

# Taking Human Rights Complaints to UN Mechanisms

A MANUAL - SECOND EDITION



Kerim Yildiz and Lucy Claridge

Kurdish Human Rights Project  
**KHRP**  
Established 1992



Bar Human  
Rights  
Committee  
OF ENGLAND AND WALES







# TAKING HUMAN RIGHTS COMPLAINTS TO UN MECHANISMS

A MANUAL

NOVEMBER 2006

KURDISH HUMAN RIGHTS PROJECT  
BAR HUMAN RIGHTS COMMITTEE OF ENGLAND AND WALES

# Acknowledgements

The Big Lottery Fund (UK), The Sigrid Rausing Trust (UK), European Action Council for Peace in the Balkans (Netherlands), Ministry for Foreign Affairs of Finland (Finland), Oak Foundation (USA), Bishop's Subcommission for Misereor (Germany), Oakdale Trust (UK) Sticing Cizera Botan (Netherlands), The Bromley Trust (UK), and UN Voluntary Fund for Torture (Switzerland).

Layout & Design: Torske & Sterling Lawyer Marketing  
[www.lawyermarketing.co.uk](http://www.lawyermarketing.co.uk)

Keywords: UN, human rights, manual, treaty-based bodies,  
charter-based bodies.

*Printed in Great Britain  
November 2006  
Published by KHRP (London)  
ISBN 1-905592-03-5  
978-1-905592-03-6  
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Kurdish Human Rights Project (KHRP) is an independent, non-political, non-governmental human rights organisation founded and based in London, England. KHRP is a registered charity and is committed to the promotion and protection of the human rights of all persons living within the Kurdish regions, irrespective of race, religion, sex, political persuasion or other belief or opinion. Its supporters include both Kurdish and non-Kurdish people.



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The Bar Human Rights Committee is the international human rights arm of the Bar of England and Wales. It is an independent body primarily concerned with the protection of the rights of advocates and judges around the world. It is also concerned with defending the rule of law and internationally recognised legal standards relating to the right to a fair trial. The remit of the Bar Human Rights Committee extends to all countries of the world, apart from its own jurisdiction of England & Wales.



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## Foreword

The Kurdish Human Rights Project (KHRP) started its litigation programme in 1992. Since then this programme has been developed widely. In conjunction with the Bar Human Rights Committee of England and Wales (BHRC), KHRP initiated a Human Rights Training Programme in 2000. KHRP has also hosted several interns from the region since 2000. A core component of the project is the provision of expert training in international human rights mechanisms, including the European Convention on Human Rights (ECHR) and UN mechanisms, and the transfer of skills to non-governmental organisations, lawyers and individuals interested in human rights in the region and elsewhere. To date, human rights trainings have been provided not only in Turkey, Azerbaijan and Armenia, but also in the field of fragile states, including Afghanistan and Palestine. The objective is to ensure that key members of the legal and human rights community are sufficiently informed about the legal obligations determined by international instruments, up-to-date jurisprudence of the courts, and practical advice about utilisation of the mechanisms available.

As part of its Human Rights Training Programme, this manual is intended to provide a guide to taking human rights complaints to UN mechanisms. The UN aims to achieve the promotion and encouragement of respect for human rights and for fundamental freedoms through three categories of human rights bodies: the United Nations High Commissioner for Human Rights, those established by the Charter of the United Nations (Charter-based bodies) and those established by provisions contained in specific legal instruments (treaty-based bodies). The various bodies make an invaluable contribution to the worldwide protection of human rights.

This manual provides an overview of the different mechanisms and guides to their use. In addition, the manual also includes key texts, such as texts of the reservations and declarations entered into by member states in the Kurdish regions, model complaint forms and guidelines for the submission of complaints. It updates the first edition, published in 2003, reflecting a number of important changes within the UN human rights mechanisms, including the establishment of the Human Rights Council.

This manual was prepared by KHRP Executive Director Kerim Yildiz and Legal Officer Lucy Claridge, with assistance from KHRP advisor Dr Anke Stock and KHRP legal intern Kyle Smith, and is published jointly with KHRP and BHRC. Its publication is designed to complement the ongoing training seminars being held in Armenia, Azerbaijan and Turkey and other parts of Europe. The publication of this manual was made possible by the support of KHRP's funders, whose support is gratefully acknowledged. Once again, I welcome this opportunity for our organisations to work together with the aim of promoting and motivating the highest standards of compliance with international human rights law.

Mark Muller

*Chair*

*Bar Human Rights Committee of England and Wales*

October 2006

## Abbreviations

CAT	Convention against Torture/Committee against Torture and Cruel, Inhuman or Degrading Treatment or Punishment
CCPR	International Covenant on Civil and Political Rights
CCPROP1	First Optional Protocol to the CCPR
CCPROP2	Second Optional Protocol to the CCPR
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women/Committee on the Elimination of Discrimination against Women
CEDAWOP	Optional Protocol to CEDAW
CERD	Convention on the Elimination of All Forms of Racial Discrimination/Committee on the Elimination of Racial Discrimination
CESCR	International Covenant on Economic, Social and Cultural Rights/Committee on Economic, Social and Cultural Rights
CMW	Committee on Migrant Workers
CRC	Convention on the Rights of the Child/Committee on the Rights of the Child

CRMW	International Convention on the Protection of the Rights of All Migrant Workers and Their Families
CSW	Commission on the Status of Women
ECOSOC	Economic and Social Council
MWC	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
HRC	Human Rights Committee
OHCHR	UN High Commissioner for Human Rights
UN	United Nations
WGAD	Working Group on Arbitrary Detention
WGEID	Working Group on Enforced or Involuntary Disappearances

## Human Rights and the United Nations

Article 1 of the United Nations Charter<sup>1</sup> proclaims that one of the purposes of the United Nations is to achieve international co-operation ‘in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion...’ The first major achievement in the field of human rights was the adoption of the Universal Declaration of Human Rights<sup>2</sup> by the General Assembly resolution 217 A (III) of 10 December 1948. To this day the anniversary of the adoption, 10 December, is observed internationally as Human Rights Day.

The United Nations role in human rights is carried out by a number of human rights bodies. Significant bodies in the United Nations include the High Commissioner for Human Rights (UNHCR),<sup>3</sup> which was created in 1993 by the General Assembly, and the Human Rights Council, which in June 2006 replaced the Commission on Human Rights. Over the course of its first year, the committees and special procedures which previously existed under the UNCHR umbrella will continue to function in their same capacity under the Human Rights Council.

To gain an overview of the different bodies a distinction has to be made between those that are Charter-based and those that are treaty-based. The Charter-based bodies were established from provisions contained in the Charter of the United Nations. They hold broad human rights mandates, address an unlimited audience and take action based on majority voting. The treaty-based bodies derive their existence from provisions contained in a specific legal instrument (for example, the International Covenant on Civil and Political Rights). Their mandates are narrower, they address a limited audience (dependent on the legal instrument involved and the countries that ratified it) and base their decision-making on consensus.

Both systems make a valuable contribution to the worldwide protection of human rights. The work of the Charter-based bodies is visible and thus widely effective

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1 See <http://www.un.org/aboutun/charter/>

2 See <http://www.unhchr.ch/udhr/lang/eng.htm>

3 See <http://www.unhchr.org>

through on-the-spot and high profile visits. Likewise, there is a high level of State Party compliance with the views of the Committees under treaty-based bodies, which demonstrates their own efficacy.

# I. Overview of Different Mechanisms

## A. Charter-based Bodies

### 1. **Human Rights Council** (established by General Assembly resolution 60/251 of 15 March 2006)

On June 19, 2006, the United Nations Human Rights Council replaced the Commission on Human Rights. Upgrading the body was seen as a way to reform the Commission, which was criticised as ineffectual and overly politicised, and to promote effective resolution of human rights crises around the world. The new Council is a standing body whose 47 members, represented by geographical region, are elected by an absolute majority of the General Assembly. Unlike its predecessor, which met once a year for six weeks, the Council meets at regular intervals throughout the year. The Council seeks novel ways to respond to the world's worst human rights problems by a peer review system designed to engage each member.

Therefore the Human Rights Council has inherited the following extra-conventional mechanisms from the UNCHR:<sup>4</sup>

- (a) *Special Rapporteurs*, who examine specific types of human rights violations:
  - (i) Special Rapporteur of the Human Rights Council on the Sale of Children, Child Prostitution and Child Pornography;
  - (ii) Special Rapporteur of the Human Rights Council on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health;
  - (iii) Special Rapporteur of the Human Rights Council on

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<sup>4</sup> For detailed information on the extra-conventional mechanisms see: <http://www.ohchr.org/english/bodies/chr/special/themes.htm>.

- the Right to Education;
  - (iv) Special Rapporteur of the Human Rights Council on Extrajudicial, Summary or Arbitrary Executions;
  - (v) Special Rapporteur of the Human Rights Council on the Right to Food;
  - (vi) Special Rapporteur of the Human Rights Council on Adequate Housing as a Component of the Right to and Adequate Standard of Living;
  - (vii) Special Rapporteur of the Human Rights Council on the Situation of Human Rights and Fundamental Freedoms of Indigenous People;
  - (viii) Special Rapporteur of the Human Rights Council on the Independence of Judges and Lawyers;
  - (ix) Special Rapporteur of the Human Rights Council on the Promotion and Protection of the Right to Freedom of Opinion and Expression;
  - (x) Special Rapporteur of the Human Rights Council on Freedom of Religion or Belief;
  - (xi) Special Rapporteur of the Human Rights Council on the Use of Mercenaries as a Means of Impeding the Exercise of the Right of Peoples to Self-Determination;
  - (xii) Special Rapporteur of the Human Rights Council on the Human Rights of Migrants;
  - (xiii) Special Rapporteur of the Human Rights Council on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance;
  - (xiv) Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
  - (xv) Special Rapporteur of the Human Rights Council on the Adverse Effects of the Illicit Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights;
  - (xvi) Special Rapporteur on Trafficking in Persons, Especially in Women and Children;
  - (xvii) Special Rapporteur of the Human Rights Council on Violence against Women, its Causes and Consequences.
- (b) *Country Mandates*, that examine the human rights situation in specific countries, for example:
- (i) Special Rapporteur of the Human Rights Council on

the Situation of Human Rights in Sudan<sup>5</sup>

- (c) *Other Thematic Mandates:*
- (i) Working Group on People of African Descent;
  - (ii) Working Group on Arbitrary Detention;
  - (iii) Working Group on Enforced or Involuntary Disappearances;
  - (iv) Independent Expert on the Question of Human Rights and Extreme Poverty;
  - (v) Independent Expert appointed Secretary-General to Update the Set of Principles for the Protection and the Promotion of Human Rights Through Action to Combat Impunity;
  - (vi) Special Representative of the Secretary-General on the Situation of Human Rights Defenders;
  - (vii) Representative of the Secretary-General on Internally Displaced Persons;
  - (viii) Independent Expert on the Effects of Structural Adjustment Policies and Foreign Debt;
  - (ix) Independent Expert to Assist the High Commissioner in the Fulfilment of the Mandate Described in Commission on Human Rights Resolution 2004/87 Entitled 'Protection of Human Rights and Fundamental Freedoms While Countering Terrorism';
  - (x) Independent Expert on Minority Issues.<sup>6</sup>

**2. Sub-Commission on the Promotion and Protection of Human Rights**  
(established by the Commission on Human Rights under the authority of ECOSOC resolution 9 (II) of 21 June 1946)

The Sub-Commission was the main subsidiary body of the UNCHR and its mandate was adopted by the Human Rights Council in June 2006 and extended for one year. Under the Human Rights Commission, it held regular annual session in July/August for three weeks in Geneva, but its functions and mandate are now due for review in June 2007. It is

<sup>5</sup> There exist further country mandates regarding the following countries: Afghanistan, Belarus, Burundi, Cambodia, Chad, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo (ex-Zaire), Haiti, Myanmar, Palestinian territories occupied since 1967, Somalia, Uzbekistan. The mandate for the Special Representatives on Human Rights in Iraq and Iran was not renewed by the then Commission on Human Rights.

<sup>6</sup> This new UN special mechanism was approved by the then Commission on Human Rights at its 61st session in 2005.

composed of 26 experts who act in their personal capacity and who were elected by the previous Human Rights Commission with due regard to equitable geographical distribution. Their appointments were extended for a further year in June 2006 by the Human Rights Council.

3. **Commission on the Status of Women** (CSW; established as a functional commission of ECOSOC resolution 11 (II) of 21 June 1946)

The Commission consists of 45 members who are elected by ECOSOC for four years. CSW holds its annual meeting in March in New York.

## **B. Treaty-based Bodies (Conventional Mechanisms)**

1. **Human Rights Committee** (HRC, established pursuant to Article 28 of the International Covenant on Civil and Political Rights<sup>7</sup>; meets three times a year).
2. **Committee against Torture** (CAT, established pursuant to Article 17 of the Convention against Torture and Other Cruel, Inhumane and Degrading Treatment of Punishment<sup>8</sup> to supervise the implementation of the Convention; meets bi-annually).
3. **Committee on the Elimination of Discrimination against Women** (CEDAW, established pursuant to Article 17 of the Convention on the Elimination of All Forms of Discrimination against Women<sup>9</sup> to supervise the implementation of the Convention; meets bi-annually).
4. **Committee on the Elimination of Racial Discrimination** (CERD, established pursuant to Article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination<sup>10</sup> to supervise the implementation of the Convention; meets bi-annually).
5. **Committee on Economic, Social and Cultural Rights** (CESCR, established by ECOSOC resolution 1985/17 to supervise the implementation of the International Covenant on Economic, Social and Cultural Rights;<sup>11</sup> meets three times a year).

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7 See: <http://www.ohchr.org/english/law/ccpr.htm>.

8 See: <http://www.ohchr.org/english/law/cat.htm>.

9 See: <http://www.ohchr.org/english/law/cedaw.htm>.

10 See: <http://www.ohchr.org/english/law/cerd.htm>.

11 See: <http://www.ohchr.org/english/law/cescr.htm>.

6. **Committee on the Rights of the Child** (CRC, established pursuant to Article 43 of the Convention on the Rights of the Child<sup>12</sup> to supervise the implementation of the Convention; meets three times a year).
7. **Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families** (CMW, established by the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families).<sup>13</sup>

There are further UN human rights bodies and agencies that are involved in the promotion and protection of human rights and that interact with the main human rights charter and treaty-based bodies.

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12 See: <http://www.ohchr.org/english/law/crc.htm>.

13 See: <http://www.ohchr.org/english/law/cmw.htm>.



## II. How To Use Charter-based Bodies

Charter-based bodies reflect the rights safeguarded by the United Nations Charter. They address a broad audience and are concerned with a large spectrum of human rights.

### A. Human Rights Council and Sub-Commission on the Promotion and Protection of Human Rights – 1503 Procedure

The procedure used by the Human Rights Council is called the *1503 procedure* after the Economic and Social Council resolution 1503 (XLVII) of 27 May 1970<sup>14</sup> whereby it was established. This confidential procedure is the oldest human rights complaint mechanism in the United Nations system and was substantially amended in 2000 by the Economic and Social Council resolution 2000/3 of 16 June 2000.<sup>15</sup> Its operation was adopted by the Human Rights Council in June 2006 and extended for a period of one year.

**Mandate:** To examine a consistent pattern of gross, reliably attested violations of human rights and fundamental freedoms occurring in any country of the world. The mechanism primarily examines patterns of violations rather than individual violations as such. All initial steps in the process are confidential until a situation is referred to the Economic and Social Council.

#### **Complaints:**

- Any individual or group (who is a victim of a human rights violation or who has reliable knowledge of such violations) can submit a complaint by mail, fax or e-mail.
- Person(s) or organisation(s) who submit the communication must be

14 See: <http://www.ohchr.org/english/bodies/chr/complaints.htm#1503>.

15 See Fact Sheet # 7 for more details: <http://www.ohchr.org/english/about/publications/docs/fs7.htm#1503>.

identified (full address, telephone, fax, and e-mail details of the organisation, including dialling codes); anonymous communications are therefore inadmissible, but one might request to keep one's name suppressed if the complaint is forwarded to the Government concerned.

- The communication should be addressed to:

Commission/Sub-Commission Team (1503 Procedure)  
Treaties & Commission Branch  
OHCHR-UNOG  
1211 Geneva 10, Switzerland  
Fax: +41 22 917 90 11  
E-mail: [1503@ohchr.org](mailto:1503@ohchr.org)

- The relevant facts must be described in as much detail as possible, providing names of alleged victims, dates, locations and other evidence and documents (one should not rely on a single case, one should expand on a group or series of such cases; reports in the mass media are not sufficient).
- One should submit the complaint within a reasonable time following the exhaustion of available domestic remedies in the respective country.

### **Handling of the Complaint:**

- An initial screening by the Secretariat together with the Chairperson of the Working Group on Communications decides whether the complaint is rejected as manifestly ill-founded or communicated to the Government.
- Assessment of the complaints and any replies received from the Government by the Working Group on Communications (which meets in late summer): these proceedings are in writing only and are confidential. Most complaints fail to proceed beyond this point and only the Government is advised of the decision, the complainant is not.
- The Working Group on Situations (which meets early the following year) decides whether or not the situation referred to reveals a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms: these proceedings are in writing only and are confidential. The Working Group either forwards the situation to the Human Rights Council, in which case it usually makes specific recommendations for action or it keeps a situation pending before it or closes the file. Governments are advised of the decisions taken, the complainant, however, is not.

- Assessment of the situation by the Human Rights Council (one month after the previous stage) takes place in closed session. The Government concerned is invited to address the Human Rights Council and answer questions: the Human Rights Council might keep it under review, discontinue the matter under the 1503 procedure and take it up instead under a public procedure<sup>16</sup> or discontinue the matter. It may also make recommendations to the Economic and Social Council.

## **B. Thematic Mandates**

The mandates are not strictly associated with ratification of the human rights treaty standards. Therefore, they cover States which have so far avoided the treaty system or their system of individual complaints. All thematic mechanisms welcome general information about specific human rights abuses committed in specific countries. However, most of the mechanisms mentioned here also accept individual cases with the exception of the Special Rapporteur on the Use of Mercenaries, the Representative of the Secretary-General on Internally Displaced Persons, the Working Group on People of African Descent, the Independent Expert on the Question of Human Rights and Extreme Poverty, the Independent Expert to Update the Set of Principles for the Protection and the Promotion of Human Rights Through Action to Combat Impunity, the Independent Expert on the Effect of Structural Adjustment Policies and Foreign Debt, the Independent Expert to Assist the High Commissioner in the Fulfilment of the Mandate Described in Commission on Human Rights Resolution 2004/87 Entitled ‘Protection of Human Rights and Fundamental Freedoms While Countering Terrorism’ and the Independent Expert on Minority Issues. These do not have formal complaints procedures, differing in this regard also from the treaty-based bodies. The activities of the country and thematic mechanisms are based on communications received from various sources (the victims or their relatives, local or international NGOs, etc.) containing allegations of human rights violations. Such communications may be submitted in various forms (for example, letters, faxes, cables) and may concern individual cases or contain details of situations of alleged violations of human rights.

**It is important to note that the findings and recommendations of the mechanisms are not legally binding and non-enforceable.**

**In urgent individual cases** (such as fear of imminent execution) the mechanisms (mainly used by the Special Rapporteurs on Extrajudicial, Summary or Arbitrary Executions and on Torture and the Working Groups on Enforced or Involuntary Disappearances and on Arbitrary Detention) may issue urgent appeals, which

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16 The public procedure is described in Economic and Social Council resolution 1235 (XLII).

are transmitted to the Government to protect those concerned. These appeals are primarily of a preventive nature and in no way prejudge the conclusion. In less urgent cases, they address a letter to the Government containing a description of the allegation and request a reply.

**Standing Invitations:** In order for the mechanisms to undertake on-site visits to study the given situations in any country first-hand they need to have an invitation by the government. As of 14 October 2004, 52 countries have extended standing invitations to the Thematic Special Procedures of the United Nations Human Rights Council,<sup>17</sup> which include Turkey, Georgia and the Islamic Republic of Iran, but which does not include Azerbaijan, Armenia, Iraq and Syria.

**Contacting the thematic mechanisms:** To submit information to, or for more information about, all the thematic mechanisms, write to the relevant mechanism at the following address:

Name of mechanism(s)  
OHCHR-UNOG  
8-14 Avenue de la Paix  
1211 Geneva 10  
Switzerland

Fax: +41 22 917 9006

E-mail: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org) (in case of a urgent action please head the communication 'For Urgent Action')

Full information on the Commission as its work and mandate continues to shift to the Human Rights Council and the work of the thematic mechanisms, including recent reports, resolutions, access to the forms or questionnaires designed to assist those wishing to submit information and the UN Fact-Sheets can be found at the OHCHR website: <http://www.ohchr.org/english/bodies/chr/special/index.htm>.

**Preparation of the communication:** Several mechanisms have designed questionnaires in order to assist those wishing to submit information, which are located in the appendices. However, these guidelines provide the minimal amount of information necessary for communication with those mechanisms that do not have such a questionnaire.

- In principle, communications will not be considered if they are also submitted under ECOSOC resolution 1503 and/or the Optional Protocol of the International Covenant on Civil and Political Rights.

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<sup>17</sup> See <http://www.ohchr.org/english/bodies/chr/special/invitations.htm>.

- Mechanisms will act on information that they believe to be credible and balanced, so it is important that any communication is presented in this way.
- No complaint should be politically motivated and run counter to the principles of the United Nations.
- The communication must be addressed to the respective mechanism.
- If the communication relates to an individual case, details about the alleged violation should be provided, including the name of the victim, the date and place of the incident, the alleged perpetrator(s), and precise details about the violation (treatment involved, instruments used, parts of the body affected and injuries suffered, or if the treatment is psychological, what it consisted of and how the victim has been affected).
- If the communication relates to general circumstances, one should begin by providing information to establish a context. Thus, information about, for example, the legal framework and political situation could be relevant. One then should aim to paint an overall picture of the human rights violation. All the patterns of violations identified should be presented, supported with as many examples as possible.
- One must identify the person(s) or organisation(s) that submit the communication (full address, telephone, fax, and e-mail details of the organisation, including dialling codes); anonymous communications are inadmissible.
- Available witnesses to the alleged violation should be identified.
- Copies of supporting documentation (judgments, medical certificates etc.) should be provided if available.
- Measures taken to seek redress domestically should be documented.
- One should indicate which aspects, if any, of the communication are confidential.
- With regard to individual cases, it should be stated whether the case is urgent.
- The mechanism should be informed about any change in the situation (for example, if a person who is arbitrarily detained is subsequently released).

## Handling of communications:

- If the mechanism finds the information credible and within its mandate, the information will be transmitted to the respective Government (either as a normal letter or as an urgent appeal).
- The Government is expected to reply and is otherwise reminded to do so.
- The mechanisms will follow-up on the Government's response until a satisfactory answer is received.
- The replies are summarised and published in the mechanism's Annual Report.

Although all thematic mandates of the Office of the High Commissioner for Human Rights are listed at the beginning of this document, specific information is only provided on those relevant to the region.<sup>18</sup>

### 1. Special Rapporteurs

#### (a) Special Rapporteur on the Right to Education

- Established by Commission resolution 1998/33.
- Renewed under CHR 2001/29.
- The name of the current Rapporteur can be found on the website of the High Commissioner for Human Rights.<sup>19</sup>

#### **Mandate:**

- Focuses on developments in the status of the right to education, especially access to primary education and the difficulties encountered in the implementation of this right.
- Works with governments in order to establish free universal primary education within a reasonable number of years.

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<sup>18</sup> If specific information related to a thematic mechanism is missing, it can be found under <http://www.ohchr.org/english/bodies/chr/special/index.htm>.

<sup>19</sup> See: <http://www.ohchr.org/english/issues/education/rapporteur/index.htm>.

- Focuses on the elimination of gender discrimination in education.
- Works closely with the Special Rapporteur on Freedom of Opinion and Expression and the Special Representative on Human Rights Defenders.

(b) **Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions**

- Established by ECOSOC resolution 1982/35.
- Renewed under CHR 2001/45.
- The name of the current Rapporteur can be found on the website of the High Commissioner for Human Rights.<sup>20</sup>

**Mandate:**

*Involvement according to the following criteria:*

- Capital punishment imposed after unfair trial;
- Breach of right to appeal, right to seek pardon, or commutation of sentence;
- Persons under 18 at the time of the offence;
- Mentally insane persons, pregnant women, or recent mothers;
- Death threats and fear of execution/death owing to attacks by State officials, paramilitary groups, private individuals or groups co-operating with or tolerated by the Government;
- Death in custody due to torture, neglect, use of force, or life-threatening conditions of detention;
- Death owing to the use of force by law enforcement

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20 See: <http://www.ohchr.org/english/issues/executions/index.htm>.

officials, or persons acting in direct or indirect compliance with the State, when it is inconsistent with the criteria of absolute necessity and proportionality;

- Breach of the obligation to investigate alleged violations of the right to life and to provide adequate compensation;
- Violations of the right to life during armed conflicts, especially of the civilian population;
- Expulsion of persons to a country where their lives are in danger, as well as the prevention of persons seeking asylum from leaving a country where their lives are in danger through the closure of national boundaries;
- Genocide.

**Individual Cases:** Specific guidelines are provided on the website and in the appendix.<sup>21</sup>

(c) **Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People**

- Established by Commission resolution 2001/57
- Renewed under CHR 2004/62.
- The name of the current Rapporteur can be found on the website of the High Commissioner for Human Rights.<sup>22</sup>

**Mandate:**

To gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous people themselves and their communities and organisations, on violations of their human rights and fundamental freedoms; to formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental

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21 See <http://www.ohchr.org/english/issues/executions/complaints.htm> and Annex 2 (<http://www.ohchr.org/english/issues/executions/model.htm>).

22 See: <http://www.ohchr.org/english/issues/indigenous/rapporteur/index.htm>.

freedoms of indigenous people; and to work in close relation with other thematic mechanisms.

**Individual Cases:** More information is provided on the Rapporteur's website.<sup>23</sup>

(d) **Special Rapporteur on the Independence of Judges and Lawyers**

- Established by Commission resolution 1994/41.
- Renewed under CHR 2000/42.
- The name of the current Rapporteur can be found on the website of the High Commissioner for Human Rights.<sup>24</sup>

**Mandate:**

To identify and record not only attacks on the independence of the judiciary, lawyers, and court officials, but also progress achieved in protecting and enhancing their independence.<sup>25</sup>

**Major principles of independence and impartiality of judges and lawyers:**

- Everyone shall have the right to be tried by ordinary courts of tribunals using established legal procedures;
- Objectivity in regard to appointment and conditions of service of the judiciary and of prosecutors; the judiciary shall have guaranteed tenure;
- Prosecutors should consider the views of victims and ensure that they are informed of their rights;
- Prosecutors shall give due attention to the prosecution of crimes committed by public officials;

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<sup>23</sup> See: <http://www.ohchr.org/english/issues/indigenous/rapporteur/index.htm#communications>.

<sup>24</sup> See: <http://www.ohchr.org/english/issues/judiciary/index.htm>.

<sup>25</sup> The work is based on standards contained in the CCPR, the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors (see: <http://www.ohchr.org/english/law/index.htm>).

- All persons shall have the option of receiving legal assistance from a lawyer. Facilities must be provided to communicate with and consult a lawyer in full confidentiality. Detained persons shall have prompt access to a lawyer, and in any event not later than 48 hours from the time of arrest or detention;
- Governments shall ensure that lawyers can perform their functions free from intimidation, harassment or improper interference.

**Individual Cases:** More information is provided on the Rapporteur's website.<sup>26</sup>

(e) **Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression**

- Established by Commission resolution 1993/45.
- Renewed under CHR 2002/48, 2003/42 and 2004/42.
- The name of the current Rapporteur can be found on the website of the High Commissioner for Human Rights.<sup>27</sup>

**Mandate:**

- To report and make recommendations on discrimination, threats or use of violence, and harassment against people seeking to exercise or promote their right to exercise freedom of opinion and expression.
- The right to freedom of expression includes: the right to (i) seek and receive information and ideas of any kind, and (ii) impart these, through any media of one's choice. The right to freedom of expression can only be restricted to protect (i) the rights and reputations of others, (ii) national security, (iii) public order, (iv) public health, and (v) public morals. Even in these cases the restrictions must be formally enacted in law and must be in proportion to

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26 See: <http://www.ohchr.org/english/issues/judiciary/complaints.htm>.

27 See: <http://www.ohchr.org/english/issues/opinion/index.htm>

their legitimate purpose.

**Individual cases:** Specific guidelines are provided in the appendix.<sup>28</sup>

Apart from receiving individual communications the Special Rapporteur is particularly interested in receiving information about:

- Detention of, discrimination against, or threats or use of violence and harassment directed at persons seeking to exercise or promote the right to freedom of opinion and expression;
- Activities of political opposition parties and trade union activists;
- Actions against the media;
- Actions against publishers and performers in other media;
- Activities of human rights defenders;
- Women's human rights relating to freedom of expression;
- Obstacles to access to information at the local, regional and national levels on projects and initiatives proposed by the Government to advance the right to development and obstacles to participation in the decision-making process, as well as obstacles to access to information on other subjects such as environmental and health impact studies, national budgets, social spending, industrial development projects and trade policies.

(f) **Special Rapporteur on the Freedom of Religion and Belief**

- Established under Commission resolution 1986/20.

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28 Please see Annex 3 ([http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.1999.64.En?OpenDocument#guidelines](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.1999.64.En?OpenDocument#guidelines)).

- Renewed under CHR 2001/42.
- The name of the current Rapporteur can be found on the website of the High Commissioner for Human Rights.<sup>29</sup>

**Mandate:**

To examine and report on violations of the principles of non-discrimination, tolerance, freedom of thought, freedom of conscience, freedom of religion or belief, freedom to manifest one's religion or belief, physical integrity and violations especially affecting women.<sup>30</sup>

**Individual Cases:** More information is provided on the Rapporteur's website.<sup>31</sup>

(g) **Special Rapporteur on the Use of Mercenaries as a Means of Impeding the Exercise of the Right of Peoples to Self-Determination**

- Established by Commission resolution 1987/16; renewed repeatedly.
- The name of the current Rapporteur can be found on the website of the High Commissioner for Human Rights.<sup>32</sup>

**Mandate:**

- To seek credible and reliable information from Governments, specialised agencies, intergovernmental organisations, and NGOs on the use of mercenaries.
- A mercenary can be defined as a person who is knowledgeable and experienced in military matters or the use of firearms at the service of a third party who hires the person to undermine the exercise of self-determination

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29 See: <http://www.ohchr.org/english/issues/religion/index.htm>.

30 The Rapporteur's work is based on the Universal Declaration of Human Rights, the CCPR and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (<http://www.ohchr.org/english/issues/religion/index.htm>).

31 See: <http://www.ohchr.org/english/issues/mercenaries/index.htm>.

32 See: <http://www.ohchr.org/english/issues/mercenaries/index.htm>.

in a given state, destabilise its legitimate government, destroy its infrastructure, or harms persons through acts of terrorism. A mercenary is a criminal agent who is paid to commit crimes and undermine human rights.

**Note: The Special Rapporteur does not take up individual cases.**

(h) **Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

- Established by Commission resolution 1985/33; renewed repeatedly.
- The name of the current Rapporteur can be found on the website of the High Commissioner for Human Rights.<sup>33</sup>

**Mandate:**

- To gather reliable information from Governments, specialised agencies, intergovernmental organisations, and NGOs on torture.
- To examine cases of physical and psychological torture (that is 'allegation letters' which do not require immediate action), so as to make urgent appeals to Governments concerning individuals.

**Individual cases:** Specific guidelines are provided in the appendix.<sup>34</sup>

**Note: Deaths as a result of torture are dealt with by the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions.**

(i) **Special Rapporteur on Violence Against Women, Its Causes and Consequences**

- Established by Commission resolution 1994/45.

33 See: <http://www.ohchr.org/english/issues/torture/rapporteur/index.htm>.

34 Please see Annex 4 (<http://www.ohchr.org/english/issues/torture/rapporteur/model.htm>).

- Renewed under CHR 2003/45.
- The name of the current Rapporteur can be found on the website of the High Commissioner for Human Rights.<sup>35</sup>

**Mandate:**

- To seek and receive information on violence against women, do research into its causes and consequences and to recommend appropriate measures to stop individual cases and practices of violence against women.
- The definition of ‘violence against women’ stems from the Declaration on the Elimination of Violence Against Women<sup>36</sup> (Article 2):
  - ‘Physical, sexual, and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
  - Physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
  - Physical, sexual, and psychological violence perpetrated or condoned by the state, wherever it occurs.’

**Individual cases:** Specific guidelines are provided in the appendix.<sup>37</sup>

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35 See: <http://www.ohchr.org/english/issues/women/rapporteur/index.htm>.

36 See [www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.48.104.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.48.104.En?Opendocument)

37 Please see Annex 5 (<http://www.ohchr.org/english/issues/women/rapporteur/form.htm>).

## 2. Other Thematic Mandates

### (a) Working Group on Arbitrary Detention (WGAD)

- Established by Commission resolution 1991/42; repeatedly renewed.
- The name of the current chairperson can be found on the website of the High Commissioner for Human Rights.<sup>38</sup>

#### **Mandate:**

- To investigate cases of deprivation of liberty imposed arbitrarily on people.<sup>39</sup>
- To observe the situation of migrants and asylum seekers being held in prolonged administrative custody.
- To visit places of detention (with invitation of the Governments) to satisfy itself of conditions of detention and of the legal status of prisoners.

**Individual cases:** Specific guidelines are provided on the website and in the appendix.<sup>40</sup> Domestic remedies do not need to be exhausted.

#### **Handling of cases:**

- Cases which are considered arbitrary are transmitted to the government concerned, with an invitation to respond to the WGAD, preferably within 90 days.
- If the person is released subsequent to the WGAD taking up the case, it can decide in principle to file the case. However, the WGAD reserves the right to decide whether

38 See: <http://www.ohchr.org/english/issues/detention/index.htm>.

39 An important international standard for the WGAD is the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. See <http://www.ohchr.org/english/law/bodyprinciples.htm>.

40 Please see <http://www.ohchr.org/english/issues/detention/complaints.htm> and Annex 6 (<http://www.ohchr.org/english/about/publications/docs/fs26.htm#A5>).

or not the case was arbitrary.

- If the WGAD considers that the arbitrary nature of the detention is established, it declares the detention arbitrary and makes recommendations to the government concerned. It also may keep the case pending or it may adopt a 'deliberation', a general position on the issue.

Apart from examining individual cases the WGAD may, on its own initiative, take up cases, which constitute arbitrary deprivation of liberty.

**(b) Working Group on Enforced or Involuntary Disappearances (WGEID)**

- Established in 1980 by Commission resolution 20 (XXXVI).
- Renewed under CHR 2004/40.
- The name of the current chairperson can be found on the website of the High Commissioner for Human Rights.<sup>41</sup>

**Mandate:**

- To monitor States' compliance with their obligations deriving from international standards<sup>42</sup> relating to enforced disappearances.
- The WGEID examines questions relevant to enforced or involuntary disappearance of persons and to assist families in determining the fate and whereabouts of their missing relatives.
- A 'disappeared' person is someone who has been arrested, detained, or abducted against his or her will or otherwise deprived of his or her liberty by (i) officials or different branches or levels of government, or (ii) organised groups or private individuals acting on behalf of or with the support (direct and indirect), permission or acquiescence

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41 See: <http://www.ohchr.org/english/issues/disappear/index.htm>.

42 Inter alia, Declaration on the Protection of all Persons from Enforced Disappearances (see <http://www.ohchr.org/english/law/disappearance.htm>).

of a government who then conceals the whereabouts of that person or refuses to disclose that person's fate or acknowledge that the person was deprived of their liberty, thus placing that person outside of the protection of the law.<sup>43</sup>

**Individual cases:** Specific guidelines are provided on the website and in the appendix.<sup>44</sup> Short-term unacknowledged 'disappearances' should not be submitted to the WGEID and if this is not the case it should be stated explicitly in the letter.

**Handling of cases:** The chairperson of the WGEID communicates the case to the Government with the request to investigate the case. The WGEID transmits information from the Government containing details of the whereabouts of a 'disappeared' person to the author of the individual complaint. If the author does not respond within six months of the date of the communication, or if s/he contests the Government's information on grounds which are considered unreasonable by the WGEID, the case is considered to be resolved. Otherwise the case is resubmitted to the Government and kept in the files of the WGEID until the whereabouts of the disappeared person are clarified.

(c) **Special Representative of the Secretary-General on the Situation of Human Rights Defenders**

- Established by Commission resolution 2000/61.
- The name of the current Representative can be found on the website of the High Commissioner for Human Rights.<sup>45</sup>

**Mandate:**

- To seek, receive, examine and respond to information on the situation and the rights of human rights defenders.

43 Cf. "The United Nations Thematic Mechanisms 2002: An Overview of their work and mandates", Amnesty International, 2002.

44 See <http://www.ohchr.org/english/issues/disappear/communications.htm> and Annex 7 (<http://www.ohchr.org/english/issues/disappear/Revised%20sample%20form%20to%20submit%20a%20communication.doc>).

45 See: <http://www.ohchr.org/english/issues/defenders/index.htm>.

Human rights defenders are people acting, ‘individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels’ (Article 2 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms).<sup>46</sup>

- To co-operate with Governments and other interested actors on the effective implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms and to recommend effective strategies for the protection of the rights of human rights defenders.

**Individual cases:** Specific guidelines are provided on the website and in the appendix.<sup>47</sup>

(d) **Representative of the Secretary-General on Internally Displaced Persons**

- Established by Commission resolution 1992/73.
- Renewed under CHR 2001/54.
- The name of the current Representative can be found on the website of the High Commissioner for Human Rights.<sup>48</sup>

**Mandate:**

- To engage in coordinated advocacy in favour of the protection and respect of the human rights of IDPs;
- To continue and enhance dialogues with Governments as well as NGOs and other actors;
- To report on the Guiding Principles on Internal

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46 See <http://daccessdds.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>.

47 See Annex 8 (<http://www.ohchr.org/english/issues/defenders/complaints.htm>).

48 See: <http://www.ohchr.org/english/issues/idp/index.htm>.

Displacement:<sup>49</sup>

- To strengthen the international response to internal displacement;
- To mainstream the human rights of IDPs into all relevant parts of the UN system.

**Note: This thematic mechanism does not take up individual cases.**

### C) Country Mandates

At the moment there is no country mandate active within the Kurdish region.

### D) Other Complaint Procedures

#### The Procedure of the Commission on the Status of Women

**Mandate:**

- To prepare recommendations and reports for the ECOSOC on promoting women's rights in political, economic, civil, social and educational fields. The Commission also makes recommendations to the Council on urgent problems requiring immediate attention in the field of women's rights. The object of the Commission is to promote the implementation of the principle that men and women shall have equal rights.

**Complaint Procedure:**

- The confidential procedure is designed to identify global trends and patterns concerning women's rights. Like the 1503 procedure it is not aimed at providing victims of human rights violations with redress. Individuals and NGOs can send communications to the Committee. The

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<sup>49</sup> See <http://daccessdds.un.org/doc/UNDOC/GEN/G98/104/93/PDF/G9810493.pdf?OpenElement>.

communications will be screened by the Working Group on Communications, which brings to the Commission's attention those that 'appear to reveal a consistent pattern of reliably attested injustice and discriminatory practices against women.' The Commission considers the cases in closed meetings and reports to ECOSOC, making recommendations.

### III. How To Use Treaty-based Bodies

Treaty-based bodies are Committees set up by seven major human rights treaties<sup>50</sup> in order to monitor the implementation of treaty obligations. Except for CEDAW, which meets in New York and is serviced by the UN Division for the Advancement of Women, all treaty bodies meet primarily in Geneva and are serviced by the Office of the UN High Commissioner for Human Rights (OHCHR).

The treaty bodies are composed of members who are elected by the State Parties to each treaty or by ECOSOC in the case of CESC. In the selection process, consideration is given to equitable geographical distribution and the representation of different cultures as well as principal legal systems. The members work as independent experts meeting regularly throughout the year.

The use of the bodies is strictly associated with ratification of the human rights treaty by the respective State. The monitoring activities of the treaty bodies are based on the examination of State reports, which have to be submitted by the States on a regular basis. In the case of CCPR, CERD, CAT, CEDAW, and in future of CRMW, individuals may complain of violations of their rights under the respective treaty.<sup>51</sup> CAT and CEDAW also provide an inquiry procedure, which includes undertaking investigations or sending missions to State Parties in connection with concerns about systematic or grave violations of treaty rights.

#### A. Report system

In general, the main function of the treaty bodies is to serve as a reviewing and commenting board on the reports which are submitted periodically by State Parties,<sup>52</sup> which include, indicate or show the steps undertaken by the State Parties to implement the provisions of the treaty. Each State Party undertakes the submission

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50 See above.

51 Further requirements apply (see below).

52 For the States' reporting history see the treaty bodies' database: <http://www.unhchr.ch/tbs/doc.nsf>.

of an initial report shortly after ratification or accession to the respective Convention and later undertakes to submit subsequent periodic reports at a specified interval.

**General overview of the process:** Despite the fact that the report procedures for all of the Committees are different, they all however, follow a similar essential process. For differences in the process of each Committee see below.

- **Report:** The treaty bodies issue general guidelines<sup>53</sup> for the preparation of the States' reports. Upon receipt of the report, some Committees prepare a list of issues, which notifies the State Party of the matters of particular interest of the Committee. The Committees also publish the State reports. This is the time for NGOs or other groups and individuals to prepare reports on the specific country or the issue in question in order to submit it before the examination meeting of the respective Committee. The due dates of the States' Reports can be found on the website of the respective treaty.
- **Examination:** The examination of the State report is scheduled as a public meeting of the respective Committee, to which the State Party may send representatives who present the report and answer questions from members of the Committee. The Committees evaluate the State Parties' reports in light of all information that is available to the Committee. This includes external resources, for example, reports from other UN agencies, special agencies and from NGOs that have a particular interest in and knowledge of the subject matter or the country at issue.
- **Concluding Observations:** After the examination the Committees adopt 'Concluding Observations' or 'Concluding Comments' on the State Parties' reports. This is an opportunity for the Committees to identify concerns about non-compliance and to make recommendations for action. The Committees' observations are always released publicly.

## 1. Human Rights Committee (HRC)

The International Covenant on Civil and Political Rights<sup>54</sup> (CCPR) and its First Optional Protocol,<sup>55</sup> which allow individuals to submit complaints to the Human Rights Committee<sup>56</sup> were adopted by General Assembly resolution

53 See websites of the respective treaty body.

54 See: <http://www.ohchr.org/english/law/ccpr.htm>.

55 See: <http://www.ohchr.org/english/law/ccpr-one.htm>.

56 See: <http://www.ohchr.org/english/bodies/hrc/index.htm>.

2200 A (XXI) on 16 December 1966 and entered into force on 23 March 1976.

**Mandate:** The Human Rights Committee was set up to monitor the implementation of the CCPR by State Parties. Articles 6 to 27 CCPR encompass individual rights that may be invoked before the Committee as set out in the First Optional Protocol to the CCPR.

Article 40 CCPR establishes the obligation of the State Parties to submit reports on the measures they have adopted, which effect to rights recognised by CCPR, and on the progress made in the enjoyment of these rights. The first report must be submitted within one year of the entry into force of the CCPR and thereafter reports must be submitted only at the request of the Committee.<sup>57</sup>

Human rights treaties only impose binding obligations on State Parties if the States have officially accepted the treaty, which is commonly done through ratification.

**Dates of ratification:**<sup>58</sup>

**Armenia** ratified CCPR and CCPROP1 on 23 June 1993.

**Azerbaijan** acceded to CCPR on 13 August 1992 and to CCPROP1 on 27 November 2001 and to CCPROP2<sup>59</sup> on 22 January 1999.

**Georgia** acceded to CCPR and CCPROP1 on 3 May 1994 and to CCPROP2 on 22 March 1999.

**Iran** ratified CCPR on 24 June 1975 but did not ratify the First or Second Optional Protocol.

**Iraq** ratified CCPR on 25 January 1971 but did not ratify the First or Second Optional Protocol.

**Syria** acceded to CCPR on 21 April 1969 but did not accede to the First or Second Optional Protocol.

57 For the reporting guidelines see: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.66.GUI.Rev.2.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.66.GUI.Rev.2.En?Opendocument).

58 According tot the list of the OHCHR (<http://www.ohchr.org/english/bodies/docs/RatificationStatus.pdf>); the same applies below.

59 Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted and proclaimed by General Assembly resolution 44/128 of 15 December 1989 (see [www.unhchr.ch/html/menu3/b/a\\_opt2/htm](http://www.unhchr.ch/html/menu3/b/a_opt2/htm))

**Turkey** ratified CCPR on 23 September 2003 and ratified the Second Optional Protocol on 2 March 2006 but did not ratify the First Optional Protocol.

## 2. Committee against Torture (CAT)

The Committee against Torture<sup>60</sup> was established pursuant to Article 17 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>61</sup> which was adopted by General Assembly resolution 39/46 on 10 December 1984.

The Committee itself represents a new body of the United Nations. It began functioning on 1 January 1988 with the entrustment of specific supervision of a multilateral instrument for protection against torture and other inhuman treatment. Ever since the Committee's first meeting in April 1988, it has conducted activities, most of which have been discrete.

**Mandate:** The Committee has been conferred upon by CAT's broad powers of examination and investigation to analyse the effectiveness of the Convention's obligations that were designed to strengthen the protection from torture and to implement these obligations. The Optional Protocol<sup>62</sup> to CAT which was adopted on 18 December 2002 and has not yet entered into force calls for the establishment of independent, visiting international and national bodies.

With regard to Article 19 CAT, State Parties are required to submit reports to the Committee, through the Secretary-General, on the measures it has adopted which give rise to the rights recognised. The first report would have to be submitted within a year of the State Party's signing the Convention; subsequent reports should be submitted every four years.<sup>63</sup>

Human rights treaties only impose binding obligations on State Parties if the States have officially accepted the treaty, which is commonly done through ratification.

### **Dates of ratification:**

**Armenia** acceded to CAT on 13 September 1993 but does not recognise

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60 See: <http://www.ohchr.org/english/bodies/cat/index.htm>.

61 See: <http://www.ohchr.org/english/law/cat.htm>.

62 See: <http://www.ohchr.org/english/law/cat-one.htm>.

63 For the reporting guidelines see: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.4.Rev.3.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.4.Rev.3.En?Opendocument).

CAT's competence to receive and process individual communications under Article 22 CAT.

**Azerbaijan** acceded to CAT on 16 August 1996 and also recognised CAT's competence to receive and process individual communications under Article 22 CAT on 4 February 2002.

**Georgia** acceded to CAT on 26 October 1994 but does not recognise CAT's competence to receive and process individual communications under Article 22 CAT.

**Iran** did not sign or ratify CAT.

**Iraq** did not sign or ratify CAT.

**Syria** acceded to CAT on 19 August 2004.

**Turkey** ratified CAT on 2 August 1988 and also recognised CAT's competence to receive and process individual communications under Article 22 CAT on 2 August 1988. Signed Optional Protocol on 14 September 2005, but has not been ratified.

### 3. Committee on the Elimination of Discrimination against Women (CEDAW)

The Committee on the Elimination of Discrimination against Women (CEDAW)<sup>64</sup> was established under the terms of the Convention on the Elimination of All Forms of Discrimination against Women adopted by General Assembly resolution 34/180 on 18 December 1979.<sup>65</sup> The Convention sets out in legal form, internationally accepted principles on the rights of women.

**Mandate:** The Committee is entrusted with the task of overseeing the implementation of the Convention by State Parties and watches over the progress of women's rights made in those countries that are State Parties to CEDAW.

Under Article 18 CEDAW, State Parties are required to submit reports to the Secretary-General on legislative, judicial and other measures which they have taken in accordance with the provisions of CEDAW. A first report

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64 See: <http://www.un.org/womenwatch/daw/cedaw/committee.htm>.

65 See <http://www.ohchr.org/english/law/cedaw.htm>.

must be submitted within one year after ratification or accession to CEDAW and subsequent reports must be submitted at least every four years or when requested by the Committee. The report system is not meant to be adversarial, but is instead meant to open a constructive dialogue between State Parties and the Committee. Based on the examination of the reports the Committee can also make suggestions and general recommendations regarding the interpretation and application of the Convention.

Human rights treaties only impose binding obligations on State Parties if the States have officially accepted the treaty, which is commonly done through ratification.

**Dates of ratification:**

**Armenia** acceded to CEDAW on 13 September 2003 and to CEDAWOP on 14 September 2006.

**Azerbaijan** acceded to CEDAW on 10 July 1995 and ratified CEDAWOP on 1 June 2001.

**Georgia** acceded to CEDAW on 26 October 1994 and to CEDAWOP on 30 July 2002.

**Iran** did not ratify or sign CEDAW or CEDAWOP.

**Iraq** acceded to CEDAW on 13 August 1986 but did not accede to CEDAWOP.

**Syria** acceded to CEDAW on 28 March 2003 but did not accede to CEDAWOP.

**Turkey** acceded to CEDAW on 20 December 1985 and ratified CEDAWOP on 29 October 2002.

**4. Committee on the Elimination of Racial Discrimination (CERD)**

The Committee on the Elimination of Racial Discrimination<sup>66</sup> was the first Committee to be created by the United Nations under the International Convention on the Elimination of all Forms of Racial Discrimination adopted

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66 See: <http://www.ohchr.org/english/bodies/cerd/index.htm>.

by General Assembly resolution 2106 (XX) on 21 December 1965.<sup>67</sup> This set a precedent for other Committees to be created.

**Mandate:** The Committee monitors the implementation of CERD which specifies the measures that States agree to undertake - once they have become parties - to eliminate racial discrimination.

Article 9 CERD stipulates that every State Party undertakes to submit a report on the implementation of the obligations imposed on the State Party by the Convention. The first report shall be submitted within a year after the ratification or the accession to the Convention, subsequent reports shall be submitted every two years or upon request by CERD.<sup>68</sup>

Human rights treaties only impose binding obligations on State Parties if the States have officially accepted the treaty, which is commonly done through ratification.

#### **Dates of ratification:**

**Armenia** acceded to CERD on 23 June 1993.

**Azerbaijan** acceded to CERD on 16 August 1996 and recognised CERD's competence to receive and process individual communications under Article 14 CERD on 27 September 2001.

**Georgia** acceded to CERD on 2 June 1999.

**Iran** ratified CERD on 29 August 1968.

**Iraq** ratified CERD on 14 January 1970.

**Syria** acceded to CERD on 21 April 1969.

**Turkey** ratified CERD on 16 September 2002.

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67 See <http://www.ohchr.org/english/law/cerd.htm>.

68 For the reporting guidelines, see: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CERD.C.70.Rev.5.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CERD.C.70.Rev.5.En?Opendocument).

## 5. Committee on the Rights of the Child (CRC)

The Committee<sup>69</sup> met for the first time in 1991 after electing its first 10 members. It was established by the Convention on the Rights of the Child,<sup>70</sup> which was adopted by General Assembly resolution 44/25 of 20 November 1989.

**Mandate:** The CRC is the United Nations body that monitors how well State Parties adhere to the principles laid down in the Convention on the Rights of the Child.

Under Article 44 CRC every State Party shall submit to the Committee, through the Secretary-General, a report on the measures it has adopted which give effect to the rights recognised in the Convention. The first report shall be submitted within two years of the entry into force of the Convention, and subsequent reports every five years. In order to give advance notice to the State Party of certain principal issues that might arise in the examination of their reports a preliminary meeting with the working group and governmental representatives is organised.<sup>71</sup>

Human rights treaties only impose binding obligations on State Parties if the States have officially accepted the treaty, which is commonly done through ratification.

### Dates of Ratification:

**Armenia** acceded to CRC on 23 June 1993.

**Azerbaijan** acceded to CRC on 13 August 1992.

**Georgia** acceded to CRC on 2 June 1994.

**Iran** ratified CRC on 13 July 1994.

**Iraq** acceded to CRC on 15 June 1994.

**Syria** ratified CRC on 15 July 1993.

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69 See <http://www.ohchr.org/english/bodies/crc/index.htm>.

70 See <http://www.ohchr.org/english/law/crc.htm>.

71 For the reporting guidelines see: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.33.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CRC.C.33.En?Opendocument) and the CRC website.

**Turkey** ratified CRC on 4 April 1995.

## 6. Committee on Economic, Social and Cultural Rights (CESCR)

Unlike the other five human rights bodies, CESCR<sup>72</sup> was set up not by its corresponding instrument but by the ECOSOC following the less than ideal performance of the two previous bodies assigned to monitor the International Covenant on Economic, Social and Cultural Rights.<sup>73</sup> The Committee is therefore a subsidiary organ of ECOSOC and derives its formal authority from them. The Committee was set up in 1985 but met for the first time in 1987.

**Mandate:** The primary function of the Committee is to monitor the implementation of the Covenant by the State Parties. It strives to develop a constructive dialogue with State Parties and seeks to determine through a variety of means whether or not the norms contained in the Covenant are being adequately applied by the State, and how the implementation and enforcement of the Covenant could be improved.

Under Articles 16 and 17 of the Covenant, State Parties undertake to submit periodic reports to the Committee. The first is to be submitted within two years of the entry into force of CESCR for a particular State Party; thereafter once every five years. The periodic reports should outline the legislative, judicial, policy and other measures implementing the rights contained in the Covenant.<sup>74</sup>

Human rights treaties only impose binding obligations on State Parties if the States have officially accepted the treaty, which is commonly done through ratification.

### Dates of Ratification:

**Armenia** acceded to CESCR on 13 September 1993.

**Azerbaijan** acceded to CESCR on 13 August 1992.

**Georgia** acceded to CESCR on 3 May 1994.

72 See <http://www.ohchr.org/english/bodies/cescr/index.htm>.

73 See <http://www.ohchr.org/english/law/cescr.htm>.

74 For reporting guidelines, see: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1991.1.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1991.1.En?OpenDocument).

**Iran** ratified CESCR on 24 June 1975.

**Iraq** ratified CESCR on 25 January 1971.

**Syria** acceded to CESCR on 21 April 1969.

**Turkey** signed CESCR on 23 September 2003.

## 7. **Committee on Migrant Workers (CMW)**

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,<sup>75</sup> adopted on 18 December 1990, entered into force on 1 July 2003. The Convention established the Committee on Migrant Workers<sup>76</sup> which is the newest treaty body. It held its first session in March 2004.

**Mandate:** The Committee supervises the implementation of the obligations of the Convention by State Parties. The Convention's aim is to prevent and eliminate the exploitation of migrant workers throughout the entire migration process.

State Parties accept the obligation to report on the steps they have taken to implement the Convention within a year of its entry into force for the State concerned, and thereafter every five years.<sup>77</sup>

To date<sup>78</sup> only 34 States have ratified or acceded to the Convention. Azerbaijan, Turkey and Syria are State Parties to CRMW. Other Governments within the Kurdish regions have not yet ratified or acceded to the Convention.

### **Dates of Ratification:**

**Azerbaijan** acceded to CRMW on 11 January 1999.

**Syria** acceded to CRMW on 2 June 2005.

**Turkey** ratified CRMW on 27 September 2004 and recognised CMW's

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75 See <http://www.ohchr.org/english/bodies/cmw/cmw.htm>.

76 See <http://www.ohchr.org/english/bodies/cmw/index.htm>.

77 See for provisional reporting guidelines: <http://www.ohchr.org/english/bodies/cmw/docs/guidelines.doc>.

78 As of June 2005.

competence to receive and process individual communications under Article 77 CRMW.

## **B. Individual Complaint Procedure**

**Note:** The Committee on the Rights of the Child (CRC) and the Committee on Economic, Social and Cultural Rights (CESCR) do not take up individual complaints.

The CRC cannot consider individual complaints, although child rights may be raised before other committees with competence to consider individual complaints.

The CESCR also cannot consider individual complaints, although a draft Optional Protocol<sup>79</sup> to the Covenant is under consideration which could give the Committee competence in this regard. The Commission on Human Rights has established a working group<sup>80</sup> to this end. However, it may be possible for another committee with competence to consider individual communications to consider issues related to economic, social and cultural rights in the context of its treaty.

The CWM will be able to consider individual complaints or communications from individuals claiming that their rights under the CRMW have been violated once 10 States parties have accepted this procedure in accordance with Article 77 of the Convention

**General overview of the process:** Despite the fact that the complaint procedures for all of the Committees are different, they all however, follow a similar outline process. The differences for each Committee will be discussed further on in the text.

The main steps to making a complaint are:

- The complainant prepares his/her complaint (also called communication).
- The Secretary-General of the United Nations or the relevant authority for the individual Committees receiving the communication brings it to the relevant treaty body.
- The treaty body then registers the communication.

79 See <http://daccessdds.un.org/doc/UNDOC/GEN/G04/120/29/PDF/G0412029.pdf?OpenElement>.

80 See <http://www.ohchr.org/english/issues/escr/group.htm>.

- The treaty body examines the communication while considering the admissibility and the merits of the communication in closed session.
- The treaty body issues its 'Views', which is also called an 'Opinion' or 'Decision' to the parties.
- The treaty body then may engage in some follow-up activities to monitor the State Party's response to its 'Views'.

**Preparation of the Communication:** If a person wishes to complain, he or she should prepare a complaint, also called a communication. Whilst preparing the communication, the complainant must note the following guidelines:

- The communication must be in written form, signed and addressed to the respective Committee;
- The author of the communication must be personally affected by the violation. Class actions or cases brought by parties not personally affected would not be considered admissible. If a person submits the communication on behalf of the alleged victim, he/she would need to show authority to do so. In certain cases the Committees will not require formal authorisation, for example where parents bring cases on behalf of young children or where a person is in prison without access to the outside world;
- The alleged violation must relate to rights actually protected by the respective treaty, otherwise the complaint will be deemed inadmissible *ratione materiae*;
- The complaint must not be anonymous but under certain conditions the complainant can apply for confidentiality;
- The author can apply for an interim measure, which will be taken only under special circumstances, but does in no way prejudge the conclusion.
- Victims must have been subject to the jurisdiction of the alleged violating State Party at the time the alleged violation occurred. The treaty bodies will not receive a complaint unless it involves the actions of a State Party which has both ratified the relevant treaty and either (i) in the case of CCPR and CEDAW, ratified the Optional Protocol recognising a right of individual communication or (ii) in the case of CERD, CAT and CRMW, made the declaration recognising the competence of the treaty body to receive and consider such communications. Treaties do not have retroactive effect; hence violations that took place before the date of ratification cannot be

the subject of the complaint (*ratione temporis*);

- Victims must exhaust all domestic remedies before submitting a communication. If the exhaustion of remedies would be unreasonably prolonged, or if they would be ineffective or if remedies are otherwise unavailable one might be exempted from this rule;
- For most treaty bodies, there are no formal time-limits for bringing a claim. The exemption is CERD, which requires that the claim should be made within six months after the final national judgment. However, one should note that a delay in bringing the claim should be avoided so as to ensure that the claim is credible and to allow the maximum use of evidence. Time delays could result in a decision of inadmissibility;
- One should also take note if the State Party has made any reservations that affect the complainant's ability to bring a complaint to the Committee;
- The same complaint must not be pending before another international forum or have been examined by another procedure of international investigation or settlement;
- The victim's claims must be sufficiently substantiated;
- The author of the complaint may seek legal assistance in drafting the communication from lawyers or non-governmental organisations (NGOs); NGOs have no standing to submit cases on their own behalf;
- Identical claims will not be accepted, however, different victims of the same violation could all bring their claims separately;
- Model forms are available, these however, are optional (see appendix). The model form simply outlines the information that needs to be included in the communication.

Also included should be supporting evidence, such as:

- A signed statement from the alleged victim, which sets out in as much detail as possible the factual basis of the violation;
- Signed statements from all available witnesses;
- Medical reports or certificates to support possible physical and psychological effects (for example in the case of CAT);

- Administrative and judicial decisions;
- Autopsy reports if applicable;
- Photographs.

**Decision-making:** The common features of decision-making by the committees are as follows when the treaty body proceeds to hear and decide on the communication:

- In each individual case, the relevant treaty body makes two decisions, (i) a decision on the admissibility of the communication and (ii) if deemed admissible, a decision about the merits of the decision;
- If it is the case that the treaty body finds that the communication is inadmissible, a declaration of the communication's inadmissibility could be made without inviting the State Party to respond to the allegation;
- In other cases, where the admissibility test has been passed, the treaty body would then invite the State Party against whom the allegations were made to respond to the communication, both on the question of admissibility of the complaint and also on the merits of the complaints;
- The author of the complaint would then be given a chance to respond to submissions made by the State Party to the treaty body.
- If a communication is found to be inadmissible by the Committee and the author of the communication believes that the grounds of inadmissibility no longer exist, the complainant may request the treaty body to reconsider or re-examine the complaint.
- Since the procedure is aimed at solving the problems of a particular person, the name of the person must be communicated so as to allow the State Party to investigate and take appropriate action. However, if it is necessary, confidentiality of the particular person would be maintained to the broader public during the examination of the complaint and the publication of the Committee's views (see above).

## 1. Human Rights Committee (HRC)<sup>81</sup>

Most meetings of the Committee are public but when the Committee considers individual communications, these meetings are held in private.

The basic process for submitting a communication as shown above is applicable and should be read with more specific information given by the HRC. Basic information as provided by the model forms<sup>82</sup> should be provided, including at minimum:

- Identity and contact information of the victim;
- The State Party which is alleged to have committed the violation;
- Provisions of the CCPR alleged to have been breached;
- All relevant facts with supporting documents;
- Steps taken to exhaust remedies and evidence of it and why they were ineffective, unavailable or unreasonably prolonged;
- Information or documentation if the matter has been or is before any other international investigation or if there has been a settlement;
- Requested remedy.

**Special circumstances of urgency** that require immediate action fall under Rule 86 of the HRC's Rules of Procedure.<sup>83</sup> Prior to the communication of the case to the State Party the Committee may issue a request to the State for interim measures in order to avoid irreparable damage to the victim of the alleged violation.

### Specifics:

- A complaint must refer to a State, which is a party to both the CCPR and the First Optional Protocol;
- A case may be admissible even if the event complained of occurred before the entry into force of the Optional Protocol for the respective State, providing that the events have had continuing effects that violate

81 See: <http://www.ohchr.org/english/bodies/hrc/index.htm>.

82 Please see Annex 9 (<http://www.ohchr.org/english/bodies/docs/annex1.pdf>).

83 See [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.3.Rev.7.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.3.Rev.7.En?Opendocument).

the CCPR;

- A complaint to the HRC will not be declared inadmissible even if it has been brought before a Special Rapporteur or the 1503 procedure (see under II.A.);
- A complaint that has already been submitted to another international mechanism can be brought before the HRC if broader protections in the CCPR are invoked. Furthermore, the HRC is of the opinion that if a complaint has been dismissed by other international mechanisms on procedural grounds and has not been substantively examined then it may be brought before the HRC.

To submit information to or for more information, write to the following address:

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

Fax: +41 22 917 9022

Email: [tb-petitions@ohchr.org](mailto:tb-petitions@ohchr.org)

**Note:** The HRC also publishes a report annually which contains information on the number of cases which are currently pending before it and all the 'Views' and inadmissibility decisions that have been made during that year. The Committee will also suggest the number of cases that it has found admissible or has discontinued over the year. However, before the report is published, the final 'Views' might have already been published online.

**Dates of ratification:**

Dates of ratification by relevant State Parties can be found on page 45.

## 2. Committee against Torture (CAT)<sup>84</sup>

Under Article 22 of CAT, the Committee is responsible for considering all complaints received. Like other international instruments on human rights, CAT gives individuals the right to lodge complaints with the Committee under special circumstances regarding the violation of one or more of its provisions by a State Party. The basic process for submitting a communication as shown above is applicable. A standardised complaint form can be found in the appendix.<sup>85</sup>

For the Committee to be able to admit and examine individual communications against a State Party, its competence must have been recognised by the State concerned by a declaration according to Article 22 CAT.<sup>86</sup> Whenever an individual complaint is made, the Committee will always examine it in a closed meeting. The same issue may be reviewed at a later date if the Committee receives information indicating that the reasons for inadmissibility no longer apply.

**Special circumstances of urgency** that require immediate action fall under Rule 108 (1) of the Committee's Rules of Procedure.<sup>87</sup> This is the basis for a complainant to seek interim measures by CAT to prevent irreparable harm while the communication is being considered, for example, in deportation cases under Article 3 CAT.

To submit information or to request more information, please write to the following address:

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

Fax: +41 22 917 9022  
Email: [tb-petitions@ohchr.org](mailto:tb-petitions@ohchr.org)

84 See: <http://www.ohchr.org/english/bodies/cat/index.htm>.

85 Please see Annex 10 (<http://www.ohchr.org/english/bodies/docs/annex1.pdf>).

86 Article 22 para. 1 reads as follows: "1. A State Party to this Convention may at any time declare under this article 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 to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration."

87 See: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.3.Rev.4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.3.Rev.4.En?OpenDocument).

## Dates of ratification

Dates of ratification by relevant State Parties can be found on pages 46 and 47

### 3. Committee on the Elimination of Discrimination against Women (CEDAW)<sup>88</sup>

Under the Optional Protocol to the Convention on the Elimination of Discrimination against Women<sup>89</sup>, which came into force on the 22 December 2000, the Committee can receive and consider communications submitted in accordance with Article 2 of the Optional Protocol.<sup>90</sup> The basic process for submitting a communication as shown above is applicable;<sup>91</sup> furthermore specific rules of procedure apply.<sup>92</sup>

**Special circumstances of urgency** that require immediate action fall under Article 5 of the Optional Protocol.

#### Specifics:

- A complaint may be brought not only by or on behalf of an individual but also by or on behalf of a group of individuals;
- A complaint must refer to a State, which is a party to both CEDAW and the Optional Protocol.

To submit information to or for more information, write to the following address:

Committee on the Elimination of Discrimination against Women  
c/o Division for the Advancement of Women  
Department of Economic and Social Affairs  
United Nations Secretariat  
2 United Nations Plaza  
DC-2/12<sup>th</sup> Floor

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88 See: <http://www.un.org/womenwatch/daw/cedaw/>.

89 See: <http://www.ohchr.org/english/law/cedaw-one.htm>.

90 Article 2 reads as follows: "Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a state party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of the individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent."

91 For a complaint form see Annex 11 (<http://www.ohchr.org/english/bodies/docs/annex2.pdf>).

92 See: <http://www.un.org/womenwatch/daw/cedaw/cedawreport-a5638-RulesOfProcedure.htm#part3>.

New York, New York 10017  
USA  
Fax: +1 212 963 3463  
Email: [daw@un.org](mailto:daw@un.org)

### **Dates of ratification**

Dates of ratification by relevant State Parties can be found on page 48

## **4. Committee on the Elimination of Racial Discrimination (CERD)<sup>93</sup>**

Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination<sup>94</sup> establishes a procedure that makes it possible for an individual or group of persons claiming to be victims of racial discrimination to lodge a complaint with CERD against the State concerned. This, however, may be done only if the State is a party to the Convention and has declared that it recognises the competence of CERD to receive such complaints under Article 14.<sup>95</sup> This procedure came into effect in 1982 when 10 countries declared that they had accepted the Committee's competence.<sup>96</sup>

CERD brings such communications confidentially to the attention of the State Party in question, but does not, without their consent reveal the identity of the individual or group claiming a violation. When the State has given an explanation of its view and perhaps suggested a remedy, the Committee debates the matter and may make suggestions and recommendations, which are then transmitted both to the individual or group concerned and to the State Party.

**Special circumstances of urgency** that require immediate action fall under Rule 91 (3) of CERD's Rules of Procedure.<sup>97</sup>

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93 See: <http://www.ohchr.org/english/bodies/cerd/index.htm>.

94 See: <http://www.ohchr.org/english/law/cerd.htm>.

95 Article 14 para. 1 reads as follows: "A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration."

96 For a complaint form please see Annex 9 (<http://www.ohchr.org/english/bodies/docs/annex1.pdf>).

97 See: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/cb35dcd69a1b52a3802564ed0054a104?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/cb35dcd69a1b52a3802564ed0054a104?Opendocument).

**Specifics:**

- A complaint may be brought not only by or on behalf of an individual but also by or on behalf of a group of individuals.
- A complaint to CERD must be brought within six months of the final domestic decision.
- A complaint will be considered inadmissible if the same matter is pending before or has been subject to a decision by another international procedure.

To submit information or to request more information, please write to the following address:

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

Fax: +41 22 917 9022  
Email: [tb-petitions@ohchr.org](mailto:tb-petitions@ohchr.org)

**Dates of ratification:**

Dates of ratification by relevant State Parties can be found on page 49.

None of these countries recognises the competence of CERD to receive individual complaints under Article 14 CERD.

**5. Committee on Migrant Workers<sup>98</sup>**

State Parties may make a declaration under Article 77 CRMW accepting the Committee's competence to consider individual complaints alleging violations of their rights under the Convention by that State. Before the complaint mechanism enters into force ten State Parties must make the declaration under Article 77, which could take several years.

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98 See: <http://www.ohchr.org/english/bodies/cmw/index.htm>.

So far only 34 States have ratified or acceded to the Convention, which includes Azerbaijan, Syria and Turkey.

**Dates of ratification:**

Dates of ratification by relevant State Parties can be found on pages 52 and 53

**C. Investigative Mechanisms**

In addition to the reporting and the individual complaint procedures CEDAW and CAT are authorised to undertake investigations in response to allegations of rights violations

**General Overview of the Process:** The procedure is stipulated in Article 20 CAT<sup>99</sup> and Articles 8 and 10 CEDAWOP<sup>100</sup> and is confidential.

- NGOs or other groups or individuals who can document a pattern of violations can instigate the investigation procedure;
- The first stage is the preliminary consideration of information in which the Committee decides whether the information is reliable and indicative of a systematic violation and whether an inquiry should be held;
- Then the Committee may designate one or two of its members to conduct the inquiry, which can include a visit to the country (with the country's consent), hearings and interviews with witnesses etc;
- The findings of the inquiry are then submitted to the Committee, which considers and transfers them to the State Party with any additional comments or recommendations;
- The State Party is invited to respond to the Committee regarding the actions taken.

**Preparation of a petition:**

- Any individual or NGO can prepare a petition in order to initiate an investigation by the Committee. It may be made on behalf of others;

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99 See: <http://www.ohchr.org/english/law/cat.htm>.

100 See: <http://www.ohchr.org/english/law/cedaw-one.htm>.

- To initiate an investigation one must submit reliable information which indicate that in the case of CAT ‘torture is being systematically practised’ (Article 20 CAT), or in the case of CEDAW that there are ‘grave or systematic violations’ (Article 8 Optional Protocol);
- A petition may be made anonymously;
- Domestic remedies do not need to be exhausted;
- One should also take note if the State Party against whom information is submitted has made no declaration opting out of the inquiry mechanism, as allowed under Article 28 CAT and Article 10 CEDAWOP.

#### **D. Other mechanisms**

Some treaty bodies (for example, CAT, CERD) provide Inter-State Complaints, under which State Parties to the relevant treaty can complain to the relevant Committee that another State Party is not fulfilling its obligation under the treaty.

# Annex 1

## DECLARATIONS AND RESERVATIONS

### Convention Against Torture

#### Turkey

##### Reservation:

‘The Government of Turkey declares in accordance with article 30, paragraph 2, of the Convention, that it does not consider itself bound by the provisions of paragraph 1 of this article.’

### Declarations Recognising the Competence of the Committee Against Torture under Articles 21 and 22

#### Azerbaijan

4 February 2002

‘... the Government of the Republic of Azerbaijan declares that it recognises the competence of the Committee Against Torture to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.’

#### Turkey

2 August 1988

‘The Government of Turkey declares, pursuant to article 22, paragraph 1, of the Convention that it recognises the competence of the Committee Against Torture to

receive or consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.’

## **Second Optional Protocol to the International Covenant on Civil and Political Rights**

### **Azerbaijan**

#### Reservation:

‘The Republic of Azerbaijan, adopting the [said Protocol], in exceptional cases, adopting the special law, allows the application of death penalty for the grave crimes, committed during the war or in condition of the threat of war.’

28 September 2000

‘It is provided for the application of the death penalty in time of war pursuant to a conviction of a person for a most serious crime of a military nature committed during wartime.’

## **International Covenant on Economic, Social and Cultural Rights**

### **Iraq**

#### Upon signature and confirmed upon ratification:

‘The entry of the Republic of Iraq as a party to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights shall in no way signify recognition of Israel nor shall it entail any obligation towards Israel under the said two Covenants.’

‘The entry of the Republic of Iraq as a party to the above two Covenants shall not constitute entry by it as a party to the Optional Protocol to the International Covenant on Civil and Political Rights.’

#### Upon ratification:

‘Ratification by Iraq ... shall in no way signify recognition of Israel nor shall it be conducive to entry with her into such dealings as are regulated by the said [Covenant].’

## **Syrian Arab Republic**

1. The accession of the Syrian Arab Republic to these two Covenants shall in no way signify recognition of Israel or entry into a relationship with it regarding any matter regulated by the said two Covenants.
2. The Syrian Arab Republic considers that paragraph 1 of article 26 of the Covenant on Economic, Social and Cultural Rights and paragraph 1 of article 48 of the Covenant on Civil and Political Rights are incompatible with the purposes and objectives of the said Covenants, inasmuch as they do not allow all States, without distinction or discrimination, the opportunity to become parties to the said Covenants.

## **International Convention on the Elimination of all Forms of Racial Discrimination**

### **Iraq**

#### Upon signature:

‘The Ministry for Foreign Affairs of the Republic of Iraq hereby declares that signature for and on behalf of the Republic of Iraq of the Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly of the United Nations on 21 December 1965, as well as approval by the Arab States of the said Convention and entry into it by their respective governments, shall in no way signify recognition of Israel or lead to entry by the Arab States into such dealings with Israel as may be regulated by the said Convention.

‘Furthermore, the Government of the Republic of Iraq does not consider itself bound by the provisions of article twenty-two of the Convention afore-mentioned and affirms its reservation that it does not accept the compulsory jurisdiction of the International Court of Justice provided for in the said article.’

#### Upon ratification:

1. The acceptance and ratification of the Convention by Iraq shall in no way signify recognition of Israel or be conducive to entry by Iraq into such dealings with Israel as are regulated by the Convention;
2. Iraq does not accept the provisions of article 22 of the Convention, concerning the compulsory jurisdiction of the International Court of Justice. The Republic of Iraq does not consider itself to be bound by the provisions of article 22 of the Convention and deems it necessary that in all cases the approval of all parties to the

dispute be secured before the case is referred to the International Court of Justice

### **Syrian Arab Republic**

1. The accession of the Syrian Arab Republic to this Convention shall in no way signify recognition of Israel or entry into a relationship with it regarding any matter regulated by the said Convention.

2. The Syrian Arab Republic does not consider itself bound by the provisions of article 22 of the Convention, under which any dispute between two or more States Parties with respect to the interpretation or application of the Convention is, at the request of any of the Parties to the dispute, to be referred to the International Court of Justice for decision. The Syrian Arab Republic states that, in each individual case, the consent of all parties to such a dispute is necessary for referring the dispute to the International Court of Justice.

### **Turkey**

#### Upon signature:

‘The Republic of Turkey declares that it will implement the provisions of this Convention only to the States Parties with which it has diplomatic relations.

The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied.

The Republic of Turkey does not consider itself bound by Article 22 of this Convention. The explicit consent of the Republic of Turkey is necessary in each individual case before any dispute to which the Republic of Turkey is party concerning the interpretation or application of this Convention may be referred to the International Court of Justice.’

### **Convention on the Elimination of All Forms of Discrimination Against Women**

#### **Iraq**

#### Reservations:

1. Approval of and accession to this Convention shall not mean that the Republic of Iraq is bound by the provisions of article 2, paragraphs (f) and (g), of article 9,

paragraphs 1 and 2, nor of article 16 of the Convention. The reservation to this last-mentioned article shall be without prejudice to the provisions of the Islamic *Shariah* according women rights equivalent to the rights of their spouses so as to ensure a just balance between them. Iraq also enters a reservation to article 29, paragraph 1, of this Convention with regard to the principle of international arbitration in connection with the interpretation or application of this Convention.

2. This approval in no way implies recognition of or entry into any relations with Israel.

## **Turkey**

### Reservations:

‘Reservations of the Government of the Republic of Turkey with regard to the articles of the Convention dealing with family relations which are not completely compatible with the provisions of the Turkish Civil Code, in particular, article 15, paragraphs 2 and 4, and article 16, paragraphs 1 (c), (d), (f) and (g), as well as with respect to article 29, paragraph 1. In pursuance of article 29, paragraph 2 of the Convention, the Government of the Republic of Turkey declares that it does not consider itself bound by paragraph 1 of this article.’

20 September 1999

[...] the Government of the Republic of Turkey has decided to withdraw its reservations made upon signature and confirmed upon ratification of the Convention on the Elimination of All Forms of Discrimination Against Women with regard to article 15, paragraphs 2 and 4, and article 16, paragraphs 1 (c), (d), (f) and (g).

[...] the reservation and declaration made upon signature and confirmed upon ratification by the Government of Turkey with respect to article 29, paragraph 1, and article 9, paragraph 1 of the Convention, respectively, continue to apply.’

## **Convention on the Rights of the Child**

### **Iran (Islamic Republic of)**

#### Upon signature:

#### Reservation:

The Islamic Republic of Iran is making reservation to the articles and provisions which may be contrary to the Islamic Shariah, and preserves the right to make such particular declaration, upon its ratification.

Upon ratification:

Reservation:

‘The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the international legislation in effect.’

## **Iraq**

Reservation:

The Government of Iraq has seen fit to accept [the Convention] ... subject to a reservation in respect to article 14, paragraph 1, concerning the child’s freedom of religion, as allowing a child to change his or her religion runs counter to the provisions of the Islamic Shariah.

## **Syrian Arab Republic**

Reservations:

The Syrian Arab Republic has reservations on the Convention’s provisions which are not in conformity with the Syrian Arab legislations and with the Islamic Shariah’s principles, in particular the content of article (14) related to the Right of the Child to the freedom of religion, and articles 2 and 21 concerning the adoption.

## **Turkey**

Reservation made upon signature and confirmed upon ratification:

The Republic of Turkey reserves the right to interpret and apply the provisions of articles 17, 29 and 30 of the United Nations Convention on the Rights of the Child according to the letter and the spirit of the Constitution of the Republic of Turkey and those of the Treaty of Lausanne of 24 July 1923.

## **Optional Protocol to the Convention on the Rights of the Child on the**

## **Involvement of Children in Armed Conflicts**

### **Azerbaijan**

#### Declaration:

‘Pursuant to Article 3 of the protocol, the Republic of Azerbaijan declares that in accordance with the Law of the Republic of Azerbaijan on the military service of 3 November 1992, the citizens of the Republic of Azerbaijan and other persons, who are meeting the defined requirements of the military service, may voluntarily enter and be admitted in age of 17 the active military service of the cadets military school. The legislation of the Republic of Azerbaijan guarantees that this service shall not be forced or coerced, shall be realized on the basis of deliberative consent of the parents and the legal representatives of those persons, that those persons shall be provided with the full information of the duties regarding this service, and that the documents certifying their age shall be required before the admission to the service in the national armed forces.’

### **Syrian Arab Republic**

#### Declaration:

Ratification of the two Optional Protocols by the Syrian Arab Republic shall not in any event imply recognition of Israel and shall not lead to entry into any dealings with Israel in the matters governed by the provisions of the Protocols.

The Syrian Arab Republic declares that the statutes in force and the legislation applicable to the Ministry of Defence of the Syrian Arab Republic do not permit any person under 18 years of age to join the active armed forces or the reserve bodies or formations and do not permit the enlistment of any person under that age.

### **Turkey**

#### Declarations:

‘1. The Republic of Turkey declares, in accordance with Article 3 (2) of the Optional Protocol, that military service is compulsory in Turkey, however Turkish citizens are not subjected to compulsory military service before reaching the legal age of maturity. In accordance with the Turkish Military Code, military service begins on 1st January of the twentieth age; in cases of mobilisation and state of emergency, individuals who are liable to military service may be recruited at the age of 19.

There is no voluntary recruitment in Turkey.

However, Article 11 of the Military Code envisages a voluntary recruitment for navy and gendarmerie classes and non-commissioned officers at a minimum age of 18. Nevertheless, this article, which is in compliance with the age regulation of the Optional Protocol, is not applied in practice.

Students of military schools, who are exempted from the Optional Protocol according to Article 3 (5) of this protocol, are not subjected to compulsory military service. Under the Turkish legal system, such students are not considered as 'soldiers' and are not held liable for 'military service'.

2. Admittance to the military high schools and preparatory non-commissioned officer schools is on a voluntary basis, depending on success in the entrance examinations and with the consent of parents or legal guardians. Students who have completed their primary school education and enrolled into such schools at a minimum age of 15 can quit them at any time if they so wish.'

Reservations:

'The Republic of Turkey declares that it will implement the provisions of the existing Optional Protocol only to the States Parties which it recognizes and with which it has diplomatic relations.

The Republic of Turkey declares with regard to Article 3 (5) of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict that the reservation it made to Article 29 of the Convention on the Rights of the Child, which is referred to in the said paragraph of the Optional Protocol, fully retains its validity.'

**Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography**

**Syrian Arab Republic**

Reservation:

'A reservation is entered to the provisions set forth in article 3, paragraph 5, and article 3, paragraph 1 (a) (ii) of the Optional Protocol on the sale of children, child prostitution and child pornography, which relate to adoption.

Declaration:

Ratification of the two Optional Protocols by the Syrian Arab Republic shall not in any event imply recognition of Israel and shall not lead to entry into any dealings with Israel in the matters governed by the provisions of the Protocols.’

**Turkey**

Declaration:

‘The Republic of Turkey declares that it will implement the provisions of the existing Optional Protocol only to the States Parties which it recognizes and with which it has diplomatic relations.’

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

**Syrian Arab Republic**

Declaration:

‘.....accession of the Syrian Arab Republic to the said Convention thereof by its Government does not, in any way, imply recognition of Israel, nor shall it lead to any such dealing with the latter as are governed by the provisions of the Convention.’

**Turkey**

Declarations:

A) The declaration regarding Article 15:

The restrictions by the related Turkish laws regarding acquisition of immovable property by the foreigners are preserved....

B) The reservation regarding Article 40:

The Turkish Law on Trade Unions allows only the Turkish citizens to form trade unions in Turkey.’

C) The declaration regarding Article 45:

The stipulations of the paragraphs 2, 3 and 4 of the Article 45 will be implemented in accordance with the provisions of the Turkish Constitution and the related Laws.

D) The declaration regarding Article 46:

The implementation of the Article 46 will be made in accordance with the national laws.

E) The declaration regarding Articles 76 and 77:

Turkey will recognize the competence of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families at a later time.'

## Annex 2

### QUESTIONNAIRE OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL, SUMMARY, OR ARBITRARY EXECUTIONS

Note: If any information contained in the questionnaire should be kept confidential please mark 'CONFIDENTIAL' beside the relevant entry. Do not hesitate to attach additional sheets, if the space provided is not sufficient.

#### I. Identity of the person concerned:

Note: if more than one person is concerned, please fill out separate questionnaires for each person

1. Family name: .....

2. First name: .....

3. Sex:           \_\_ male           \_\_ female

4. Birth date or age: .....

5. Nationality(ies): .....

6. Civil status (single, married, etc.): .....

7. Identity document: .....

Nr.: .....

Issued by: .....

Date of issue: .....

8. Profession and/or activity (e.g. trade union, political, religious, humanitarian/  
solidarity/human rights, etc.)

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9. Address of usual residence: .....

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10. Is there a link to other cases/ persons? Please specify:

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**II. Information regarding the incident:**

1. Date: .....

2. Place: .....

3. Time: .....

4. The nature of the incident: Please describe the circumstances of the incident, including the following categories:

(a) death penalty, or fair trial guarantees, please detail (unfair laws or proceedings, charges, eventual appeals, execution is imminent, etc.)

(b) imminent violation of the right to life is feared (death threats, imminent expulsion or refoulement leading to a life-threatening situation, etc.), please detail.

(c) others (death in custody, death during an armed conflict, death due to excessive use of force by law enforcement officials, death due to attacks by security forces of State, paramilitary or private forces, breach of obligation to investigate, etc.):

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**III. Forces believed to be responsible for the incident:**

(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:

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

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

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**IV. Steps taken by the victim or his/her family:**

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

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(b) Other steps taken:

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**V. Steps taken by the authorities:**

(a) Indicate whether or not there have been investigations by the State authorities; if so, what kind of investigations? Progress and status of these investigations; which other measures have been taken (e.g. autopsy)?

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(b) in case of complaints by the victim or its family, how have the organs dealt with them? What is the outcome of those proceedings?

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**VI. Identity of the person submitting the case**

1. Family name: .....

2. First name(s): .....

3. Status: individual, group, non-governmental organization, inter-governmental agency, Government. Please specify:

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4. Address (telephone, fax, e-mail):

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5. Please state whether you want your identity to be kept confidential: .....

Date: .....

Signature of author: .....

## Annex 3

### **GUIDELINES FOR THE SUBMISSION OF INFORMATION TO THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION**

In order for the Special Rapporteur to be able to take action regarding a communication on a case or incident, the following information, as a minimum, must be received.

#### **1. Allegation regarding a person or persons:**

As detailed a description of the alleged violation as possible, including date, location and circumstances of the event;

Name, age, gender, ethnic background (if relevant), profession;

Views, affiliations, past or present participation in political, social, ethnic or labour group/activity;

Information on other specific activities relating to the alleged violation.

#### **2. Allegation regarding a medium of communication:**

As detailed a description of the alleged infringement on the right as possible, including date, location and circumstances of the event;

The nature of the medium affected (e.g. newspapers, independent radio); including circulation and frequency of publication or broadcasting, public

performances, etc.;

Political orientation of the medium (if relevant).

### **3. Information regarding the alleged perpetrators:**

Name, State affiliation (e.g. military, police) and reasons why they are considered responsible;

For non-State actors, description of how they relate to the State (e.g. cooperation with or support by State security forces);

If applicable, State encouragement or tolerance of activities of non-State actors, whether groups or individuals, including threats or use of violence and harassment against individuals exercising their right to freedom of opinion and expression, including the right to seek, receive and impart information.

### **4. Information related to State actions:**

If the incident involves restrictions on a medium (e.g. censorship, closure of a news organ, banning of a book, etc.); the identity of the authority involved (individual and/or ministry and/or department), the legal statute invoked, and steps taken to seek domestic remedy;

If the incident involves arrest of an individual or individuals, the identity of the authority involved (individual and/or ministry and/or department), the legal statute invoked, location of detention if known, information on provision of access to legal counsel and family members, steps taken to seek domestic remedy or clarification of person's situation and status;

If applicable, information on whether or not an investigation has taken place and, if so, by what ministry or department of the Government and the status of the investigation at the time of submission of the allegation, including whether or not the investigation has resulted in indictments.

### **5. Information on the source of the communications:**

Name and full address;

Telephone and fax numbers and e-mail address (if possible);

Name, address, phone/fax numbers and e-mail address (if applicable) of person or organization submitting the allegation.

**Note:** In addition to the information requested above, the Special Rapporteur welcomes any additional comments or background notes that are considered relevant to the case or incident.

### **Follow-up**

The Special Rapporteur attaches great importance to being kept informed of the current status of cases and thus very much welcomes updates of previously reported cases and information. This includes both negative and positive developments, including the release of persons detained for exercising their rights to freedom of opinion and expression and to seek, receive and impart information, or the adoption of new laws or policies or changes to existing ones that have a positive impact on the realization of the rights to freedom of opinion and expression and information.

### **Root causes**

In order to carry out his work regarding the root causes of violations, which is of particular importance to the Special Rapporteur, he is very much interested in receiving information on and/or texts of draft laws relating to or affecting the rights to freedom of opinion and expression and to seek, receive and impart information. The Special Rapporteur is also interested in laws or government policies relating to electronic media, including the Internet, as well as the impact of the availability of new information technologies on the right to freedom of opinion and expression.

### **Communications**

Where requested or considered necessary by the Special Rapporteur, information on the source of the allegations will be treated as confidential.

Any information falling within this description of the mandate of the Special

Rapporteur should be sent to:

Special Rapporteur on the promotion and protection  
of the right to freedom of opinion and expression  
c/o Office of the High Commissioner for  
Human Rights  
United Nations Office at Geneva  
1211 Geneva 10  
Switzerland

**Fax: +41 22 917 9003**

**e-mail: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org)**

## Annex 4

### QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING TORTURE OR THEIR REPRESENTATIVES

Information on the torture of a person should be transmitted to the Special Rapporteur in written form and sent c/o Office of the High Commissioner for Human Rights, United Nations Office at Geneva, CH-1211 Geneva 10, Switzerland; E-mail: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org). Although it is important to provide as much detail as possible, the lack of a comprehensive accounting should not necessarily preclude the submission of reports. However, the Special Rapporteur can only deal with clearly identified individual cases containing the following minimum elements of information:

- a. Full name of the victim;
- b. Date on which the incident(s) of torture occurred (at least as to the month and year);
- c. Place where the person was seized (city, province, etc.) And location at which the torture was carried out (if known);
- d. Indication of the forces carrying out the torture;
- e. Description of the form of torture used and any injury suffered as a result;
- f. Identify of the person or organization submitting the report (name and address, which will be kept confidential).

Additional sheets should be attached where space does not allow for a full rendering of the information requested. Also, copies of any relevant corroborating documents, such as medical or police records should be supplied where it is believed that such information may contribute to a fuller accounting of the incident. Only copies and not originals of such documents should be sent.

**I. Identity of the person(s) subjected to torture**

A. Family Name

B. First and other names

C. Sex: Male Female

D. Birth date or age

E. Nationality

F. Occupation

G. Identity card number (if applicable)

H. Activities (trade union, political, religious, humanitarian/ solidarity, press, etc.)

I. Residential and/or work address

**II. Circumstances surrounding torture**

A. Date and place of arrest and subsequent torture

B. Identity of force(s) carrying out the initial detention and/or torture (police, intelligence services, armed forces, paramilitary, prison officials, other)

C. Were any person, such as a lawyer, relatives or friends, permitted to see the victim during detention? If so, how long after the arrest?

D. Describe the methods of torture used

E. What injuries were sustained as a result of the torture?

F. What was believed to be the purpose of the torture?

G. Was the victim examined by a doctor at any point during or after his/her ordeal? If so, when? Was the examination performed by a prison or government doctor?

H. Was appropriate treatment received for injuries sustained as a result of the torture?

I. Was the medical examination performed in a manner which would enable the doctor to detect evidence of injuries sustained as a result of the torture? Were any medical reports or certificates issued? If so, what did the reports reveal?

J. If the victim died in custody, was an autopsy or forensic examination performed and what were the results?

### **III. Remedial action**

Were any domestic remedies pursued by the victim or his/her family or representatives (complaints with the forces responsible, the judiciary, political organs, etc.)? If so, what was the result?

### **IV. Information concerning the author of the present report:**

A. Family Name

B. First Name

C. Relationship to victim

D. Organization represented, if any

E. Present full address

# Annex 5

## CONFIDENTIAL

## VIOLENCE AGAINST WOMEN

## INFORMATION FORM

**INFORMER:** *the name and address of the person/organization submitting the information will remain confidential. Please also mention whether we can contact you for additional information, and if so by what means.*

Name of person/organization: .....

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Address:

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Fax/tel/e-mail:

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**VICTIM(S):** *information about the victim(s) including full name, age, sex, residence, professional and/or other activities related to the alleged violation, and any other information helpful in identifying a person (such as passport or identity card number). Please mention whether the victim is willing for the case to be transmitted to the Government concerned.*

Name: .....

Address:

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Date of birth: .....

Nationality: .....

Sex: .....

Occupation: .....

Ethnic background, religious, social group (if relevant):

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**THE INCIDENT:** *including dates, place, and the harm suffered or to be prevented. If your submission concerns a law or policy rather than a specific incident, summarize the law or policy and the effects of its implementation on women's human rights. Include information about the alleged perpetrators: their names (if known), any relationship they may have to the victims and/or to the Government, and an explanation of the reasons why you believe they are the perpetrators. If you submit information about violations committed by private individuals or groups (rather than government officials), include any information which might indicate that the Government failed to exercise due diligence to prevent, investigate, punish, and ensure compensation for the violations. Include information about the steps taken by the victims or their families to obtain remedies including complaints filed with the police, other officials or independent national human rights institutions. If no complaints have been filed, explain why not. Include information about steps taken by officials to investigate the alleged violation (or threatened violation) and to prevent similar acts in the future. If a complaint has been filed, include information about the action taken by the authorities, the status of the investigation at the time the communication is submitted, and/or how the results of the investigation are inadequate.*

Date: .....

Time: .....

Location/country: .....

Number of assailants: .....

Are the assailant(s) known to the victim? .....

Name of assailant(s):

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Does the victim have a relationship with the assailant(s)? If so what is the nature of the relationship?

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Description of the assailant(s) (include any identifying features):

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Does the victim believe she was specifically targeted because of gender?

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If yes, why?

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Has the incident been reported to the relevant State authorities? .....

If so, which authorities and when?

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Have the authorities taken any action after the incident?

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If so, which authorities?

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What action?

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When? .....

**WITNESSES:** Were there any witnesses? .....

Name/age/relationship/contact address:

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*Please bring to the attention of the Special Rapporteur any information which becomes available after you have submitted this form. For example, please inform the Special Rapporteur if your human rights concern has been adequately addressed, or a final outcome has been determined in an investigation or trial, or an action which was planned or threatened has been carried out.*

**PLEASE RETURN TO**

**THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN  
OHCHR-UNOG, 1211 GENEVA 10, SWITZERLAND  
(Fax: 00 41 22 917 9006, E-mail: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org))**

## Annex 6

### MODEL QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING ARBITRARY ARREST OR DETENTION

#### I. IDENTITY

1. Family name: .....

2. First name: .....

3. Sex: (Male) (Female)

4. Birth date or age (at the time of detention):

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5. Nationality/Nationalities:

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6. (a) Identity document (if any):

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(b) Issued by:

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(c) On (date):

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(d) No.:

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7. Profession and/or activity (if believed to be relevant to the arrest/detention):

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8. Address of usual residence:

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II. Arrest

1. Date of arrest:

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2. Place of arrest (as detailed as possible):

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3. Forces who carried out the arrest or are believed to have carried it out:

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4. Did they show a warrant or other decision by a public authority?

(Yes)..... (No).....

5. Authority who issued the warrant or decision:

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6. Relevant legislation applied (if known):

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### III. Detention

1. Date of detention:

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2. Duration of detention (if not known, probable duration):

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3. Forces holding the detainee under custody:

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4. Places of detention (indicate any transfer and present place of detention):

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5. Authorities that ordered the detention:

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6. Reasons for the detention imputed by the authorities:

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7. Relevant legislation applied (if known):

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IV. Describe the circumstances of the arrest and/or the detention and indicate precise reasons why you consider the arrest or detention to be arbitrary

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V. Indicate internal steps, including domestic remedies, taken especially with the legal and administrative authorities, particularly for the purpose of establishing the detention and, as appropriate, their results or the reasons why such steps or remedies were ineffective or why they were not taken

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VI. Full name and address of the person(s) submitting the information (telephone and fax number, if possible)

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Date: ..... Signature: .....

This questionnaire should be addressed to the Working Group on arbitrary detention. Office of the High Commissioner for Human Rights, United Nations Office at Geneva, 8-14 avenue de la Paix, 1211 Geneva 10, Switzerland, fax No. (022) 917.90.06, E-mail: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org).



## Annex 7

### REPORT ON THE ENFORCED OR INVOLUNTARY DISAPPEARANCE OF A PERSON

#### I. Identity of the person subjected to enforced or involuntary disappearance

1. Family name:

2. First name:

3. Sex: Male Female

4. Birth date or age (at time of disappearance):

5. Nationality (ies):

6. Civil status (single, married, etc.):

7. Identity document:

Nr.

8. Profession:

9. Address of usual residence:

10. Activities: (trade union, political, religious, humanitarian/solidarity, press, etc.)

II. Date of disappearance

11. Year, month, day and hour when missing person was arrested or abducted:

12. Year, month, day and hour when missing person was last seen:

13. Other indications relating to date of disappearance:

III. Place of disappearance

(Please indicate as precisely as possible country, province, city, location, etc. and if identical with home address)

14. Place where missing person was arrested or abducted:

15. Place where missing person was last seen:

16. If subsequent to the disappearance of the person information was received about him/her being detained, please indicate, if possible, the places (official or others) and period of detention, as well as the source of the information, in particular witnesses who have seen the disappeared person in captivity. (Do you wish the identity of the witnesses or sources to be kept confidential?.....)

17. Other indications concerning the place of disappearance:

IV. Forces believed to be responsible for the disappearance

18. If the person was arrested or abducted, please indicate who carried out the arrest: military, police, persons in uniform or civilian clothes, agents of security services, unidentified; whether these agents identified themselves (with credentials, orally, etc.); whether they were armed; whether they appeared to act with impunity; whether a vehicle was used (official, with or without licence plates, etc.).

19. If the forces or agents who carried out the arrest or abduction cannot be identified, state why you believe that Government authorities, or persons linked to them, are responsible for the disappearance:

20. If the arrest or abduction took place in the presence of witnesses indicate the names of the witnesses. If the witnesses have not identified themselves or wish to withhold their names, indicate if they are relatives, neighbours, by-passers etc.:

21. If any written evidence of the arrest exists, please describe (arrest order, communiqués, official notes, letters, etc.);

22. If a search took place of the missing person's domicile, office or place of work (or that of any other person connected with him/her), before, during or after the disappearance, please indicate and describe the search:

23. If someone was questioned concerning the disappeared person by agents of the security services, official authorities or other persons related to them, before or after the arrest (or disappearance), please indicate and provide available information concerning the questioning:

V. National action (legal or other) on behalf of the missing person

A. Habeas corpus, amparo or similar

24. Nature of the action:

25. Date:

26. Tribunal:

27. Result (date and nature):

28. If a judicial decision exists please indicate its contents, if possible:

B. Criminal complaints

29. Nature of the action:

30. Date:

31. Tribunal:

32. Result (date and nature):

33. If a judicial decision exists please indicate its contents, if possible:

C. Other measures taken at the national level

(Letters, petitions, etc., or other steps taken before the civil or military authorities):

VI. Measures taken at the international level on behalf of the missing person

34. Organizations addressed

35. Date:

36. Result (date and nature):

VII. Related cases of arrest or disappearance, in particular missing relatives of children

37. Please give a narrative account indicating relevant names, dates and places:

38. If the missing person was pregnant at the time of disappearance, please indicate the date on which her baby might have been born:

VIII. Information concerning the author of the present report

39. Surname:

40. First name:

41. Nationality (ies):

42. Relationship with the missing person:

43. Present address:

Telephone:

IX. Confidentiality

44. Please state whether the author of the present report wishes his/her identity to be kept confidential: .

**Note:** If any information contained in the present report should be kept confidential please print the word 'CONFIDENTIAL' beside the relevant entry.

X. Date:

Signature of author:

## Annex 8

### SUBMISSION OF ALLEGATIONS TO THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON HUMAN RIGHTS DEFENDERS

#### **Guideline for submissions**

The following outline should be followed, to the extent possible, by those wishing to submit allegations of violations against human rights defenders.

#### **1. Information regarding the alleged victim**

- Full name
- Age
- Sex
- Profession or occupation
- Place of residence (or origin, if relevant to the violation suffered)
- The victim's affiliation, if any, with an organization, association or group engaged in human rights work
- Name of the organization, association or group
- Name of the person heading the organization, association or group
- Nature of human rights work the individual performs

If the alleged violation is against an organization:

- Name of the organization
- Nature of the human rights work/activities it is engaged in
- Territorial scope of its work (national, regional, international)
- Affiliations with other human rights organizations, if any

- Name of person(s) heading the organization

***Additional information on the history of the work the individual or organization has performed, if submitted, may be helpful in assessing the complaint/allegation.***

## **2. Nature of the alleged violation**

All relevant information regarding the violation allegedly committed against the human rights defender, or organization, association or group, including:

- Date
- Place
- Description of the events/incident
- Nature of violation suffered or threatened

***The information must indicate the connection of the alleged violation to human rights activities performed.***

If the violation involves or includes the arrest and/or imprisonment of an individual or group of human rights defenders, information is required on:

- Identity of the authority involved (individual and/or ministry and/or department)
- Date and place of arrest
- Any circumstances under which the arrest was made that are relevant to the violation
- Nature of charges, if any, and the legal statute invoked
- Potential penalties the individual or group faces
- Place of detention, if known
- Term of detention
- Information on the provision of access to legal counsel and family members
- Steps taken to seek administrative or judicial remedy, nature of the remedy sought, legal entity before which proceedings have been taken, and stage or result of such proceedings

If the defender is being prosecuted in the courts for any activity in defence of human rights or related activity, or as a consequence of such activity:

- The date and location of the trial
- The court hearing the case
- The relevant appeal procedures
- The penalties the group or individual faces

### **3. Perpetrator(s) of the alleged violation**

- Name(s), if known
- If they are members of the security forces, their rank, functions, the unit or service, etc. to which they belong
- If they are members of a civil defence group, paramilitary or other forces or an armed group, details on whether or how these groups relate to the State (e.g. cooperation with the State security forces, including information on chains of command, if available, State collusion with or acquiescence in their operations)

### **4. Steps taken by or on behalf of victim or organization to seek a remedy at the national level**

All relevant information regarding:

- Whether a complaint was filed
- If so, when, where, by whom and before which authority

### **5. Steps taken by the concerned authorities**

- Whether or not an investigation or inquiry into the alleged violation has been initiated and/or concluded
- If so, by which authority, ministry or department of the Government
- Progress and status of the inquiry or investigation at the time of submission of the allegation
- Whether or not the investigation or inquiry has resulted in charges or other legal action
- If so, the reason why the result is unsatisfactory
- Measures, if any, taken to protect person(s) under threat

### **6. The violation alleged may not be the result of one incident or event, but may be a continuing violation owing to conditions, policies, practices or laws that obstruct the promotion,**

**protection and/or realization of human rights.**

In such cases submissions must include:

- All relevant information regarding such conditions, policies, practices or laws
- The nature of the prejudice suffered by an individual or group(s) working for the defence of human rights because of the above
- Methods used for impeding the work of human rights defenders by adopting the above
- Agencies (State, non-State) employed for harassment, intimidation and/or injury to human rights defenders because of these conditions and laws or in the course of such practices and policies
- Possible measures that can be taken to remedy the situation
- Any action taken by individuals or groups at the national level to reverse the conditions, policies and practices or for reform of the laws that are contrary to the rights recognized by the Declaration

Please note in the submission if the name of the alleged victim SHOULD NOT be transmitted to the Government. Names of alleged victims will remain confidential IF REQUESTED.

**The Special Representative of the Secretary-General on Human Rights Defenders  
Office of the High Commissioner for Human Rights  
United Nations  
1211 Geneva 10, Switzerland  
FAX: (41 22) 917 90 06**

## Annex 9

### Model Complaint Form

For communications under:

- Optional Protocol to the International Covenant on Civil and Political Rights
- Convention against Torture, or
- International Convention on the Elimination of Racial Discrimination

[Do not hesitate to attach additional sheets, if the space provided is not sufficient]

Please indicate which of the above procedures you are invoking:

.....

.....

Date: .....

**I. Information on the Complainant:**

Name:

.....

First name(s):

.....

Nationality:

.....

Date and Place of Birth:

.....

Address for Correspondence on this Complaint:

.....

.....

Submitting the communication:

on the author's behalf: .....

on behalf of another person: .....

[If the complaint is being submitted on behalf of another person:]

Please provide the following personal details of that of that other person:

Name:

.....

First name(s):

.....

Nationality:

.....

Date and Place of Birth:

.....

Address or Current Whereabouts:

.....

.....

If you are acting with the knowledge and consent of that person, please provide that person's authorisation for you to bring this complaint:

.....

**Or**

If you are not so authorised please explain the nature of your relationship with that person:

.....

And detail why you consider it appropriate to bring this complaint on his or her behalf:

.....

**II. State concerned/Articles violated**

Name of the State that is either a party to the Optional Protocol (in the case of a complaint to the Human Rights Committee) or has made the relevant declaration (in the case of complaints to the Committee against Torture or the Committee on the Elimination of Racial Discrimination):

.....

Articles of the Covenant or Convention alleged to have been violated:

.....

**III. Exhaustion of domestic remedies/Application to other international procedures**

Steps taken by or on behalf of the alleged victims to obtain redress within the State concerned for the alleged violation – detail which procedure have been pursued, including recourse to the courts and other public authorities, which claims you

have made, at which times, and with which outcomes:

.....

.....

.....

If you have not exhausted these remedies on the basis that their application would be unduly prolonged, that they would not be effective, that they are not available to you, or for any other reason, please explain your reasons in detail:

.....

.....

.....

.....

.....

.....

.....

.....

Have you submitted the same matter for examination under another procedure of international investigation or settlement (e.g. The Inter-American Commission on Human Rights, the European Court of Human Rights, or the African Commission on Human and People's Rights)?

.....

If so, please detail which procedure(s) have been, or are being, pursued, which claims you have made at which times, and with which outcomes:

.....

.....

.....

**IV. Facts of the Complaint**

Detail, in chronological order, the facts and circumstances of the alleged violations. Include all matters which may be relevant to the assessment and consideration of your particular case. Please explain how you consider that the facts and circumstances described violate your rights:

.....

.....

.....

.....

.....

.....

.....

Author's signature: .....

**V. Checklist of Supporting Documentation (copies, not originals, to be enclosed with your complaint)**

- Written authorisation to act (if you are bringing the complaint on behalf of another person and are not otherwise justifying the absence of specific authorisation)
- Decisions of domestic courts and authorities on your claim (a copy of the relevant national legislation is also helpful)
- Complaints to and decisions by any other procedure of international investigation or settlement
- Any documentation or other corroborating evidence you possess that substantiates your description in Part IV of the facts of your claim and /or your argument that the facts described amount to a violation of your rights

If you do not enclose this information and it needs to be sought especially from you, or if accompanying documentation is not provided in the working languages of the Secretariat, the consideration of your complaint may be delayed.



# Annex 10

## CONVENTION AGAINST TORTURE

### MODEL COMMUNICATION

Date: .....

*Communication to:*

The Committee against Torture  
c/o Centre for Human Rights  
United Nations Office  
8-14 avenue de la Paix  
1211 Geneva 10  
Switzerland

*submitted for consideration under 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 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 (themselves):

.....

*An unrelated third party having no link to the victim(s) cannot submit a communication on his (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 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: .....

## Annex 11

### COMPLAINT FORM TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

**Note:**

*To be considered by the Committee, a communication:*

- *must be in writing;*
- *may not be anonymous;*
- *must refer to a State which is a party to both the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol;*
- *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. In cases where a communication is submitted on behalf of an individual or a group of individuals, their consent is necessary unless the person submitting the communication can justify acting on their behalf without such consent.*

*A communication will not normally be considered by the Committee:*

- *unless all available domestic remedies have been exhausted;*
- *where the same matter is being or has already been examined by the Committee or another international procedure;*
- *if it concerns an alleged violation occurring before the entry into force of the Optional Protocol for the State.*

*In order for a communication to be considered the victim or victims must agree to disclose her/their identity to the State against which the violation is alleged. The communication,*

*if admissible, will be brought confidentially to the attention of the State party concerned. If you wish to submit a communication, please follow the guidelines below as much as possible. Also, please submit any relevant information which becomes available after you have submitted this form.*

*Further information on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as the rules of procedure of the Committee can be found at: <http://www.un.org/womenwatch/daw/cedaw/index.html>*

***The following questionnaire provides a guideline for those who wish to submit a communication. Please provide as much information as available in response to the items listed below. Attach additional pages as necessary.***

**1. Information concerning the author of the communication**

Family Name

.....

First name(s)

.....

Date and place of birth

.....

Nationality/citizenship

.....

Passport/identity card number (if available)

.....

Sex

.....

Profession

.....

Ethnic background, religious affiliation, social group (if relevant)

.....

Present address

.....

.....

Mailing address for exchange of 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 the author)**

Family Name

.....

First name(s)

.....

Date and place of birth

.....

Nationality/citizenship

.....

Passport/identity card number (if available)

.....

Sex

.....

Profession

.....

Ethnic background, religious affiliation, social group (if relevant)

.....

Present address

.....

.....

Mailing address for exchange of 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)

.....

Date(s)

.....

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 remedy sought

.....

Date(s)

.....

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)

.....

Place(s)

.....

Results (if any)

.....

*Please note: Enclose copies of all relevant documentation.*

**7. Date and signature**

Date/place:

.....

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

.....

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

.....

.....

.....





ISBN 1905592035



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