

# **CRC Complaints Mechanism Toolkit**

## **Acknowledgment**

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First published 2013.

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## **Table of Contents**

Background and Introduction.....	1
Part I: Individual Complaints.....	2
WHAT is the CRC complaints mechanism?.....	2
WHERE are complaints heard? .....	3
WHO can file a complaint?.....	4
WHEN can you file a complaint?.....	6
HOW are complaints reviewed?.....	7
WHY should you file a complaint?.....	9
Part II: Inquiries.....	11
Part III: Inter-State Communications.....	13
Annex 1: Annotated Optional Protocol.....	15
Annex 2: International Communications Procedures.....	35

# Background and Introduction

A children's rights complaints mechanism at the UN has been a long time in the making. More than 20 years have passed since the Convention on the Rights of the Child (CRC) entered into force, and almost every country in the world has now formally accepted its duty to respect and uphold children's international human rights. The body responsible for monitoring the Convention, the Committee on the Rights of the Child, was from the very beginning given the authority to review how countries met their children's rights obligations. Yet unlike under other UN human rights conventions, the Committee was powerless to provide child victims with redress when governments breached their rights.

There was, then, no international means for children to enforce their full range of rights, much less a forum designed to account for the unique difficulties that children face in bringing legal proceedings. Recognising this as a matter of discrimination, German NGO Kindernothilfe began in 2000 what would prove to be more than decade of lobbying to expand access to justice for child victims of rights violations. Momentum gathered, and in 2007, a wider campaign was formed to demand that the UN establish a complaints mechanism under the CRC. Following an official [launch](#) at the Human Rights Council, the Committee on the Rights of the Child [formally endorsed](#) the campaign in 2008.

The next spring, the UN [agreed to take up](#) the matter, and arranged for a [meeting](#) that December to discuss the idea of a CRC complaints mechanism. The plan to create a complaints mechanism was approved, and in September 2010, the [first draft](#) of an Optional Protocol to the CRC on a communications procedure was released. Governments from around the world debated the draft in [December](#) 2010 and [February](#) 2011, and the [final revised text](#) was published that May and [adopted](#) by the UN Human Rights Council in June. A committee of the UN General Assembly [approved](#) the new complaints mechanism in November, and it was [adopted by the full General Assembly](#) a few short weeks later. In February 2012, the new Optional Protocol was [opened for signature and ratification](#), and by the end of the year had been signed by 34 States and ratified by 2.

The complaints mechanism will now go into force with its tenth ratification. It isn't entirely clear when this will be, although the Committee on the Rights of the Child has recently finalised the Rules of Procedure that will govern how communications can be filed when children's rights have been violated. As such, the form and structure of the complaints mechanism are clear, and the time is right to consider how it can be used to advance children's rights. Along these lines, this Toolkit is designed to give advocates a better sense of the new complaints mechanism in the hopes that they will be prepared and inspired to help children bring violations of their rights to international attention.

The Toolkit sets out the Who, What, When, Where, Why and How of the CRC complaints mechanism. It is divided into three sections that correspond with the three ways that violations of children's rights can be raised with the Committee: individual complaints, inquiries and inter-state communications. Much like the complaints mechanism itself, the Toolkit's primary focus is on individual complaints. As these are addressed first, this section also provides extensive general information about the functioning of the Committee on the Rights of the Child. Following the body of the Toolkit, an annotated version of the Optional Protocol has been appended to provide plain English explanations of the adopted text, links with relevant provisions of the CRC and examples of how children have used existing international communications procedures. Lastly, to put the CRC complaints mechanism in the wider human rights context, a chart comparing all of the international communications procedures at the UN has been included as a second annex.

# Part I: Individual Complaints

## WHAT is the CRC complaints mechanism?

### What is an Optional Protocol?

The CRC complaints mechanism was created by treaty in 2011 with the adoption of the [Optional Protocol to the Convention on the Rights of the Child on a communications procedure](#). Optional Protocols are directly related to existing United Nations human rights “instruments”, also known as “treaties” or “conventions”. Optional Protocols don't make changes to instruments that have already been agreed, and not every country that has “ratified” or formally accepted a treaty has to do the same for an Optional Protocol. In terms of the CRC complaints mechanism, this means that children can't challenge violations of their rights unless their governments ratify the new Optional Protocol.

The Optional Protocol on the complaints mechanism is the third Optional Protocol to the CRC. The first two Optional Protocols, approved in 2000, are about the involvement of children in armed conflict and the sale of children, child prostitution and child pornography. Because these Optional Protocols expand children's rights in specific areas, they are sometimes referred to as “substantive.” The Optional Protocol on the complaints mechanism doesn't add new rights in the same way, and is sometimes referred to as “procedural” because it provides a process for bringing violations of existing children's rights to attention.

### What is a human rights complaints mechanism?

A human rights complaints mechanism is a means for someone whose rights have been violated to seek redress outside their national justice system. There is no single way to design a complaints mechanism, and these can be tailored for specific purposes or groups of people. Each complaints mechanism operates on its own terms, and mechanisms don't all have the same powers to receive, look at or respond to complaints. For these reasons, it's important to look at how the CRC complaints mechanism compares to other complaints mechanisms and what exactly it gives children and their advocates a chance to do.

### Where can human rights complaints mechanisms be found?

Human rights complaints mechanisms exist on the national, regional and international levels. National human rights complaints mechanisms are mostly offered by government “ombudspersons”, which are publicly funded independent institutions that make sure the government isn't abusing its power. Regional human rights complaints mechanisms are similarly designed to make sure that governments respect their citizens' rights, but are broader than national mechanisms because they cover more than one country in the same part of the world. International human rights complaints mechanisms are even more open than regional mechanisms, and can give people from around the globe a way to challenge violations of their rights. The CRC complaints mechanism, like the Convention itself, is part of the United Nations human rights system and hence international in nature.

### What is the difference between a complaints mechanism and a court?

Complaints mechanisms at the UN, also called “communications procedures”, are not the same as courts. They are, however, sometimes referred to as “quasi-judicial” because they have some things in common with the way that courts operate. In both national courtrooms and international communications procedures, a dispute between two or more parties can be raised for review before an independent body. Complaints relating to violations of human rights are brought by or on behalf of the person whose rights were breached, and the parties are each given a chance to present their arguments and basic documentary evidence about what happened. Once all information has been received, the reviewing body then issues a final opinion on the matter, including directions on what must or should be done to right any wrongs committed.

Unlike courts, however, international communications procedures only accept complaints against national governments, and these complaints can only relate to violations of human rights in international conventions. Given this limitation, communications procedures tend to be far less complicated and involved than typical court cases, and are by and large conducted on paper rather than in person. They are governed by often simple and straightforward rules of procedure, and set clear, universal time limits for response and review. Communications procedures are in many ways more accessible and user-friendly than national justice systems, but are also less authoritative as the recommendations they issue are without the binding legal force of court orders or decisions.

What is special about a children's rights complaints mechanism?

Because it was designed with children in mind, the CRC complaints mechanism is different from other human rights communications procedures. For one thing, special child-sensitive guidelines for how complaints are submitted and reviewed, known as “[Rules of Procedure](#)”, have been written to make sure that children are able to use the mechanism. Complaints are also examined with children's rights and best interests in mind, and child victims' views are taken into consideration throughout the process in line with their age and maturity. In addition, there are special safeguards in place to make sure that children genuinely want to file complaints before these are accepted for review, and that doing so wouldn't clearly run against their best interests.

## **WHERE are complaints heard?**

Where can individual complaints be filed?

Individual complaints, also known as “communications” and “petitions”, are filed with the [Petitions Unit](#) of the [United Nations Office of the High Commissioner of Human Rights](#) in Geneva, Switzerland. Communications must be submitted in writing in one of the UN's six working languages, namely Arabic, Chinese, English, French, Russian and Spanish. The person who drafts and files a complaint is known as the “author”, and the child whose rights have been violated is often referred to as the “victim”. Child victims can also be thought of as “complainants”, and are empowered to prepare and submit complaints without the assistance of a separate author.

What does a complaint look like?

Complaints don't have to be written in any specific way, but must fully set out the case for review and supply certain basic details about the authors and victims involved. The Office of the High Commissioner for Human Rights provides general [guidance](#) on submitting communications to UN treaty bodies, and also offers a [model complaint form](#). When a complaint is filed, the Petitions Unit will make sure that it contains all of the information required for consideration, and can reach out to authors as necessary to request more details in an appropriate, accessible way. Once the complaint is complete, the Unit will then pass it along to the relevant UN “treaty body” to determine whether it can be reviewed.

### What is a treaty body?

Treaty bodies are groups of independent experts at the UN, each associated with a particular international human rights convention. Treaty bodies are responsible for monitoring whether countries that have ratified a convention, known as “States parties”, live up their responsibilities. Some treaty bodies can also receive complaints about violations of rights in the conventions they oversee, as is the case with the CRC communications procedure. Importantly, any treaty body can review complaints that are submitted by children. Where a complaint alleges violations of the CRC or its two substantive Optional Protocols, though, it will be examined by the Committee on the Rights of the Child.

### What is the Committee on the Rights of the Child?

The [Committee on the Rights of the Child](#) is the treaty body responsible for monitoring the Convention on the Rights of the Child. The Committee has been in existence for as long as the Convention itself, and is tasked with reviewing the children's rights record of every country that has ratified the CRC or its substantive Optional Protocols. The Committee is made up of 18 children's rights experts, and currently meets 3 times a year. The Committee oversees the “periodic reporting procedure” for the CRC, during which governments provide information about national laws, policies and programmes that relate to children's rights and the Committee responds with recommendations to improve respect for these rights.

The Committee also presides over the CRC Complaints Mechanism, and holds the primary responsibility for reviewing communications about violations of children's rights. The Optional Protocol sets out the basic framework for reviewing complaints, and the Committee's Rules of Procedure more clearly set out how complaints are processed. Once a communication reaches the Committee for consideration, the Optional Protocol and Rules of Procedure together determine whether and how it will be admitted and examined.

## **WHO can file a complaint?**

### Who is permitted to file a complaint?

The CRC complaints mechanism is available to children who believe that one or more of their rights under the Convention on the Rights of the Child or its substantive Optional Protocols have been violated. Children can file complaints either individually or together as a group, and can do this by themselves or with the help of a representative. There aren't any limits on who can help children write

complaints, but children have to give their consent before someone else can file a complaint on their behalf.

If it isn't possible to get a child victim's consent, a complaint might still be accepted for review if the author can justify this and explain why it's in the best interests of the child to proceed. In these circumstances, the Committee may still request that the child victim be informed about the complaint and asked to give his or her opinion on the matter. In addition, where there are concerns as to whether a child victim's consent is genuine, the Committee may seek out further information to ensure that the child in question is not being improperly pressured or manipulated.

### Against whom can complaints be filed?

Complaints can be filed against any national government that has ratified the Optional Protocol on a communications procedure. Complaints cannot be directed at specific government agencies or regional or municipal authorities, but it is often the case that national governments are responsible for all public actions that take place within their territory. A complainant must also be “within the jurisdiction” of a country to file a complaint against the national government. While victims don't have to be citizens, this usually means that they live in or are at least physically present in that country.

### Who will know that a complaint has been filed?

Because complaints cannot be filed anonymously, the defending national government will always find out who the author and child victim or victims are. The CRC complaints mechanism does, however, guarantee confidentiality. While the Committee maintains a permanent record of every complaint it receives, its review process is conducted behind closed doors. Complaints found admissible are sent securely to the government concerned, and neither the Committee nor the government can publicly identify any person named or referenced in relation to the complaint without their explicit permission. Even when the Committee's final views, decisions and recommendations are published, this is done without revealing authors' or victims' names.

In addition, governments are obligated to protect the rights of authors, victims and anyone else who helps out with a complaint, and must try their hardest to make sure that no person is threatened or mistreated because of their involvement with the complaints mechanism. If it comes to the attention of the Committee that a country has failed to do this, the Committee can remind the government of its obligation and demand that the right to protection be respected. Where this happens, the Committee will continue to monitor the situation on the ground, and can make public statements or take other steps to hold the government accountable for its actions.

### What are the requirements for filing a complaint?

Complaints are required to name at least one individual child victim, and must allege a violation of one or more of the rights contained in the Convention or its substantive Optional Protocols. Because governments are only obligated to respect the treaties that they have accepted as binding, potential violations are limited to rights set out in the conventions that a government has ratified. If a government has not ratified the Optional Protocol on the involvement of children in armed conflict, for instance, a complaint against that government cannot talk about violations of rights described in that Optional Protocol.



The Committee will also require further details about the circumstances giving rise to the complaint. Communications must explain how the child victim or victims' rights were violated, and show why the defending national government is responsible. Complaints typically set out the facts on which they are based in the order in which they happened, and attach additional documents to support the complainant's story. Complaints that could be described as “manifestly ill founded” or “not sufficiently substantiated” are not accepted, which means that a complaint won't be reviewed if there is not enough information provided or if the events described don't seem to make sense.

#### Is legal aid or assistance available to complainants?

While the Office of the High Commissioner for Human Rights provides general guidance and support to complainants, it does not offer or fund legal assistance. Nonetheless, many child victims will already have had contact with lawyers by the time they consider approaching the Committee, and most complaints are filed with some kind of legal advice. There may be local, national, regional or international networks or organisations that offer assistance free or charge, and some national legal aid systems also pay for lawyers to work with international human rights mechanisms. For more information on obtaining legal assistance, CRIN's [Legal Assistance Toolkit for Children and Children's Rights Organisations](#) gives an overview of how children and those acting on their behalf can secure the advice or representation of a lawyer.

## **WHEN can you file a complaint?**

#### When does the CRC complaints mechanism go into effect?

The CRC complaints mechanism will begin to operate three months after the tenth government ratifies the Optional Protocol on a communications procedure. Further governments may join at any time, although there will be a similar three-month waiting period before the Committee can start to receive complaints filed against them. For all countries, communications can only relate to violations of children's rights that happen after the complaints mechanism enters into force. In other words, children can't complain about violations of their rights that have already happened unless these violations continue after the communications procedure goes into effect for the government in question.

#### When will a complaint be accepted for review?

Complaints are not accepted for review until “domestic remedies have been exhausted.” This means that complainants must first try to resolve matters in a government's national justice system before they can bring the situation to the Committee's attention. Often this requires filing a claim in court and pursuing the case until it can no longer be appealed. Once domestic remedies have been exhausted, complainants will usually then have one year to raise violations with the Committee. The Committee will also not accept matters for review if they have already been submitted to or examined by another international communications procedure.

There are, however, exceptions to both the exhaustion of remedies requirement and the time limit for filing a complaint. Notably, complainants don't have to pursue their cases in national courts where

domestic remedies are “unreasonably prolonged” or “unlikely to bring effective relief.” This might be the case where it can be shown that the national justice system is corrupt or that it would take an exceptionally long time to receive a response from the courts. In addition, the Committee may accept communications more than one year after the exhaustion of domestic remedies where the author can demonstrate that it wasn't possible to file a complaint within this time limit.

### When will a complaint be reviewed?

As above, the Petitions Unit at the Office of the High Commissioner for Human Rights does an initial screening of every complaint received to make sure that it gives the Committee all the information it will need to assess the situation. When this has been confirmed, complaints pass through two stages of review. In the first phase, the Committee determines “admissibility”, and looks at whether a complaint meets all the requirements set out in the Optional Protocol and Rules of Procedure. Once the Committee is satisfied that a communication is admissible, it can then move on to examine the complaint “on the merits.” During this stage, the Committee will determine whether the events described in the complaint amount to a violation of children's rights and, if so, what should be done to remedy it.

The admissibility and merits of a complaint are typically examined in the same review process, but it is possible for the Committee to separately determine a complaint's admissibility before engaging in any discussions on its merits. No matter what, where the Committee decides that a complaint is inadmissible, this decision and the reasons behind it are sent out to the parties. If the author of the complaint can later confirm in writing that these reasons no longer hold true, the Committee also has the power to reconsider its decision and admit the complaint for review on the merits.

### What happens if there are urgent concerns?

If it appears that a child victim is in serious danger, the Committee may ask a government to take what are known as “interim measures”. These are designed to ensure that victims are not permanently harmed before the Committee has time to finish reviewing a complaint on the merits. The Committee actively monitors compliance with all requests for interim measures, and can revisit the suitability of these measures as it sees fit. Importantly, interim measures can only be requested in what are termed “exceptional circumstances”, and the Committee's asking for interim measures does not necessarily mean that children's rights have been violated.

## **HOW are complaints reviewed?**

### How long will it take to get a response?

Once the Committee has decided to admit a complaint for consideration, it must provide the government concerned with a copy of the complaint and any supporting documents. The government will then begin to prepare a written response that details its views on the events described in the complaint. This must be submitted to the Committee as soon as possible, at the very latest within six months' time, and a copy of the response and any supporting documents will be passed along to the author.

When the complaint, the response and all other documents submitted by the parties have been received and distributed, the Committee can start its review process. In private meetings, the Committee will determine whether a violation of children's rights has occurred, and should try to reach a conclusion as quickly as possible. A fast turn-around is especially important if the Committee has already issued a request for interim measures. Once a decision has been reached, the Committee will then share its views and recommendations with everyone involved. These views are final, and decisions issued on the merits cannot be altered or appealed.

#### How does the Committee review complaints?

The Committee takes into account all of the written submissions it receives from the parties when reviewing a complaint, and can consult with other parts of the United Nations, regional human rights organisations, national human rights institutions, non-governmental organisations and independent children's rights experts. If it is in the best interests of the child, the Committee can also invite the author, child victim and/or defending government to a hearing where they will have a chance to answer questions about the complaint. These hearings are strictly optional, and have to be conducted in a child-sensitive manner whenever a child victim is involved. If a hearing is held, the Committee must also be sure to provide details about what was discussed and an opportunity to respond for any party that wasn't there.

The Committee will draw on all of this information to figure out whether the events described in the complaint amount to a children's rights violation. Where the complaint relates to certain kinds of rights, known as “economic, social or cultural rights”, the Committee will also look at what the government has done so far to realise these rights. Economic, social and cultural rights mostly require governments to provide public services like health care, education and housing, and not every government has the resources to do this easily. There are many different ways to design and deliver public services, and the Committee has to keep in mind that governments will not all take the same approaches to children's economic, social and cultural rights.

#### Is it possible to settle a complaint?

The CRC complaints mechanism allows for the “friendly settlement” of communications, which gives the parties a way to resolve a complaint before the Committee reaches its decision. If the complaint's author and the defending government want to get together and see whether they can figure out a solution, they have the option to do this with the Committee's support and assistance. If they end up reaching an agreement on how to address the situation, the Committee will also ensure that the author has freely consented before it approves the settlement. If the Committee is satisfied, it will stop examining the complaint and issue a decision that briefly describes the facts of the case and the solution reached.

#### What happens when the matter has been decided?

After the Committee has shared its final decision, whether it was reached on the merits or as the result of a friendly settlement, the defending government is expected to remedy any rights violations found. To make sure that recommendations and settlements are not ignored, the government must write out any steps it has already taken or plans to take in response to the Committee's decision. This information should be submitted to the Committee as soon as possible and in any case before six

months have passed. The Committee may also follow up on its decision and recommendations by issuing further requests for information at a later point or asking the government questions about the complaint during the regular CRC reporting process.

If the Committee's views and recommendations are particularly complicated, it can arrange for other parts of the United Nations to offer technical advice and assistance. With the defending government's consent, the Committee can also reach out to other international experts and specialists to share information about the complaint and discuss how its recommendations can best be followed. Similarly, the Committee can ask defending governments for permission to raise matters of special concern within the UN in order to figure out whether there are general steps that could be taken to help all governments better realise children's rights under the CRC and its substantive Optional Protocols.

## **WHY should you file a complaint?**

### Why is it important to file a complaint?

First and foremost, filing a complaint with the CRC communications procedure gives child victims an opportunity to seek redress. Children face many barriers in accessing justice, and often have no way to bring violations of their rights to attention. The Committee can recognise the violations children have endured and provide recourse to a remedy where domestic courts fail. Among many other possible solutions, the Committee can recommend that governments offer child victims rehabilitation, reparation, financial compensation or guarantees of non-repetition.

### How do complaints affect national governments?

Although complaints are limited to individual circumstances, they often indicate wider patterns of children's rights violations in a particular country. Complaints can draw attention to laws, policies and practices that violate children's rights and place pressure on governments to change these. In certain circumstances, the Committee can even explicitly recommend that a government amend its laws or revise its policies to prevent the same violations of children's rights from occurring in the future.

Similarly, the CRC complaints mechanism can push governments to improve children's access to justice in national courts. Because child complainants are required to exhaust domestic remedies, successful complaints often draw attention to flaws and gaps in domestic justice systems. By providing children with more effective ways to obtain redress on the national level, governments can avoid international complaints almost entirely. Complaints also inevitably raise the profile of children's rights with relevant national authorities, and can link in with larger civil society campaigns to encourage greater respect for the same.

### How do complaints help the Committee on the Rights on the Child?

Complaints provide a means for the Committee to examine children's rights in real-world scenarios. Reviewing complaints can deepen its practical understanding of children's rights, and helps the Committee to clarify governments' obligations to respect these rights. As more and more complaints are filed, the Committee will also begin to develop what is known as the "jurisprudence" or "case law"

of the CRC and its substantive Optional Protocols. These are terms to describe the full collection of the Committee's final decisions, and can guide the Committee in examining future complaints while at the same time giving child victims and governments a better sense of what kinds of complaints have been filed and what exactly makes for a violation of children's rights.

## **Part II: Inquiries**

### **WHAT is an inquiry?**

An inquiry is a way to draw attention to “grave” or “systematic” violations of children's rights. Unlike a complaint, which only looks at whether individual victim's rights have been violated, inquiries look at serious or widespread violations of children's rights happening across a country. Specific child victims do not have to be identified, and inquiries are more like investigations than court cases. Inquiries are run by the Committee on the Rights of the Child, and are very much a cooperative process for all parties involved.

### **WHO can start an inquiry?**

The Committee on the Rights of the Child can initiate an inquiry when it receives “reliable” information that serious or widespread violations of children's rights are occurring. Anyone can submit this kind of information to the Committee's offices in Geneva, and all documents and proceedings are treated as confidential. As with individual complaints, inquiries can only be considered when a government is responsible for the apparent violations, and then only when that government has ratified the Optional Protocol on a communications procedure. It is assumed that governments that accept individual complaints will also accept inquiries, but governments can also say when or after they ratify that they won't respond to any inquiries about children's rights violations.

### **WHEN can an inquiry be launched?**

If the Committee receives information about potential children's rights violations in a country, it will ask the government involved for assistance in reviewing the situation. Governments are expected to promptly share their thoughts and observations on the information provided, and the Committee can also reach out to other parts of the UN, regional human rights systems, national human rights institutions, non-governmental organisations and children to put things in context. If the Committee decides that further investigation is in order, it can then initiate an inquiry to determine whether and how the government is responsible for the violations reported.

### **HOW does the inquiry process work?**

Once the Committee has decided to launch an inquiry, it will assign one or more of its members to quickly put together a report on the violations raised. If it makes sense and the government in question agrees, the members writing the report might also visit the country to get a fuller picture of what is happening on the ground. During a visit, the Committee can arrange hearings to speak directly with people who know firsthand about the events under discussion, including children.

When all information has been gathered and the report is ready, the Committee will then send its findings, comments and recommendations to the government for review. The government should try to

respond to these as soon as it can, and not wait any longer than six months before submitting a reply. To follow up, the Committee may later ask the government to share things it has done or plans to do in light of the inquiry, or ask questions about the inquiry during the regular CRC reporting process.

## **WHY would you seek an inquiry?**

Inquiries provide a simple, straightforward way to alert the Committee about large-scale violations of children's rights. Because anyone from around the world can submit information about potential violations and there are no specific requirements on what must be included, asking the Committee to start an inquiry can be much less work than filing an individual complaint. Inquiries also don't have to involve child victims directly, and provide greater anonymity for persons wishing to raise violations with the government responsible.

## **Part III: Inter-State Communications**

### **WHAT is an inter-state communication?**

In some instances, governments can use the CRC communications procedure to lodge complaints against other governments that have failed to live up to their children's rights obligations. These are known as “inter-state communications”, and tend to be a less involved procedure than either individual communications or inquiries.

### **WHO can file an inter-state communication?**

Governments can file inter-state communications against any other government that has given the Committee permission to receive and review these kinds of complaints. Governments must specifically say that they are willing to accept and respond to inter-state communications when or after they ratify the Optional Protocol on a communications procedure, and can only file communications against other governments if they have also agreed to accept them.

### **WHEN can an inter-state communication be filed?**

Inter-state communications can be filed whenever a government believes that another government is responsible for children's rights violations. They must specify which rights are being violated and which government is responsible, and set out the facts and circumstances around these violations. Complaining governments also have to explain what their objectives are in filing a communication. As with individual communications, governments can only be held responsible for failing to fulfill obligations they have already accepted by ratifying the Convention or its substantive Optional Protocols.

### **HOW are inter-state communications reviewed?**

The Committee is responsible for passing along any inter-state communication it receives to the government accused of violating children's rights. There is no automatic requirement that a government submit an official response to an inter-state communication filed against it, but the Committee may ask either government involved to provide additional information. If desired, the Committee can work with the governments to set out rules for whether and when submissions and responses should be filed, facilitate “friendly solutions” or establish special commissions to help governments reach an agreement.

Communications are then reviewed by the Committee in closed sessions. Once this process is complete, the Committee will issue a report and promptly provide copies to both of the governments involved. Where a friendly solution has been reached, the Committee will limit its report to a short statement of the facts and description of the solution. It can also share its views on the agreed solution with the complaining and defending governments, although these must remain confidential. The



Committee's reports are considered final, and there are no provisions for follow up.

## **WHY would you advocate for an inter-state communication to be filed?**

The inter-state communications procedure offers the broadest scope to raise potential violations of children's rights. Inter-state communications do not have to identify individual child victims, and aren't limited to serious or widespread rights violations. They also offer greater flexibility and simplicity in terms of review procedures. This said, inter-state communications are rarely used, and can risk being more about politics than children's rights. Nonetheless, advocating for a government to file an inter-state communication can give the Committee a chance to look at virtually any children's rights violation.

# Annex 1: Annotated Optional Protocol

## *Introduction*

This version of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure offers plain English explanations of the text. It covers each section of the Optional Protocol in order, giving a step-by-step run through of what the official language means to say. To show how things might work in practice, examples from other similar communications procedures at the UN have also been provided wherever possible. It is hoped that these explanations and examples provide a more complete understanding of the CRC complaints mechanism.

## **Optional Protocol to the Convention on the Rights of the Child on a communications procedure**

Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/66/138 of 19 December 2011

## *Explanation*

This treaty is about a “complaints procedure”, also known as a “communications procedure” or a “complaints mechanism”, for the Convention on the Rights of the Child. Complaints procedures are a way for people whose rights have been violated to challenge whoever is responsible for those violations. In this case, the complaints procedure is for children whose rights have been violated by their country's Government to have the UN look at the situation. The Committee on the Rights of the Child, a group of experts on children's rights, will be in charge of reading through and responding to complaints that children file against Governments.

## **Preamble**

The States parties to the present Protocol,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Noting that the States parties to the Convention on the Rights of the Child (hereinafter referred to as “the Convention”) recognize the rights set forth in it to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status,<sup>1</sup>

Reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms,

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<sup>1</sup> Children's right to non-discrimination is enshrined in [Article 2](#) of the Convention.

Reaffirming also the status of the child as a subject of rights and as a human being with dignity and with evolving capacities,<sup>2</sup>

Recognizing that children’s special and dependent status may create real difficulties for them in pursuing remedies for violations of their rights,

Considering that the present Protocol will reinforce and complement national and regional mechanisms allowing children to submit complaints for violations of their rights,

Recognizing that the best interests of the child should be a primary consideration to be respected in pursuing remedies for violations of the rights of the child,<sup>3</sup> and that such remedies should take into account the need for child-sensitive procedures at all levels,<sup>4</sup>

Encouraging States parties to develop appropriate national mechanisms to enable a child whose rights have been violated to have access to effective remedies at the domestic level,

Recalling the important role that national human rights institutions and other relevant specialized institutions, mandated to promote and protect the rights of the child, can play in this regard,<sup>5</sup>

Considering that, in order to reinforce and complement such national mechanisms and to further enhance the implementation of the Convention and, where applicable, the Optional Protocols thereto on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, it would be appropriate to enable the Committee on the Rights of the Child (hereinafter referred to as “the Committee”) to carry out the functions provided for in the present Protocol,

Have agreed as follows:

#### *Explanation*

The Preamble does not require Governments or the Committee to do anything, but it does set the tone for the complaints procedure by recognising the importance of children's rights, interests and special status. It also places the complaints procedure in context. There are many other ways for children to submit complaints within their countries and regions, and the Convention on the Rights of the Child complaints procedure should add to and improve these ways. The Preamble also talks about the role of “national human rights institutions”, which are special independent organisations in some countries that help to make sure Governments are respecting children's rights.

## **Part I**

2 [Article 5](#) of the Convention first presents the notion of children's evolving capacities.

3 [Article 3](#) of the Convention establishes the best interests of the child as a primary consideration in all actions concerning children.

4 The Committee has discussed child-sensitive procedures in the context of national legal proceedings to some extent in its General Comments on the [right of the child to be heard](#), [children's rights in juvenile justice](#), and [general measures of implementation](#).

5 The [Committee on the Rights of the Child](#) has issued a [General Comment on the role of independent human rights institutions](#) and welcomed the establishment of national human rights institutions, children's ombudspersons/commissioners and similar bodies. [Article 4](#) of the Convention further obligates States parties to “undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention,” and the Committee considers that national human rights institutions are “an important mechanism to promote and ensure the implementation of the Convention.”

## General provisions

### Article 1

Competence of the Committee on the Rights of the Child

1. A State party to the present Protocol recognizes the competence of the Committee as provided for by the present Protocol.
2. The Committee shall not exercise its competence regarding a State party to the present Protocol on matters concerning violations of rights set forth in an instrument to which that State is not a party.
3. No communication shall be received by the Committee if it concerns a State that is not a party to the present Protocol.

#### *Explanation*

Just because a Government has accepted a UN treaty on child rights does not mean that children can automatically complain about violations of their rights to the Committee. The complaints procedure is optional, which means complaints can only be filed against Governments that have also accepted the complaints procedure. The three treaties covered by the complaints procedure include the [Convention on the Rights of the Child](#), the [Optional Protocol on the sale of children, child prostitution and child pornography](#) and the [Optional Protocol on the involvement of children in armed conflict](#). Not every Government has accepted all three of these, and complaints can only relate to the treaties that a Government has “ratified”, which is another way to say that the Government has formally agreed to follow what the treaty says.

### Article 2

General principles guiding the functions of the Committee

In fulfilling the functions conferred on it by the present Protocol, the Committee shall be guided by the principle of the best interests of the child.<sup>6</sup> It shall also have regard for the rights and views of the child, the views of the child being given due weight in accordance with the age and maturity of the child.<sup>7</sup>

#### *Explanation*

When reviewing complaints, the Committee always has to keep children's best interests in mind and remember that children have the right to express themselves. The Committee should and will listen to what any child has to say, but it doesn't always have to do what a child wants or suggests. But the older and more mature a child is, the more the Committee will pay attention to what he or she thinks.

<sup>6</sup> [Article 3](#) of the Convention reinforces that in all actions concerning children, including legal proceedings such as those set out in this communications procedure, the best interests of the child must be a primary consideration.

<sup>7</sup> Under [Article 12](#) of the Convention, children have the rights both to express their opinions freely in all matters that concern them and to have their views taken into consideration in light of their age and maturity.

### Article 3

#### Rules of procedure

1. The Committee shall adopt rules of procedure to be followed when exercising the functions conferred on it by the present Protocol. In doing so, it shall have regard, in particular, for article 2 of the present Protocol in order to guarantee child-sensitive procedures.<sup>8</sup>
2. The Committee shall include in its rules of procedure safeguards to prevent the manipulation of the child by those acting on his or her behalf and may decline to examine any communication that it considers not to be in the child's best interests.<sup>9</sup>

#### *Explanation*

The Committee's Rules of Procedure set out the details of how Committee members meet to review complaints. From when they first receive a complaint to when they decide whether a child's rights have been violated and what could be done to fix the situation, the Rules of Procedure describe a process that the Committee must follow. Because it's especially important that children be able to file complaints, the Committee has to write rules that make it easier for children to do this. If it looks like reviewing a complaint could cause serious problems for the child involved, though, the Committee might decide not to look at it. If someone else is filing a complaint for a child, the Committee also has to make sure that the complaint was submitted for the right reasons.

### Article 4

#### Protection measures

1. A State party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to any human rights violation, ill-treatment or intimidation as a consequence of communications or cooperation with the Committee pursuant to the present Protocol.<sup>10</sup>
2. The identity of any individual or group of individuals concerned shall not be revealed publicly without their express consent.<sup>11</sup>

#### *Explanation*

Governments must do whatever they can to make sure that people can safely reach out to and work with the Committee. They should especially make sure that people who submit complaints do not

8 As above, the Committee has discussed child-sensitive procedures in the context of national legal proceedings to some extent in its General Comments on the [right of the child to be heard](#), [children's rights in juvenile justice](#), and [general measures of implementation](#).

9 While there are no specific guidelines for what constitutes a child's best interests, [Article 3](#) of the Convention establishes the importance of the concept as a general principle.

10 [Article 19](#) of the Convention obligates States to protect children from violence. The Committee has also elaborated on children's [right to freedom from all forms of violence](#) in a General Comment.

11 [Article 16](#) of the Convention guarantees children's right to privacy.

face backlash or retaliation, and that their rights are not affected by submitting a complaint. So that this doesn't happen, Governments also aren't allowed to say who filed a complaint or who a complaint is about unless those people specifically say it's okay to release their names.

## **Part II**

### **Communications procedure**

#### **Article 5**

##### Individual communications

1. Communications may be submitted by or on behalf of an individual or group of individuals, within the jurisdiction of a State party, claiming to be victims of a violation by that State party of any of the rights set forth in any of the following instruments to which that State is a party:

(a) The Convention;

(b) The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;

(c) The Optional Protocol to the Convention on the involvement of children in armed conflict.

2. Where a communication is submitted on behalf of an individual or group of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.<sup>12</sup>

##### *Explanation*

Children are allowed to submit either single or group complaints, and can do this by themselves or with the help of a person or people of their choosing. Every complaint has to show how a child's rights have been violated, and must also explain why the Government is responsible. If someone other than a child writes the complaint, that person usually has to ask the child the complaint is about for their permission to submit it. When there's a good reason why it isn't possible to get the child's permission, though, someone else can still file a complaint for the child. For example, the child might be too young to give consent or unreachable because he or she is being held in detention.

Once a Government accepts the complaints procedure, children can complain about violations of any of their rights under the [Convention on the Rights of the Child](#), the [Optional Protocol on the sale of children, child prostitution and child pornography](#) or the [Optional Protocol on the involvement of children in armed conflict](#) as long as the Government has ratified that treaty.

##### *Examples*

###### [A.B. v. Italy](#) (Human Rights Committee)

Mr. A.B. alleged that the State had violated the rights of Mr. and Mrs. H and their four children by requiring that the children be subject to compulsory vaccinations. The Human Rights Committee would not consider the case on its merits, as Mr. A.B. could not provide documentary evidence that he

<sup>12</sup> [Article 12](#) of the Convention grants children the right to participate in all matters that affect them.

had been given permission to act on behalf of the couple and their children.

[E.B. and ors. v. New Zealand](#) (Human Rights Committee)

E.B. separated from his wife, who denied him access to his three children and later made complaints to the police that he had sexually abused the children. E.B. was never convicted of any offence in relation to his children, but the Family Court considered that he posed "an unacceptable risk" to the safety of the children. The complaint largely turned on the rights of E.B. to see his children and the delay involved in resolving the custody case, but the Committee also made rulings with respect to the rights of the children themselves. The Committee considered that E.B. could not make a complaint on behalf of the children as he had not sought their authorisation to do so, they had expressed no desire for him to do so, and had in fact expressed their desire not to have contact with him.

[L.P. v. The Czech Republic](#) (Human Rights Committee)

Mr. L.P. separated from his wife, who was awarded custody of their child. A national court ruled on provisional access rights prior to the finalisation of the divorce and Mr. L.P. was allowed access to his son at specified times. Ms. R.P. refused him this access, and a series of bitter legal disputes arose during which Ms. R.P. was fined several times for her refusal to allow Mr. L.P. to see his son. Proceedings in the Czech Republic continued for nine years before this complaint was made to the Committee. Mr. L.P. initially made his complaint based on his rights and the rights of his son. The Committee would not consider a complaint relating to violations of the child's rights, however, unless Mr. L.P. was acting on behalf of his son, and he did not claim to do so.

[Mohammed Sahid and ors. v. New Zealand](#) (Human Rights Committee)

Mr. Sahid entered New Zealand on a temporary permit to visit his daughter and grandson, and remained in the country until he was deported ten years later. He argued that the interests of the child lay in maintaining the family unit, including himself, and that since he was the primary caregiver of his grandson, to deport him would discriminate against his grandson. The Committee considered all applications on behalf of the child inadmissible on the grounds that Mr. Sahid had not obtained his grandson's authorisation to represent him in this communication.

## Article 6

### Interim measures

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State party concerned for its urgent consideration a request that the State party take such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged violations.<sup>13</sup>
2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.

### *Explanation*

<sup>13</sup> Under [Article 19](#) of the Convention as interpreted in the Committee's [General Comment on violence against children](#), States must protect children from all forms of violence in all settings.

If the Committee feels that a child is in serious danger after reading a complaint, it may ask a Government to take special steps to protect that child before it finishes reviewing the complaint. This doesn't necessarily mean that the Government violated the child's rights, but it makes sure the child remains safe while the Committee has a chance to look at the complaint.

## **Article 7**

### **Admissibility**

The Committee shall consider a communication inadmissible when:

- (a) The communication is anonymous;
- (b) The communication is not in writing;
- (c) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention and/or the Optional Protocols thereto;
- (d) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (e) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;<sup>14</sup>
- (f) The communication is manifestly ill founded or not sufficiently substantiated;
- (g) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State party concerned, unless those facts continued after that date;
- (h) The communication is not submitted within one year after the exhaustion of domestic remedies, except in cases where the author can demonstrate that it had not been possible to submit the communication within that time limit.

### *Explanation*

While the Committee will read through every complaint, it can only review and decide on complaints that meet certain requirements. For instance, complaints have to be written. They need to list the name of the person who wrote the complaint and, if they are different, the names of the people the complaint is about. Complaints also have to describe how a child or children's rights have been violated in a way that makes sense. The Committee won't look at complaints that aren't genuine or about children's rights, and it can't accept complaints that have already been filed with another part of the UN.

Before submitting a complaint to the Committee, children have to “exhaust domestic remedies”, which means they have to do their best to get things resolved in their own country. There might be many official ways to challenge the Government, but this usually means filing a complaint with a

<sup>14</sup> The Committee's [General Comment on general measures of implementation](#) addresses the importance of effective national remedies to redress violations of children's rights.



local court and taking things as far as they will go, maybe even up to the most important court in the country. If a child has been through this and still hasn't resolved things, he or she can then file a complaint with the Committee. This has to be done within one year, though, unless there's a very good reason why this isn't possible. There are also times when it's okay for people to file complaints directly with the Committee and skip trying to solve things in their own country. For example, it might take too long to get a decision from a court, judges might be untrustworthy, or the Government might refuse to do what the court tells them.

### *Examples*

#### [C.P and ors. v. Denmark](#) (Committee on the Elimination of Racial Discrimination)

A 15 year-old boy was attacked and racially abused by a group of young men. The four assailants were later tried and three of them were convicted of offences relating to the attack. Two of them were fined, and the third was sentenced to a 60 day suspended prison term. The public prosecutor appealed the suspended sentence and it was increased to a 40 day unconditional prison term. C argued, on his son's behalf, that the trial was carried out with bias against his son on the grounds of his race and because the mother of one of the accused was a clerk at the District Court. The Committee found the complaint inadmissible on the grounds that there was insufficient evidence of a violation of M's rights. The police investigated and prosecuted the attack, and when the Public Prosecutor considered the sentence too lenient, he appealed and secured a less lenient sentence. A replacement judge was also brought in from another venue to take account of the accused's mother's position within the court. Upon a review of the documentation, the Committee found no evidence that the police or judicial proceedings were tainted by racially discriminatory considerations.

#### [Coronel and ors. v. Colombia](#) (Human Rights Committee)

The complaint was brought by the family members of seven people who were tortured and killed by Colombian military forces including a 16-year old boy. The Colombian State did not deny that the military had been responsible for the illegal detention and deaths of the seven people. Several administrative and disciplinary investigations were ongoing at the time the complaint was submitted, but no criminal case had been opened. The Committee found that there had been violations of the right to life, right to liberty and right to a private life with respect to all of the victims, and that the legal proceedings had not been sufficiently expeditious to constitute an effective remedy. The Committee also noted that where serious violations of Covenant rights are alleged, disciplinary and administrative remedies will not be sufficient.

#### [Irschik and ors. v. Austria](#) (Human Rights Committee)

Mr. Irschik complained on his and his two sons' behalf that their right to non-discrimination had been violated. The complaint arose out of a decision of the Austrian Constitutional Court, which had found a tax law to be unconstitutional. Mr. Irschik had already submitted his case to the European Court of Human Rights, which had considered his complaint "manifestly ill-founded". It was not until the complaint to the Committee that the rights of Mr. Irschik's sons were raised. The Committee considered the complaint inadmissible on two grounds. First, the fact that the European Court had considered the case meant that the Committee would not do so. Second, and of particular importance to the rights of the two children, the Committee would not consider a complaint arising in relation to persons that had not been raised in the previous domestic case.

[P.S. and ors. v. Denmark](#) (Human Rights Committee)

P.S. and the mother of his child divorced. Custody was awarded to his ex-wife, and under Danish law, the parent granted custody has responsibility for making decisions related to the child's religious education. P.S., a devout Jehovah's Witness, made several appeals against this and submitted a complaint to the Parliamentary Ombudsman, but did not apply for judicial review. The Committee found this complaint inadmissible on the grounds that P.S. had not exhausted domestic remedies. P.S.'s reasons for not applying for judicial review, namely that the expense and his belief that it would not provide an adequate remedy, were not considered sufficient.

## Article 8

### Transmission of the communication

1. Unless the Committee considers a communication inadmissible without reference to the State party concerned, the Committee shall bring any communication submitted to it under the present Protocol confidentially to the attention of the State party concerned as soon as possible.
2. The State party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that it may have provided. The State party shall submit its response as soon as possible and within six months.<sup>15</sup>

### *Explanation*

As soon as the Committee knows that it is going to review and decide on a complaint, it has to give a copy to the Government that the complaint is about. It's important that that nobody else know about the complaint to protect the privacy and safety of everyone involved in filing it, so the Committee has to be sure to send it just to the Government involved at first. Once the Government has received the complaint, it has to put together a response. This means the Government will write down its thoughts and views on the complaint, put together any extra information it has about the things the complaint describes, and talk about any things it has done to try to resolve the situation. The Government has six months to give its response to the Committee, but should try to do this faster if it can.

## Article 9

### Friendly settlement

1. The Committee shall make available its good offices to the parties concerned with a view to reaching a friendly settlement of the matter on the basis of respect for the obligations set forth in the Convention and/or the Optional Protocols thereto.
2. An agreement on a friendly settlement reached under the auspices of the Committee closes

<sup>15</sup> [Article 40](#) of the Convention and the Committee's [General Comment on children's rights in juvenile justice](#) clarify children's right to have juvenile justice matters determined without delay, and Article 8 of the Optional Protocol on the sale of children, child prostitution and child pornography mandates that States parties avoid unnecessary delay in compensating child victims. While these technically only apply to children in conflict with the law and child victims of exploitation, the idea that cases involving children should be addressed as quickly as possible is well-established.

consideration of the communication under the present Protocol.

*Explanation*

Like sometimes happens in court cases, the person or people filing the complaint and the Government accused of violating children's rights might want to meet and see whether they can resolve things before the Committee has a chance to decide on the complaint. If this sounds like something that everyone wants to do, the Committee will try to make this possible and set up a time and place for people to get together. If both sides find a happy compromise, the Committee will stop looking at the complaint and accept that everything has been resolved.

**Article 10**

Consideration of communications

1. The Committee shall consider communications received under the present Protocol as quickly as possible, in the light of all documentation submitted to it, provided that this documentation is transmitted to the parties concerned.
2. The Committee shall hold closed meetings when examining communications received under the present Protocol.
3. Where the Committee has requested interim measures, it shall expedite the consideration of the communication.
4. When examining communications alleging violations of economic, social or cultural rights, the Committee shall consider the reasonableness of the steps taken by the State party in accordance with article 4 of the Convention. In doing so, the Committee shall bear in mind that the State party may adopt a range of possible policy measures for the implementation of the economic, social and cultural rights in the Convention.<sup>16</sup>
5. After examining a communication, the Committee shall, without delay, transmit its views on the communication, together with its recommendations, if any, to the parties concerned.

*Explanation*

Once the Committee has all the information it needs about a complaint, it will meet in private and make a decision on what to do as soon as it can. The Committee will try even harder to make a fast decision when, after it first read the complaint, it asked a Government to take special steps to protect a child. When the Committee has finally agreed on what to do, it will very quickly send out its thoughts on the complaint and recommendations on how to resolve the situation to both the person who complained and the Government that person complained against.

Not all of the complaints will be looked at the same way, though. Complaints that involve rights that talk about public services, like education and health, are treated differently. If a complaint is related to

<sup>16</sup> As referenced here, [Article 4](#) of the Convention provides that States parties implement children's economic, social and cultural rights "to the maximum extent of their available resources."

one of these rights, the Committee will also think about what kinds of services the Government offers and whether these are good enough. Because there are lots of different ways to run school systems or deliver health care, for instance, the Committee also understands that there isn't just one simple solution every Government has to follow.

## **Article 11**

### Follow-up

1. The State party shall give due consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee a written response, including information on any action taken and envisaged in the light of the views and recommendations of the Committee. The State party shall submit its response as soon as possible and within six months.
2. The Committee may invite the State party to submit further information about any measures the State party has taken in response to its views or recommendations or implementation of a friendly settlement agreement, if any, including as deemed appropriate by the Committee, in the State party's subsequent reports under article 44 of the Convention, article 12 of the Optional Protocol on the sale of children, child prostitution and child pornography or article 8 of the Optional Protocol on the involvement of children in armed conflict, where applicable.<sup>17</sup>

### *Explanation*

If the Committee decides that a complaint is right and that a Government is responsible for violating children's rights, it will send the Government its views and recommendations on what to do next. The Government should take these seriously, and has to tell the Committee what it has done and what it plans to do to resolve the situation. The Government has six months to do this, but should try to report back to the Committee as soon as it can.

Since Governments and the Committee already meet on a regular basis at the UN to talk about children's rights, the Committee can ask questions before and during these meetings about how the Government ended up responding to the Committee's recommendations. If the Government was able to reach a compromise with a person who filed a complaint before the Committee sent out recommendations, the Committee can also ask questions about how the compromise worked out.

## **Article 12**

### Inter-State communications

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<sup>17</sup> [Article 44](#) of the Convention lays out the framework for the state reporting procedure, under which States parties are required to file initial reports on their implementation of the Convention 2 years after ratification and then every 5 years thereafter.

1. A State party to the present Protocol may, at any time, declare that it recognizes the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under any of the following instruments to which the State is a party:
  - (a) The Convention;
  - (b) The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;
  - (c) The Optional Protocol to the Convention on the involvement of children in armed conflict.
2. The Committee shall not receive communications concerning a State party that has not made such a declaration or communications from a State party that has not made such a declaration.
3. The Committee shall make available its good offices to the States parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the Convention and the Optional Protocols thereto.
4. A declaration under paragraph 1 of the present article shall be deposited by the States parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communications by any State party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State party concerned has made a new declaration.

*Explanation*

When a Government accepts the complaints procedure, it can also decide that it wants to allow other Governments to file complaints about violations of children's rights against it. If a Government doesn't specifically say that this is okay, though, the Committee can't look at complaints that are filed against it by other Governments. If a Government wants to allow complaints from other Governments, the UN will tell all of the other Governments about this. Governments can still change their mind about this later and tell the UN they don't want to deal with complaints from other Governments, but they still have to respond to complaints that have already been filed. Just like when a person files a complaint, when a Government files a complaint against another Government, the Committee can also set up meetings for the Governments to discuss the complaint and try to reach a happy compromise before it makes its own decision.

**Part III**  
**Inquiry procedure**

**Article 13**

Inquiry procedure for grave or systematic violations

1. If the Committee receives reliable information indicating grave or systematic violations by a State party of rights set forth in the Convention or in the Optional Protocols thereto on the sale of children, child prostitution and child pornography or on the involvement of children in armed conflict, the Committee shall invite the State party to cooperate in the examination of the information and, to this end, to submit observations without delay with regard to the information concerned.
2. Taking into account any observations that may have been submitted by the State party concerned, as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State party, the inquiry may include a visit to its territory.
3. Such an inquiry shall be conducted confidentially, and the cooperation of the State party shall be sought at all stages of the proceedings.
4. After examining the findings of such an inquiry, the Committee shall transmit without delay these findings to the State party concerned, together with any comments and recommendations.
5. The State party concerned shall, as soon as possible and within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
6. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2 of the present article, the Committee may, after consultation with the State party concerned, decide to include a summary account of the results of the proceedings in its report provided for in article 16 of the present Protocol.
7. Each State party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in the present article in respect of the rights set forth in some or all of the instruments listed in paragraph 1.
8. Any State party having made a declaration in accordance with paragraph 7 of the present article may, at any time, withdraw this declaration by notification to the Secretary-General of the United Nations.

#### *Explanation*

Anyone can send information to the Committee about violations of children's rights happening in a country that has accepted the complaints procedure. If it seems to the Committee like these violations are very serious or affect lots of children, the Committee can start an "inquiry", which means it will ask the country's Government to look through the information together and share its thoughts on the situation. If the Committee feels like it needs to do something about the violations, it can also ask some of its members to look into things and report back with more information. If the Government agrees, this might even involve visiting the country in person to see how things are.

If the Committee decides to investigate, it has to work with the Government to make sure everything runs smoothly and agree to keep things private. As soon as it has finished gathering information, the Committee will put together a report with comments and recommendations and send it to the Government. The Government then has to respond with its own thoughts within six months, but should try to do this sooner. When all is said and done, the Committee can also speak with the Government about sharing some of the main points of its investigation with the UN.

Not every Government has to agree to work with the Committee in these kinds of investigations, though. When Governments accept the complaints procedure, they can specifically say that they don't want to let the Committee investigate children's rights violations in their countries. If a Government says this and later changes its mind, it can also tell the UN that it's okay with Committee investigations after all.

#### **Article 14**

Follow-up to the inquiry procedure

1. The Committee may, if necessary, after the end of the period of six months referred to in article 13 (5), invite the State party concerned to inform it of the measures taken and envisaged in response to an inquiry conducted under article 13 of the present Protocol.
2. The Committee may invite the State party to submit further information about any measures that the State party has taken in response to an inquiry conducted under article 13, including as deemed appropriate by the Committee, in the State party's subsequent reports under article 44 of the Convention, article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography or article 8 of the Optional Protocol to the Convention on the involvement of children in armed conflict, where applicable.

#### *Explanation*

Six months after the Committee sends the results of a children's rights investigation to a Government, the Committee can ask that Government to explain what it has done and plans to do to address the situation. Since Governments and Committees already meet on a regular basis at the UN to talk about children's rights, the Committee can also ask the Government questions before and during these meetings about how it decided to respond to the investigation.

### **Part IV**

#### **Final provisions**

#### **Article 15**

International assistance and cooperation

1. The Committee may transmit, with the consent of the State party concerned, to United Nations specialized agencies, funds and programmes and other competent bodies its views or recommendations concerning communications and inquiries that indicate a need for technical advice or assistance, together with the State party's observations and suggestions, if any, on these views or recommendations.<sup>18</sup>

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<sup>18</sup> [Article 45](#) of the Convention provides that the Committee can submit requests for technical assistance to the United Nations Children's Fund and other competent bodies as part of the state reporting procedure, although the Committee need not explicitly ask for permission from a State party to do so.

2. The Committee may also bring to the attention of such bodies, with the consent of the State party concerned, any matter arising out of communications considered under the present Protocol that may assist them in deciding, each within its field of competence, on the advisability of international measures likely to contribute to assisting States parties in achieving progress in the implementation of the rights recognized in the Convention and/or the Optional Protocols thereto.<sup>19</sup>

*Explanation*

If a complaint or investigation is especially complicated, the Committee might want to reach out to other parts of the UN to figure out how to handle the situation. There are many different kinds of experts in the UN, and some of them might be able to give the Committee good advice or useful information. The complaint or investigation might also raise interesting issues, and the Committee might want to share it with other people at the UN to help them in their work on those issues. Before the Committee can speak with any of these experts, though, it has to make sure that the Government is okay with it talking to other people about the complaint or investigation.

**Article 16**

Report to the General Assembly

The Committee shall include in its report submitted every two years to the General Assembly in accordance with article 44 (5) of the Convention a summary of its activities under the present Protocol.<sup>20</sup>

*Explanation*

Every other year, the Committee tells the whole UN about what it has been doing. When it gives these reports, the Committee has to be sure to talk briefly about how many and what kinds of complaints and investigations it has been looking into.

**Article 17**

Dissemination of and information on the Optional Protocol

Each State party undertakes to make widely known and to disseminate the present Protocol and to facilitate access to information about the views and recommendations of the Committee, in particular with regard to matters involving the State party, by appropriate and active means and in accessible formats to adults and children alike, including those with disabilities.<sup>21</sup>

19 [Article 45](#) of the Convention similarly provides a means for specialised agencies, the United Nations Children's Fund and other UN organs to be involved in the state reporting procedure within their areas of expertise.

20 As stated here, [Article 45](#) of the Convention requires that the Committee report on its activities to the General Assembly every other year.

21 Under [Article 17](#) of the Convention, States parties are obligated to ensure that children have access to appropriate information, particularly where this information could enhance a child's well-being.



### *Explanation*

Governments that accept the complaints procedure also have to promise that they will share information about filing complaints with people who live in their country. It is not enough for Governments to just collect and hold onto information about the complaints procedure. They also have to reach out to people to tell them about it, and should take special steps to make sure that children and people who have disabilities know about and understand how the complaints procedure works.

Not only should Governments tell people about what the procedure is and how to use it, but they should also make sure that people can find and read the Committee's decisions and recommendations. It is even more important that Governments give people this kind of information when it is about things that happened in their country.

## **Article 18**

Signature, ratification and accession

1. The present Protocol is open for signature to any State that has signed, ratified or acceded to the Convention or either of the first two Optional Protocols thereto.<sup>22</sup>
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention or either of the first two Optional Protocols thereto. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.<sup>23</sup>
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention or either of the first two Optional Protocols thereto.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.<sup>24</sup>

### *Explanation*

Any Government that has accepted the [Convention on the Rights of the Child](#), the [Optional Protocol on the sale of children, child prostitution and child pornography](#) or the [Optional Protocol on the involvement of children in armed conflict](#) can also accept the complaints procedure. Usually, this involves a Government signing the complaints procedure treaty and then letting the UN know that it has formally accepted the treaty.

## **Article 19**

Entry into force

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<sup>22</sup> [Article 46](#) of the Convention opened it for signature to all States.

<sup>23</sup> [Article 47](#) of the Convention provides for similar ratification procedures.

<sup>24</sup> [Article 48](#) of the Convention provides for similar accession procedures.

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.<sup>25</sup>
2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.<sup>26</sup>

#### *Explanation*

The complaints procedure can't be used until ten Governments have said that they accept the procedure. Once this has happened, people can start filing complaints three months later. If a new Government agrees to accept the complaints procedure once it is already up and running, there is also a three-month waiting period before people can file complaints against that Government.

### **Article 20**

Violations occurring after the entry into force

1. The Committee shall have competence solely in respect of violations by the State party of any of the rights set forth in the Convention and/or the first two Optional Protocols thereto occurring after the entry into force of the present Protocol.
2. If a State becomes a party to the present Protocol after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to violations of the rights set forth in the Convention and/or the first two Optional Protocols thereto occurring after the entry into force of the present Protocol for the State concerned.

#### *Explanation*

Complaints can only be filed against Governments about things that happened after the Committee started being able to receive complaints. If a Government has just accepted the complaints procedure, the Committee can't look at ways that Government might have violated children's rights in the past.

### **Article 21**

Amendments<sup>27</sup>

1. Any State party may propose an amendment to the present Protocol and submit it to the Secretary-

<sup>25</sup> [Article 49](#) of the Convention provided for it to enter into force 30 days after the 20<sup>th</sup> State party's ratification or accession.

<sup>26</sup> [Article 49](#) of the Convention provides that for each State that ratifies it or accedes to it after the 20<sup>th</sup> State, the Convention will enter into force 30 days after ratification or accession.

<sup>27</sup> [Article 50](#) of the Convention sets out similar procedures for amendments.

General of the United Nations. The Secretary-General shall communicate any proposed amendments to States parties with a request to be notified whether they favour a meeting of States parties for the purpose of considering and deciding upon the proposals. In the event that, within four months of the date of such communication, at least one third of the States parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and, thereafter, to all States parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of the present article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States parties that have accepted it.

Governments can suggest changes they want to make to the complaints procedure to the UN. The UN will share these suggestions with all the Governments that have accepted the procedure and ask them whether they want to schedule a meeting to talk about making changes. If one-third of the Governments think that having a meeting would be a good idea, the UN will schedule a time for all of the Governments who have accepted the procedure to get together. If two-thirds of the Governments at that meeting think that a change should be made, the UN will share the proposed changes with every Government and ask for their acceptance.

Even when most Governments think something about the complaints procedure should be changed, it won't happen right away. First two-thirds of the Governments who have accepted the complaints procedure have to tell the UN they want to make the same changes, and then everyone has to wait 30 days before the changes become official. Also, the changes only apply to Governments that accept them. If a Government decides that it does not like the way things have been changed, it can stick with the way things were before.

## **Article 22**

### **Denunciation**

1. Any State party may denounce the present Protocol at any time by written notification to the Secretary General of the United Nations. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary- General.<sup>28</sup>

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under articles 5 or 12 or any inquiry initiated under article 13 before the effective date of denunciation.

### *Explanation*

<sup>28</sup> [Article 52](#) of the Convention provides for similar denunciation procedures.

Governments can change their minds about whether or not they want to accept the complaints procedure. If a Government has accepted the complaints procedure but later decides it doesn't want to be part of it anymore, it can tell this to the UN. The Committee will still be able to finish reviewing complaints it has already received against that Government, though. It will also look at new complaints that are filed within the next year, but after that it will stop accepting them.

### **Article 23**

Depositary and notification by the Secretary-General

1. The Secretary-General of the United Nations shall be the depositary of the present Protocol.<sup>29</sup>
2. The Secretary-General shall inform all States of:
  - (a) Signatures, ratifications and accessions under the present Protocol;
  - (b) The date of entry into force of the present Protocol and of any amendment thereto under article 21;
  - (c) Any denunciation under article 22.

#### *Explanation*

The UN will let everyone know when any Government signs onto or accepts the complaints procedure, or when a Government that accepted the complaints procedure decides it no longer wants to be a part of things. It will also announce when the Committee can first start hearing complaints, which is three months after ten Governments have accepted the procedure.

### **Article 24**

Languages

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.<sup>30</sup>
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

#### *Explanation*

The UN publishes treaties and other important documents in six languages. The complaints procedure can be translated into many other languages, but only the Arabic, Chinese, English, French, Russian and Spanish versions are official. When the final draft of this treaty was accepted, the UN sent out

<sup>29</sup> [Article 53](#) of the Convention similarly delegates the Secretary-General as its depositary.

<sup>30</sup> [Article 54](#) of the Convention sets out the same six official versions of the text.

copies of all of these versions to every Government.

## Annex 2: International Communications Procedures

Children's rights are not limited to the provisions set out in the Convention on the Rights of the Child and its two substantive Optional Protocols. Each of the major international human rights treaties applies to children just as it applies to adults, and the UN treaty bodies that oversee these conventions all monitor the rights of children to some degree. Where treaty bodies are able to accept individual complaints, they can also receive these from children. Although other mechanisms in place are not necessarily designed with children's specific rights and interests in mind, most operate on a largely similar level and are in many ways as open and accessible for children as the complaints mechanism overseen by the Committee on the Rights of the Child.

As such, it is worth considering whether the CRC complaints mechanism is the best fit for a particular situation, or if a complaint would be better brought before another treaty body. The chart below offers a way to directly compare international human rights complaints mechanisms, and seeks to draw out the differences between and among communications procedures already in operation and the CRC complaints mechanism. It covers the complaints mechanisms set out in the treaties listed below, with a primary focus on procedures for accepting individual communications and further mention of inquiries and inter-state communications. Importantly, as with the CRC complaints mechanism, communications can only be submitted with regard to governments that have agreed for complaints to be brought against them. Information on which governments have accepted communications procedures is available via the [Office of the High Commissioner on Human Rights](#) or [CRIN's Children's Rights Wiki](#).

### UN treaties with complaints mechanisms:

- [International Convention on the Elimination of All Forms of Racial Discrimination](#) (ICERD), provided for under Article 14 of the Convention and overseen by the [Committee to Eliminate Racial Discrimination](#) (CERD) following its [Rules of Procedure](#)
- [International Covenant on Civil and Political Rights](#) (ICCPR), provided for under the [Optional Protocol to the Covenant \(OP1-ICCPR\)](#) and overseen by the [Human Rights Committee](#) (HRC) following its [Rules of Procedure](#)
- [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (CAT), provided for under Article 22 of the Convention and overseen by the [Committee against Torture](#) (CAT) following its [Rules of Procedure](#)
- [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) (ICMW), provided for under Article 76 of the Convention and to be overseen by the [Committee on Migrant Workers](#) (CMW); Rules of Procedure for accepting and reviewing complaints await adoption, not yet in operation
- [Convention on the Elimination of all Forms of Discrimination against Women](#) (CEDAW), provided for under the [Optional Protocol to the Convention](#) (OP-CEDAW) and overseen by the [Committee on the End Discrimination against Women](#) following its [Rules of Procedure](#)

- [Convention on the Rights of Persons with Disabilities](#) (CRPD), provided for under the [Optional Protocol to the Convention](#) (OP-CRPD) and overseen by the [Committee on the Rights of Persons with Disabilities](#) (CRPD) following its [Rules of Procedure](#)
- [International Convention for the Protection of All Persons from Enforced Disappearance](#) (CPED), provided for under Article 31 of the Convention and overseen by the [Committee on Enforced Disappearances](#) (CED) following its [Rules of Procedure](#)
- [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR), provided for under the [Optional Protocol to the Covenant](#) (OP-ICESCR) and overseen by the [Committee on Economic, Social and Cultural Rights](#) (CESCR) following its [Rules of Procedure](#)
- [Convention on the Rights of the Child](#) (CRC), provided for under the [Optional Protocol to the Convention on a communications procedure](#) (OP3-CRC) and to be overseen by the [Committee on the Rights of the Child](#) (CRC) following its [Rules of Procedure](#); not yet in operation

### International Complaints Mechanism Comparison Chart:

	<b>ICERD (1965)</b>	<b>OP1-ICCPR (1966)</b>	<b>CAT (1984)</b>	<b>ICRMW (1990)</b>	<b>OP-CEDAW (1999)</b>	<b>OP-CRPD (2006)</b>	<b>CPED (2006)</b>	<b>OP-ICESCR (2008)</b>	<b>OP3-CRC (2011)</b>
May victims file communications as individuals and/or in groups of individuals?	Individuals or groups of individuals (14.1)	Individuals (1)	Individuals (22.1)	Individuals (77.1)	Individuals or groups of individuals (2)	Individuals or groups of individuals (1.1)	Individuals (31.1)	Individuals or groups of individuals (2)	Individuals or groups of individuals (5.1)
Who can submit individual communications?	Victim, relative or designated representative, unless in exceptional circumstances where the author can justify acting on the victim's behalf (Rule 91 (b))	Victim or representative, or on behalf of victim where unable to submit the communication personally (Rule 96)	Victim, close relative or representative with written authorisation (Rule 104)	By or on behalf of victim (77.1)	By or on behalf of victim; where on behalf of victim, with the victim's consent unless the author can justify acting without (2)	By or on behalf of victim (1.1)	Victim, designated representative, or by others acting on behalf of victim (31.1; Rule 68)	By or on behalf of victim; where on behalf of victim, with the victim's consent unless the author can justify acting without (2)	By or on behalf of victim; where on behalf of victim, with the victim's consent unless the author can justify acting without (5.2)

	<b>ICERD (1965)</b>	<b>OP1-ICCPR (1966)</b>	<b>CAT (1984)</b>	<b>ICRMW (1990)</b>	<b>OP-CEDAW (1999)</b>	<b>OP-CRPD (2006)</b>	<b>CPED (2006)</b>	<b>OP-ICESCR (2008)</b>	<b>OP3-CRC (2011)</b>
Is there a time limit to file an individual communication after domestic remedies have been exhausted?	6 months except in the case of duly verified exceptional circumstances (14.2; Rule 91(f))	No time limit, but may be considered an abuse of process if filed 5 years after exhaustion of remedies (Rule 96(c))	No time limit, but must not be so unreasonably prolonged as to render consideration unduly difficult (Rule 113(f))	No time limit	No time limit	No time limit	No time limit	1 year unless demonstrably not possible (3.2(a))	1 year unless demonstrably not possible (7(h))
Are individual communications admissible when being or previously examined under another international investigation/settlement procedure?	Admissible, although the Committee may ask for related information (Rule 84(g))	Inadmissible while under examination (5(2)(a))	Inadmissible (22.5(a))	Inadmissible (77.3(a))	Inadmissible (4.2(a))	Inadmissible (2(c))	Inadmissible while under examination (31.2(c))	Inadmissible (3.2(c))	Inadmissible (7(d))
Are individual communications considered inadmissible for lack of support or where submitted in bad faith?	Inadmissible where an abuse of the right to submit a communication (Rule 91 (d))	Inadmissible where an abuse of the right to submit a communication or incompatible with the provisions of the Covenant (3; Rule 96(d))	Inadmissible where an abuse of the right to submit a communication (22.2)	Inadmissible where an abuse of the right to submit a communication (77.2)	Inadmissible where an abuse of the right to submit a communication , manifestly ill-founded or not sufficiently substantiated (2(c)(d))	Inadmissible where an abuse of the right to submit a communication , manifestly ill-founded or not sufficiently substantiated (2(b),(e))	Inadmissible where an abuse of the right to submit a communication or incompatible with the provisions of the Convention (31.2(b))	Inadmissible where an abuse of the right to submit a communication , manifestly ill-founded, not sufficiently substantiated or exclusively based on reports disseminated by mass media (3.2(e),(f))	Inadmissible where an abuse of the right to submit a communication, manifestly ill-founded or not sufficiently substantiated (7(c),(f))
When else might	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Committee	Committee may decline



	<b>ICERD (1965)</b>	<b>OP1-ICCPR (1966)</b>	<b>CAT (1984)</b>	<b>ICRMW (1990)</b>	<b>OP-CEDAW (1999)</b>	<b>OP-CRPD (2006)</b>	<b>CPED (2006)</b>	<b>OP-ICESCR (2008)</b>	<b>OP3-CRC (2011)</b>
the Committee decline to hear an individual communication?								may decline to consider communications where the author has not suffered a clear disadvantage, unless the communication raises a serious issue of general importance (4)	to examine communications it considers to not be in a child's best interests or that are the result of improper pressure or inducement (3.2; Rule 13).
May individual communications be submitted anonymously?	No, may not be submitted anonymously, although may be communicated anonymously to States (14.6(a); Rule 94(1))	No, may not be submitted anonymously (3)	No, may not be submitted anonymously (22.2)	No, may not be submitted anonymously (77.2)	No, may not be submitted anonymously (3)	No, may not be submitted anonymously (2(a))	No, may not be submitted anonymously (31.2(a))	No, may not be submitted anonymously (3.2)(g)	No, may not be submitted anonymously (7(a))
Must individual communications be in writing?	No, need not be in writing	Yes, must be in writing (2)	Yes, must be in writing (Rule 104)	No, need not be in writing	Yes, must be in writing (3)	No, need not be in writing	No, need not be in writing	Yes, must be in writing (3.2(g))	Yes, must be in writing (7(b))
Are there provisions for confidentiality in submitting/considering individual communications?	Yes, complaints are communicated to States confidentially and the identity of the individual or	Yes, documents related to the complaints procedure are considered confidential by the Committee; authors or	Yes, complaints are communicated to States confidentially (Rule 105)	Not addressed	Yes, complaints are communicated to States confidentially, but the individual or individuals	Yes, complaints are communicated to States confidentially, but the individual or individuals	Yes, complaints are communicated to States confidentially, and the Committee may decide or	Yes, complaints are communicated to States confidentially, and the Committee may decide or	Yes, complaints are communicated to States confidentially and the names of individuals concerned are not revealed publicly without their express consent (8.1, 4.2)

	<b>ICERD (1965)</b>	<b>OP1-ICCPR (1966)</b>	<b>CAT (1984)</b>	<b>ICRMW (1990)</b>	<b>OP-CEDAW (1999)</b>	<b>OP-CRPD (2006)</b>	<b>CPED (2006)</b>	<b>OP-ICESCR (2008)</b>	<b>OP3-CRC (2011)</b>
	individuals concerned is not revealed to States or the public without express consent (14.6(a); Rule 94(1))	States may publicly reveal this information as they wish, but the Committee may request that it remain confidential (Rule 102)			concerned must consent to their identities being disclosed to the State for the communication to go forward; the Committee may, however, decide or request that this not be revealed publicly, (6.1; Rule 74)	concerned must consent to their identities being disclosed to the State for the communication to go forward; the Committee may, however, decide or request that this not be revealed publicly (3; Rules 70, 76)	request that authors' and victims' names not be disclosed (Rules 73, 80)	request that authors' and victims' names not be disclosed (6; Rule 19)	
Are States obligated to protect individuals involved in submitting an individual communication?	No, protection measures not envisioned	No, protection measures not envisioned	No, protection measures not envisioned	No, protection measures not envisioned	Yes, States must take all appropriate measures to prevent ill-treatment/intimidation as a consequence of communicating with the Committee (11)	No, protection measures not envisioned	No, protection measures not envisioned	Yes, States must take all appropriate measures to prevent ill-treatment/intimidation as a consequence of communicating with the Committee (13)	Yes, States must take all appropriate steps to prevent as consequence of communications or cooperation with Committee (4.1)
May interim measures be recommended after an individual communication has been received and before it has been fully considered?	Yes, interim measures are permissible because of urgency to avoid possible irreparable damage (Rule 94(3))	Yes, interim measures are permissible as desirable to avoid irreparable damage (Rule 92)	Yes, interim measures are permissible as necessary to avoid irreparable damage (Rule 114)	No, interim measures not provided	Yes, interim measures are permissible as necessary to avoid possible irreparable damage (5)	Yes, interim measures are permissible as necessary to avoid possible irreparable damage (4.1)	Yes, interim measures are permissible as necessary to avoid possible irreparable damage (31.4)	Yes, interim measures are permissible as necessary in exceptional circumstances to avoid possible irreparable damage (5)	Yes, interim measures are permissible as necessary in exceptional circumstances to avoid possible irreparable damage (6.1)

	<b>ICERD (1965)</b>	<b>OP1-ICCPR (1966)</b>	<b>CAT (1984)</b>	<b>ICRMW (1990)</b>	<b>OP-CEDAW (1999)</b>	<b>OP-CRPD (2006)</b>	<b>CPED (2006)</b>	<b>OP-ICESCR (2008)</b>	<b>OP3-CRC (2011)</b>
What is the time limit for States to respond to individual communications?	3 months (14.6(b))	6 months (4.2)	6 months (22.3)	6 months (77.4)	6 months (6.2)	6 months (3)	4 months (31.4; Rule 73)	6 months (6.2)	6 months, as soon as possible (8.2)
When do domestic remedies not need to be exhausted for individual communications to be accepted for review?	Where application of remedies is unreasonably prolonged (7(a))	Where application of remedies is unreasonably prolonged (5.2(b))	Where application of remedies is unreasonably prolonged or unlikely to bring effective relief (22.5(b))	Where application of remedies is unreasonably prolonged or unlikely to bring effective relief (77.3(b))	Where application of remedies is unreasonably prolonged or unlikely to bring effective relief (4)	Where application of remedies is unreasonably prolonged or unlikely to bring effective relief (2(d))	Where application of remedies is unreasonably prolonged (31.2(d))	Where application of remedies is unreasonably prolonged (3.1)	Where application of remedies is unreasonably prolonged or unlikely to bring effective relief (7(e))
Is friendly settlement explicitly permitted for individual communications?	No friendly settlement	No friendly settlement	No friendly settlement	No friendly settlement	No friendly settlement	No friendly settlement	No friendly settlement	Yes, friendly settlement is permitted, but closes consideration of the communication (7.2)	Yes, friendly settlement is permitted, but closes consideration of the communication (9.2)
May the Committee consider the reasonableness of steps taken by States to implement the rights in question when reviewing individual	No, not considered	No, not considered	No, not considered	No, not considered	No, not considered	No, not considered	No, not considered	Yes, the Committee may consider the reasonableness of steps taken to implement rights, bearing in mind that States can adopt a range of possible	Yes, for economic, social and cultural rights, the Committee may consider the reasonableness of steps taken to implement rights, bearing in mind that States can adopt range of possible policy measures (10.4)

	<b>ICERD (1965)</b>	<b>OP1-ICCPR (1966)</b>	<b>CAT (1984)</b>	<b>ICRMW (1990)</b>	<b>OP-CEDAW (1999)</b>	<b>OP-CRPD (2006)</b>	<b>CPED (2006)</b>	<b>OP-ICESCR (2008)</b>	<b>OP3-CRC (2011)</b>
communications?								policy measures (8.4)	
When must a State submit a follow-up response detailing measures taken after receiving the Committee's recommendations on an individual communication?	No follow-up requirement	No follow-up requirement, but the Committee may make contacts and take action as appropriate through a Special Rapporteur (Rule 101)	No follow-up requirement, but Committee may recommend as necessary (Rule 120)	No follow-up requirement	States must submit follow-up responses within 6 months (7.4)	States must submit follow-up responses within 6 months (6.4)	States must submit follow-up responses within 6 months (Rule 79)	States must submit follow-up responses within 6 months (9.2)	States must submit follow-up responses within 6 months (11.1)
Is there an inquiry procedure? If so, when may it be used?	No inquiry procedure	No inquiry procedure	Yes, inquiry procedure where torture is being systematically practiced (20)	No inquiry procedure	Yes, inquiry procedure for grave or systematic violations; States must respond within 6 months and Committee may request follow-up after an additional 6 months (8,9)	Yes, inquiry procedure for grave or systematic violations; States must respond within 6 months and Committee may request follow-up after an additional 6 months (6, 7, 8)	No inquiry procedure, but country visits may be requested for serious violations; reports of widespread or systemic enforced disappearance may be shared with the UN General Assembly (33.1; 34)	Yes, inquiry procedure for grave or systematic violations; States must respond within 6 months and Committee may request follow-up after an additional 6 months (11, 12)	Yes, inquiry procedure for grave or systematic violations; States must respond as soon as possible within 6 months and Committee may request follow-up after an additional 6 months(13, 14)
If there is an inquiry procedure, is it mandatory for	N/A	N/A	No, States parties may opt out (28)	N/A	No, States parties may opt out (10)	No, States parties may opt out (8)	N/A	No, States parties must opt in (11.1)	No, States parties may opt out (13.7)

	<b>ICERD (1965)</b>	<b>OP1-ICCPR (1966)</b>	<b>CAT (1984)</b>	<b>ICRMW (1990)</b>	<b>OP-CEDAW (1999)</b>	<b>OP-CRPD (2006)</b>	<b>CPED (2006)</b>	<b>OP-ICESCR (2008)</b>	<b>OP3-CRC (2011)</b>
all States parties?									
Are there provisions for reviewing inter-state communications?	Yes, inter-state communications may be filed where a State is not giving effect to provisions of the Convention; States must respond within 3 months and friendly settlement is possible (11 - 13)	Yes, inter-state communications may be filed when a State is not giving effect to the provisions of the Covenant; States must respond within 3 months and friendly settlement is possible (Covenant, 41 - 42)	Yes, inter-state communications may be filed when a State is not fulfilling its obligations; States must respond within 3 months and friendly settlement is possible (21)	Yes, inter-state communications may be filed when a State is not fulfilling its obligations; States must respond within 3 months and friendly settlement is possible (76)	Yes, inter-state communications may be filed concerning the application or interpretation of the Convention; negotiation and resolution must occur within 6 months or further legal action may be taken (29)	No inter-state communications	Yes, inter-state communications may be filed where a State is not fulfilling its obligations; friendly settlement is possible (32, Rule 85)	Yes, inter-state communications may be filed where a State is not fulfilling its obligations; States must respond within 3 months and friendly settlement is possible (10)	Yes, inter-state communications may be filed where a State is not fulfilling its obligations; friendly settlement is possible (12)
If inter-state communications are permitted, is it mandatory that all States parties accept them?	Yes, accepting inter-state communications is mandatory (11 )	No, States parties must opt in to accept/file communications (Covenant, 41.1)	No, States parties must opt in to accept/file communications (21.1)	No, States parties must opt in to accept/file communications (76.1)	No, States parties may opt out and refuse the option to accept/file communications (29.2)	N/A	No, States parties must opt in to accept/file communications (32; Rule 84)	No, States parties must opt in to accept/file communications (10)	No, States parties must opt in to accept/file communications (12.1)
Are reservations to the Optional Protocol permitted?	Yes, reservations are permitted	Yes, reservations are permitted	Yes, reservations are permitted	Yes, reservations are permitted	No, reservations are not permitted (17)	Yes, reservations are permitted	Yes, reservations are permitted	Yes, reservations are permitted	Yes, reservations are permitted
Additional considerations	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Committee to be guided by the best interests of child and have regard for rights and views of child; giving the child's

	<b>ICERD (1965)</b>	<b>OP1- ICCPR (1966)</b>	<b>CAT (1984)</b>	<b>ICRMW (1990)</b>	<b>OP- CEDAW (1999)</b>	<b>OP-CRPD (2006)</b>	<b>CPED (2006)</b>	<b>OP- ICESCR (2008)</b>	<b>OP3-CRC (2011)</b>
									views due weight in accordance with age and maturity (2)  Committee's Rules of Procedure must guarantee child-sensitive procedures (3.1)