

INDIVIDUAL COMPLAINTS PROCEDURE UNDER THE HUMAN RIGHTS TREATIES BY
THE UN HUMAN RIGHTS COMMITTEE

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Abstract: *The thesis is devoted to the consideration of individual communications (complaints) regarding the actions or inactions of state bodies and / or officials, as a result of which human rights were violated, after the exhaustion of domestic legal remedies by treaty bodies created in accordance with multilateral international treaties prepared and adopted in within the framework of the United Nations. The thesis provides a study of the issues of admissibility of individual communications (complaints), the procedure for considering them by treaty bodies, the consequences of decisions taken by such bodies on the merits of the case.*

Key words: *complaints, individual communications, treaty bodies, violations, human rights, procedures, admissibility.*

Individual communications to the United Nations (UN) are an important way for people around the world to bring attention to human rights violations and seek redress for their grievances. These communications, also known as "complaints," can be sent by individuals, groups, or non-governmental organizations (NGOs) to various UN bodies that monitor and protect human rights. The UN's human rights complaint system is designed to allow individuals or groups who have exhausted all domestic remedies to seek justice and accountability for human rights violations. Typically, this includes violations of civil and political rights, such as arbitrary arrest or torture, or violations of economic, social, and cultural rights, such as the denial of education or healthcare.

One of the main UN bodies that receives individual communications is the Office of the High Commissioner for Human Rights (OHCHR), which has a special procedures mandate to investigate alleged violations of human rights. The OHCHR can receive complaints from individuals or groups who have suffered or are at risk of suffering from human rights violations, as well as from NGOs acting on their behalf.

Other UN bodies that receive individual communications include the Human Rights Council, the Committee Against Torture, the Committee on

the Elimination of Discrimination against Women, and the Committee on the Rights of Persons with Disabilities.

In total there are nine treaties that are concerned:

- (i) civil and political rights;
- (ii) torture and cruel, inhuman or degrading treatment or punishment;
- (iii) racial discrimination;
- (iv) gender discrimination;
- (v) rights of persons with disabilities;
- (vi) protection of all persons from enforced disappearance;
- (vii) rights of migrants, workers and members of their families;
- (viii) economic, social and cultural rights;
- (ix) rights of the child¹.

To submit a complaint to the UN, individuals or groups must first identify the relevant UN body with jurisdiction over their case. They must *provide information about themselves, the alleged victim(s), and the alleged violation(s) of human rights* in a detailed and factual manner. They may also provide supporting documents or evidence, such as medical reports, witness statements, or court judgments.

Once a complaint is submitted, the UN body will review it and determine whether it meets the admissibility criteria. This includes verifying whether the complainant has exhausted all available domestic remedies, whether the alleged violation(s) fall within the scope of the body's mandate, and whether the complaint is sufficiently substantiated.

If the complaint is deemed admissible, the UN body may request more information or clarification from the complainant or the state concerned. It may also use its good offices to facilitate a dialogue between the parties in order to resolve the issue peacefully. In some cases, the UN body may decide to launch an investigation or send a fact-finding mission to the country concerned. It may also issue recommendations or opinions on the

alleged violations and call on the state to take remedial action or provide compensation to the victims.

When it comes to the decisions of the treaty bodies, they are final and not subject to appeal. In the event that the treaty body, following the results of consideration of an individual communication, did not establish a violation of the rights enshrined in the relevant multilateral international treaty, the case is terminated, and if violations are found, the committee invites the state to take measures to restore the violated rights, and may also speak for compensation to the victim person (affected persons) depending on the nature of violations.

Decisions of the treaty bodies are advisory and not legally binding. At the same time, since states have assumed obligations to implement multilateral international treaties, participate in the formation of treaty bodies so that they monitor the implementation of these treaties, including through the consideration of individual communications, and voluntarily recognize the jurisdiction of treaty bodies to consider complaints, this simple disregard for the decisions of the treaty bodies on individual communications is, in fact, contrary to the express will of the States themselves and inconsistent with the obligations assumed by them. Therefore, a significant number of States do not refuse dialogue with the treaty bodies regarding the decisions of the latter, even if they disagree, in whole or in part, with their decisions on individual communications.

The decision of the treaty body itself sets a time limit within which the State party must take measures that would be consistent with the decision taken by the committee. The treaty body then examines, through

a follow-up procedure (English: follow-up; French: de suivi; Spanish: de seguimiento), the measures taken by the State to implement the decision taken by that body. If the treaty body is satisfied with the measures taken, then it informs the state concerned and terminates the follow-up procedure,

if not satisfied, it also informs the state with explanations of what, in fact, is its dissatisfaction and continues the said procedure².

To conclude, in spite of the fact that individual communications to the UN play a crucial role in promoting and protecting human rights around the world and they provide a platform for those whose rights have been violated to seek justice and accountability, and they help to hold states accountable for their obligations under international human rights law, not every single person who suffered from any kind of violation of rights cannot make complaints to the OHCHR. Only citizens of those countries who ratified the abovementioned treaties are able to use this right.

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