



Using mechanisms of the United Nations to submit complaints alleging violations of children's rights

Human Rights at the UN:

There are two types of bodies responsible for promoting and monitoring human rights within the United Nations. The first type includes those created under the UN Charter, including the Human Rights Council and the Special Procedures, and the second are the treaty bodies. Most of these bodies receive support from the Office of the High Commissioner for Human Rights (OHCHR).

The Treaty Bodies of the United Nations are committees composed of independent experts. They are responsible for monitoring how 'States Parties' (i.e., those States that have ratified the treaty in question) implement the treaty, and also serve as the adjudicating body for any related complaints mechanism, as described below.

Treaty bodies and individual complaints:

When a country ratifies an international human rights treaty, it assumes a legal obligation to implement the rights recognised in that treaty. To provide a private enforcement action for these obligations, some human rights treaty bodies can receive complaints from individuals, groups or their representatives (including children) who claim that their rights have been violated by a State Party to a particular convention or covenant, provided that the State Party has recognised the competence of the committee to receive such complaints. At present, committees currently receiving individual complaints include the following:

- Human Rights Committee, under the International Covenant on Civil and Political Rights;
- Committee to Eliminate Racial Discrimination, under the International Convention on the Elimination of All Forms of Racial Discrimination;
- Committee against Torture, under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Committee to End Discrimination against Women, under the Convention on the Elimination of all Forms of Discrimination against Women; and the
- Committee on the Rights of Persons with Disabilities, under the Convention on the Rights of Persons with Disabilities.

In addition, individual complaints mechanisms exist but are not yet in force for the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; the International Covenant on Economic, Social and Cultural Rights; and, most recently, the Convention on the Rights of the Child.

Requirements:

Although each complaints mechanism is unique, they share many similar provisions that serve to restrict the number and nature of communications that may be considered. These requirements generally include that:

1. A specific victim or group of victims has been identified and is prepared to bring a complaint forward;
2. The complaint alleges in good faith that the State Party in question has violated one of the rights contained in the relevant covenant or convention;
3. Effective domestic remedies have been exhausted;
4. The case is not already under consideration by another international or in some instances regional communications procedure; and
5. The complaint is submitted within a certain time period after the final decision on the case by a national authority.

How the CRC complaints mechanism is different:

In some ways the complaints mechanism under the Convention on the Rights of the Child is uniquely adapted to children. Among other things, the new communications procedure specifies that:

- In reviewing communications, the Committee on the Rights of the Child must follow the principle of the best interests of the child and have regard to the rights and views of the child;
- The Rules of Procedure for using the complaints mechanism are to be child-sensitive;
- Safeguards must be introduced to prevent the potential manipulation of children, and the Committee can decline to consider communications found not to be in a child's best interests;
- The identity of any individuals involved in submitting a complaint, including child victims, cannot be revealed publicly without their express consent; and
- Communications must be submitted with the child victim's consent, unless the person submitting the complaint can justify acting on the child's behalf without that consent.

To read the full text of the CRC complaints mechanism as adopted by the Human Rights Council in June 2011, visit <http://www2.ohchr.org/english/bodies/hrcouncil/OEWG/docs/A-HRC-17-36.doc>.

For further information:

OHCHR:

- Open-ended Working Group on an optional protocol to the Convention on the Rights of the Child: <http://www2.ohchr.org/english/bodies/hrcouncil/OEWG/index.htm>
- Working with the United Nations Human Rights Programme: A Handbook for Civil Society, Chapter VIII, Submitting a Complaint on an Alleged Human Rights Violation: <http://www.ohchr.org/Documents/Publications/NgoHandbook/ngohandbook8.pdf>
- Human Rights Bodies' Complaints Procedures: <http://www2.ohchr.org/english/bodies/petitions/index.htm#communications>
- Procedure for complaints by individuals under the human rights treaties: <http://www2.ohchr.org/english/bodies/petitions/individual.htm>
- Model complaints:
 - For complaints to the Human Rights Committee, the Committee against Torture and the Committee on the Elimination of Racial Discrimination: <http://www2.ohchr.org/english/bodies/docs/annex1.pdf>
 - For complaints to the Committee on the Elimination of Discrimination against Women: <http://www2.ohchr.org/english/bodies/docs/annex2.pdf>

CRIN:

- Guide to Child Rights Mechanisms: <http://crin.org/resources/infoDetail.asp?ID=19952&flag=report>
- Campaign to establish a CRC Complaints mechanism homepage: http://crin.org/law/CRC_complaints/
- Information page on Treaty bodies: <http://www.crin.org/UN/TBs.asp>

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