

Appendix N. OCHCR Fact Sheet on CEDAW Communications



Office of the High Commissioner for Human Rights

How to submit individual complaints under the Optional Protocol to CEDAW

What is CEDAW?

- CEDAW (Committee on the Elimination of Discrimination against Women), established under the Convention on the Elimination of Discrimination against Women¹ (the Convention), is a body composed of 23 independent experts on women's rights from around the world that monitor the implementation of the Convention.
- By ratifying the Convention, States commit themselves to implement its standards at the national level. They undertake to put in place a series of measures to end discrimination against women in all forms. They have the obligation to submit national reports to the Committee on progress made in implementing the Convention.
- The Convention is comprehensive and aims to eliminate discrimination against women in the exercise of both their civil and political rights as well as their economic, social and cultural rights. States parties have an obligation to eliminate discrimination against women through legal, policy and programmatic measures, and include obligations to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.

What is the Optional Protocol?

- The Optional Protocol is a human rights treaty that complements the Convention. The Committee is responsible for considering all individual complaints submitted under the Optional Protocol² to the Convention. By ratifying or acceding to the Optional Protocol, a State party acknowledges the competence of the Committee to provide views and recommendation regarding written complaints alleging violations of rights set out in the Convention.
- The Optional Protocol creates mechanisms to ensure implementation of the Convention by providing an opportunity for specific redress in individual cases when a State violates women's rights and allows the Committee to highlight the need for more effective remedies at the national level.

¹ The text of the Convention can be found at: <http://www2.ohchr.org/english/law/cedaw.htm>

² The text of the Optional Protocol can be found at: <http://daccessdds.un.org/doc/UNDOC/GEN/N99/774/73/PDF/N9977473.pdf?OpenElement>

Who can submit a Complaint?

- Individuals and groups of individuals from States which have ratified the Convention and its Optional Protocol. Communications may also be submitted on behalf of individuals or groups of individuals with their written consent.

How to submit a Complaint?

- The complaint must be in writing in any of the six official UN languages (English, French, Spanish, Chinese, Arabic and Russian).
- The communication must not be anonymous (individuals may however request that identifying information is concealed in the Committee's final decision).
- The complaint must concern a State party to the Convention and the Optional Protocol³.
- The individual must claim to be a victim of a violation of a right enshrined in the Convention.
- The individual complaint should provide the Committee with the relevant facts, including any supporting documentation, and indicate what provisions of the Convention they claim to have been violated by the State party.
- The complaint must contain information about steps taken to *exhaust domestic remedies* at the national level. This means that the case must have been brought to the national court system's last instance or otherwise evidence why national remedies are ineffective, unavailable or unreasonably prolonged needs to be provided.
- The individual complaint should indicate whether this matter is or has been before any other procedure of international investigation or settlement.

What happens next?

- If the Committee, through its Working Group on communication, decide to register a case, it will transmit the author's communication to the State party which has six months to respond on both its admissibility and merits (two months if the State party challenges admissibility only). The State party's response will then be transmitted to the author, who will be given an opportunity to comment, within a time frame fixed by the Committee. The Committee may request the State party or the author to submit additional written explanations or statements relevant to the issues of admissibility or merits and, if it does so, will give the other party an opportunity to comment within a fixed time frame.
- If the Committee decides that the communication is inadmissible, the case is finished. If it decides that the communication is admissible, the Committee will move on to the merits stage and issues its Views and recommendations on the merits. Within a given period of time, the State is required to submit a written response indicating any action taken on the recommendations by the Committee.
- The model communication form for submitting individual complaints is attached to the fact sheet.

³ States parties to CEDAW: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en and States parties to the Optional Protocol: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en

Model Form for Submission of Communications to the Committee on the Elimination of Discrimination against Women under the Optional Protocol of the Convention

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women entered into force on 22 December 2000. It entitles the Committee on the Elimination of Discrimination against Women, a body of 23 independent experts, to receive and consider communications (complaint) from, or on behalf of, individuals or a group of individuals who claim to be victims of violations of the rights protected by the Convention.

To be considered by the Committee, a communication:

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

A communication will not normally be considered by the Committee:

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

In order for a communication to be considered the victim or victims must agree to disclose her/their identity to the State against which the violation is alleged. The communication, if admissible, will be brought confidentially to the attention of the State party concerned.

If you wish to submit a communication, please follow the guidelines below as closely as possible. Also, please submit any relevant information which becomes available after you have submitted this form.

Further information on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as the rules of procedure of the Committee can be found at: <http://www2.ohchr.org/english/law/cedaw-one.htm>.

Guidelines for submission

The following questionnaire provides a guideline for those who wish to submit a communication for consideration by the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Please provide as much information as available in response to the items listed below.

Send your communication to:

Petitions Team

Office of the High Commissioner for Human Rights

United Nations Office at Geneva

1211 Geneva 10, Switzerland

E-Mail : petitions@ohchr.org

1. Information concerning the author(s) of the communication

- Family name
- First name
- Date and place of birth
- Nationality/citizenship
- Passport/identity card number (if available)
- Sex
- Marital status/children
- Profession
- If relevant, ethnic background, religious affiliation, social group
 - Present address
 - Mailing address for confidential correspondence (if other than present address)
 - Telephone/e-mail
- Indicate whether you are submitting the communication as:
 - Alleged victim(s). If there is a group of individuals alleged to be victims, provide basic information about each individual.
 - On behalf of the alleged victim(s). Provide evidence showing the consent of the victim(s), or reasons that justify submitting the communication without such consent.

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

- Family name
- First name
- Date and place of birth
- Nationality/citizenship
- Passport/identity card number (if available)
- Sex
- Marital status/children
- Profession
- Ethnic background, religious affiliation, social group (if relevant)
- Present address
- Mailing address for confidential correspondence (if other than present address)

- Telephone/e-mail

3. Information on the State party concerned

- Name of the State party (country)

4. Facts of the complaint and nature of the alleged violation(s)

Please detail, in chronological order, the facts and circumstances of the alleged violations, including:

- Description of alleged violation(s) and alleged perpetrator(s)
- Date(s)
- Place(s)
- Provisions of the Convention on the Elimination of All Forms of Discrimination against Women that were allegedly violated. If the communication refers to more than one provision, describe each issue separately.

5. Steps taken to exhaust domestic remedies

Describe the action taken to exhaust domestic remedies; for example, attempts to obtain legal, administrative, legislative, policy or programme remedies, including:

- Type(s) of remedy sought
- Date(s)
- Place(s)
- Who initiated the action
- Which authority or body was addressed
- Name of court hearing the case (if any)
- If you have not exhausted domestic remedies on the ground that their application would be unduly prolonged, that they would not be effective, that they are not available to you, or for any other reason, please explain your reasons in detail.

Please note: Enclose copies of all relevant documentation.

6. Other international procedures

Has the same matter already been examined or is it being examined under another procedure of international investigation or settlement? If yes, explain:

- Type of procedure(s)
- Date(s)
- Place(s)
- Results (if any)

Please note: Enclose copies of all relevant documentation.

7. Disclosure of your name (s)

Do you consent to the disclosure of your name(s) to the State party should your communication be registered by the Committee in accordance with article 6, paragraph 1 of the Optional Protocol and rule 69, paragraph 1 of the Committee's rules of procedure?

8. Date and signature

Date/place:

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

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

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Appendix N

Office of the UN High Commissioner for Human Rights, Fact Sheet on CEDAW Communications and Model Form, <http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx>.