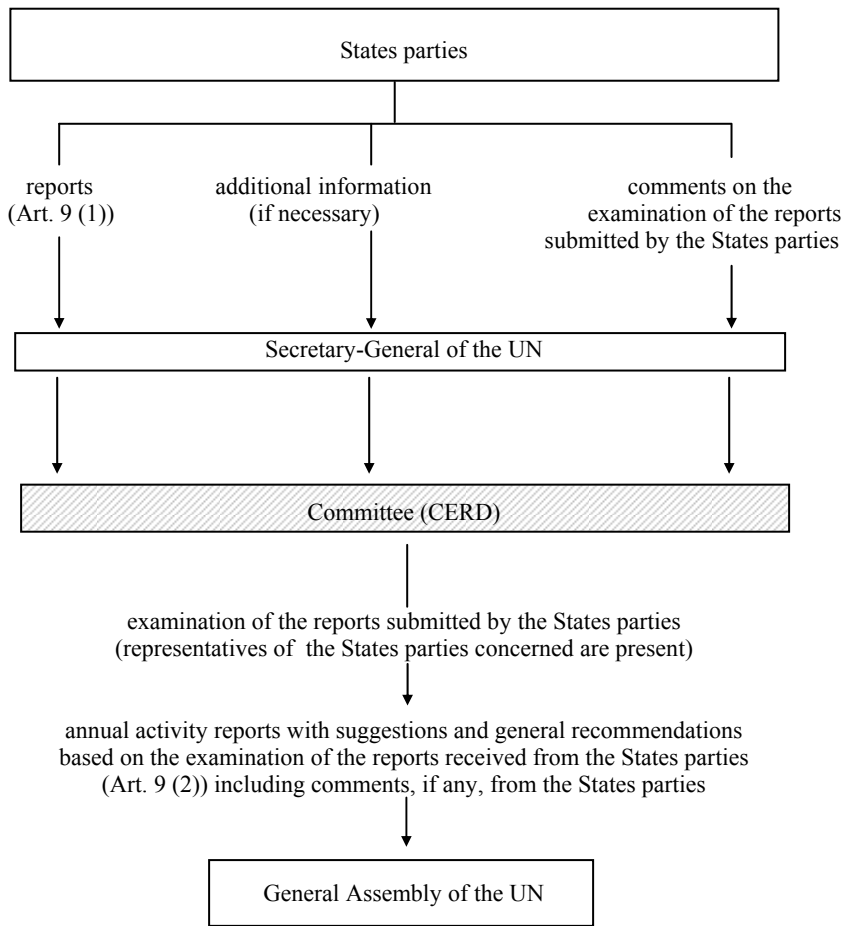
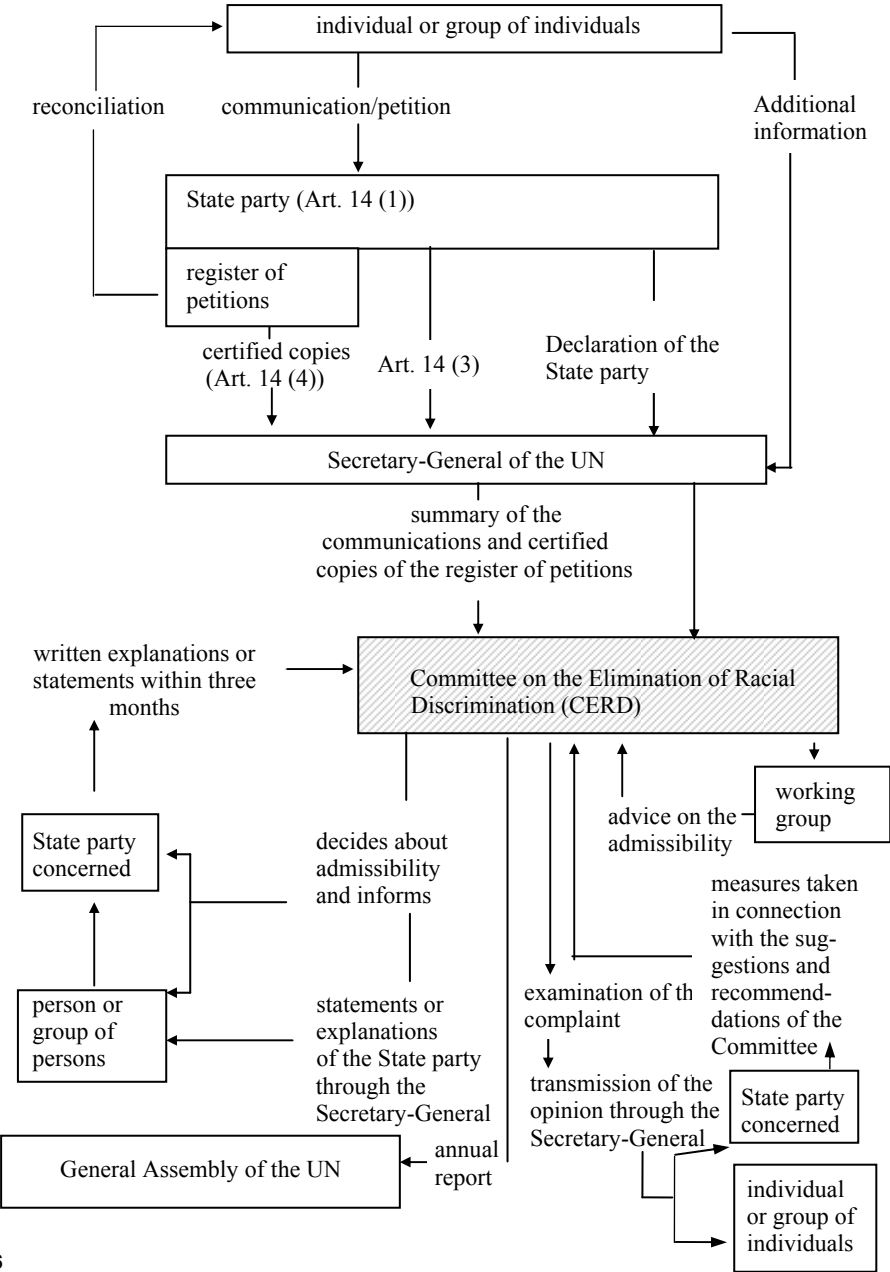


Chart 11:
International Convention on the Elimination of All Forms
of Racial Discrimination: Individual Complaints
Procedure



Document 3: International Convention on the Elimination of All Forms of Racial Discrimination (Part 1)

Article 1

1. In this Convention, the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.
4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:
 - (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
 - (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
 - (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
 - (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
 - (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the

Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

- (i) The right to freedom of movement and residence within the border of the State;
- (ii) The right to leave any country, including one's own, and to return to one's country;
- (iii) The right to nationality;
- (iv) The right to marriage and choice of spouse;
- (v) The right to own property alone as well as in association with others;
- (vi) The right to inherit;
- (vii) The right to freedom of thought, conscience and religion;
- (viii) The right to freedom of opinion and expression;
- (ix) The right to freedom of peaceful assembly and association;

(e) Economic, social and cultural rights, in particular:

- (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
- (ii) The right to form and join trade unions;
- (iii) The right to housing;
- (iv) The right to public health, medical care, social security and social services;
- (v) The right to education and training;
- (vi) The right to equal participation in cultural activities;
- (vii) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafés, theatres and parks.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

Document 4:
Form for Communications Concerning the Convention
on the Elimination of All Forms of Racial Discrimination

Date:

Communication to:

Petitions Team
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
CH-1211 Geneva 10
Switzerland

Fax: xx 41-22-917 9022
E-mail: tb-petitions@ohchr.org

*submitted for consideration under Article 14 of the International Convention on the
Elimination of All Forms of Racial Discrimination*

I. Information concerning the author of the communication

Name First name(s)

Nationality..... Profession

Date and place of birth.....

Present address.....

.....

.....

Address for exchange of confidential correspondence (if other than present
address).....

.....

.....

Submitting the communication as:

(a) Victim of the violation or violations set forth below..... ☐

(b) Appointed representative/legal counsel of the alleged victim(s) ☐

(c) Other ☐

If box (c) is marked, the author should explain:

(i) In what capacity he/she is acting on behalf of the victim(s) (e.g. family relationship or other personal links with the alleged victim(s)):

.....
.....

(ii) Why the victim(s) is (are) unable to submit the communication himself/herself (themselves):

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

An unrelated third party having no link to the victim(s) cannot submit a communication on his/her (their) behalf.

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

Name First name(s)

Nationality..... Profession

Date and place of birth.....

Present address or whereabouts.....

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

III. State concerned / articles violated / domestic remedies

Name of the State party (country) to the International Convention on the Elimination of All Forms of Racial Discrimination against which the communication is directed:

.....

How to File Complaints on Human Rights Violations

Articles of the International Convention on the Elimination of All Forms of Racial Discrimination allegedly violated:

.....
.....

Steps taken by or on behalf of the alleged victim(s) to exhaust domestic remedies – recourse to the courts or other public authorities, when and with what results (if possible, enclose copies of all relevant judicial or administrative decisions):

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

If domestic remedies have not been exhausted, explain why:

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

IV. Other international procedures

Has the same matter been submitted for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Court on Human Rights)? If so, when and with what results?

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

V. Facts of the claim

Detailed description of the facts of the alleged violation or violations (including relevant dates)*

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

Author's signature:

* Add as many pages as needed for this description.

III.4 The Committee on the Elimination of Discrimination against Women (CEDAW)

The Convention on the Elimination of Discrimination against Women which was adopted on 18 December 1979 by the UN General Assembly (Resolution 34/180) can be seen as a follow-up instrument of the Declaration on the Elimination of All Forms of Discrimination against Women (Resolution 2263 (XXII) of the General Assembly) of 17 November 1967. The Convention entered into force on 3 September 1981.

In Article 1 of the Convention the term “discrimination against women” is defined as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.

Composition and Functioning of the Committee

This Committee on the Elimination of Discrimination against Women (CEDAW), consisting of 23 experts elected for four-year terms, monitors the implementation of this Convention. The experts are elected by States parties (as of 11 January 2010: 186; for details see annex VI.3) from among their nationals and serve in their personal capacity. The Committee meets twice a year in Geneva and once a year in New York. In 2007, the General Assembly authorized CEDAW to hold three annual sessions of three weeks each, with a one-week pre-session working group for each session, for an interim period effective from January 2010, pending the entry into force of the amendment to Article 20, para. 1, of the Convention. The General Assembly also approved the Committee’s request to hold a total of five sessions, in 2008 and 2009, three of these meetings in parallel chambers.

CEDAW, previously serviced by the Division for the Advancement of Women in New York, moved to Geneva in January 2008; its Secretariat is now provided by the Office of the High Commissioner for Human Rights (OHCHR).

In 1990, the Committee decided to convene a pre-session working group for five days prior to each session to prepare lists of issues and questions relating to the periodic reports that would be considered by the Committee at the subsequent session. In 2004, the Committee decided that lists of issues and questions would also be prepared on initial reports. These lists are intended to facilitate the preparations by States parties for constructive dialogues with the Committee.

The Committee is charged with considering the progress made in the implementation of the Convention through reviewing the reports submitted by States parties. The Convention boldly imposes on States parties a range of duties not only to respect and protect individual rights, but also to promote the cultural change which is necessary for their realization: “States parties

condemn discrimination against women in all its forms” and “agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women...” (Article 2); they take all appropriate measures: “(a) to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”; “(b) to ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases” (Article 5).

Reservations to the Convention

The Convention is the second most widely accepted international human rights treaty after the Convention on the Rights of the Child; however, the Committee is concerned about both the number and the extent of the reservations of States parties to some Articles of the Convention, in particular, to Articles 9, 15 and 16, which deal with nationality, legal capacity, and marriage and family relations.

The Convention has more reservations of States parties attached to it than any other UN treaty; there is a clear discrepancy between the promotion of women's rights and the maintenance of reservations to the Convention. It has been for that reason that the General Assembly urged in December 1996 the States parties to limit the extent of any reservation they lodged to ensure that no reservations were incompatible with the object and purpose of the Convention and to review their reservations regularly, with a view to withdrawing them. In two general recommendations the Committee also referred to the problem of the high number of reservations to the Convention. Furthermore, some States parties regularly oppose if the right to reservations is used extremely extensive by one State party.

Article 18: States Reporting System

The States parties are requested to submit regular reports on legislative, judicial, administrative and other measures taken and the progress made in this respect. Reports have to be submitted by the States parties within one year after entry into force, and thereafter in four-year intervals. CEDAW examines on the average between eight (without parallel working groups) and 13 reports (with parallel working groups per session). These States reports are considered by the Committee in public sessions (see chart 12). In Article 18, para. 2, it is explicitly noted that the reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the Convention (see Articles 2–16). CEDAW has to report annually to the General Assembly through ECOSOC.

The Committee makes suggestions and general recommendations based on its examination of the reports and information received from the States parties (Article 21). Representatives of the States are invited to introduce their reports orally before listening and answering to the comments of the experts. At the end of the session, the Committee adopts concluding

comments in closed meetings which can be found in the annual reports to the General Assembly; they consist of three sections: (1) introduction and positive aspects, (2) principal areas of concern and (3) recommendations.

The Committee is confronted with serious working problems. On the one hand, steps must be taken to reduce the backlog of reports, on the other, States parties should report in due time. In order to encourage States parties to fulfill their reporting obligations as well as to address the backlog of reports awaiting consideration, the Committee decided, on an exceptional basis and as a temporary measure, to invite 20 States parties with long-overdue reports to combine all their outstanding reporting obligations into a single document. If those reports are not submitted within the suggested time-frame, and as a last resort, the Committee would consider the implementation of the Convention without such a report. Furthermore, the Committee is considering the option of establishing two parallel working groups or chambers for the examination of periodic reports.

General Recommendations

Until January 2010, the Committee has adopted 26 general recommendations. During the Committee's first 20 years, those adopted dealt with issues such as the content of reports, reservations to the Convention and resources for the Committee. In 1991, the Committee decided to adopt the practice of issuing comprehensive general recommendations on specific provisions of the Convention and on the relationship between Articles of the Convention and themes/issues which offer States parties better guidance on the application of the Convention.

In the 1990s, the following general recommendations were adopted by the Committee. The States parties were requested to, for instance,

- take appropriate and effective measures with a view to eradicating the practice of female circumcision (1990);
- avoid discrimination against women in national strategies for the prevention and control of Acquired Immune Deficiency Syndrome (AIDS) (1990);
- take effective measures, inter alia legal measures, criminal penalties and civil remedies, and compensatory provisions to protect women against all kinds of violence (1992);
- describe in their reports forms of violence against women and measures that have been taken to protect women engaged in prostitution or subject to trafficking (1992);
- take appropriate measures to ensure equality of men and women in all matters relating to marriage and family relations (Articles 9, 15 and 16 of the Convention) and therefore shall enact and enforce legislation (1994);
- ensure the equal enjoyment of men and women in political and public life including the use of temporary special measures in order to achieve equality (1997).

During the last decade only three general recommendations were adopted: in 1999 on Article 12 (women's access to health care), in 2004 on Article 4, para. 1 (temporary measures), and in 2008 on women migrant workers.

Optional Protocol: A Procedure for Individual Complaints

The possibility of introducing a procedure for the examination of individual complaints or inter-state complaints by this Committee through the preparation of an optional protocol to the Convention was recommended in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993 as well as at the Fourth World Conference on Women in 1995. An open-ended working group of the Commission on the Status of Women discussed the elements of such a protocol; after only four negotiation sessions governments adopted such an Optional Protocol by consensus that opened for signature on 10 December 1999, the Human Rights Day. The Optional Protocol entered into force on 22 December 2000. Reservations to the Optional Protocol are not permitted. As of 11 January 2010, 99 States have ratified or acceded to the Optional Protocol (see annex VI.3).

The Optional Protocol contains a communication procedure (see document 5 and chart 13) which gives individuals and groups of individuals the right to complain to the Committee about violations of any of the rights set forth in the Convention, provided that all domestic remedies have been exhausted; the complaint must be in writing and may not be anonymous. It must be submitted by, or on behalf of, an individual or a group of individuals under the jurisdiction of a State which is a party to the Convention and the Optional Protocol. A communication will not normally be considered by the Committee if the same matter is being or has already been examined by another international procedure or if it concerns an alleged violation occurring before entry into force of the Optional Protocol for the State.

In early 2001, a working group on the Optional Protocol was established, which was renamed into Working Group on Communications under the Optional Protocol in January 2003. Initially, it met after a session of the Committee; in January 2003, the Committee decided to meet prior to a regular session of the Committee.

Competences of Investigation

In addition, the Optional Protocol includes an inquiry procedure (Article 8) which enables the Committee to conduct inquiries on its own initiative and on the basis of reliable information, into grave or systematic abuses of women's human rights in countries that have become party to the Optional Protocol (see chart 13). It is modeled on an existing human rights inquiry procedure, Article 20 of the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see section III.5). The inquiry allows widespread violations to be investigated where individuals or groups may be unable to make communications. It also gives the Committee an opportunity to make recommendations regarding the structural causes of violations. Article 10 of the Optional Protocol allows States parties to disagree with the Committee's competence of investigation by signing or ratifying the Protocol.

Other Avenues

There are also several other avenues which may draw international attention to cases of gender-based discrimination. The Commission on the Status of Women (CSW), which now has 45 members, may receive confidential and non-confidential communications from individuals or groups of individuals concerning discrimination against women. The Commission appoints a working group to examine such communications; it is composed of five members selected from the membership of the Commission with regard to geographical representation. The working group considers all complaints, including the replies of the governments concerned and brings to the attention of the Commission those communications “which appear to reveal a consistent pattern of reliable attested injustice and discriminatory practices”.

However, no action is taken on individual complaints. Instead, the procedure aims to discern emerging trends and patterns of discrimination against women and to develop policy recommendations against gender-based discrimination, formulated by the Commission after having examined the report of its working group.

In addition, the Human Rights Committee (see section III.2) may receive complaints of violations of the gender equality provisions of the Covenant – in particular Article 26 of the ICCPR. The individual complaints procedure of the Human Rights Committee is available to individuals in 113 countries which have ratified the Optional Protocol to the Covenant on Civil and Political Rights (see VI.3). Women in these countries are thereby able to bring complaints about violations of their rights of equal entitlements protected by that Covenant as well as by the Covenant on Economic, Social and Cultural Rights and possibly other international human rights conventions, provided their country is also State party to those treaties.

Decision 16/III: Increasing Importance of NGOs

Since its establishment, the Committee has enjoyed strong support from international and national NGOs; they provided Committee members, both individually and collectively, with information relevant to the consideration of States parties’ reports. Since 1997, increased opportunities for NGOs in the work of the Committee emerged: the Committee decided to have an informal meeting with national and international NGOs outside the regular meeting time of the Committee inviting them to offer, inter alia, country-specific information on the reports of the States parties to be reviewed by the Committee.

In 1999, the Committee also agreed that NGOs should be able to present country-specific information to the Committee in a working group of the whole (=plenary informal meeting). Also, the States parties should consult national NGOs in the preparation of their reports required by Article 18 of the Convention.

Also, the Chairperson of the Committee proposed that the pre-session working group might meet with NGOs to conduct a thematic discussion on a particular area.

In sum, it can be said that these are clear signs that the Committee wishes to establish permanent relations with NGOs and to encourage a closer co-operation. This development can

be interpreted as a result of the 1993 UN World Conference on Human Rights in Vienna where “the most active and best-organized NGOs at the conference were oriented to, and/or staffed by, women” (FORSYTHE, p. 303).

In 2008, the Committee made a statement on its relationship with NHRIs considering them as playing an important role in the promotion of the implementation of the Convention at the national level. It encouraged them to disseminate its concluding observations, general recommendations and decisions and views on individual complaints. Furthermore, the Committee welcomed the provision of country-specific information on States parties’ reports.

References

BIJNSDORP, Mireille G.E.: The Strength of the Optional Protocol to the United Nations Women’s Convention. In: Netherlands Quarterly of Human Rights 18/3: 329–355, August 2000.

BUSTELO, Mara R.: The Committee on the Elimination of Discrimination Against Women at the Crossroads. In: ALSTON, Philip; CRAWFORD, James (Ed): The Future of UN Human Rights Treaty Monitoring. Cambridge: Cambridge University Press, 2000, 79–111.

BYRNES, Andrew: The Other Human Rights Treaty Body: The Work of the Committee on the Elimination of Discrimination Against Women. In: Yale Journal of International Law 14/1: 1–67, Winter 1989.

CONNORS, Jane; BYRNES, Andrew: Assessing the Status of Women: A Guide to Reporting under the Convention on the Elimination of all Forms of Discrimination against Women. Minneapolis : Commonwealth Secretariat and IRAW, 1999, 107.

In co-operation with the Commonwealth Secretariat, the International Women’s Rights Action Watch (IRAW) produced this guide for NGOs on reporting under the Convention.

COOK, Rebecca J. (Ed): Human Rights of Women: National and International Perspectives. Philadelphia, Pa.: University of Pennsylvania Press, 1994, XIV, 634.

FORSYTHE, David P.: The UN and Human Rights at Fifty: An Incremental but Incomplete Revolution. In: Global Governance 1/3: 297–318, September-December 1995.

INTERNATIONAL SERVICE FOR HUMAN RIGHTS: Women’s Rights in the UN. Manual on how the UN human rights mechanisms can protect women’s rights. Geneva: International Service for Human Rights, May 1995, 69 (also available in other official languages of the UN).

This orientation manual is intended for use mainly by NGO people working in the field of human rights. Its aim is twofold: (1) to provide essential information about existing UN mechanisms and procedures relating to women; and (2) to encourage more effective use of those mechanisms and procedures by NGOs in the field in order to better defend the human rights of women.

INTERNATIONAL WOMEN’S TRIBUNE CENTRE: Rights of Women: A Guide to the Most Important United Nations Treaties on Women’s Human Rights. New York: International

Women's Tribune Centre, 1998, 148 (second edition) (also available in other official languages of the UN).

LEEUEWEN, Fleur van: *Woman's Rights are Human Rights. The Practice of the United Nations; Human Rights Committee and the Committee on Economic, Social and Cultural Rights.* Antwerpen: Intersentia, 2010, XXI, 318.

MILLER, Alice M.: *Women's Human Rights NGOs and the Treaty Bodies : Some Case Studies in Using the Treaty Bodies to Protect the Human Rights of Women.* In: BAYEFSKY, Anne F. (Ed): *The UN Human Rights Treaty System in the 21st Century.* The Hague / London / New York: Kluwer Law International, 2000, 195–207.

REHOF, Lars Adam: *Guide to the travaux préparatoires of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.* Dordrecht: Nijhoff, 1993, XVII, 385.

SHALEV, Carmel: *State Reporting and the Convention on the Elimination of All Forms of Discrimination Against Women.* In: In: BAYEFSKY, Anne F. (Ed): *The UN Human Rights Treaty System in the 21st Century.* The Hague / London / New York: Kluwer Law International, 2000, 23–34.

SULLIVAN, Donna J.: *Women's Human Rights and the 1993 World Conference on Human Rights.* In: *American Journal of International Law* 88/1: 152–166, January 1994.

TOMAŠEVSKI Katarina: *Women's Rights.* In: SYMONIDES, Janusz (Ed): *Human Rights: Concepts and Standards.* Aldershot / Burlington, VT: Dartmouth; Ashgate, 2000, 231–258.

TOMAŠEVSKI Katarina: *Women and Human Rights.* London / Atlantic Highlands, N.J.: Zed Books, 1999, XIV, 162 (third edition).

UNITED NATIONS / GENERAL ASSEMBLY: *Report of the Committee on the Elimination of Discrimination against Women. Forty-second session (20 October – 7 November 2008); Forty-third session (19 January – 6 February 2009).* New York: UN, 2009, 142 (GAOR Sixty-fourth Session, Supplement No. 38 (A/64/38)) (also available in other official languages of the UN).

Part IV deals with the consideration of reports submitted by States parties under Article 18 of the Convention, whereas Part V reports about the activities carried out under the Optional Protocol to the Convention.

UNITED NATIONS / GENERAL ASSEMBLY: *Report of the Committee on the Elimination of Discrimination against Women. Fortieth session (14 January – 1 February 2008); Forty-first session (30 June – 18 July 2008).* New York: UN, 2008, 261 (GAOR Sixty-third Session, Supplement No. 38 (A/63/38)) (also available in other official languages of the UN).

Part IV deals with the consideration of reports submitted by States parties under Article 18 of the Convention, whereas Part V reports about the activities carried out under the Optional Protocol to the Convention.

UNITED NATIONS LIBRARY: *Women: A Selective Bibliography, 1988–1999.* Geneva: United Nations Library, March 2000 (also available in other official languages of the UN).

VANDENHOLE, Wouter: Non-discrimination and Equality in the View of the UN Human Rights Treaty Bodies. Antwerpen / Oxford: Intersentia, 2005, XIII, 293.

E-Resources

General:

<http://www2.ohchr.org/english/bodies/cedaw>

General recommendations:

<http://www2.ohchr.org/english/bodies/cedaw/comments.htm>

Convention:

<http://www2.ohchr.org/english/law/cedaw.htm>

Optional Protocol to the Convention:

<http://www2.ohchr.org/english/law/cedaw-one.htm>

Chart 12:
Convention on the Elimination of Discrimination against
Women: Reports of the States Parties

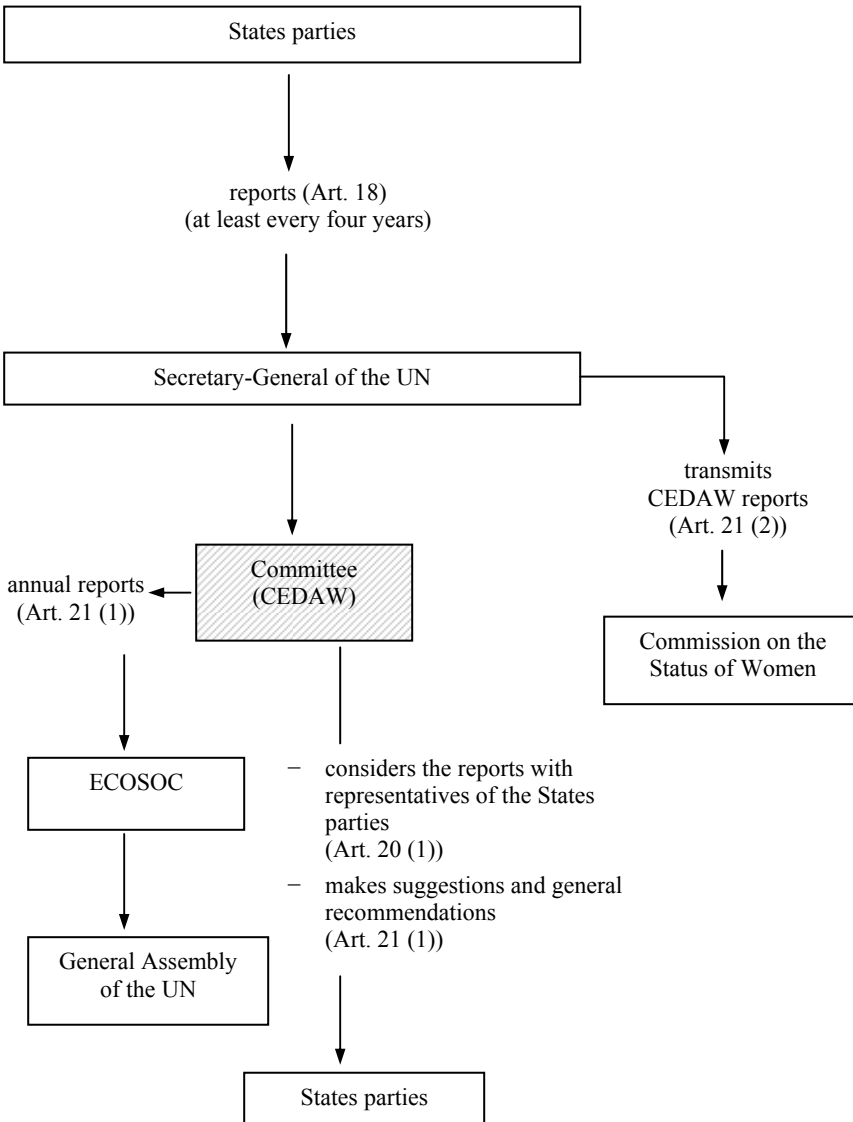
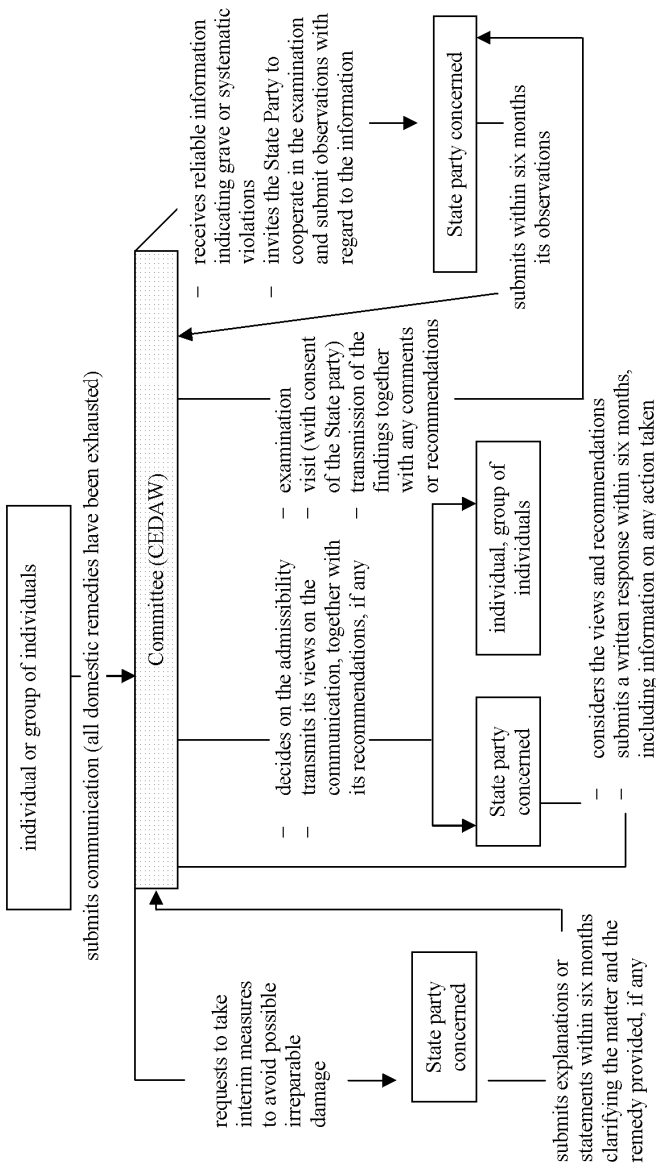


Chart 13:
Convention on the Elimination of Discrimination against Women: Individual Complaints Procedure



Document 5:
Form for Communications Concerning the Optional
Protocol to the Convention on the Elimination of All
Forms of Discrimination against Women

Communication to:

Petitions Team
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
CH-1211 Geneva 10
Switzerland

Fax : xx 41-22-917 9022

E-mail: tb-petitions@ohchr.org

*submitted for consideration 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)
.....

How to File Complaints on Human Rights Violations

Present address

.....
.....

Mailing address for confidential correspondence (if other than present address)

.....
.....

Fax..... Telephone.....

E-mail.....

Indicate whether you are submitting the communication as:

- (a) Alleged victim(s) ☐
(If there is a group of individuals alleged to be victims, provide basic information about each individual)
- (b) 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 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

.....
.....

Mailing 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)

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

How to File Complaints on Human Rights Violations

Date(s) and 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 remedies sought (including relevant date(s) and 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:

.....

.....

.....

.....

Please 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 yes, explain:

Type of procedure(s)

.....

.....

.....

.....

Date(s) and Place(s)

.....

.....

Results (if any)

.....

.....

.....

.....

.....

Please note: Enclose copies of all relevant documentation.

7. Date and signature

Date and Place:.....

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

.....

.....

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

.....

.....

.....

.....

.....

.....

.....

.....

.....

III.5 The Committee against Torture (CAT)

The practice of torture was first prohibited in 1948 by the Universal Declaration of Human Rights and by the International Convention on the Prevention and Punishment of the Crime of Genocide. The concept was reaffirmed in 1966 by the ICCPR and in 1984 by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Despite all these efforts, torture continues to occur on a worldwide basis. The Convention entered into force in 1987. As of 11 January 2010, the Convention has been ratified or acceded to by 146 States (for details see annex VI.3), and 64 States parties recognize the competence of the Committee to receive and consider communications submitted by States parties and/or individuals according to Articles 21 and/or 22 of the Convention.

As indicated by Article 1, para. 1 of the Convention “the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”.

According to the Convention each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction (Article 2, para. 1); no exceptional circumstances whatsoever (for instance state of war, threat of war, internal political instability or any other public emergency) may be invoked as a justification of torture (Article 2, para. 2). Moreover, important to note is the provision in Article 3, para. 1: “No State party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”.

Even though the prohibition against torture is one of the basic human rights norms, in the context of the fight against terrorism the acceptability of torture has been increasingly discussed, for instance in Israel, Spain and the United States. In the introduction to his Report on the Work of the Organization 2003, Kofi Annan pointed out that “human rights must not be sacrificed in the struggle against international terrorism” (para. 5). Also, the threat with torture is a severe violation of human dignity and belongs to the inhuman and degrading treatments which are banned by the Convention.

The Committee Against Torture

This Committee consists of ten experts. It monitors the implementation of the Convention. States parties to this treaty elect the members of the Committee for a four-year term who serve in their personal capacity. The Committee normally holds two regular sessions each year in

Geneva, in May and in November. Special sessions may be convened by decision of the Committee itself at the request of a majority of its members or of a State party to the Convention.

Article 19: Reports by States Parties

The Committee examines reports by States parties about the implementation of the provisions laid down in the Convention against Torture (see chart 14). In order to receive full information, the Committee has prepared general guidelines containing precise instructions on their form and content. Initial reports are to be submitted within one year after the Convention enters into force for the State party concerned, and thereafter every four years. These reports are public documents; the examination also takes place at public meetings where the representatives of the governments introduce the reports and answer to questions of the Committee members. Since its fifth session in 1990 every report is introduced by a member of the Committee serving as a rapporteur; since its 28th session in 2002 rapporteurs are nominated in order to follow up the implementation of the conclusions and recommendations of the Committee. The Committee examines an average of seven reports per session.

At each session of the Committee, the UN Secretary-General notifies the Committee of all cases of non-submission of the reports. Again and again the Committee expressed concern about the number of States parties that did not comply with their reporting obligations. States parties whose initial reports are more than 12 months overdue receive reminders every six months. Furthermore, it was suggested to examine the situation of States parties whose reports are overdue on the basis of information given by other bodies of the UN and NGOs.

In May 2007, the Committee adopted a new optional reporting procedure which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic reports. This procedure which should lead to more focused reports will be applied on a trial basis in relation to reports that are due in 2009 and 2010.

As at 15 May 2009, the situation with regard to overdue reports, a total of 210, was as follows: initial reports: 38; second periodic reports: 49; third periodic reports: 45; fourth periodic reports: 36; and fifth periodic reports: 30. Given this situation, the Committee decided to continue to publish lists of States parties whose reports are overdue at the end of each session in its annual reports to the General Assembly.

Article 20: Competences of Investigation

Under Article 20 of the Convention, the Committee may decide to conduct an inquiry if it receives reliable information about well-founded indications that torture is being systematically practiced in the territory of a State party. This possibility of an inquiry applies to all States parties except those which have declared, as permitted by Article 28 of the Convention, that they do not recognize the Committee's competence in this respect. The procedure set out in Article 20 of the Convention is marked by two features, namely its confidential character and

the pursuit of cooperation with the States parties concerned. The Committee may, as indicated in Article 20, para. 5, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report to the UN General Assembly.

States parties may opt out of Article 20 upon signature, accession or ratification, but not after having accepted the procedure. Any State party having made a reservation may, at any time, withdraw this reservation by notification to the UN Secretary-General. As of 15 May 2009, the following nine States parties have declared, that they do not recognize the competence of the Committee provided for by Article 20 of the Convention:

Afghanistan	Israel	Poland
China	Kuwait	Saudi Arabia
Equatorial-Guinea	Mauritania	Syrian Arab Republic

Article 21: Inter-State Complaints

Under Article 21 of the Convention, a State party may at any time declare that it recognizes the Committee's competence to receive and consider a complaint by one State party that another State party does not fulfill its obligations under the Convention. In practice, the Committee can only become active if both States parties have made a declaration pursuant to Article 21 recognizing the Committee's competence to take such action. A total of 64 States parties have made such declarations (see the list of States parties which have made the declarations provided for in Articles 21 and 22; furthermore, Japan, Uganda, United Kingdom and the United States only made the declaration provided for in Article 21).

The procedure consists of two stages. If a State party to the Convention considers that another State party has violated one of its provisions it may, first of all, communicate in written form directly with that State party. The State party which receives the communication must react in written form within three months. If the two States parties concerned are unable to settle the matter between themselves, it may be referred by either State party to the Committee which tries to arrive at a friendly solution in closed meetings. No such complaint has yet been made.

Article 22: Individual Complaints

Under Article 22 of the Convention, a State party may at any time declare that it recognizes the Committee's competence to receive and consider complaints from, or on behalf of, individuals subject to its jurisdiction who claim to be victims of a violation of the provision of the Convention by a State party. As of 15 May 2009, a total of 64 of the States parties which have ratified or acceded to the Convention had recognized the competence of the Committee to receive and consider communications of this kind (the eight States parties in italic letters have only made the declaration provided for Article 22); these States parties are:

How to File Complaints on Human Rights Violations

Algeria	France	Norway
Andorra	Georgia	Paraguay
Argentina	Germany	Peru
Australia	Ghana	Poland
Austria	Greece	Portugal
<i>Azerbaijan</i>	<i>Guatemala</i>	Russian Federation
Belgium	Hungary	Senegal
Bosnia and Herzegovina	Iceland	Serbia
<i>Brazil</i>	Ireland	<i>Seychelles</i>
Bulgaria	Italy	Slovakia
<i>Burundi</i>	Kazakhstan	Slovenia
Cameroon	<i>Korea (Rep. of)</i>	South Africa
Canada	Liechtenstein	Spain
Chile	Luxembourg	Sweden
Costa Rica	<i>Mexico</i>	Switzerland
Croatia	Malta	Togo
Cyprus	Monaco	Tunisia
Czech Republic	Montenegro	Turkey
Denmark	<i>Morocco</i>	Ukraine
Ecuador	Netherlands	Uruguay
Finland	New Zealand	Venezuela

Since April 2002, a four-member working group meets during the week prior to the meetings of the Committee in order to facilitate the procedure. In its consideration of the communication, the Committee's first concern is to ascertain its admissibility. These conditions for admissibility are specified in the Convention and in the rules of procedure of the Committee. For a communication to be declared admissible, it must not:

- be anonymous or incompatible with the provisions of the Convention;
- constitute an abuse of the right to submit a communication under Article 22; and
- have been examined (or be under examination) under another procedure of international investigation or settlement.

Furthermore, individuals who claim to be victims of the rights protected by the Convention must have exhausted all domestic possibilities of recourse.

The Committee may request the State party concerned or the author of the communication to submit additional information or clarification relevant to the question of admissibility (see chart 15). If the Committee decides that a communication is admissible, the author of the communication and the State party are informed. It then examines its substance. The State party has six months in which to submit its explanations to the Committee or to inform it of the

measures it may have taken to remedy the situation. The authors may also provide it with further information and be invited, if the Committee deems it necessary, to participate in its private meetings. During this period the Committee may request the State party concerned to take steps in order to avoid irreparable damage to the alleged victim of the violation. This provisional measure does not prejudice the Committee's final decision, but is supposed to offer protection to persons who claim a violation of the Convention.

On completing consideration of a complaint, the Committee compiles its findings, which are then communicated to the author of the communication and to the State party concerned. The Committee invites the State party to inform it of the measures it has taken in the light of the findings communicated to it.

Communications under Article 22 of the Convention (see document 6) are considered in closed meetings; all documents are confidential. However, the Committee includes in its annual report a summary of the communications examined, of the explanations of the States parties concerned, and of its own views.

By the end of its 42nd session in May 2009, the Committee had registered 384 communications with respect to 29 countries. Out of them, 95 communications had been discontinued and 59 had been declared inadmissible. The Committee had adopted final decision on the merits with respect to 158 complaints and found violations of the Convention in 48 of them; 67 communications remained outstanding and four were suspended, pending exhaustion of domestic remedies.

Optional Protocol

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) was adopted on 18 December 2002 by the General Assembly of the United Nations (see chart 15). This Protocol entered into force on 22 June 2006, 30 days after the date of deposit of the 20th instrument of ratification or accession. As of 11 January 2010 the Optional Protocol had been ratified by 50 States (for details see annex VI.3).

According to Article 1 of the Protocol its objective is “to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment”. Therefore, a Subcommittee to the Committee against Torture (SPT) was created which consists of ten members and started its work in February 2007. It is a new type of United Nations treaty body with a unique mandate establishing an international preventive mechanism with a global remit. After the 50th ratification of or accession to the Optional Protocol, the number of the members of the Subcommittee on Prevention increased to twenty-five. The members serve in their personal capacity and have to be independent and impartial. They are elected for a four-year term and are eligible for re-election once.

Each State party undertakes to ensure that one or several national mechanisms for the prevention of torture at the domestic level are established. According to Article 4 of the Optional Protocol the State party allows all domestic authorities and the Subcommittee visits

“to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence”.

In order to fulfill its mandate the Subcommittee sets up, at first by lot, a programme of regular visits to the States parties. It visits police stations, prisons, detention centers, juvenile justice establishments, mental health and social care institutions and any other places where people are or may be deprived of their liberty. Maldives, Mauritius and Sweden were the countries drawn by lot. From April 2008 through March 2009 additional visits to Benin, Mexico and Paraguay were carried out. Its recommendations on actions to be taken to improve the treatment of detainees are communicated to the States parties and, as the case may be, to the national preventive mechanism(s). In addition, the Subcommittee annually presents a public report on its activities to the Committee against Torture. In the report about its second year, the Subcommittee mentioned three factors which seriously inhibit its capacity to fulfil the mandate: (a) budgetary resources limiting preventive visits to only 3-4 per year, (b) no budget provision at all for direct work with national preventive mechanisms, and (c) lack of staff and lack of staff continuity.

NGO Participation

The Committee was the first one among the UN human rights treaty bodies to allow NGOs with consultative status with ECOSOC to submit information in the context of all its procedures. NGOs can be invited to submit written information before the examination of a State report; also, a meeting is held with NGOs in private, with interpretation, on the afternoon immediately before the consideration of each State party report under Article 19. The Committee expressed its appreciation to the national NGOs which provided immediate and direct information. States parties are encouraged to consult NGOs when preparing the reports.

Voluntary Fund for Victims of Torture

In December 1981, the General Assembly created the UN Voluntary Fund for Victims of Torture (Resolution 36/151). The purpose of the Fund is to receive voluntary contributions from governments, NGOs as well as individuals and to distribute them to NGOs and treatment centres for assisting victims of torture and their relatives whose human rights have been severely violated as a result of torture. The Fund is administered by the UN Secretary-General with a Board of Trustees acting in an advisory capacity. It comprises five members with wide experience in the field of human rights. Each May, the Board makes recommendations on grants to the OHCHR.

Unfortunately, the inadequacy of available resources is a limiting factor in the field of assistance to victims. The amounts available in 2007 for allocation to new grants came to 7,608 millions US dollars; they were allocated to 191 projects of assistance to victims of torture and members of their families around the world. In 1997, the General Assembly proclaimed the 26 June a "United Nations International Day in Support of the Victims of Torture" and appealed to all governments, organizations and individuals to contribute annually to the Fund.

Contributions to the Fund should be marked as follows: “*payee: United Nations Voluntary Fund for Victims of Torture, account CH*”. Payment should be made by:

Bank transfer:

- (a) in United States dollars to “United Nations Geneva General Fund”, account No. 485001802, J.P. Morgan Chase Bank, New York, NY 10004, USA (Swift code: CHASUS33, ABA code: 021000021);
 - (b) in euros to “United Nations Office at Geneva, account No. 23961901, J.P. Morgan Chase Bank, London, P.O. Box 440, Wollgate House, Coleman Street, London, UK (Swift code: CHASGB2L, Sorting code: 60-92-42, IBAN: GB25 CHAS 6092 4223 9619 01);
 - (c) in sterling pounds to “United Nations Office at Geneva”, account No. 23961903, J.P. Morgan Chase Bank, London, P.O. Box 440, Wollgate House, Coleman Street, London, United Kingdom (Swift code: CHAS GB 2L, Sorting code: 60-92-42, IBAN: GB25 CHAS 6092 4223 9619 03);
 - (d) in Swiss francs to “United Nations Geneva General Fund”, account No. 240-C0590160.0, UBS, rue du Rhône 8, Geneva 2, Switzerland (Swift code: UBSWCHZH12A);
 - (e) in any other currency to “United Nations Geneva General Fund”, account No. 240-C0590160.1, UBS, rue du Rhône 8, Geneva 2, Switzerland (Swift code: UBSW CH ZH 12A; IBAN: CH65 0024 0240 C059 0160 1);
- Cheque payable to “United Nations” addressed to: Trésorerie, Nations Unies, Palais des Nations, CH-1211 Geneva 10, Switzerland.

References

BANK, Roland: Country-oriented Procedures Under the Convention against Torture: Towards a New Dynamism. In: ALSTON, Philip; CRAWFORD, James (Ed): *The Future of UN Human Rights Treaty Monitoring*. Cambridge: Cambridge University Press, 2000, 145–174.

BOULESBAA, Ahcene: *The U.N. Convention on Torture and the Prospects for Enforcement*. The Hague/Boston/London: Martinus Nijhoff, 1999, XI, 366.

HALL, Christopher Keith: The Duty of States Parties to the Convention against Torture to Provide Procedures Permitting Victims to Recover Reparations for Torture Committed Abroad. In: *The European Journal of International Law* 18/5: 921-937, November 2007.

HILDE, Thomas C. (Ed): *On Torture*. Baltimore, MD: Johns Hopkins University Press, 2008, VI, 228.

INGELSE, Chris: *The UN Committee against Torture: An Assessment*. The Hague: Kluwer Law, 2001, 488.

INGELSE, Chris: The Committee Against Torture: One Step Forward, One Step Back. In: Netherlands Quarterly of Human Rights 18/3: 307–327, August 2000.

INTER-AMERICAN INSTITUTE OF HUMAN RIGHTS; ASSOCIATION FOR THE PREVENTION OF TORTURE: Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. San José, Costa Rica: IHR; Geneva: APT, 2004, 272.

KELLY, Tobias: The UN Committee Against Torture: Human Rights Monitoring and the Legal Recognition of Cruelty. In: Human Rights Quarterly 31/3: 567-591, August 2009.

NOWAK, Manfred: Torture and Enforced Disappearance. In: KRAUSE, Catarina; SCHEININ, Martin (Ed): International Protection of Human Rights: A Textbook. Turku / Åbo: Åbo Akademi University, Institute for Human Rights, 2009, 151-182.

NOWAK, Manfred: Legal Controversies Relating to Torture. in: JORGENSEN, Jorgensen, Rikke Frank; SLAVENSKY, Klaus (Ed): Implementing Human Rights. Essays in Honour of Morten Kjaerum. Copenhagen: The Danish Institute for Human Rights, 2007, 233-256.

NOWAK, Manfred: The Implementation Functions of the UN Committee against Torture. In: NOWAK, Manfred; STEURER, Dorothea; TRETTER, Hannes (Ed): Fortschritt im Bewußtsein der Grund- und Menschenrechte. Progress in the Spirit of Human Rights. Festschrift für Felix Ermacora. Kehl: Engel, 1988, 433–526.

NOWAK, Manfred; MCARTHUR, Elizabeth: The United Nations Convention Against Torture. A Commentary. New York / Oxford: Oxford University Press, 2008, 600.

RODLEY, Nigel S.; POLLARD, Matt: The Treatment of Prisoners Under International Law. Oxford: Oxford University Press, 2009, LI, 697 (third edition).

SØRENSEN, Bent: CAT and Articles 20 and 22. In: ALFREDSSON, Gudmundur; et al. (Ed): International Human Rights Monitoring Mechanisms. Essays in Honour of Jakob Th. Möller. The Hague / Boston / London: Nijhoff, 2001, 167–183

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Committee against Torture. New York: UN, 2009, 392 (GAOR Sixty-fourth Session, Supplement No. 44 (A/64/44)) (also available in other official languages of the UN system).

This annual report informs about the 41st and 42nd session of the Committee (November 2008 and April/May 2009). Chapter II contains notes on the status of the submission of States reports. In Chapter III one finds the concluding remarks to 14 States reports. Annex VII contains the Second Annual Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. The decisions of the Committee to 10 individual complaints are revealed in Annex XIII.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Committee against Torture. New York: UN, 2008, 317 (GAOR Sixty-third session, Supplement No. 44 (A/63/44)) (also available in other official languages of the UN system).

This annual report for the General Assembly informs about the 39th and 40th session of CAT (November 2007 and April/May 2008). Chapter III deals with 14 reports submitted by States parties. Annex VI contains General Comment No.2 on the implementation of Article 2 and Annex VII the First Annual Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which covers the period February 2007 to March 2008.

WENDLAND, Lene: A Handbook on State Obligations under the UN Convention against Torture. Geneva: Association for the Prevention of Torture, 2002, 80.

E-Resources

Committee Against Torture:

<http://www2.ohchr.org/English/bodies/cat>

Subcommittee on Prevention against Torture (SPT):

<http://www2.ohchr.org/english/bodies/cat/opcat>

General Comments:

<http://www2.ohchr.org/english/bodies/cat/comments.htm>

States reports:

<http://www2.ohchr.org/english/bodies/cat/sessions.htm>

Chart 14:

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Reports of the States Parties

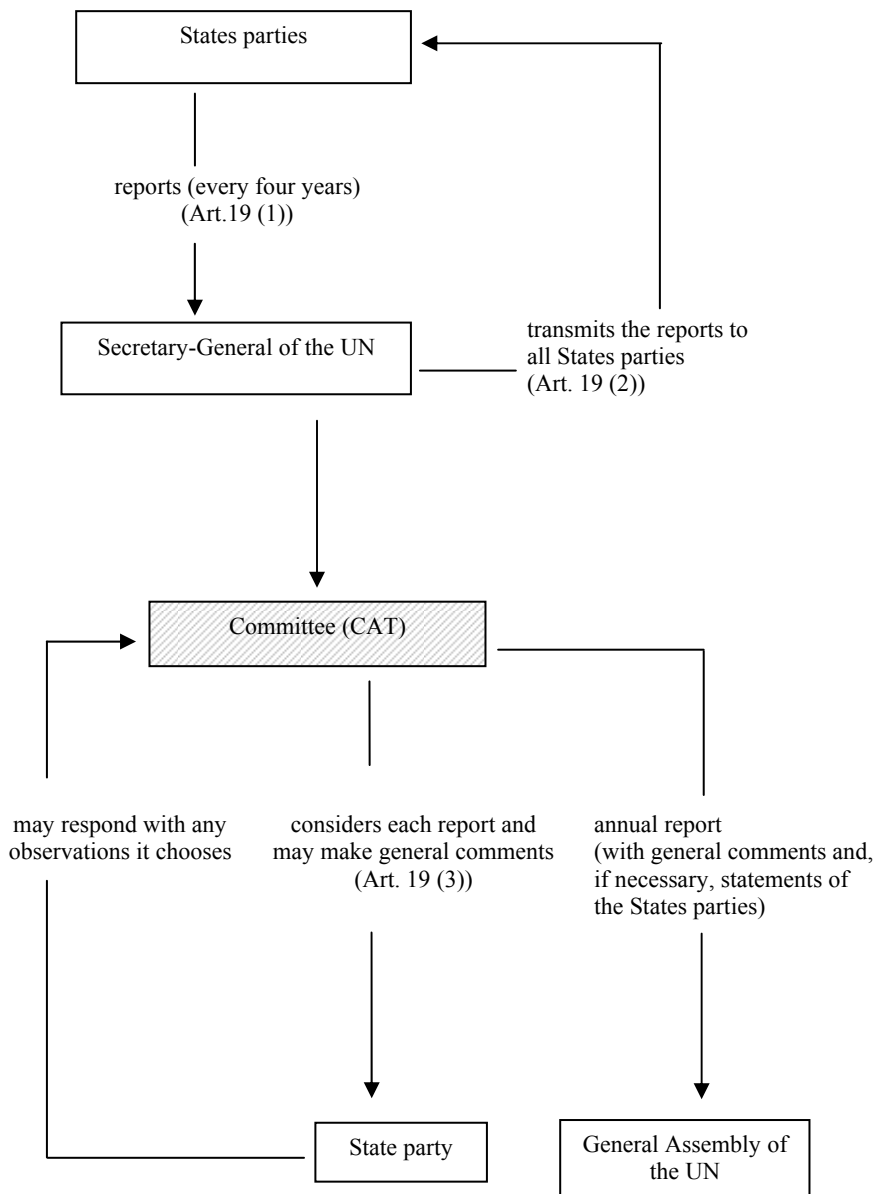
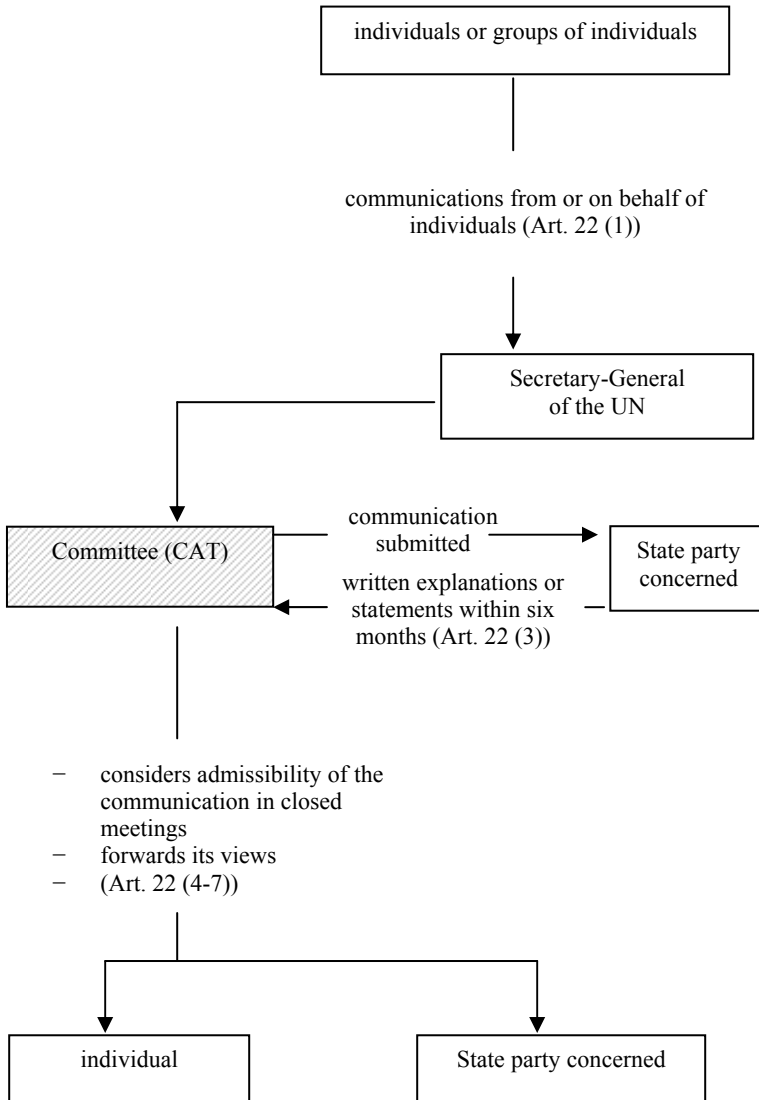


Chart 15:
Convention against Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment: Individual
Complaints Procedure



Document 6:
Form for Communications Concerning Article 22 of the
Convention against Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment

Date:

Communication to:

Petitions Team
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
CH-1211 Geneva 10
Switzerland

Fax : xx 41-22-917 9022
E-mail: tb-petitions@ohchr.org

*submitted for consideration under Article 22 of the Convention Against Torture and Other
Cruel, Inhuman or Degrading Treatment or Punishment.*

I. Information concerning the author of the communication

Name First name(s)

Nationality..... Profession

Date and place of birth
.....

Present address.....
.....
.....

Address for exchange of confidential correspondence (if other than present
address).....
.....
.....

Submitting the communication as:

- (a) Victim of the violation or violations set forth below..... ☐
(b) Appointed representative/legal counsel of the alleged victim(s) ☐
(c) Other ☐

If box (c) is marked, the author should explain:

(i) In what capacity he/she is acting on behalf of the victim(s) (e.g. family relationship or other personal links with the alleged victim(s)):

.....
.....

(ii) Why the victim(s) is (are) unable to submit the communication himself/herself (themselves):

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

An unrelated third party having no link to the victim(s) cannot submit a communication on his/her (their) behalf.

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

Name First name(s)

Nationality..... Profession

Date and place of birth

.....

How to File Complaints on Human Rights Violations

Present address or whereabouts

.....

.....

III. State concerned / articles violated / domestic remedies

Name of the State party (country) to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment against which the communication is directed:

.....

Articles of the Convention against Torture allegedly violated:

.....

.....

Steps taken by or on behalf of the alleged victim(s) to exhaust domestic remedies – recourse to the courts or other public authorities, when and with what results (if possible, enclose copies of all relevant judicial or administrative decisions):

.....

.....

.....

.....

If domestic remedies have not been exhausted, explain why:

.....

.....

.....

.....

IV. Other international procedures

Has the same matter been submitted for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Commission on Human Rights)? If so, when and with what results?

.....

.....

.....

.....

V. Facts of the claim

Detailed description of the facts of the alleged violation or violations (including relevant dates)*

.....

.....

.....

.....

.....

.....

.....

.....

Author’s signature:

* Add as many pages as needed for this description.

III.6 The Committee on the Rights of the Child (CRC)

Children, their welfare and their rights have been a central concern of the UN since its creation in 1945. One of the first acts of the UN General Assembly was to establish, on 11 December 1946, the United Nations Children's Fund (UNICEF) which remains until today the main pillar of international assistance to children. Also, the provisions of the Universal Declaration of Human Rights (see Article 25, para. 2, in annex VI.2) and those of the 1966 International Covenants on Human Rights recognize that children's rights must be protected (see Articles 24 and 23, para. 4, of the International Covenant on Civil and Political Rights and Article 10 of the International Covenant on Economic, Social and Cultural Rights).

The first standard setting UN instrument exclusively devoted to the rights of children was the 1959 Declaration of the Rights of the Child. Affirming that "mankind owes to the child the best it has to give", the Declaration offered a solid moral framework for the rights of the child. 30 years later, the Convention on the Rights of the Child was adopted on 20 November 1989. 61 countries, a record number, signed the Convention on the first day it was opened for signature, on 26 January 1990.

The Convention entered into force on 2 September 1990. As of 11 January 2010, the number of States parties totaled 193 (for details see annex VI.3) – an astonishing high number – reaching almost universal ratification. Among the UN Member States, only Somalia and the United States did not yet ratify the Convention. However, it should be also noted that about 70 States parties have made reservations or declarations when ratifying the Convention.

The Convention is the most complete statement of children's rights ever made; it goes further than the 1959 Declaration by making States which ratify the Convention legally accountable for their actions towards children. Given the increasing share of children in the world population, especially the growing number of children among the victims of hunger, war and refugees and, moreover, among the victims of forced labor, slavery and prostitution, the States parties are confronted with high expectations on the realization of the rights of the child.

The Convention is a universally agreed set of non-negotiable standards and obligations; it spells out the basic human rights that children everywhere and without discrimination have: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. The Convention protects children's rights by setting standards ("benchmarks") in health care, education, and legal, civil and social services.

The Convention defines as a child all human beings below the age of 18 years (Article 1); it recognizes the child being entitled to a full array of rights. This changes the nature of the States' responsibilities by turning them into legal obligations: "For most States this evolution from welfare motivated measures to ones based on legally recognized rights requires a fundamental change of legislation, policies, programmes and institutions, but even more importantly, of mentalities and beliefs" (DAVID, Paulo, p.260).

Two Optional Protocols

The Committee also monitors the implementation two Optional Protocols to the Convention, on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography, were adopted in January 2000 to strengthen the provisions of the Convention in these areas. They entered into force, respectively on 12 February and 18 January 2002.

The discussion of the first Optional Protocol on the involvement of children in armed conflicts revealed disagreements on the age limit. According to Article 38, paras. 2 and 3, of the Convention children who have not yet completed the age of 15 may not be recruited into their armed forces nor participate in hostilities. During the negotiations the compromise proposal to raise the age limit consistently to 17 years as well as the suggestion of a minimum age of 18 years for participation in armed conflicts and the recruitment of conscripts and the minimum age of 17 years for the recruitment of volunteers failed.

The achieved compromise, an age limit of 18 years, is expressed in the wording of Article 1 of the Optional Protocol: “States parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities”. In consequence, children under 18 years of age may belong to the armed forces. Compared with Article 38, para. 3, of the Convention, the age at entry of voluntary recruited persons into the armed forces raises from 15 to 16 years and a number of procedural safeguards have to be recognized, for instance the volunteers may not take part in direct hostilities insofar they have not yet reached the age of 18 years.

As at 11 January 2010, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts had been ratified or acceded to by 131 States parties. The Optional Protocol on the sale of children, child prostitution and child pornography had been ratified or acceded to by 135 States parties. In contrast to the Convention it is marked by detailed modalities of accomplishment and control.

Initial reports of States parties are due two years after the date of the entry into force of the Optional Protocols with comprehensive information on the measures taken to implement the provisions of the protocols. Subsequent reports have to be submitted every five years. Detailed guidelines regarding the form and content of the initial reports to be submitted by the States parties have been adopted on 3 October 2001 respectively on 31 January 2002 by the Committee.

Article 43: The Committee on the Rights of the Child

Article 43 of the Convention provides for the establishment of a Committee consisting of ten experts who serve in their individual capacity and are elected for a four-year term. All States parties to the Convention may nominate candidates. An amendment to Article 43, para. 3, of the Convention increasing the membership of the Committee from 10 to 18 reached the required number of 128 ratifications (a two-thirds majority of States parties) so that it entered into force on 18 November 2002.

Since 1995, the Committee normally meets three times a year, in January, May and September in Geneva. It examines the progress made by States parties in achieving the realization of the obligations as laid down in the Convention and the two Optional Protocols. Each session comprises a three-week period for scrutiny of States parties' reports with an additional week at each session for the pre-session working group.

Article 44: States Reporting System

States parties must submit to the Committee, through the Secretary-General (see chart 16), reports on the measures undertaken for the implementation of the rights recognized in the Convention and on the progress made on the enjoyment of those rights; the first report is to be submitted within two years of the entry into force of the Convention of the State party concerned, and thereafter every five years. The Committee examines between 10 and 12 Convention (and Optional Protocol) reports.

As at 27 December 2007, the Committee had received a total of 426 reports. However, a considerable delay of the States parties in their reporting obligations can be observed. At its 59th session in 2004, the UN General Assembly decided to allow the Committee to meet in two parallel chambers on a temporary basis during 2006 in order to decrease the existing backlog of reports. The Committee found the two-chamber system most effective in reducing the backlog of reports pending consideration. As the Committee receives over 50 reports per year it is inevitable that the backlog will continue again. On 6 June 2008 the Committee requested the General Assembly again to work in two chambers as from October 2009 until January 2011.

At its 38th session in January 2005, the Committee decided to consider the situation of children's rights in a State in the absence of the initial report if the State party concerned would not report within one year after having received the letter requesting the submission of the report.

In September 1999, the Committee decided to reintroduce the role of a country rapporteur; it also decided to give high priority to the drafting of general comments based on the principles and provisions of the Convention. In order to guide States parties in the preparation of their initial reports, the Committee has adopted General Guidelines regarding the form and the content of these reports; it also produced more detailed guidelines for the periodic reports by States parties which require a more rigorous reporting process.

The reports shall indicate factors and difficulties which affect the degree of fulfillment of the obligations under the Convention; they shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned. Article 44 also provides that States parties shall make their reports widely available to the public in their own countries.

All competent organizations may be invited to take part in the Committee's discussions, to submit their views and to be consulted (Article 45 of the Convention). These bodies include ILO, WHO, UNESCO, UNICEF, UNHCR as well as a wide range of NGOs. Moreover, several steps have been taken towards a comprehensive approach to the rights of the child:

"UNICEF now has taken on the Convention as a guide for its country programming. UNHCR has produced guidelines on the rights of the child for field offices; ILO has given more emphasis to the issue of child labour; WHO has programmes that relate to the Convention as has UNESCO, which also has produced some information materials on child rights" (HAMMARBERG, p. 30).

Every two years, the Committee submits to the General Assembly a report on its activities (see references). It can make suggestions and general recommendations which are also submitted to the States parties and, together with comments from the States parties, if any, to the General Assembly. The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies to special issues concerning the rights of the child. 1996 experts drew up the so-called Machel Report, a study on the situation of children in armed conflicts. 2002 the Committee recommended to prepare another study of experts on violence against children which was approved by the 57th General Assembly. In February 2003, the Secretary-General assigned an expert to undertake this world-wide analysis.

The Role of NGOs

NGOs participated already in the drafting of the Convention: a proposal of 28 NGOs, supported by UNICEF, influenced as a common point of view of a number of highly different NGOs the elaboration process – even though it was not submitted to the Human Rights Commission as an official UN document. The NGOs' activities prior to and during the sessions of the Working Group can be seen as model for the engagement of NGOs.

According to Article 45 the Committee may integrate “other competent bodies“, i.e. Intergovernmental organizations and NGOs in order to provide “expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates“.

The Committee has engaged NGOs as critical actors in promoting and monitoring children's rights; they are actively encouraged to submit “alternative” reports which provide the Committee with a fuller and often more critical analysis of the state of children's right in a given country. Encouraging NGOs to submit reports has promoted the creation of national coalitions which present information on behalf of the national NGO body as a whole.

The interaction process with NGOs is institutionalized through the pre-sessional working group which meets in private; no States parties' representatives are allowed to attend, no public record of the discussion is produced. NGOs, and in particular national coalitions of NGOs, which have submitted written reports, are invited to attend the meetings. A three-hour session is allocated to each State party report. NGOs are invited to comment on the State party report and the process of its production (including to what extent NGOs were consulted in its preparation).

Introducing an Individual Complaints Procedure?

The Convention has no mandate to accept and review individual complaints. Members of the

Committee indicated two options. On the one hand, the Committee recommended children or their representatives to refer to other treaty bodies, namely Human Rights Committee (see section III.2), CERD (see section III.3), CAT (see section III.5), or CEDAW (see section III.4). Furthermore, references can be made to the special procedures of the Human Rights Council, including the mechanisms for urgent actions and appeals, including the Special Rapporteurs on the Sale of Children, Child Prostitution and Child Pornography; on Torture; on Extrajudicial, Summary or Arbitrary Executions or the Working Group on Arbitrary Detention.

On the other hand the Committee suggested further efforts in order to draw up an individual complaints procedure within the scope of an optional protocol to the Convention. This initiative is supported by NGOs on the national as well as international level (for instance, World Vision Canada, amnesty international). Among the reasons given stress was laid on the possibility of an supplementary examination of issues by the Committee, the strengthening of the children's individuality and legal personality, the victim's potential indemnity and the growing public attention and appreciation of the Convention. In order to further elaborate on this issue, the Human Rights Council decided to set up an Open-ended Working Group on an optional protocol to the Convention on the Rights of the Child to provide such a communication procedure (see chart 5).

References

ALEN, André (Ed): *The UN Children's Rights Convention. Theory meets Practice*. Antwerpen: Intersentia, 2007, XXX, 658.

ANG, Fiona: *Participations Rights of Children*. IAP Children's Rights Network. Antwerpen: Intersentia, 2006, XVI, 255.

BELSER, Eva M.; HANSON, Karl; HIRT, Alexandra (Ed): *Sourcebook on International Children's Rights*. Berne: Stämpfli Publishers; Brussels: Bruylant, 2009, XI, 613.

BREEN, Claire: *The Role of NGOs in the Formulation of and Compliance with the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict*. In: *Human Rights Quarterly* 25/2: 453–481, May 2003.

COLLINS, Tara M.: *The Significance of Different Approaches to Human Rights Monitoring: A Care Study of Child Rights*. IN: *The International Journal of Human Rights* 12/2: 159–187, April 2008.

DAVID, Paulo: *Rights of the Child: Overview on Implementation*. In: *International Review of Education* 48/3–4: 259–263, July 2002.

DAVIS, Martha F., POWELL, Roslyn: *The International Convention on the Rights of the Child: A Catalyst for Innovative Child Care Policies*. In: *Human Rights Quarterly* 25/3: 689–719, August 2003.

DETRICK, Sharon: *A Commentary on the United Nations Convention on the Rights of the Child*. The Hague/Boston/London: Martinus Nijhoff, 1999, XIV, 790.

DETRICK, Sharon (Ed): The United Nations Convention on the Rights of the Child. A Guide to the “Travaux Préparatoires”. Dordrecht/Boston/London: Martinus Nijhoff, 1992, X, 712.

FREEMAN, M.D.A: Human Rights, Children’s Rights and Judgement: Some Thoughts on Reconciling Universality and Pluralism. In: International Journal of Children’s Rights 10/4: 345–354, 2002.

GREENBAUM, Charles W; VEERMAN, Philipp; BACON-SHNOOR, Naomi (Ed): Protection of Children During Armed Political Conflict. A Multidisciplinary Perspective. Antwerpen: Intersentia, 2006, XXVII, 486.

GROVER, Sonja C.: Prosecuting International Crimes and Human Rights Abuses Committed Against Children. Leading International Court Cases. Heidelberg: Springer, 2010, XXVII, 1132.

HAMMARBERG, Thomas: The Convention on the Rights of the Child: New Attitudes to Children. In: Development. Journal of SID 1: 27–31, 1996.

HODGKIN, Rachel; NEWELL, Peter: Implementation Handbook for the Convention on the Rights of the Child. New York: UNICEF, 2000, 690.

KOLOSOV, Yuri: The Rights of the Child. In: SYMONIDES, Janusz (Ed): Human Rights: Concept and Standards. Aldershot / Burlington, VT: Dartmouth; Ashgate, 2000, 259–275.

LANSDOWN, Gerison: The Reporting Process Under the Convention on the Rights of the Child. In: ALSTON, Philip; CRAWFORD, James (Ed): The Future of UN Human Rights Monitoring. Cambridge: Cambridge University Press, 2000, 113–128.

NESI, Guiseppe; NOGLER, Luca; PERTILE, Marco (Ed): Child Labour in a Globalized World. A Legal Analysis of ILO Action. Aldershot; Ashgate, 2008, XXIV, 467.

OESTREICH, Joel E.: UNICEF and the Implementation of the Convention on the Rights of the Child. In: Global Governance 4/2: 183–198, April-June 1998.

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, SAVE THE CHILDREN SWEDEN: Legislative History on the Convention on the Rights of the Child. Parts I and II. New York and Geneva: UN, 2007 (CD-ROM).

UNICEF: The State of the World’s Children. Special Edition. Celebrating 20 Years of the Convention on the Rights of the Child. New York: UNICEF, November 2009, 92.

UNICEF INNOCENTI RESEARCH CENTRE (IRC): Handbook on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Florence: UNICEF Innocenti Research Centre, February 2009, X, 61.

This publication describes the genesis, scope and content of the Protocol, and provides examples of measures taken by States parties to fulfil their obligations under this instrument.

UNITED NATIONS / CRC: Report on the Forty-eight Session (Geneva, 19 May – 6 June 2008). New York: UN, 16 November 2008, 127 (CRC/C/48/3) (also available in other official languages of the UN).

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Committee on the Rights of the Child. New York: UN, 2008, 76 (GAOR Sixty-third Session, Supplement No. 41 (A/63/41)) (also available in other official languages of the UN).

Part II deals with the reports by States parties under Article 44 of the Convention with references to the document symbols of the concluding observations published as separate documents. The annexes contain three general comments: No.8 (2006): The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment; No.9 (2006): The right of children with disabilities; No.10 (2007): Children's rights in juvenile justice.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Committee on the Rights of the Child. New York: UN, 2006, 59 (GAOR Sixty-first Session. Supplement No. 41 (A/61/41)) (also available in other official languages of the UN).

In Part III the States reports are summarized; in annexes II and III general comments No. 6 (Treatment of unaccompanied and separate children outside their country of origin) and 7 (Implementing child rights in early childhood) are reproduced.

VAN BUEREN, Geraldine: The International Law on the Rights of the Child. The Hague/Boston/London: Nijhoff, 1998, XXIII, 435.

VANDENHOLE, Wouter: Economic, Social and Cultural Rights in the CRC: Is There a Legal Obligation to cooperate internationally for Development? In: International Journal of Children's Rights 17/1: 23-63, 2009.

VERHELLEN, Eugeen (Ed): Monitoring Children's Rights. The Hague/Boston/ London: Nijhoff, 1996, XXVI, 940.

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General:

<http://www2.ohchr.org/english/bodies/crc/index.htm>

General Comments:

<http://www2.ohchr.org/english/bodies/crc/comments.htm>

States reports:

<http://www2.ohchr.org/english/bodies/crc/sessions.htm>

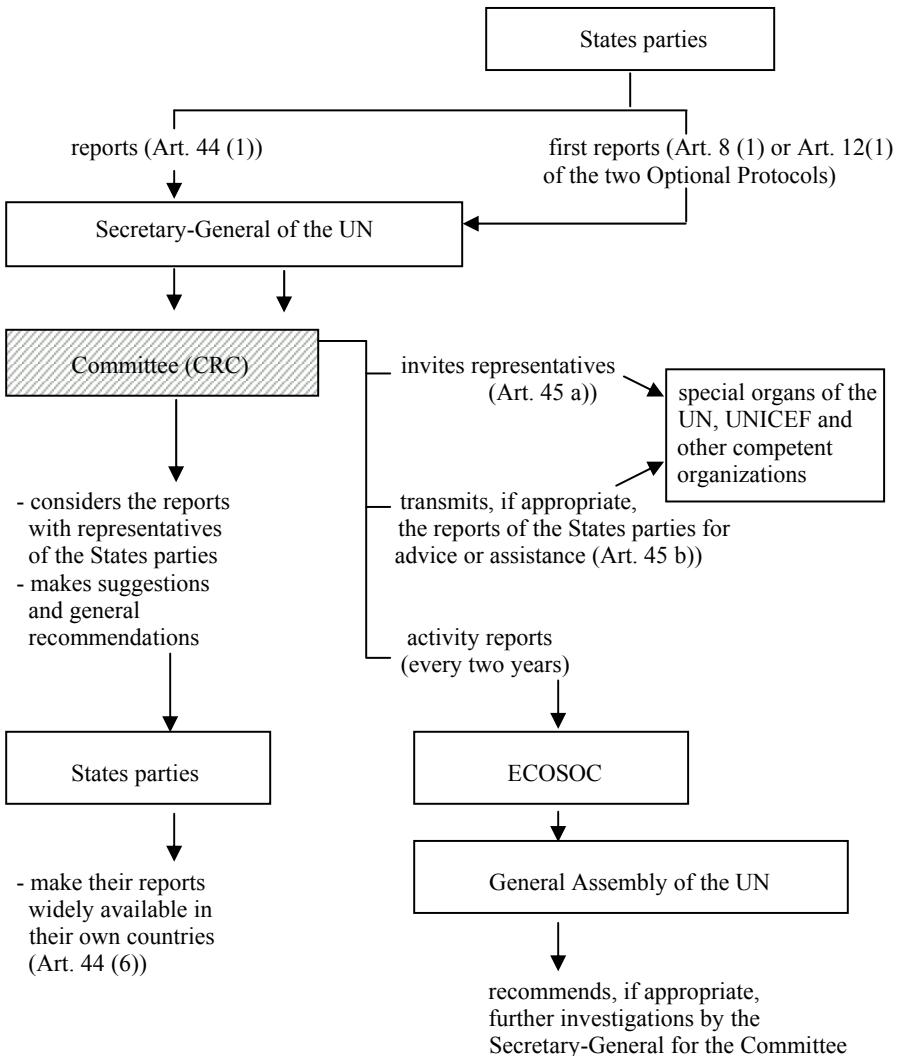
Handbook on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

http://www.unicef-irc.org/publications/pdf/optional_protocol_eng.pdf

Annual reports of the Special Rapporteur on the sale of children, child prostitution and child pornography:

<http://www2.ohchr.org/english/issues/children/rapporteur/annual.htm>

Chart 16:
Convention on the Rights of the Child: Reports of the
States Parties



III.7 The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

The Committee is the monitoring body of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families which was adopted by the General Assembly in resolution 45/158 of 18 December 1990 and entered into force on 1 July 2003. As of 11 January 2010, 42 States parties had ratified the Convention, most of them from Latin America and Africa, none from Western or Central Europe (for details see annex VI.3).

Article 2, para. 1, of the Convention defines a migrant worker as “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national”. This is the most comprehensive definition of migrant workers found in any international instrument concerned with migrants.

Members of the migrant worker’s family are “persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependant children and other dependant persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned” (Article 4).

The Committee held its tenth session in April 2009 in Geneva. The Committee is composed of 14 members elected for a term of four years. Re-election is possible upon re-nomination.

If possible, due consideration is to be given to equitable geographical distribution which includes in particular the representation of both States of origin and States of employment of migrant workers and to the representation of the principle legal systems. As from 2009, two sessions per year in Geneva are foreseen, one of two weeks and one of one week.

Article 73: States Reports on Implementation

According to Article 73, States parties are obliged to submit reports on the legislative, political, administrative and other measures they have taken to give effect to the provisions of the Convention (see chart 17). Their reports shall also indicate factors and difficulties affecting the implementation of the Convention and shall include information on the characteristics of migrant flows. States parties shall make their reports widely available to the public in their own countries.

Initial reports are to be submitted within one year after entry into force of the Convention for the State party concerned. Periodic reports are due every five years.

During the 10th session, the Committee noted with concern that until 1 May 2009 28 initial reports by the States parties had not been received. In addition, 11 second periodic reports were overdue. The Committee decided to send reminders to those States parties whose reports were overdue.

The Committee does request follow-up information to its recommendations made in the concluding observations on initial reports to be presented in the second periodic reports. In the case of follow-up replies from some States parties, it decided that the Committee member who has acted as rapporteur for the examination of the report concerned would study the follow-up replies received and make recommendations to the Committee for appropriate action.

Article 74: Cooperation with ILO

A privileged relationship exists with the International Labour Office which will receive copies of the States reports in order to allow it to assist the Committee in the examination. The ILO will also be invited to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee.

During its first session, the Committee met with ILO representatives; they discussed possible ways of cooperation, bearing in mind the prominent role the Convention reserves for ILO and its various departments that deal with issues of migrant workers and their families.

The Committee may also invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organizations, to submit written information on matters dealt with in the Convention and falling within the scope of their activities; they also may be invited to be presented to be heard in its meetings (see chart 17).

Article 76: State Party vs. State Party

A State party may declare that it recognizes the competence of the Committee to receive and consider communications of another State party claiming that it is not fulfilling its obligations under the present Convention. No communication can be received by the Committee if it concerns a State party which has not made such a declaration. Article 76 contains a detailed procedure describing the different steps to be undertaken. The provisions of Article 76 will enter into force when ten States parties have made the necessary declaration.

Article 77: Individual Complaints

Article 77 of the Convention provides for an individual complaints procedure. A State party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the Convention have been violated by that State party. Communications from or on behalf of individuals will only be considered if

- the same matter has not been, or is not being, examined under another procedure of international investigation or settlement; and
- the individual has exhausted all available domestic remedies (this shall not be the rule where the Committee is of the opinion that the application of the remedies is unreasonably prolonged).

This individual complaints procedure is planned to become operational in the light of all information made available to the Committee by or on behalf of the individual and by the State party concerned. The Committee will examine the communications in closed meetings.

This procedure will become operational when ten States parties have made such a declaration. Until 11 January 2010, only two States parties have made a declaration under Article 77.

International Regulations of Migrant Workers and Migration

As mentioned above, close cooperation with the International Labour Office is envisaged in the monitoring of the implementation of the International Convention. In fact, the International Labour Organization has a comprehensive system of standards with a unique tripartite supervisory mechanism (see IV.2) which includes two Conventions (No. 97 on migration for employment of 1949 and No. 143 on migrant workers of 1975) and two accompanying Recommendations addressing migrant workers' concerns.

Both ILO Conventions have similar overall aims; they cover issues concerning the whole migratory process and advocate the development of model contracts to govern the situation of migrant workers. As mentioned above, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families applies a broader definition of "migrant worker" as well as of "family". In its Part III (Articles 8-35), the civil, political, economic, social and cultural rights applicable to all migrant workers and members of their families are enumerated irrespective of whether they are documented or non-documented.

Targeted Ratification Campaigns

Until February 2010, the ILO Convention No. 97 has attracted a total of 49 ratifications, whereas the ILO Convention No. 143 reached only 23. The most often mentioned obstacle was non-conformity between national legislation and the Convention. Both ILO Conventions have not been the object of any targeted ratification campaign.

The International Convention attracted only nine ratifications until 1999; following promotional efforts for the ratification it has attracted a total of 42 ratifications as of 11 January 2011. In its Resolution A/RES/59/262 of 23 December 2004, the UN General Assembly once again called upon all Member States that had not yet become a party to the International Convention to consider urgently signing and ratifying or acceding to it. Also, UNESCO's Programme on Social Transformation Themes includes the topic: "International migration and multicultural policies". Within that project a series of country studies on the obstacles to the ratification of the International Convention as well as on the political and social impacts of ratification was undertaken. Afterwards, information and advocacy activities in specific regions are planned in order to make the International Convention better known.

References

BAYEFSKY, Anne (Ed): Human Rights and Refugees, Internally Displaced Persons and Migrant Workers. Essays in Memory of Joan Fitzpatrick and Arthur Helton. Leiden / Boston: Martinus Nijhoff, 2006, XXX, 598.

CHOLEWINSKI, Ryszard: Migrant Workers in International Human Rights Law. Oxford: Clarendon Press, 1997, LXXII, 463.

GUCHTENEIRE, Paul de; PÉCOUD, Antoine; CHOLEWINSKI, Ryszard (Ed): Migration and Human Rights. The United Nations Convention on Migrant Workers' Rights. Paris: UNESCO; Cambridge: Cambridge University Press, 2009, 472.

INTERNATIONAL CATHOLIC MIGRATION COMMISSION: How to Strengthen Protection of Migrant Workers and Members of Their Families with International Human Rights Treaties. Geneva: ICMC, January 2004, 34.

ŞEN, Faruk; KORAY, Sedef: Migrant Workers' Rights. In: SYMONIDES, Janusz (Ed): Human Rights: Concept and Standards. Aldershot / Burlington, VT: Dartmouth; Ashgate, 2000, 327–341.

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: The International Convention on Migrant Workers and its Committee. New York and Geneva: UN, 2005, III, 62 (Fact Sheet No. 24 (Rev. 1)).

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. Ninth session (24–28 November 2008). Tenth session (20 April–1 May 2009). New York: UN, 2009, 51 (GAOR Sixty-fourth Session, Supplement No. 48 (A/64/48)).

Chapter V contains the concluding observations of the Committee on the reports by five States parties under Article 73. Annex III offers a table showing the dates – as of 1 May 2009 – by which the reports should be submitted.

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. Seventh session (26–30 November 2007). Eighth session (14–25 April 2008). New York: UN, 2008, 39 (GAOR Sixty-third session, Supplement No. 48 (A/63/48)).

Chapter V deals with the consideration of three States reports submitted in accordance with Article 74 of the Convention. In Annex V the guidelines for the periodic reports to be submitted by States parties under Article 73 are reproduced.

VEDSTED-HANSEN, Jens: Refugees, Asylum-seekers and Migrant Workers. In: KRAUSE, Catarina; SCHEININ, Martin (Ed): International Protection of Human Rights: A Textbook. Turku / Åbo: Åbo Akademi University, Institute for Human Rights, 2009, 301–321.

VUCETIC, Srdjan: Democracies and International Human Rights: Why is There No Place for Migrant Workers? In: The International Journal of Human Rights 11/4: 403-428, December 2007.

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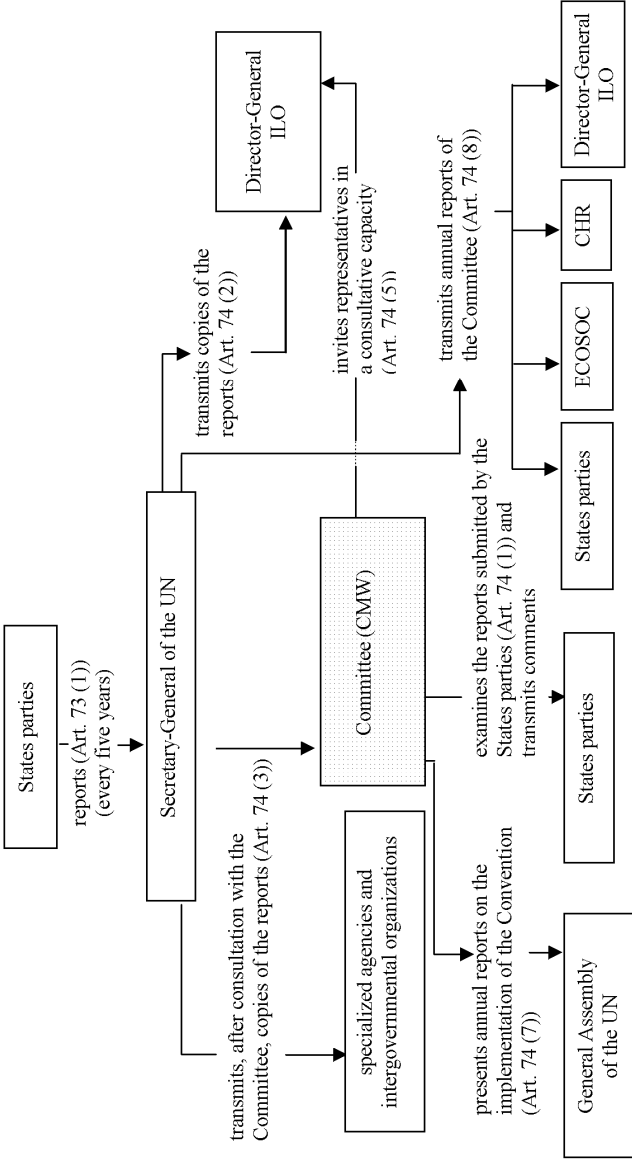
General:

<http://www2.ohchr.org/english/bodies/cmw/index.htm>

States reports:

<http://www2.ohchr.org/english/bodies/cmw/sessions.htm>

Chart 17:
The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Reports of the States Parties



III.8 The Committee on the Rights of Persons with Disabilities (CRPD)

The Convention on the Rights of Persons with Disabilities was adopted by the General Assembly on 13 December 2006 (resolution A/RES/61/106). The Convention entered into force on 3 May 2008, one month after having received the 20th ratification. The Optional Protocol entered into force on the same day, having received the necessary ten ratifications. As at 11 January 2010, there were 144 signatories to the Convention and 77 ratifications; there were 88 signatories to the Optional Protocol and 48 ratifications.

The purpose of the Convention is “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity” (Article 1). According to Article 1 persons with disabilities include “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.

Article 2 includes a definition of discrimination on the basis of disability which “means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.

The Convention gives universal recognition to the dignity of persons with disabilities. Persons with disabilities are not viewed as objects of charity, medical treatment and social protection; they are subjects of human rights being capable of claiming those rights and being active members of society.

The full and effective participation and inclusion in society is recognized in the Convention as a general principle (Article 3), as a general obligation (Article 4 sets a long list of obligations on States parties), and as a right (for instance, the right to work (Article 27), the right to an adequate standard of living (Article 28), the right to take part in the conduct of public affairs (article 29), and the right to take part in cultural life (Article 30)). Inclusion is referred to in several articles (for instance, the right to live in the community (Article 19), the right to education (Article 24)).

The Committee on the Rights of Persons with Disabilities

The Committee is composed of 12 independent experts serving in their personal capacity and being elected for a term of four years; they are eligible for re-election once. After an additional 60 ratifications or accessions to the Convention, the membership of CRPD will increase by six members, bringing the total membership to 18 experts.

The members of the Committee will be elected by secret ballot by the States parties. Due

consideration will be given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities. The Committee convenes for ordinary sessions twice a year in Geneva; its first session took place in February 2009. The third session was scheduled to take place in February 2010.

The Committee has to fulfil three principle functions: (1) review of periodic reports on implementation of the States parties; (2) examination of individual complaints under the Optional Protocol; and (3) undertaking of inquiries in the case of reliable evidence of grave and systematic violations of the Convention.

During the second session of the Committee a day of general discussion on Article 12 of the Convention (“The right to equal recognition before the law”) took place on 21 October 2009. The Committee will hold a day of general discussion each year in order to foster a deeper understanding of the contents and implications of the Convention as they relate to specific articles or topics. Those meetings take place in public, and representatives of governments, UN human rights mechanisms, specialized agencies, NGOs, NHRIs as well as individual experts and children are invited to participate.

Articles 35 and 36: States Reports

States parties are required to submit their initial reports within two years after the entry into force of the Convention for the States parties concerned, and at least every four years thereafter (see chart 18).

The first State report must be a comprehensive report on measures taken to give effect to the obligations under the Convention and on the progress made by the State party concerned (Article 35, para. 1).

Based on the experience of other treaty bodies, Article 36, para. 2, deals with States parties being significantly overdue in the submission of their reports. If the relevant report of a State party concerned is not submitted within three months after notification, the Committee will need to examine the implementation of the Convention on the basis of reliable information available. The Convention also demands that “States parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports” (Article 36, para. 4).

Optional Protocol: A Procedure for Individual Complaints

The Committee is also mandated to receive and examine complaints (“communications”) from or on behalf of individuals or groups of individuals alleging to be victims of violations of the Convention by States parties that have become party to the Optional Protocol (see chart 19).

According to Article 2 of the Optional Protocol, the Committee shall consider a communication not admissible when

How to File Complaints on Human Rights Violations

- the communication is anonymous;
- the communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention;
- the same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- all available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
- it is manifestly ill-founded or not sufficiently substantiated; or when
- the facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

Complaints are examined by the Committee in closed meetings (Article 5 of the Protocol). Articles 6 and 7 refer to grave or systematic violations by a State party. If the Committee receives reliable information, the State party will be asked to submit observations with regard to the information concerned. Also, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee (Article 6, para. 2).

In Article 7, the State party is invited to include in its reports under Article 35 of the Convention details of any measures taken in response to an inquiry conducted by members of the Committee.

Important to note is that, according to Article 8, each State party may declare at the time of signature or ratification that it does not recognize the competence of the Committee provided for in Articles 6 and 7.

International Day of Persons with Disabilities

About 10 percent of the world's population are persons with disabilities. Approximately 80 percent of whom live in developing countries. The annual observance of the International Day of Persons with Disabilities on 3 December aims to promote an understanding of disability issues, the rights of persons with disabilities and societal gains to be derived from the integration of persons with disabilities in every aspect of the political, social, economic and cultural life of their communities.

References

ARNARDÓTTIR, Oddný Mjöll; QUINN, Gerard (Ed): The UN Convention on the Rights of Persons with Disabilities. European and Scandinavian Perspectives. Leiden: Martinus Nijhoff, 2009, XXIV, 319.

BREEN, Claire: The Right to Education of Persons with Disabilities: Disabled in Interpretation and Application. In: Netherlands Quarterly of Human Rights 21/1: 7-37, March 2003.

KALLEHAUGE, Holger: The Genesis of a New Human Rights Convention – A Convention on the Rights of Persons with Disabilities. In: JØRGENSEN, Rikke Frank; SLAVENSKY, Klaus (Ed): Implementing Human Rights. Essays in Honour of Morten Kjaerum. Copenhagen: The Danish Institute for Human Rights, 2007, 337-347.

KAYESS, Rosemary; FRENCH, Philip: Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities. In: Human Rights Law Review 8/1: 1-34, 2008.

MÉGRET, Frédéric: The Disability Convention: Human Rights of Persons with Disabilities or Disability Rights? In: Human Rights Quarterly 30/2: 494-516, May 2008.

MÉGRET, Frédéric: The Disabilities Convention: Towards a Holistic Concept of Rights. In: International Journal of Human Rights 12/2: 261-277, April 2008.

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: The New Core International Human Rights Treaties. New York and Geneva: UN, 2007, 66.

UNITED NATIONS / COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES: Guidelines on Treaty-specific Document to be submitted by States parties under Article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities. Geneva: UN, 18 November 2009 (CRPD/C/2/3).

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General:

<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>

Sessions:

<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Sessions.aspx>

Chart 18:
Convention on the Rights of Persons with Disabilities:
Reports of the States Parties

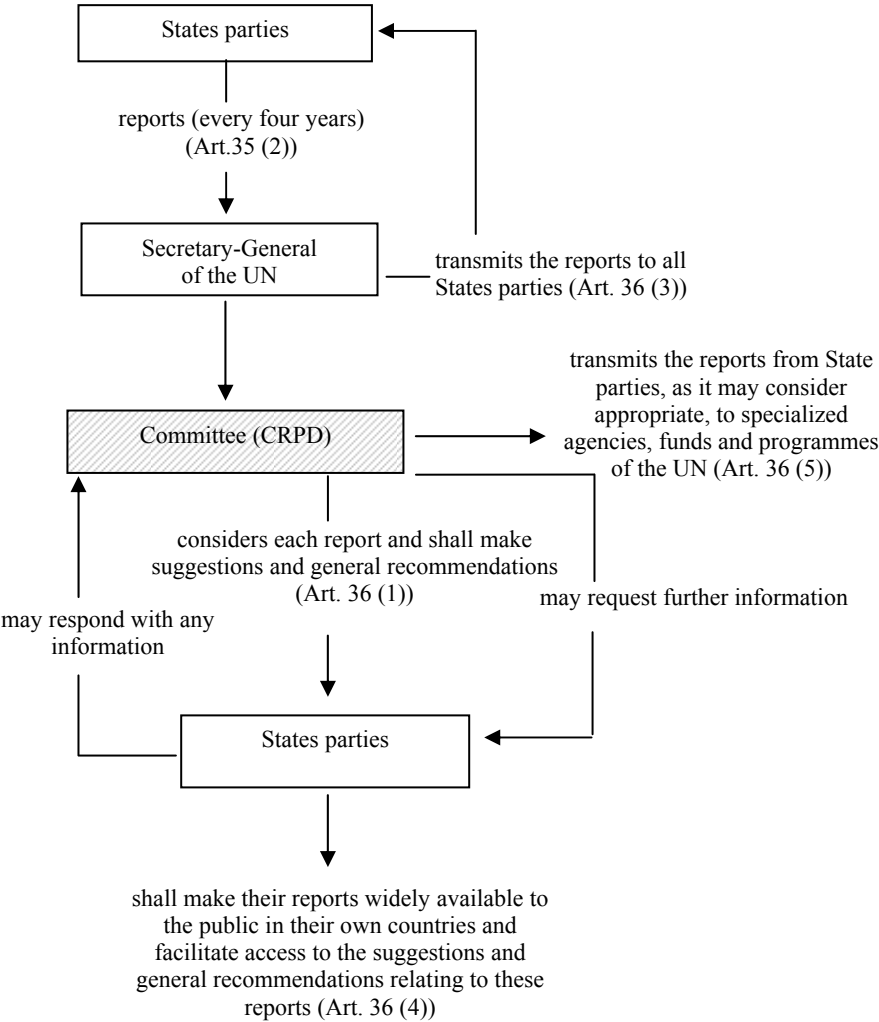
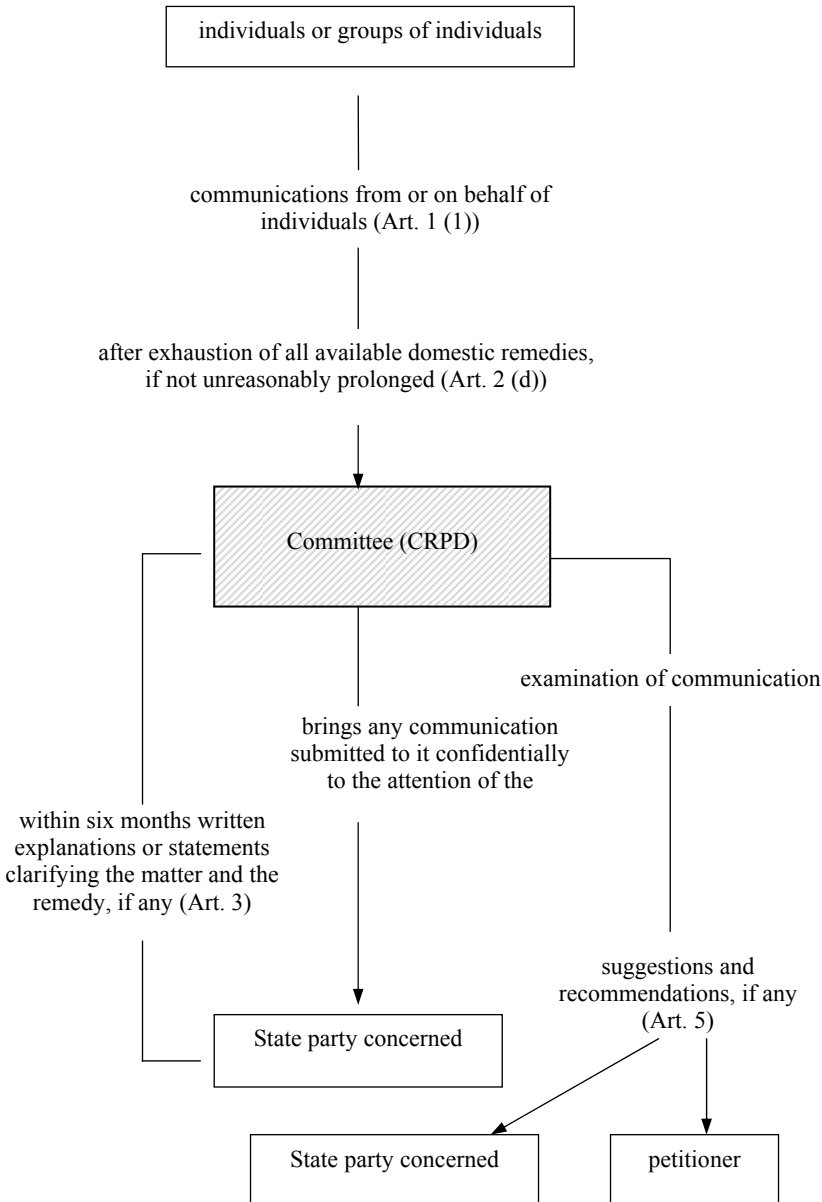


Chart 19:
Optional Protocol to the Convention on the Rights of
Persons with Disabilities: Individual Complaints
Procedure



Document 7:
Form for Communications Concerning the Optional
Protocol to the Convention on the Rights of Persons
with Disabilities

Date:

Communication to:

Petitions Team
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
CH-1211 Geneva 10
Switzerland

Fax: xx 41-22-917 9022
E-mail: tb-petitions@ohchr.org

*submitted for consideration under the Optional Protocol to the Convention on the Rights of
Persons with Disabilities*

I. Information concerning the author of the communication

Name First name(s)

Nationality..... Profession

Date and place of birth.....

Present address

.....

.....

Address for exchange of confidential correspondence (if other than present
address).....

.....

.....

Submitting the communication as:

- (a) Victim of the violation or violations set forth below..... ☐
- (b) Appointed representative/legal counsel of the alleged victim(s) ☐
- (c) Other ☐

If box (c) is marked, the author should explain:

(i) In what capacity he/she is acting on behalf of the victim(s) (e.g. family relationship or other personal links with the alleged victim(s)):

.....
.....

(ii) Why the victim(s) is (are) unable to submit the communication himself/herself (themselves):

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

An unrelated third party having no link to the victim(s) cannot submit a communication on his/her (their) behalf.

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

Name First name(s)

Nationality..... Profession

Date and place of birth.....

Present address or whereabouts.....

.....
.....

III. State concerned/articles violated/domestic remedies

Name of the State party (country) to the International Covenant and the Optional Protocol against which the communication is directed:

.....

Articles of the International Covenant on Civil and Political Rights allegedly violated:

.....
.....

How to File Complaints on Human Rights Violations

Steps taken by or on behalf of the alleged victim(s) to exhaust domestic remedies-recourse to the courts or other public authorities, when and with what results (if possible, enclose copies of all relevant judicial or administrative decisions):

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

If domestic remedies have not been exhausted, explain why:

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

IV. Other international procedures

Has the same matter been submitted for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Court on Human Rights)? If so, when and with what results?

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

V. Facts of the claim

Detailed description of the facts of the alleged violation or violations (including relevant dates)*

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

Author's signature:

* Add as many pages as needed for this description.

III.9 The Committee on Enforced Disappearances (CED)

The General Assembly proclaimed on 18 December 1992 the Declaration on the Protection of all Persons from Enforced Disappearance as a body of principles for all States.

The International Convention for the Protection of All Persons from Enforced Disappearances (ICED), adopted by resolution A/RES/61/177 of the General Assembly on 20 December 2006, is not yet in force. According to Article 39, the Convention will enter into force 30 days after at least 20 States have ratified it. As at 11 January 2010, 18 States had ratified the ICED. Since it can be expected that the Convention will enter into force in the very near future, this treaty body is also included.

For the purposes of the Convention, enforced disappearance “is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law” (Article 2).

The Convention confirms that enforced disappearance constitutes a crime against humanity when practised in a widespread or systematic manner. According to Article 3, each State party must undertake appropriate measures to investigate those acts and bring those responsible to justice.

According to Article 24, para. 1, the definition of “victim” includes not only the disappeared person but also any individual who has suffered harm as the direct result of an enforced disappearance, such as family members. Article 24, para 5, also refers to the right to obtain reparation which covers material and moral damages and, where appropriate, other forms such as restitution, rehabilitation, satisfaction and guarantees of non-repetition.

The Committee on Enforced Disappearances

The Committee shall consist of ten independent experts who serve in their personal capacity. They shall be elected by secret ballot from a list of persons nominated by States parties for a term of four years and be eligible for re-election once (Article 26).

The CED is mandated to consider periodic reports, submitted by the States parties, inter-state and individual complaints. The Committee will also be allowed to undertake field inquiries and to bring situations of widespread and systematic enforced disappearance to the attention of the UN General Assembly. Furthermore, the CED can send urgent communications to States, requesting them to take all necessary measures to locate and protect a disappeared person.

After four to six years following the entry into force of the ICED, the States parties will evaluate the functioning of the Committee and decide whether they will transfer the monitoring of the Convention to another treaty body (Article 27).

The practice of enforced disappearances violates multiple human rights as laid down in the Universal Declaration on Human Rights and the two International Covenants on Human Rights (ICCPR and ICESCR) as well as in the ICED. The disappearance can infringe the following rights:

- right to recognition of the legal personality of the victim,
- right to liberty and security of the person,
- right of not being subjected to torture,
- right to life,
- right to an identity,
- right to a fair trial and to judicial guarantees,
- right to an effective remedy, including reparation and compensation,
- right to know the truth regarding the circumstance of a disappearance.

The Working Group on Enforced or Involuntary Disappearance (WGEID)

The Working Group was established by the UN Commission on Human Rights in 1980 to assist the relatives of disappeared persons to determine their fate and whereabouts. The WGEID consists of five independent experts from all regions of the world; since then, its mandate has been regularly renewed. The Working Group holds three regular sessions a year for 5-8 working days, usually in Geneva.

The Working Group does not

- directly investigate individual cases;
- directly adopt measures of protection against reprisals;
- establish individual or state responsibility in cases of enforced disappearance;
- judge and sanction;
- carry out exhumations;
- grant just satisfaction or forms of reparation; nor
- deal with disappearance perpetrated by non-state actors, e.g., rebel groups.

The Working Group examines reports received from relatives of disappeared persons or human rights organizations acting on their behalf. If these reports comply with the criteria set by the Working Group, the individual cases are transmitted to the governments concerned requesting them to carry out investigations and to inform the Working Group about the results. The Working Group deals with the cases on a purely humanitarian basis, acting as a channel of communication between the families of the victims and the governments concerned.

The Working Group reports annually to the Human Rights Council on all cases of enforced disappearance that it has received during the year; it also makes observations on the situation of disappearances in individual countries (see section II).

References

MCCRORY, Susan: The International Convention for the Protection of All Persons from Enforced Disappearance. In: Human Rights Law Review 7/3: 545-566, 2007.

NOWAK, Manfred: Torture and Enforced Disappearance. In: KRAUSE, Catarina; SCHEININ, Martin (Ed): International Protection of Human Rights: A Textbook. Turku / Åbo: Åbo Akademi University, Institute for Human Rights, 2009, 151-182.

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: Enforced or Involuntary Disappearances. Geneva: Office of the UNHCHR, July 2009, 68.

SCOVAZZO, Tullio; CITRONI, Gabriella: The Struggle against Enforced Disappearance and the 2007 United Nations Convention. Leiden/Boston: Martinus Nijhoff, 2007, XVIII, 432.

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International Convention:

<http://www2.ohchr.org/english/law/disappearance-convention.htm>

Working Group on Enforced or Involuntary Disappearance (WGEID):

<http://www2.ohchr.org/English/issues/disappear>

Document 8:
Form to submit Communications on Victims of an
Enforced or Involuntary Disappearance

Communication to:

Working Group on Enforced or Involuntary Disappearances
OHCHR, Palais des Nations
8-14 Avenue de la Paix
CH-1211 Geneva 10
Switzerland

Fax: xx 41-22-917 9006
E-mail: wgeid@ohchr.org

Important: Elements indicated with an asterisk (*) are mandatory.

Note: If any information contained in the report, besides the mandatory requested elements, should be kept confidential, please write “CONFIDENTIAL” beside the relevant entry.

CASES SUBMITTED BY ORGANIZATIONS:

Please note that if a case is being submitted to the Working Group by an organization, it is necessary for that organization to follow up on it by conveying Government information from the Working Group to the family and from the family to the Working Group until the fate or whereabouts of the person are determined. In the regard, ***please indicate whether the reported victim's family has given its direct consent*** for your organization to submit this case to the Working Group on its behalf and whether your organization will be able to liaise between the family and the Working Group.

* Consent of victim's family given directly to your organization to submit this case?

Yes, direct consent received from family _____

No consent from family _____

* If this case is being submitted by an organization, will the organization be able to follow up by conveying information between the family and the Working Group?

Yes _____ No _____

1. Identity of the disappeared person:

- (a) Family Name (*)
- (b) First name (*)
- (c) Sex: male..... / female
- (d) Date of birth:.....
- (e) Identity document:..... Nr:.....
Date of issue: Place of issue:.....
- (f) Address of usual residence:.....
.....
.....
- (g) Pregnant: yes / no

2. Date on which the disappearance occurred (*):

Day Month (*) Year (*) of disappearance

3. Place of arrest or abduction, or where the disappeared person was last seen (*):

Location (if possible, street, city, province or other relevant indications):

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

4. Forces (State or State-supported) believed to be responsible for the disappearance (*):

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

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

(b) If identification as State agents is not possible, why do you believe that Government authorities, or persons linked to them, are responsible for the incident?

.....

.....

.....

.....

.....

(c) If there are witnesses to the incident, indicate their names. If they wish to remain anonymous, indicate if they are relatives, passers-by, etc. If there is evidence, please specify:

.....

.....

.....

.....

.....

5. Action taken by relatives or others to locate the person (enquiries with police, jail, human rights commission, habeas corpus petition, etc.) (*):

(a) Indicate if complaints have been filed, when, by whom and before which organ.

.....

.....

.....

.....

.....

(b) Other steps taken:

.....

.....

.....

.....

.....

(c) If action was not possible, please explain why:

.....

.....

.....

.....

.....

6. Identity of the person or organization submitting the report (*):

- (a) Family Name:
- (b) First name:
- (c) Relationship to the disappeared person:
- (d) Organization (if applicable):
- (e) Address (telephone, fax, e-mail):
.....
.....
.....
- (f) Please state whether you would like your identity to be kept confidential

Yes, keep my identity confidential: _____

No request for confidentiality: _____

Additional information on the case

Please indicate any other relevant information that has not been covered by the previous questions. If one of the mandatory elements noted (*) in this report could not be answered, please indicate why.

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

Date:

Signature of author:

IV. Other Procedures within the UN System

The description of human rights procedures would be incomplete without some details about the work of two specialized organizations of the UN, namely the UN Educational, Scientific and Cultural Organization (UNESCO) and the International Labour Organization (ILO).

IV.1 The UNESCO Procedures

Introduction

Under Article 1, para. 1, of its Constitution UNESCO's purpose is "to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations". In the sixty-two years since the adoption of the Universal Declaration of Human Rights (see annex VI.2), UNESCO has undertaken a wide number of activities to achieve its full implementation. Besides a comprehensive programme of teaching and of research and publications, the Organization's standard-setting activities resulted in over seventy conventions, declarations and recommendations. A large number of these instruments is linked directly or indirectly with those human rights which are within UNESCO's fields of competence.

Those instruments envisage the monitoring of their implementation. UNESCO's Constitution provides that each Member State shall submit to the Organization reports on laws, regulations and statistics relating to its educational, scientific and cultural institutions and activities, and on the action upon recommendations and conventions (Articles VI, para. 4, and VIII). Sometimes, specific provisions are also included in the conventions. For instance, Article 7 of the 1960 Convention against Discrimination in Education provides that the States parties shall give information on the legislative and administrative provisions which they have adopted for the application of the Convention in their periodic reports to the General Conference of UNESCO. Article 6 of the Convention stipulates that the General Conference of UNESCO may adopt subsequent recommendations defining the measures to be taken against the different forms of discrimination in education and for the purpose of ensuring equality of opportunity and treatment.

The Committee on Conventions and Recommendations (CR)

UNESCO has set up the Committee on Conventions and Recommendations (CR) as a subsidiary organ of its Executive Board which is responsible for examining the reports of Member States since 1965. In addition to the task of considering all questions relating to the implementation of UNESCO's standard-setting instruments entrusted to it by the Executive Board, since 1978 the Committee is entrusted with a second main task: to examine communications relating to cases and questions concerning the exercise of human rights in UNESCO's fields of competence.

Furthermore, the Committee fulfils the following tasks:

- (a) to examine the reports of the Joint ILO-UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (see also section IV.2); and
- (b) to examine the reports of the Joint Expert Group UNESCO (CR) / ECOSOC (CESCR) on the Monitoring of the Right to Education.

As a subsidiary organ of UNESCO's Executive Board, which is presently composed of 58 Member States, the Committee consists of representatives from 29 Member States. They do not serve as experts in their personal capacity as it is in the case of the members of the UN human rights treaty bodies.

Meetings of the Committee take place usually immediately before every ordinary session of the Executive Board, that is twice a year for normally three days.

States Reporting System

Within the framework of its first task, the Committee monitors the implementation of three conventions, namely:

- the 1960 Convention against Discrimination in Education ratified by 93 States;
- the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property ratified by 118 States; and
- the 1989 Convention on Technical and Vocational Education ratified by 17 States.

In addition, the Committee monitors the following 11 recommendations:

- the 1960 Recommendation against Discrimination in Education;
- the 1966 Recommendation concerning the Status of Teachers;
- the 1974 Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms;

- the 1974 Recommendation on the Status of Scientific Researchers;
- the 1976 Recommendation on the Development of Adult Education;
- the 1978 Revised Recommendation concerning the International Standardization of Educational Statistics;
- the 1980 Recommendation concerning the Status of the Artist;
- the 1993 Recommendation on the Recognition of Studies and Qualifications in Higher Education;
- the 1997 Recommendation concerning the Status of Higher-Education Teaching Personnel;
- the 2001 Revised Recommendation concerning Technical and Vocational Education; and
- the 2003 Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace.

In 2007, the Executive Board adopted a multi-stage procedure for the monitoring of the implementation of UNESCO conventions and recommendations (see chart 20). In the case of conventions, the Secretariat will submit a summary of the reports. With regard to recommendations, the Secretariat will submit a consolidated report. The debates and work of the Committee and the Executive Board will take place in public meetings.

In both cases, the Committee exams synoptic documents drawn up by the Secretariat on the periodic reports, without scrutinizing carefully the national reports by the States parties or engaging in dialogue with the countries concerned, as other UN treaty bodies do, such as the UN Committee on Economic, Social and Cultural Rights (CESCR; see III.1). This indicates the strategic importance of the role of the Secretariat. The States reports are based upon guidelines elaborated by the Secretariat and approved by the Executive Board. Due to the fact that the information of the single States reports is aggregated, the monitoring process necessarily leads to a loss of information.

In the past, low response rates and an often extremely general nature of replies could be observed. There exists a far-reaching consensus that this first aspect of the terms of reference relating to the monitoring of the implementation of UNESCO's standard-setting instruments must be strengthened. Low ratification rates as well as low response rates of the States parties in the case of the three conventions are a major challenge to the Organization. Whether the specific multi-stage procedure for the monitoring of the implementation of conventions recently adopted by the Executive Board will increase the effectiveness of the monitoring process remains to be seen (see chart 20).

Individual Complaints Procedure

Alongside the procedures laid down in UNESCO Conventions, in 1978 the Executive Board of UNESCO adopted a confidential procedure for the examination of individual communications (complaints) received by the Organization concerning alleged violations of human rights in its

fields of competence, namely education, science, culture and information (see chart 21). This procedure is set out in 104 EX/Decision 3.3 of the Executive Board. Between 1978 and 2009, due to this procedure out of 551 cases recognized admissible 352 cases were settled (see chart 22).

Individuals, groups of individuals and NGOs may submit complaints to UNESCO concerning violations of human rights, whether the authors of these communications are themselves victims of such violations or whether they deem to have reliable knowledge of such violations (see document 8).

The rights falling under UNESCO's competence are essentially the following (each Article mentioned below refers to the Universal Declaration of Human Rights as reprinted in annex VI.2; the rights concerned also appear in the two UN Covenants of 16 December 1966):

- the right to education (Article 26);
- the right to share in scientific advancement (Article 27);
- the right to participate freely in cultural life (Article 27);
- the right to information, including freedom of opinion and expression (Article 19).

These rights may imply the exercise of others, the most noteworthy of which are:

- the right to freedom of thought, conscience and religion (Article 18);
- the right to seek, receive and impart information and ideas through any media and regardless of frontiers (Article 19);
- the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production (Article 27);
- the right to freedom of assembly and association (Article 20) for the purposes of activities connected with education, science, culture and information.

The victims of human rights violations are normally teachers, students, researchers, artists, writers, journalists, in short intellectuals who, by virtue of their position, come under UNESCO's fields of competence, or any other person on account of having exercised one or other of the rights set out above.

Communications intended for handling should be sent to the

Director of the Office of
International Standards and Legal Affairs of UNESCO
7 place de Fontenoy
F - 75352 Paris 07 SP,
France
Fax: xx 33-1-456 85575
E-mail: sec.cr@unesco.org

The letter containing a concise statement of the allegations must be signed and drafted in one of the Organization's working languages (English or French). The Secretariat will then send to the author of the letter a form to be completed (see document 8) which constitutes his/her communication and which will be transmitted to the government concerned and examined by the Committee on Conventions and Recommendations responsible for implementing the procedure. In other words, the initial letter to the Organization is not considered to be the communication formally examined by UNESCO; it is only after the return of the form to UNESCO that a communication is formally deemed to exist.

The Committee examines communications in private session. In the first instance, it examines the admissibility of the communications. There are ten conditions governing admissibility which are set out in paragraph 14(a) of 104 EX/Decision 3.3; if one of them is not met, no further action is taken on the communication. Thus, for a communication to be admissible, it must, among others, meet the following conditions:

- the communication must not be anonymous;
- the communication must not be manifestly ill-founded and must appear to contain relevant evidence;
- the communication must be neither offensive nor an abuse of the right to submit communications;
- the communication must not be based exclusively on information disseminated through the mass media (the press, television, radio, etc.);
- the communication must be submitted within a reasonable time limit following the facts which constitute its subject matter or within a reasonable time limit after the facts have become known;
- the communication must indicate whether an attempt has been made to exhaust available domestic remedies with regard to the facts which constitute the subject matter of the communication and the result of such an attempt, if any.

Once the Committee is satisfied that the conditions of paragraph 14 (a) have been fully met, a communication is normally declared admissible and the merits are considered at the next session. The Committee notifies both the author of the communication and the government concerned of its decision on admissibility.

The Committee then proceeds to examine the substance of the communications. For this purpose and in order to establish a dialogue, the representatives of the governments concerned are invited to provide information or answer questions asked by members of the Committee on either the admissibility or the merits of the communication. Deliberation on the content of the decision to be taken for each decision takes place after the representatives of the State concerned left. Also, members of the Committee representing countries about which a communication has been raised will not be present for the private discussion leading to a decision. Since the Committee is not an international tribunal, it endeavors to resolve the problem in a spirit of international co-operation and mutual understanding. In search for an amicable solution, the Committee works in strictest confidentiality, which is seen vital to the

success of its action. The aim of the Committee's work is not to condemn the government concerned, but to improve the situation of the alleged victim.

After the session during which a communication was examined by the Committee, its author and the government concerned are informed of the Committee's decision, which is not subject to appeal. However, the Committee may agree to re-examine a communication if it receives additional information or new facts.

Chart 22 gives an overview about the number of communications considered since 1978 and specifies the development over the last decade 1999-2009. The different categories mentioned there are victim-defined; they offer some insights about the issues taken up in the Committee. The difference of 551-352=199 remaining cases concern communications that are inadmissible or whose examination has been suspended or is under way. A look at the number of communications annually received shows a declining tendency (see chart 23). It is for that reason that the Committee will discuss the issue of improving the visibility of the "104 procedure" in Spring 2010.

How to Improve the Individual Complaints Procedure

Given the fact that the UNESCO procedure was not established pursuant to a specific convention, but is based rather on the inherent constitutional authority of UNESCO, this procedure, at the time of its adoption, had several advantages vis-à-vis other UN procedures such as, for instance:

- wide access to individuals, groups, and nongovernmental organizations (NGOs);
- ability of NGOs or individuals to complain on behalf of victims;
- separate handling of each case individually throughout the procedure, rather than merging cases into a "situation" as in the case of the UN Human Rights Council (see section II);
- consideration of individual "cases" of human rights violations as well as "questions" of mass and flagrant violations;
- consideration of human rights violations of governments of UNESCO Member States that have ratified no or only a few human rights treaties; and
- the Committee's ability to use other sources of information when considering cases.

However, it has been criticized that the UNESCO procedure has not progressively evolved the way other UN procedures have. It functions almost as a top-secret affair and therefore lacks public pressure, as is the case of other procedures.

WEISSBRODT/FARLEY made several recommendations, among others, that

- the Committee should be made less political and smaller in size in order to function as an expert body;
- UNESCO should also consider to allow authors of cases to attend the meetings of the Committee offering them the opportunity to respond directly to replies of the Member

States;

- the Committee should consistently verify the replies of the Member States with authors before closing cases;
- the Committee must use the ability of the Director-General of UNESCO to appoint fact-finding missions to examine "questions" of large-scale human right violations – an option which has never been used so far;
- the Committee should develop a systematic information policy concerning the results of the UNESCO procedure; otherwise, its effectiveness cannot be fully evaluated.

Since 1999, the Committee dealt with those and other related issues and decided to keep its individual complaints procedure unchanged. In fact, there exist several advantages vi-à-vis UN treaty-based procedures such as

- the procedure is not based upon a convention and/or an optional protocol to be ratified by States parties; communications can be submitted against each UNESCO Member State within the fields of competence of the Organization;
- the goal of the procedure is not to judge against a government, but to search for a friendly solution in order to improve the situation of the alleged victim ("humanitarian approach");
- each case is handled separately throughout the procedure;
- each case is treated confidentially which allows a dialogue and close cooperation with the majority of governments concerned;
- although the alleged victims are asked to inform about the steps they have taken to exhaust domestic remedies, the procedure can take place without the exhaustion of all available domestic remedies; and
- because of the unique character of the non-judicial procedure the Committee can also examine cases within UNESCO's competence when they are being examined by UN treaty bodies.

References

ALSTON, Philip: UNESCO's Procedure for Dealing with Human Rights Violations. In: Santa Clara Law Review 20/3: 665–696, 1980.

DONDERS, Yvonne; VOLODIN, Vladimir (Ed): Human Rights in Education, Science and Culture. Legal Developments and Challenges. Paris: UNESCO; Aldershot: Ashgate, 2007, 330.

DUMONT, Georges-Henri: UNESCO, the Quest for Human Rights: UNESCO's Ultimate Goal. In: UNESCO Sources 16/1: 9–10, June 1990.

DUMONT, Georges-Henri: UNESCO's Practical Action on Human Rights. In: International Social Science Journal 122: 585–594, November 1989.

MARKS, Stephen P.: The Complaint Procedure of the United Nations Educational, Scientific and Cultural Organization. In: HANNUM, Hurst (Ed): Guide to International Human Rights Practice. Ardsley, NY: Transnational Publishers, 1999, 103–118.

PARTSCH, Karl Josef; HÜFNER, Klaus: UNESCO Procedures for the Protection of Human Rights. In: SYMONIDES, Janusz (Ed): Human Rights: International Protection, Monitoring, Enforcement. Aldershot / Burlington, VT: Ashgate, 2003, 111–132.

SYMONIDES, Janusz: Cultural Rights. In: SYMONIDES, Janusz (Ed): Human Rights: Concepts and Standards. Aldershot / Burlington, VT: Dartmouth; Ashgate, 2000, 175–227.

SYMONIDES, Janusz; VOLODIN, Vladimir: UNESCO and Human Rights. Standard-Setting Instruments – Major Meetings – Publications. Paris: UNESCO, 1996, XIV, 407.

SYMONIDES, Janusz, VOLODIN, Vladimir, RIVET, S.: Access to Human Rights Documentation. Chapter III: UNESCO Documentation and Publications in the Field of Human Rights. Paris: UNESCO, 1994, 49–93.

UNESCO: UNESCO's Procedure for the Protection of Human Rights. The Legislative History of the 104 EX/3.3 Procedure. Paris: UNESCO, 2009, 289.

UNESCO: Committee on Conventions and Recommendations. Paris: UNESCO, 2010, 86.

UNESCO: The Right to Education: Monitoring Standard-setting Instruments of UNESCO. Paris: UNESCO, 2008, 31.

UNESCO: UNESCO Convention against Discrimination in Education (1960) and Articles 13 and 14 (Right to Education) of the International Covenant on Economic, Social and Cultural Rights: A Comparative Analysis. Paris: UNESCO, 2006, 69.

WEISSBRODT, David; FARLEY, Rose: The UNESCO Human Rights Procedure: An Evaluation. In: Human Rights Quarterly 16: 391–414, 1994.

YUSUF, Abdulqawi A. (Ed): Standard-setting in UNESCO. Volume I. Normative Action in Education, Science and Culture. Essays in Commemoration of the Sixtieth Anniversary of UNESCO. Paris: UNESCO; Leiden/Boston: Martinus Nijhoff, 2007, 430.

E-Resources

General:

<http://www.unesco.org>

Standard-Setting Instruments:

http://portal.unesco.org/en/ev.php-URL_ID=12024&URL_DO=DO_TOPIC&URL_SECTION=201.html

Chart 20:
Specific Multi-stage Procedure for the Monitoring of the
Implementation of UNESCO Conventions

Stage 1:	Reports shall be submitted every four years unless the General Conference decides otherwise.
Stage 2:	While transmitting a certified copy of any convention, the Director-General will formally remind them of their obligation to submit the convention in question to their competent national authorities.
Stage 3:	The Secretariat shall prepare draft guidelines for the preparation of reports based on the framework guidelines adopted by the Executive Board. After the guidelines have been approved by the Executive Board, the Director-General will invite the Member states to submit their reports on the action taken within a period of six months.
Stage 4:	The Secretariat will submit to the Executive Board a summary of the reports received from the States parties or the measures taken for the implementation of the conventions. The documents prepared by the Secretariat will be examined by the Executive Board, which will entrust the task to the CR Committee. The debates will take place in public meetings. The Executive Board will transmit these documents to the General Conference, together with its observations or comments and any that the Director-General may make.
Stage 5:	The General Conference may take, as necessary, a decision with regard to the summaries of reports concerning the implementation of the conventions. Its statement, together with the report of the CR, will be transmitted to the Member states, the National Commissions, the United Nations, and all other relevant bodies named by the General Conference.

Source:

UNESCO/Executive Board: Committee on Conventions and Recommendations. Information Document. Paris: UNESCO, 11 February 2008, pp. 2-4 (179 EX/CR/2).

Chart 21:
Resolution 104 EX/Decision 3.3 of UNESCO:
Examination of Cases and Questions

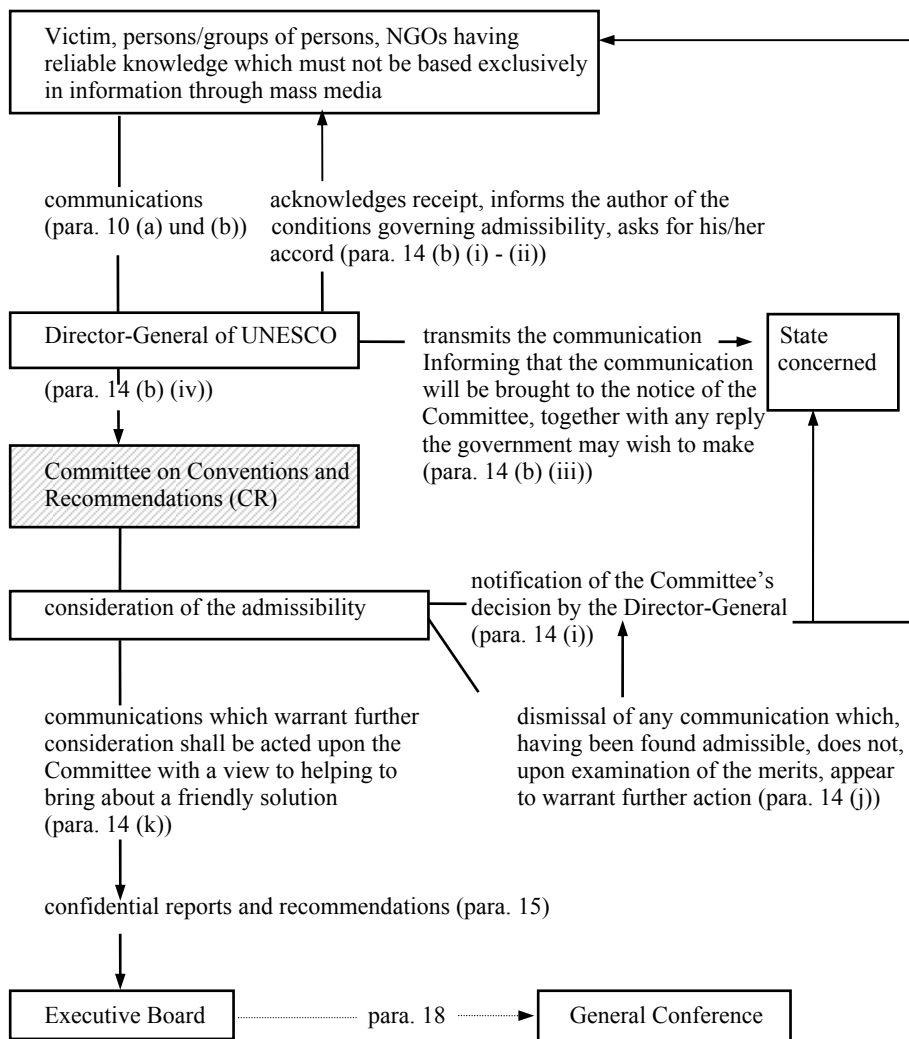


Chart 22:

Summary of the Results of the Application of the Procedure laid down by 104 EX/Decision 3.3, 1999-2009

	Oct. 1999	Oct. 2001	Sept. 2003	Sept. 2005	Sept. 2007	Sept. 2009
Total since 1978	478	488	508	529	545	551
Released before completion of sentence	164	174	186	194	200	206
Released after completion of sentence	6	6	9	11	11	12
Authorized to leave their country to go to study or teach	20	20	20	20	21	21
Authorized to return to their country	35	35	35	35	35	35
Able to resume their employment or activity falling within UNESCO's fields of competence	29	29	29	29	29	29
Able to resume a banned publication or broadcast programme	14	14	14	14	14	14
Able to resume normal life following a cessation of threats	3	3	3	3	3	4
Able to benefit from changes in certain education laws which were discriminatory towards ethnic or religious minorities	7	7	7	10	10	10
Able to obtain passports and/or grants, or to receive diplomas	11	12	12	12	12	12
Able to resume studies				2	9	9
Total	289	300	315	330	344	352

Sources:

Hüfner, Klaus: UNESCO und Menschenrechte (UNESCO and Human Rights). Berlin: Frank & Timme, 2008, table 8, p. 55. For September 2007: 179 EX/CR/2 of 11 February 2008, pp. 13-14; for September 2009: 184 EX/CR/2 of 19 February 2010, p. 16

Chart 23:
Committee on Conventions and Recommendations:
Number of Communications annually received,
1978–2009

Year	Registration	Total
1978	1/78 – 88/78	88
1979	89/79 – 184/79	96
1980	185/80 – 316/80	132
1981	317/81 – 429/81	113
1982	430/82 – 515/82	86
1983	516/83 – 600/83	85
1984	601/84 – 667/84	67
1985	668/85 – 704/85	37
1986	705/86 – 741/86	37
1987	742/87 – 772/87	31
1988	773/88 – 790/88	18
1989	791/89 – 824/89	34
1990	825/90 – 839/90	15
1991	840/91 – 866/91	26
1992	867/92 – 889/92	23
1993	890/93 – 899/93	10
1994	900/94 – 912/94	13
1995	913/95 – 924/95	12
1996	925/96 – 935/96	11
1997	936/97 – 945/97	10
1998	946/98 – 960/98	15
1999	961/99 – 997/99	37
2000	998/00 – 1011/00	14
2001	1012/01 – 1015/01	04
2002	1016/02 – 1034/02	19
2003	1035/03 – 1055/03	21
2004	1056/04 – 1064/04	09
2005	1065/05 – 1076/05	12
2006	- - -	00
2007	1077/07 – 1088/07	12
2008	1089/08 – 1090/08	02
2009	1091/09 – 1094/09	03

Sources:

Hüfner, Klaus: UNESCO und Menschenrechte (UNESCO and Human Rights). Berlin: Frank & Timme, 2008, table 11, p. 69, and updates.

Document 9:
Form for Communications Concerning Human Rights to be
Submitted to UNESCO

For UNESCO use only:

Date of
communication:.....
Number of
communication:.....
Date of dispatch of this
form:.....

To be filled in by the author of the communication:

I. INFORMATION CONCERNING THE AUTHOR

Name First name(s).....

Nationality..... Profession

Date and place of birth

Present address

.....
.....

Address for exchange of confidential correspondence (if other than present
address).....

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

Indicate, by ticking the appropriate box, in which capacity you are acting:

- ☐ victim of the violation or violations described below
- ☐ representative of the victim or victims of the violation or violations described below
- ☐ person, group of persons or organization with reliable knowledge of the violation or
violations described below
- ☐ in another capacity. Specify.....
.....

II. INFORMATION CONCERNING THE VICTIM OR VICTIMS OF THE ALLEGED VIOLATIONS*

☐ If the author is the victim, tick here and turn directly to Part III.

Give the following particulars for each victim, adding as many pages as necessary.

Name First name(s)

Nationality..... Profession

Date and place of birth
.....

Present address or
whereabouts.....
.....
.....

III. INFORMATION CONCERNING THE ALLEGED FACTS

Name of the country considered by the author to be responsible for the alleged violation
.....

Human rights allegedly violated (refer, if possible, to the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights)
.....
.....
.....

* N.B. This information is essential in cases where the communication concerns one or more individual and specific cases of violation of human rights.

Connection between the alleged violation and education, science, culture or information

.....

.....

.....

Facts of the claim

.....

.....

.....

.....

IV. INFORMATION CONCERNING MEANS OF REDRESS USED

What steps have been taken to exhaust domestic remedies (recourse to the courts or other public authorities), by whom, when and with what results?

.....

.....

.....

.....

.....

.....

Has the same matter been submitted to another international authority concerned with protection of human rights? If so, when and with what results?

.....

.....

.....

.....

.....

V. PURPOSE AND AIM OF THIS COMMUNICATION

.....

.....

.....

.....

VI. DECLARATION BY THE AUTHOR

Does the author agree to his/her communication being examined in accordance with the procedure approved by the Executive Board of UNESCO in its 104 EX/Decision 3.3 and, in particular, is he/she willing for to be divulged and for the communication to be transmitted to the government concerned and brought to the notice of the UNESCO Executive Board Committee on Conventions and Recommendations?

☐ Yes ☐ No

Date.....

Name, first name.....

Signature of author.....

IV.2 The ILO Procedures

The International Labour Organization (ILO) was founded in 1919 and became the first specialized agency of the UN in 1946. Its membership reached 182 countries in 2009. The Organization deals with the whole range of labour issues and sets detailed, widely accepted standards. It has always attached particular importance to certain basic economic and social as well as civil and political rights, which constitute an essential element in all actions designed to improve the conditions of workers. It endeavors to implement these principles by adopting standards on subjects of concern. These ILO standards take the form of international labour conventions and recommendations. ILO's conventions are international treaties, subject to ratification by ILO Member States, whereas recommendations – often dealing with the same subject as conventions – are non-binding. Until June 2009, 188 conventions have been adopted by the ILO; the overall number of ratifications reached 7,650. The process of adoption is explained in detail in chart 25. Conventions vary greatly in their success; some of them are now out-of-date and need to be replaced. But all the eight fundamental (“core”) conventions mentioned below have registered more than 100 ratifications each.

The application of international labour standards is subject to constant supervision by the ILO. Due to its long-standing experience but also because of its unique tripartite structure (bodies are composed according to the 2+1+1 formula: two government representatives and one representative each of employers' and of workers' associations), the procedures of adopting and implementing ILO conventions form part of a most effective mechanism for the protection of human rights within the UN system (see charts 24, 25 and 27).

According to the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, all ILO Member States have an obligation to respect, to promote and to realize, in good faith and in accordance with the Constitution, four categories of principles and rights at work, even if they have not ratified the ILO Conventions to which they refer: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. These fundamental principles and rights at work are universal and applicable to all human beings in all States, regardless of the level of economic development. They are the essence of the eight “core” ILO Conventions, which express in more detail and in a formal legal structure the scope and content of these fundamental principles and rights:

- Convention No. 87 (1948): Freedom of Association and Protection of the Right to Organize which provides for the right to join an association that is independent of government interference and cannot be dissolved by the government concerned.
- Convention No. 98 (1949): Right to Organize and Collective Bargaining which protects from anti-union discrimination, in particular with regard to hiring and firing practice.

- Convention No. 29 (1930): Forced Labour which is defined as “all work or service which is exacted from any person under menace of any penalty and for which the said person has not offered himself voluntarily” (Article 2).
- Convention No. 105 (1957): Abolition of Forced Labour which requires States parties to suppress and abolish forced labour within their territories.
- Convention No. 138 (1973): Minimum Age Convention which requires the establishment of a national minimum age for work.
- Convention No. 182 (1999): Elimination of Worst Forms of Child Labour which defines as worst forms of child labour forced labour, such as forced recruitment of child soldiers; prostitution; drug trafficking; and employment hazardous to the development of the child.
- Convention No. 111 (1958): Discrimination (Employment and Occupation) which defines discrimination as “any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation” (Article 1).
- Convention No. 100 (1951): Equal Remuneration which provides for equal wages for men and women.

All ILO Member States which have not yet ratified those eight core conventions, must report annually about the progress being made.

Supervision of ILO Conventions

The regular supervision of ILO conventions encompasses measures such as required reporting activities of each Member State of the ILO at regular intervals on the measures it has taken to give effect to the provisions of conventions which it has ratified (see chart 27). These reports are first examined in closed meetings by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) composed of 20 independent legal experts which meets every November (=paper-based procedure). The Committee of Experts comments are made in the form either of observations, which are published in the Committee’s report on the Application of Conventions and Recommendations, or of requests dealing with more technical questions, addressed directly to the Governments, which remain unpublished. The Committee’s report is then considered at the annual session of the International Labour Conference by the tripartite Conference Committee on the Application of Conventions and Recommendations (“Committee on Application of Standards”).

In addition, Member States have the obligation to submit reports on conventions they have not yet ratified showing the position of the law and practice in regards to the matters dealt with in the conventions and indicating the difficulties which have prevented or delayed ratification (each year a limited number of conventions are selected for this procedure). The information supplied provides the basis for a separate report of the Committee of Experts – a general survey

of the subject in question. In parallel with these regular supervisory mechanisms, there are special procedures to examine allegations that the provisions of a ratified convention are not effectively being observed. They are briefly described in chart 26.

Article 24: Representations

Under Article 24 of the ILO Constitution a representation may be filed by a trade union or an employers' organization if a State "has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party". The representation is handled by the ILO Governing Body; it should be submitted in written form to the International Labour Office and must refer specifically to Article 24 of the ILO Constitution. The representation should contain detailed information concerning the alleged violation. If the representation is judged receivable by the ILO Governing Body, it appoints a tripartite committee of its own members to study the allegations.

The government concerned is asked to comment on allegations. The Committee presents its report, containing its examination of the details of the representation and the government's reply and its conclusions and recommendations to the Governing Body. The Governing Body decides whether to publish the representation and any government reply and notifies the organization and government concerned. Whether or not the Governing Body decides that it is satisfied with the government's explanations, the questions raised in the representation are followed up by the ILO's regular supervisory machinery, the above mentioned two Committees.

Article 26: Complaints

Complaints that a Member State has failed to observe an ILO Convention to which it is party may be submitted by an ILO Member State which has ratified the same convention, by any delegate (government, worker or employer) to the International Labour Conference, or by the ILO Governing Body on its own motion. These complaints are examined according to procedures established by the ILO Constitution.

The Governing Body may handle the matter in a manner similar to that followed under Article 24 before deciding whether a Commission of Inquiry is needed. If the complaint involves freedom of association, it may be referred to the Governing Body's Committee on Freedom of Association (see below).

The independent Commission of Inquiry thoroughly investigates the complaint, setting its procedures as required by the case. The country concerned may be visited. The Commission reports its findings, giving recommendations and a time-frame for their implementation. The report is sent to the government concerned, published, and transmitted to the Governing Body to take note. The Committee of Experts on the Application of Conventions and Recommendations follows up on the implementation of the recommendations.

Special Procedure for Freedom of Association

The most widely used ILO procedure is the special procedure for complaints about infringements of the right of freedom of association established in 1951. The Committee on Freedom of Association (CFA) of the ILO Governing Body examines complaints alleging that a Member State of the ILO has infringed the basic principles of freedom of association. Such complaints may be submitted by governments, by national employers' or workers' organizations directly concerned with the matter, or by certain international organizations of employers or workers. Therefore, individuals who have concern about infringements of the rights of workers are advised to contact a trade union or another workers' association, which could then decide whether to bring the matter to the attention of the ILO. The procedure in question may be brought against governments even if they have not ratified the ILO's freedom of association conventions. The procedure used by the Committee on Freedom of Association does not require exhaustion of internal remedies as a prerequisite for the admissibility of a complaint.

The CFA is a tripartite body composed of nine members of the Governing Body serving in their personal capacity; it is chaired by an independent person of distinction. It meets three times a year in private session.

The Director-General of ILO plays an active role: complaints received from their authors are communicated by the Director-General of ILO to the governments concerned as soon as possible. To accelerate the proceedings, the Director-General is authorized to determine whether the governments' observations or replies contain sufficient information to enable the Committee to rule in the matter.

Until 2009, the two procedures for inter-state complaints (under Article 26 of the Constitution and under the procedure for freedom of association) have only been used four times and once, respectively. This limited number of complaints is to be explained by the fact that Member states hesitate to put forward complaints, both because of the "unfriendly character" and because of the risk that complaints might lead to reprisals in the form of "counter-complaints".

Public Access to ILO Meetings

The Committee of Experts on the Application of Conventions and Recommendations and the Committee on Freedom of Association meet in closed session. Furthermore, the public is not allowed to attend meetings of ILO bodies when they examine complaints about failures to observe an ILO Convention. However, the public may observe many meetings at the International Labour Conference, which meets annually in June in Geneva, including the Committee on Application of Standards (see chart 27) and the discussions of the ILO Governing Body about the report of the Committee on Freedom of Association.

The Role of NGOs

In addition to the tripartite structure of 2:1:1 of the Organization, which is unique in the UN

system and fully guarantees the participation of employers' and workers' associations, the ILO Constitution provides for consultative relations with international NGOs. Three different categories of international NGOs have been established. First, international NGOs with an important interest in a wide range of the ILO's activities may be granted either general or regional consultative status and be permitted to participate in all ILO meetings. The second category, the special list of International NGOs, includes those NGOs other than employers' and workers' organizations that demonstrate an interest in the ILO's activities. In a third category, the Governing Body may invite international NGOs that meet certain established criteria to attend different meetings of the Organization in which they have shown a particular interest.

Joint ILO/ UNESCO Committee

Reference should also be made to the Joint ILO/UNESCO Committee of Experts on the Recommendation concerning Teaching Personnel (CEART) which is composed of 12 independent experts – six appointed by ILO and six appointed by UNESCO; it meets every three years to study the application of the two international standards specific to teachers: (a) the Joint ILO/UNESCO Recommendation concerning the Status of Teachers of 1966; and (b) the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel of 1997.

One important aspect of its work is the examination of allegations from national and international teachers' organizations on the non-observance of the recommendations' provisions in ILO and UNESCO Member States.

CEART makes recommendations to the Governing Body of the ILO and to the Executive Board of UNESCO on how to improve the conditions of the teaching profession within their respective mandates; it held its 9th Session in Geneva from 30 October to 3 November 2006 and its 10th Session in Paris from 28 September to 2 October 2009.

References

BOIVIN, Isabelle; ODERO, Alberto: The Committee of Experts on the Application of Conventions and Recommendations: Progress achieved in National Labour Legislation. In: *International Labour Review* 145/3: 207-220, September 2006.

CHARNOVITZ, Steve: The International Labour Organization in its Second Century. In: *Max Planck Yearbook of United Nations Law* 4: 147–184, 2000.

INTERNATIONAL LABOUR OFFICE / GOVERNING BODY: Eighth Item on the Agenda. Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations Concerning Teaching Personnel (CEART): Report on Allegations Submitted by Teachers' Organizations. Geneva: ILO, November 2009, 16.

INTERNATIONAL LABOUR OFFICE: Fundamental Rights at Work and International Labour Standards. Geneva: ILO, 2003, VI, 133.

INTERNATIONAL LABOUR OFFICE: Freedom of Association. A User's Guide. Standards, Principles and Procedures of the International Labour Organization. Geneva: ILO, 2000, XI, 83.

This practical reference offers a user-friendly guide to the ILO's freedom of association (FOA) standards, principles and procedures. The guide explains the ILO's Freedom of Association standards and the impact they have had on laws, individuals released from prison, and the right of trade unionists and employers to organize and bargain collectively. It also presents information on how these procedures can be used to help promote and secure Freedom of Association around the world.

ILO/UNESCO: The ILO/UNESCO Recommendation concerning the Status of Teachers (1966) and The UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) with a User's Guide. Geneva: ILO; Paris: UNESCO, 2008, 71.

ILO/UNESCO: Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning Teaching Personnel. Ninth Session, Geneva, 30 October – 3 November 2006. Geneva: ILO; Paris: UNESCO, 2007, 45.

ILO/UNESCO: Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel Report. Eighth Session, Paris, 15–19 September 2003. Paris: UNESCO; Geneva: ILO, 2003, 52.

RODGERS, Gerry, et al.: The International Labour Organization and the Quest for Social Justice, 1919-2009. Geneva: ILO, 2009, XV, 272.

SWEPSTON, Lee: The International Labour Organization and Human Rights. In: KRAUSE, Catarina; SCHEININ, Martin (Ed): International Protection of Human Rights: A Textbook. Turku / Åbo: Institut for Human Rights, Åbo Akademi University, 2009, 323-341.

SWEPSTON, Lee: The International Labour Organization's System of Human Rights Protection. In: SYMONIDES, Janusz (Ed): Human Rights: International Protection, Monitoring, Enforcement. Aldershot / Burlington, VT: Ashgate, 2003, 91–109.

E-Resources

ILO:

<http://www.ilo.org>

CEART:

<http://www.ilo.org/public/english/dialogue/sector/techmeet/ceart>

Handbook of Procedures Relating to International Labour Conventions and Recommendations:

http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_087791.pdf

Chart 24:
Organizational Set-up of the
International Labour Organization

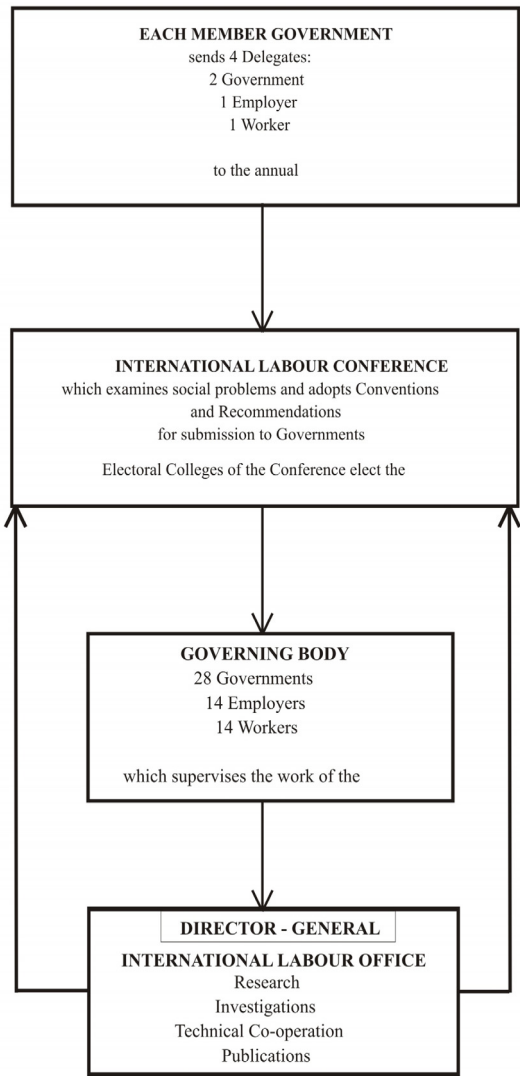
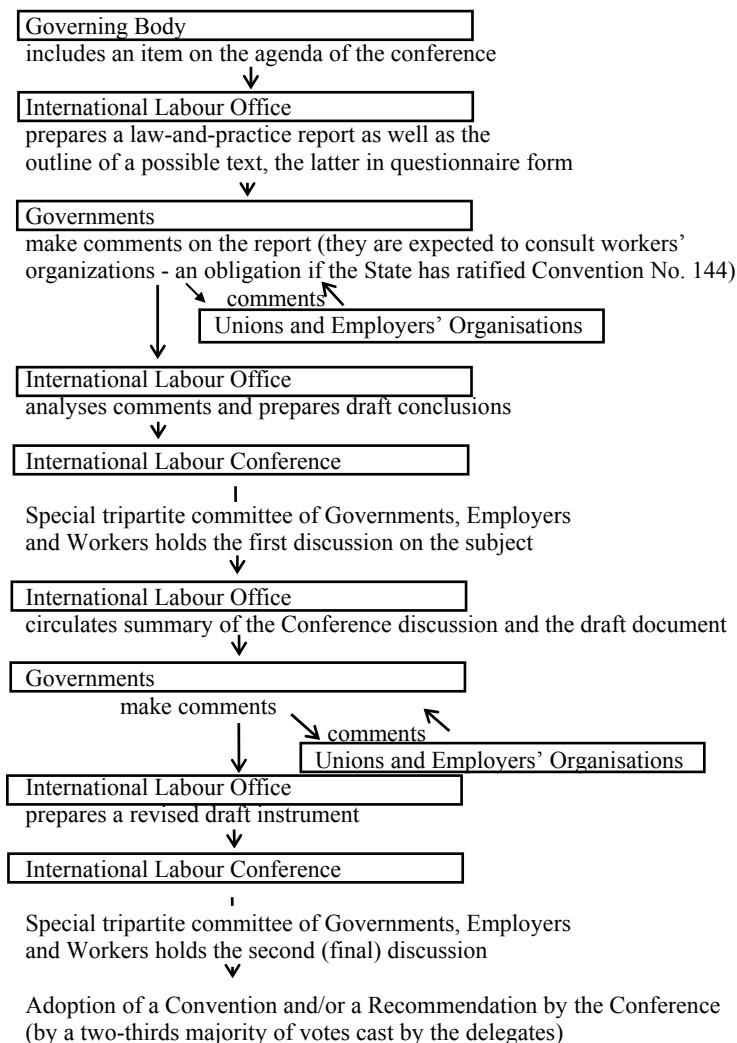


Chart 25:
Process of Adoption of International Labour Standards
(Conventions and Recommendations)



Source:

INTERNATIONAL LABOUR OFFICE: International Labour Standards – A Workers' Educational Manual. Geneva: ILO, 1990, p. 29.

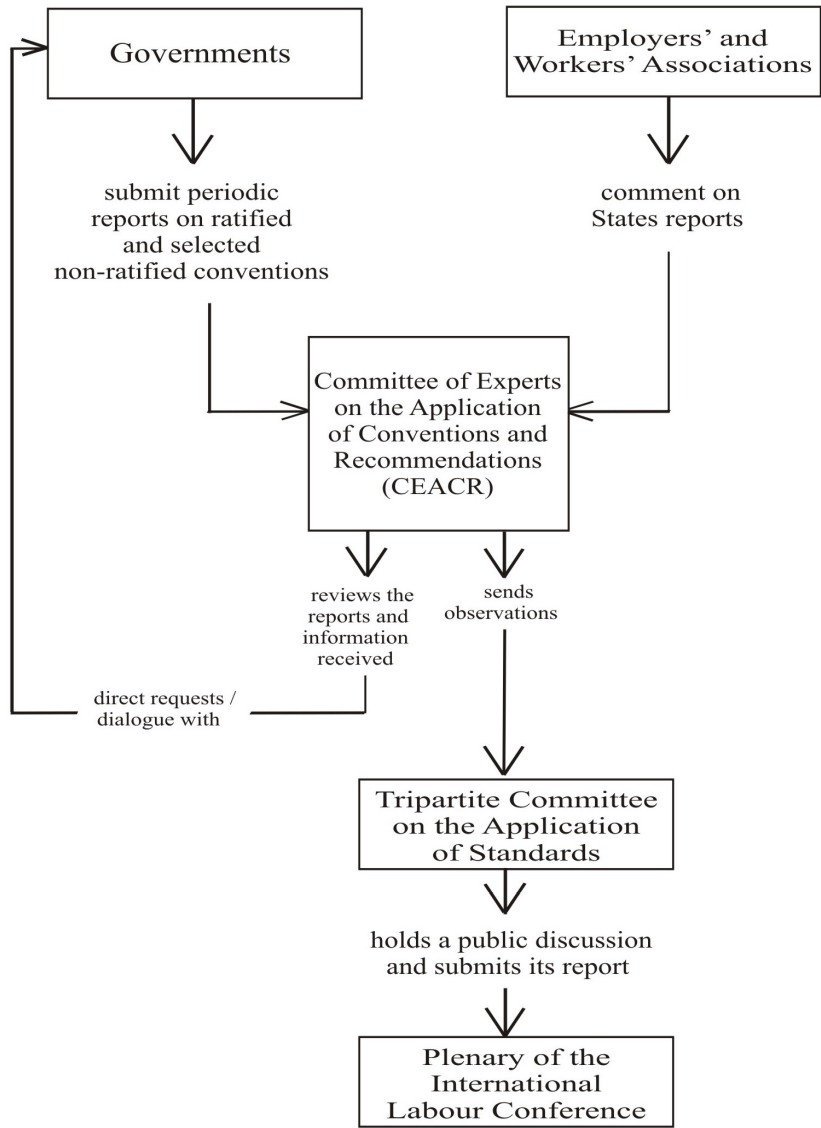
Chart 26:
Quick Guide to ILO Complaints Procedures

<i>Kind of Complaint</i>	<i>Subject</i>	<i>Ratification Necessary?</i>	<i>Who Begins the Procedure?</i>	<i>Who Investigates?</i>
Article 24 Representations	Any ILO Convention	Yes	Any workers' or employers' organization	ILO Governing Body
Article 26 Complaints	Any ILO Convention	Yes	<ol style="list-style-type: none"> 1. State has ratified same Convention 2. Delegate to the International Labor Conference 3. ILO Governing Body 	Commission of Inquiry
Special procedure for freedom of association	Freedom of association	No	<ol style="list-style-type: none"> 1. Workers' or employers' organization concerned 2. ILO bodies, state concerned, ECOSOC 	<ol style="list-style-type: none"> 1. Committee on Freedom of Association (since 1951) 2. Fact-Finding and Conciliation Commission

Source:

SWEPSTON, Lee: Human Rights Complaint Procedures of the International Labour Organization. In: HANNUM, Hurst (Ed): Guide to International Human Rights Practice. Ardsley, NY: Transnational Publishers, 1999, p. 89.

Chart 27:
The Regular ILO System of Supervision



V. Conclusions: The Increasing Role and Importance of Human Rights NGOs

Over the last 60 years an almost explosive growth of NGOs for the promotion and the defence of human rights has taken place. At the time of the drafting of the Universal Declaration of Human Rights, some 15 NGOs with consultative status were involved in this process. In 1993, some 1,500 NGOs participated at the World Conference on Human Rights in Vienna. After the end of the East-West confrontation, the 1990s became the decade of the NGOs; they moved out of the shadows of the Cold War, entered the mainstream of engagement of civil society and have been gained in influence and power. In 1998, Theo van Boven, former Director of the UN Centre for Human Rights, valued this broad human rights movement as one of the most important and hopeful developments after World War II: “The emergence of all these organizations at the international scene and their activities within many nations of all five continents, Africa, Asia, the Americas from North to South, Australia and Europe, is more than symbolic evidence of the universality of the human rights constituency. This development constitutes the backbone of the human rights movement. Without the efforts and the input of this movement the global human rights situation would be bleaker.”

Individual Complaints

Today, there are five UN treaty bodies, namely

- the Human Rights Committee (III.2)
- the Committee on the Elimination of Racial Discrimination (III.3)
- the Committee on the Elimination of Discrimination against Women (III.4)
- the Committee Against Torture (III.5)
- the Committee on the Rights of Persons with Disabilities (III.8)

which can receive individual communications provided the relevant State party has ratified the relevant optional protocol or made the necessary declaration (see chart 28). Two other options for individual complaints, the Optional Protocol to the ICESCR (III.1) and Article 77 of the ICMW (III.7), are not yet in force.

The model form for communications should also be used for communications under the so-called extra-conventional mechanisms, addressed to Special Rapporteurs on specific countries or themes (cf. chapter II). The activities of those mechanisms are based on communications received from various sources containing allegations of human rights violations. Besides the victims or their relatives local and/or international NGOs fulfill an important role.

States Reports

NGOs can play an important role by getting involved in the preparation of a periodic report of a State party (see charts 28 and 29); they can

- urge the responsible ministry to submit the report on time;
- ensure that the report is disseminated in the country concerned as well as the minutes of the Committee's debates on the report and the concluding observations;
- submit a parallel ("shadow") report to the report of a State party;
- submit information to the pre-sessional working groups which meet at the end of each session to prepare the following session;
- attend the meetings where the reports of States parties are examined (although no statements can be made, it is possible to consult committee members outside the meeting and to propose questions for them to pursue with the reporting State party).

NGO Participation in Geneva and New York

NGOs with consultative status may attend all public meetings of the Human Rights Council, the human rights committees of the treaty bodies, and working groups. Their main activities include

- lobbying on resolutions including suggested wording to be used;
- convening parallel informal meetings with experts, NGO and government representatives to consider action on specific countries or themes;
- submitting reports to special procedures;
- meeting with Special Rapporteurs on themes and countries.

NGOs are well advised to concentrate their efforts, to "speak with one voice". The more NGOs cooperate and intensify the dialogue among themselves, the stronger NGOs can present their issues orally and in written form vis-à-vis experts and government representatives. The model of the NGO Group for the Convention on the Rights of the Child is a good example and should lead to the formation of similar coordinating groups for the other UN treaty bodies.

More Transparency Through NGO Activities

Chart 30 offers an overview about the development of the status of UN human rights instruments between 1993 and 2010. The "network" of States parties to the eight human rights instruments treated in this book increased from 750 to 1,142 (including non-UN members).

Undoubtedly, the UN human rights treaty system has its own record of success, although financial resource constraints led to a number of serious bottlenecks, such as the understaffed

OHCHR, restriction of documents, constraints arising from the lack or delays in translation, huge backlog in States reports due under the various treaties. To-day, there are eight treaty bodies which have consolidated their methods of considering reports of States parties. They have developed and improved forms of coordination with each other. The committees make considerably greater use of NGO documentation and other information on human rights developments.

However, there exist several “holes” in the network. It starts with the fact that many States parties made reservations and declarations. National NGOs should compile and discuss the number and the extent of the reservations and its implications in their countries.

The failure of many States parties to submit reports, on time or at all, as well as the frequent presentation of reports of poor quality and the failure to follow established guidelines has been mentioned above. Again, national NGOs are advised to draw the public attention in their countries to those failures to fulfil and improve the regular reporting obligations.

Furthermore, NGOs should get engaged in the translation, if necessary, and dissemination of the reports and also of the concluding observations of the treaty bodies at the national level.

NGOs should also take an active role in critically examining the work of the UN treaty bodies so that more effective performance could be achieved. One important and necessary step consists of improving the rather uneven quality of the membership of the treaty bodies. Unfortunately, the terms “personal” and “experts” are interpreted in a rather flexible way. There is room for NGOs to have some kind of input into the electoral process which is presently lacking.

Finally, the possibilities of concrete operational activities should be mentioned; in the context of “good governance” programmes, national human rights NGOs working on the ground can apply for financial support for projects which are subcontracted by donor countries and UN agencies.

References

BAER, Peter R.: *Non-governmental Human Rights Organizations in International Relations*. Basingstoke, Hampshire: Palgrave Macmillan, 2009, X, 199.

BELL, Christine; KEENAN, Johanna: *Human Rights Non-governmental Organizations and the Problems of Transition*. In: *Human Rights Quarterly* 26/2: 330–372, May 2004.

BELL, Daniel A.; CARENS, Joseph H.: *The Ethical Dilemmas of International Human Rights and Humanitarian NGOs: Reflections on a Dialogue Between Practitioners and Theorists*. In: *Human Rights Quarterly* 26/2: 300–329, May 2004.

BRETT, Rachel: *Non-Governmental Organizations and Human Rights*. In: KRAUSE, Catarina; SCHEININ, Martin (Ed): *Protection of Human Rights: A Textbook*. Turku / Åbo: Institut for Human Rights, Åbo Akademi University, 2009, XIV, 621–635.

CALNAN, Scott: *The Effectiveness of Domestic Human Rights NGOs. A Comparative Study*.

Leiden / Boston: Martinus Nijhoff, 2008, XIV, 358.

CLAPHAM, Andrew: UN Human Rights Reporting Procedures: An NGO Perspective. In: ALSTON, Philip; CRAMFORD, James (Ed): The Future of UN Human Rights Monitoring. Cambridge: Cambridge University Press, 2000, 175-198.

GAER, Felice: Reality Check: Human Rights NGOs Confront Governments at the UN. In: WEISS, Thomas G.; GORDENKER, Leon (Ed): NGOs, the UN and Global Governance. Boulder: Rienner, 1996, 51–66.

MARTENS, Kerstin: NGOs and the United Nations. Institutionalization, Professionalization and Adaptation. Basingstoke: Palgrave Macmillan, 2005, 216.

MURRAY, Rachel: National Human Rights Institutions. Criteria and Factors for Assessing their Effectiveness. In: Netherlands Quarterly of Human Rights 25/2: 189-220, June 2007.

NELSON, Paul J.; DORSEY, Ellen: New Rights Advocacy. Changing Strategies of Development and Human Rights NGOs. Washington, D.C.: Georgetown University Press, 2008, X, 222.

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: Working with the United Nations Human Rights Programme: A Handbook for Civil Society. Geneva: OHCHR, 2008, IX, 192.

WELCH, Claude E., Jr. (Ed): NGOs and Human Rights. Promise and Performance. Philadelphia: University of Pennsylvania Press, 2002, X, 291.

WISEBERG, Laurie S.: The Role of Non-Governmental Organizations (NGOs) in the Protection and Enforcement of Human Rights. In: Symonides, Janusz (Ed): Human Rights: International Protection, Monitoring, Enforcement. Aldershot / Burlington, VT: Ashgate, 2003, 347–372.

E-Resources:

Amnesty International:

<http://www.amnesty.org/en/united-nations>

Centre for Civil and Political Rights:

<http://www.ccpcentre.org/en/home>

Child Rights Information Network:

<http://www.crin.org>

Human Rights Watch:

<http://www.hrw.org/en/home>

International Commission of Jurists:

<http://www.icj.org>

International Service for Human Rights:

<http://www.ishr.ch/>

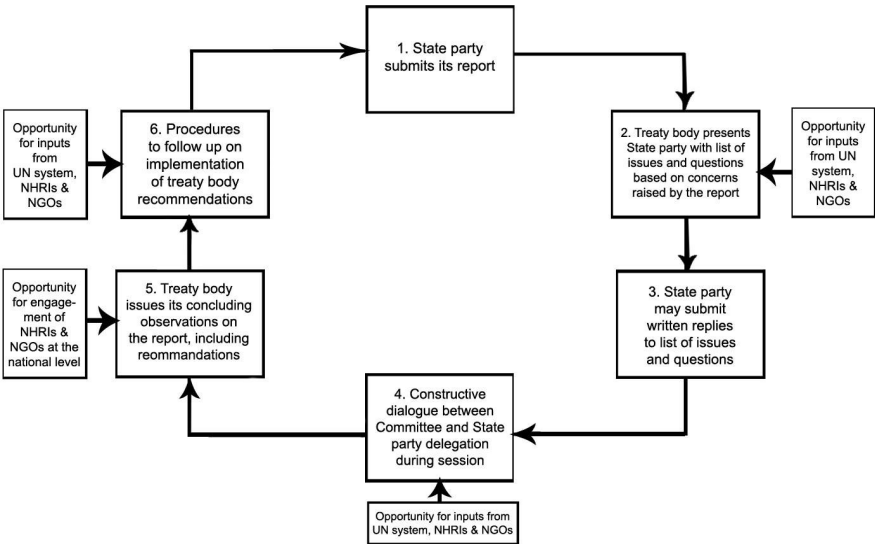
International Women's Rights Action Watch:

<http://www.iwraw.net>

Chart 28:
Procedures of the UN Treaty Bodies

Instrument	Procedure
ICESCR (III.1)	Periodic States reports every five years (Article 16 und 17) Optional Protocol for Individual Complaints (not yet in force)
ICCPR (III.2)	Periodic States reports every four years, replaced by a more flexible system (Article 40) Inter-State Complaints (Article 41) Optional Protocol for Individual Complaints Second Optional Protocol (aiming at the abolition of the death penalty)
ICERD (III.3)	Short States reports every two years, detailed ones every five years (Article 9) Inter-State Complaints (Article 11) Individual Complaints (Article 14)
CEDAW (III.4)	Periodic States reports at least every four years (Article 18) Competence of Investigation (Article 8) Individual Complaints (Optional Protocol)
CAT (III.5)	Periodic States reports every four years (Article 19) Competence of Investigation (Article 20) Inter-State Complaints (Article 21) Individual Complaints (Article 22)
CRC (III.6)	Periodic States reports every five years (Article 44) Two Optional Protocols (on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography)
ICMW (III. 7)	Periodic States reports every five years (Article 73) Inter-State Complaints (Article 76) Individual Complaints (Article 77) (not yet in force)
CRPD (III.8)	Periodic States reports every four years (Article 35) Optional Protocol for Individual Complaints

Chart 29:
The Reporting Cycle under the Human Rights Treaties



Source:

Based on: Office of the United Nations High Commissioner for Human Rights: The United Nations Human Rights Treaty System: An Introduction to the Core Human Rights Treaties and the Treaty Bodies. Geneva: Office of the UNHCHR June 2005, p.20.

Chart 30:
Status of Ratifications, 1993–2010

	1993	1995	1997	1999	2001	2005	2010
ICESCR (III.1)	129	134	137	141	144	152	160
ICCPR (III.2)	127	134	140	144	147	154	165
ICERD (III.3)	139	147	150	153	157	170	173
CEDAW (III.4)	129	153	161	163	167	180	186
CAT (III.5)	78	90	104	114	124	139	146
CRC (III.6)	146	176	191	191	191	192	193
ICMW (III. 7)	2	6	9	12	18	29	42
CRPD (III. 8)	-	-	-	-	-	-	77
Total	750	840	892	918	948	1,016	1,142

VI. Annexes

VI.1 Excerpts from the Charter of the United Nations

Preamble to the Charter

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbours, and

to unite our strength to maintain international peace and security, and

to ensure by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples.

HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

Article 1

The Purposes of the United Nations are:

(...)

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

(...)

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

(...)

- (b) promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

(...)

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

(...)

- (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

(...)

- (c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

(...)

VI.2 The Universal Declaration of Human Rights

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

the General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

VI.3 Status of the International Human Right Instruments (as of 11 January 2010)

The international human rights treaties of the United Nations that establish committees of experts to monitor their implementation are the following:

- (1) International Covenant on Economic, Social and Cultural Rights (ICESCR), which is monitored by the Committee on Economic, Social and Cultural Rights;
- (2) Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
- (3) International Covenant on Civil and Political Rights (ICCPR), which is monitored by the Human Rights Committee;
- (4) Optional Protocol to the International Covenant on Civil and Political Rights (OP1), which is supervised by the Human Rights Committee;
- (5) Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (OP2-DP);
- (6) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which is monitored by the Committee on the Elimination of Racial Discrimination;
- (7) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which is monitored by the Committee against Torture;
- (8) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP)
- (9) International Convention for the Protection of all Persons from Enforced Disappearance
- (10) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which is monitored by the Migrant Workers Committee (ICMW).
- (11) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which is monitored by the Committee on the Elimination of Discrimination against Women;
- (12) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP);
- (13) Convention on the Rights of the Child (CRC), which is monitored by the Committee on the Rights of the Child;
- (14) Optional Protocol to the Convention on the Rights of the Child (OP-AC) on the Involvement of Children in Armed Conflict;

- (15) Optional Protocol to the Convention on the Rights of the Child (OP-SC) on the Sale of Children, Child Prostitution and Child Pornography;
- (16) Convention on the Rights of Persons with Disabilities (CRPD)
- (17) Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP)

The following chart shows which States are a party to the United Nations human rights treaties listed above. The total number of human rights treaties to which each State is a party is also shown. As at 11 January 2010, all 192 UN Member States and three non-Member States (marked with *) were a party to one or more of those treaties.

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Total
Afghanistan	x		x			x	x				x		x	x	x			8
Albania	x		x	x	x	x	x	x	x	x	x	x	x	x	x			14
Algeria	x		x	x		x	x			x	x		x	x	x	x		11
Andorra			x	x	x	x	x				x	x	x	x	x			10
Angola	x		x	x							x	x	x	x	x			8
Antigua and Barbuda						x	x				x	x	x		x			6
Argentina	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	16
Armenia	x		x	x		x	x	x			x	x	x	x	x			11
Australia	x		x	x	x	x	x				x	x	x	x	x	x	x	13
Austria	x		x	x	x	x	x				x	x	x	x	x	x	x	13
Azerbaijan	x		x	x	x	x	x	x		x	x	x	x	x	x	x	x	15
Bahamas	x		x			x					x		x					5
Bahrain	x		x			x	x				x		x	x	x			8
Bangladesh	x		x			x	x				x	x	x	x	x	x	x	11
Barbados	x		x	x		x					x		x					6
Belarus	x		x	x		x	x				x	x	x	x	x			10
Belgium	x		x	x	x	x	x				x	x	x	x	x	x	x	13
Belize			x			x	x			x	x	x	x	x	x			9
Benin	x		x	x		x	x	x			x		x	x	x			10
Bhutan											x		x	x	x			4
Bolivia	x		x	x		x	x	x	x	x	x	x	x	x	x	x	x	15
Bosnia and Herzegovina	x		x	x	x	x	x	x		x	x	x	x	x	x			13
Botswana			x			x	x				x	x	x	x	x			8
Brazil	x		x	x	x	x	x	x			x	x	x	x	x	x	x	14
Brunei Darussalam											x		x		x			3
Bulgaria	x	x	x	x	x	x	x				x	x	x	x	x			12
Burkina Faso	x		x	x		x	x		x	x	x	x	x	x	x	x	x	14
Burundi	x		x			x	x				x		x	x	x			8
Cambodia	x		x			x	x	x			x		x	x	x			9
Cameroon	x		x	x		x	x				x	x	x					8
Canada	x		x	x	x	x	x				x	x	x	x	x			11
Cape Verde	x		x	x	x	x	x			x	x		x	x	x			11
Central African Rep.	x		x	x		x					x		x					6
Chad	x		x	x		x	x				x		x	x	x			9
Chile	x		x	x	x	x	x	x	x	x	x		x	x	x	x	x	15
China	x					x	x				x		x	x	x	x		8
Colombia	x		x	x	x	x	x			x	x	x	x	x	x			12
Comoros						x					x		x		x			4
Congo	x		x	x		x	x				x		x		x			8

How to File Complaints on Human Rights Violations

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Total
Cook Islands*											x	x	x			x	x	5
Costa Rica	x		x	x	x	x	x	x			x	x	x	x	x	x	x	14
Côte d'Ivoire	x		x	x		x	x				x		x					7
Croatia	x		x	x	x	x	x	x			x	x	x	x	x	x	x	14
Cuba						x	x				x		x	x	x	x		7
Cyprus	x		x	x	x	x	x	x			x	x	x		x			11
Czech Republic	x		x	x	x	x	x	x			x	x	x	x		x		12
Dem. People's Rep. of Korea	x		x								x		x					4
Dem. Rep. of the Congo	x		x	x		x	x				x		x	x	x			9
Denmark	x		x	x	x	x	x	x			x	x	x	x	x	x		13
Djibouti	x		x	x	x		x				x		x					7
Dominica	x		x								x		x	x	x			6
Dominican Republic	x		x	x		x					x	x	x		x	x	x	10
Ecuador	x		x	x	x	x	x		x	x	x	x	x	x	x	x	x	15
Egypt	x		x			x	x			x	x		x	x	x	x		10
El Salvador	x		x	x		x	x			x	x		x	x	x	x	x	12
Equatorial Guinea	x		x	x		x	x			x	x		x		x			9
Eritrea	x		x			x					x		x	x	x			7
Estonia	x		x	x	x	x	x	x			x		x		x			10
Ethiopia	x		x			x	x				x		x					6
Fed. States of Micronesia											x		x					2
Fiji						x					x		x					3
Finland	x		x	x	x	x	x				x	x	x	x				10
France	x		x	x	x	x	x	x	x		x	x	x	x	x			13
Gabon	x		x			x	x				x	x	x		x	x		9
Gambia	x		x	x		x					x		x					6
Georgia	x		x	x	x	x	x	x	x		x	x	x		x			12
Germany	x		x	x	x	x	x	x	x		x	x	x	x	x	x	x	15
Ghana	x		x	x		x	x			x	x		x					8
Greece	x		x	x	x	x	x				x	x	x	x	x			11
Grenada	x		x								x		x					4
Guatemala	x		x	x		x	x	x		x	x	x	x	x	x	x	x	14
Guinea	x		x	x		x	x			x	x		x			x	x	10
Guinea-Bissau	x										x	x	x					4
Guyana	x		x	x		x	x				x		x					7
Haiti			x			x					x		x			x	x	6
Holy See*						x	x						x	x	x			5

How to File Complaints on Human Rights Violations

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Total
Honduras	x		x	x	x	x	x	x	x	x	x		x	x	x	x		14
Hungary	x		x	x	x	x	x				x	x	x			x	x	11
Iceland	x		x	x	x	x	x				x	x	x	x	x			11
India	x		x			x					x		x	x	x	x		8
Indonesia	x		x			x	x				x		x					6
Iran (Islamic Republic of)	x		x			x							x		x	x		6
Iraq	x		x			x					x		x	x	x			7
Ireland	x		x	x	x	x	x				x	x	x	x				10
Israel	x		x		x	x					x		x	x	x			8
Italy	x		x	x	x	x	x				x	x	x	x	x	x	x	13
Jamaica	x		x			x				x	x		x	x		x		8
Japan	x		x			x	x		x		x		x	x	x			9
Jordan	x		x			x	x				x		x	x	x	x		9
Kazakhstan	x		x	x		x	x	x	x		x	x	x	x	x			12
Kenya	x		x			x	x				x		x	x		x		8
Kiribati											x		x					2
Kuwait	x		x			x	x				x		x	x	x			8
Kyrgyzstan	x		x	x		x	x	x		x	x	x	x	x	x			12
Lao People's Dem. Rep.	x		x			x					x		x	x	x	x		8
Latvia	x		x	x		x	x				x		x	x	x			9
Lebanon	x		x			x	x	x			x		x		x			8
Lesotho	x		x	x		x	x			x	x	x	x	x	x	x		12
Liberia	x		x		x	x	x	x			x		x					8
Libyan Arab Jamahiriya	x		x	x		x	x			x	x	x	x	x	x			11
Liechtenstein	x		x	x	x	x	x	x			x	x	x	x				11
Lithuania	x		x	x	x	x	x				x	x	x	x	x			11
Luxembourg	x		x	x	x	x	x				x	x	x	x				10
Madagascar	x		x	x		x	x				x		x	x	x			9
Malawi	x		x	x		x	x				x		x		x	x		9
Malaysia											x		x					2
Maldives	x		x	x		x	x	x			x	x	x	x	x			11
Mali	x		x	x		x	x	x	x	x	x	x	x	x	x	x	x	15
Malta	x		x	x	x	x	x	x			x		x	x				10
Marshall Islands											x		x					2
Mauritania	x		x			x	x			x	x		x		x			8
Mauritius	x		x	x		x	x	x			x	x	x	x		x		11
Mexico	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	16
Moldova (Republic of)	x		x	x	x	x	x	x			x	x	x	x	x			12

How to File Complaints on Human Rights Violations

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Total
Monaco	x		x			x	x				x		x	x	x			8
Mongolia	x		x	x		x	x				x	x	x	x	x	x	x	12
Montenegro	x		x	x	x	x	x	x			x	x	x	x	x	x	x	14
Morocco	x		x			x	x			x	x		x	x	x	x	x	11
Mozambique			x		x	x	x				x	x	x	x	x			9
Myanmar											x		x					2
Namibia	x		x	x	x	x	x				x	x	x	x	x	x	x	13
Nauru													x					1
Nepal	x		x	x	x	x	x				x	x	x	x	x			11
Netherlands	x		x	x	x	x	x				x	x	x	x	x			11
New Zealand	x		x	x	x	x	x	x			x	x	x	x			x	12
Nicaragua	x		x	x	x	x	x	x		x	x		x	x	x	x		13
Niger	x		x	x		x	x			x	x	x	x		x	x	x	12
Nigeria	x		x			x	x	x	x	x	x	x	x					10
Niue*													x					1
Norway	x		x	x	x	x	x				x	x	x	x	x			11
Oman						x					x		x	x	x	x		6
Pakistan	x					x					x		x					4
Palau													x					1
Panama	x		x	x	x	x	x				x	x	x	x	x	x	x	13
Papua New Guinea	x		x			x					x		x					5
Paraguay	x		x	x	x	x	x	x		x	x	x	x	x	x	x	x	15
Peru	x		x	x		x	x	x		x	x	x	x	x	x	x	x	14
Philippines	x		x	x	x	x	x			x	x	x	x	x	x	x		13
Poland	x		x	x		x	x	x			x	x	x	x	x			11
Portugal	x		x	x	x	x	x				x	x	x	x	x	x	x	13
Qatar						x	x				x		x	x	x	x		7
Republic of Korea	x		x	x		x	x				x	x	x	x	x	x		11
Romania	x		x	x	x	x	x	x			x	x	x	x	x			12
Russian Federation	x		x	x		x	x				x	x	x	x				9
Rwanda	x		x		x	x	x			x	x	x	x	x	x	x	x	13
Saint Kitts and Nevis						x					x	x	x					4
Saint Lucia						x					x		x					3
Saint Vincent and the Grenadines	x		x	x		x	x				x		x		x			8
Samoa			x								x		x					3
San Marino	x		x	x	x	x	x				x	x	x			x	x	11

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Total
Sao Tome and Principe											x		x					2
Saudi Arabia						x	x				x		x			x	x	6
Senegal	x		x	x		x	x	x	x	x	x	x	x	x	x			13
Serbia	x		x	x	x	x	x				x	x	x	x	x	x	x	13
Seychelles	x		x	x	x	x	x			x	x		x			x		10
Sierra Leone	x		x	x		x	x				x		x	x	x			9
Singapore											x		x	x				3
Slovak Rep.	x		x	x	x	x	x				x	x	x	x	x			11
Slovenia	x		x	x	x	x	x	x			x	x	x	x	x	x	x	14
Solomon Islands	x					x					x	x	x					5
Somalia	x		x	x		x	x											5
South Africa			x	x	x	x	x				x	x	x	x	x	x	x	12
Spain	x		x	x	x	x	x	x	x		x	x	x	x	x	x	x	15
Sri Lanka	x		x	x		x	x			x	x	x	x	x	x			11
Sudan	x		x			x							x	x	x	x	x	8
Suriname	x		x	x		x					x		x					6
Swaziland	x		x			x	x				x		x					6
Sweden	x		x	x	x	x	x	x			x	x	x	x	x	x	x	14
Switzerland	x		x		x	x	x	x			x	x	x	x	x			11
Syrian Arab Republic	x		x			x	x			x	x		x	x	x	x	x	11
Tajikistan	x		x	x		x	x			x	x		x	x	x			10
Thailand	x		x			x	x				x	x	x	x	x	x		10
The former Yugoslav Republic of Macedonia	x		x	x	x	x	x	x			x	x	x	x	x			12
Timor-Leste	x		x		x	x	x			x	x	x	x	x	x			11
Togo	x		x	x		x	x				x		x	x	x			9
Tonga			x			x							x					2
Trinidad and Tobago	x		x			x					x		x					5
Tunisia	x		x			x	x				x	x	x	x	x	x	x	11
Turkey	x		x	x	x	x	x			x	x	x	x	x	x	x		13
Turkmenistan	x		x	x	x	x	x				x	x	x	x	x	x		12
Tuvalu											x		x					2
Uganda	x		x	x		x	x			x	x		x	x	x	x	x	12
Ukraine	x		x	x	x	x	x	x			x	x	x	x	x			12
United Arab Emirates						x					x		x					3
United Kingdom	x		x		x	x	x	x			x	x	x	x	x	x	x	13

How to File Complaints on Human Rights Violations

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Total
United Rep. of Tanzania	x		x			x					x	x	x	x	x	x	x	10
United States of America			x			x	x	x	x					x	x			7
Uruguay	x		x	x	x	x	x	x		x	x	x	x	x	x			13
Uzbekistan	x		x	x	x	x	x				x		x	x	x	x		11
Vanuatu			x								x	x	x	x	x	x		7
Venezuela	x		x	x	x	x	x				x	x	x	x	x	x		11
Viet Nam	x		x			x					x		x	x	x			7
Yemen	x		x			x	x				x		x	x	x	x	x	10
Zambia	x		x	x		x	x				x		x					7
Zimbabwe	x		x			x	x				x		x					6
States Parties Total	160	0	165	113	72	173	146	50	18	42	186	99	193	131	135	77	48	1,808

About the Author

Born in Berlin, Klaus Hüfner studied economics, sociology and political science at the Freie Universität Berlin, the London School of Economics, the Institut de Hautes Etudes Internationales in Geneva and Princeton University. He earned his Ph.D. in economics in 1969.

Between 1964 and 1974 Hüfner worked as a research associate at the Max Planck Institute for Educational Research in Berlin. For the next six years, he served as a professor of economics at Teachers College Berlin. And, from 1980 to 2002 he held an appointment as professor of economics at the Freie Universität Berlin. Over the years, Hüfner has held research appointments at Stanford University, the University of Melbourne, Osaka University, the International Institute for Educational Planning (IIEP) in Paris and the International Institute for Peace in Vienna.

Hüfner has served on many boards and committees. Among others, he was member of the Executive Board of the German United Nations Association, the Executive Committee of the World Federation of United Nations Associations (WFUNA), the Governing Board of the International Institute for Educational Planning (IIEP) and the UN Political Advisory Council of the German Foreign Office.

Since 1982 he serves as a member of the Executive Board of the German Commission for UNESCO, since 2003 as a member of the Conciliation and Good Offices Commission to be responsible for seeking the Settlement of Disputes which may arise between State Parties to the UNESCO Convention against Discrimination in Education, and since 2006 as Senior Research Fellow of the Global Policy Forum, New York.

He is a recipient of the Dag Hammarskjöld Medal of the German UNA. He is also Honorary President of WFUNA, Honorary Member of the UNESCO World Heritage Sites Germany and Honorary President of the Berlin Committee for UNESCO.

Hüfner has authored and edited over 50 books and more than 200 articles. His written work has examined the UN system, UN finance, UN reform and related topics. His book on human rights complaints has appeared in twenty editions in eleven languages. Some important recent books are: *Peanuts für die UNO- Das deutsche Finanzengagement seit 1960* (2008), *UNESCO und Menschenrechte* (2008), *Die Finanzierung des UN-Systems* (2nd edition, 2006), and – together with Jens Martens - *UNO-Reform zwischen Utopie und Realität* (2000).