

United Nations Human Rights Mechanisms

WHAT DO THEY DO?

What can we expect?



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Some Definitions

- Mechanisms – forums or processes
- States – National governments
- Communications – Information, complaints or reports about violations: A complaint is a “communication”
- Rapporteurs, Independent Experts, Working Group – Investigators of human rights violations
- Covenant, Convention, Protocol – All are multilateral agreements (between more than two States) where it is mutually promised to respect and protect human rights, as well as to remedy violations thereof
- States Parties – States that have signed and ratified the human rights agreement
- Monitoring Committee, Oversight Body or Agency – Group of experts that monitor compliance with the agreement, elected by the States Parties



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Mechanisms that do NOT receive complaints:

Under the Economic and Social Council

Permanent Forum on Indigenous Issues:

Reports to the United Nations system on
Indigenous Peoples and makes Recommendations

Under the Human Rights Council – Study Mechanisms

Advisory Committee of the Human Rights Council

Expert Mechanism on the Rights of Indigenous Peoples



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United Nations Complaint Mechanisms

Human Rights Council Mechanisms

Universal Periodic Review

Human Rights Council Complaints Procedure

Generalized situations of **an ongoing nature of massive gross violations of human rights and fundamental freedoms**

Special Procedures

Conventional Mechanisms

Under Human Rights Covenants or Conventions



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Special Procedures

Rapporteurs and Working Groups by Country and by Thematic Mandates



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By Country (All Human Rights in a country)

Burundi

Cambodia

Democratic People's Republic of Korea

Haiti

Myanmar

Palestinian Territory Occupied since 1967

Somalia

Sudan



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Thematic Mandates

Human Rights Themes

Worldwide



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Civil and Political Rights

- **Working Group on Arbitrary Detentions**
- **Special Rapporteur on Extrajudicial, summary or arbitrary executions**
- **Working Group on Enforced or arbitrary disappearances**
- Special Rapporteur on Freedom of speech and expression
- **Special Rapporteur on Freedom of religion or belief**
- Special Rapporteur on Independence of judges and lawyers
- Special Rapporteur on Slavery
- Special Rapporteur on Torture and inhuman treatment
- Independent Expert on Mercenaries and Self-determination
- **Special Rapporteur on Illicit movement and dumping of toxic wastes**
- Special Rapporteur on Trafficking of persons, especially women and children
- Special Rapporteur on Violence against women
- Special Rapporteur on the Sale of children, child prostitution and child pornography



• **Special Rapporteur on Counter-terrorism and Human Rights**

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Economic, Social and Cultural Rights

- Special Rapporteur on Adequate housing
- Special Rapporteur on Education
- Independent Expert on Extreme poverty
- **Special Rapporteur on Food**
- **Special Rapporteur on Drinking water and sanitation**
- **Special Rapporteur on Physical and mental health**
- Independent Expert on International Solidarity
- Special Representative of the General Secretary on transnational and other corporations
- Independent Expert on Economic reform and foreign debt policies
- **Special Rapporteur on Cultural rights (new)**
 - See Article 27 of ICCPR – Right to culture, language and religion



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General Thematic Mandates

- **Special Representative of the General Secretary on Internally displaced persons**
- **Special Representative of the General Secretary on Human Rights defenders**
- Special Rapporteur on Migrants
- Independent Expert on Minorities
- Special Rapporteur on Racial discrimination
- Working Group on People of African descent
- **Special Rapporteur on the Situation of human rights and fundamental freedoms of Indigenous Peoples**



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Special Rapporteur on the Human Rights of Indigenous Peoples

1. Receives communications on alleged violations from all relevant sources, including Peoples, National Tribes or Indigenous persons
2. Responds to Communications and Urgent Actions **without needing to exhaust local resources**
3. Implements the UN Declaration on the Rights of Indigenous Peoples
4. **Visits the country and the site of the violations**
5. Formulates recommendations and proposals to prevent and remedy violations
6. Works in close cooperation with:
other special procedures,
subsidiary bodies of the Human Rights Council,
treaty bodies, and
regional human rights organizations



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Special Procedures To Support a Mobilized Community

- Defines its claims within the framework of international Human Rights and the obligations of the State
- Strengthens the credibility of the fight before the public and empowers the community
- Educates the national and international public
- Generates opportunities for public attention

Necessary Elements

Brevity and Clarity in communication

Follow-up, point of contact

Invitation to the Rapporteur to visit the site of violations



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Conventional Mechanisms

Based on Protocols, Covenants and Conventions of Human Rights

They are international agreements between States Parties and constitute a legal obligation

A State must accept, through signing and ratification, the obligations that are established in their articles

(Whereas Special Procedures apply to all States without the need for their consent)



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Complaints Under Human Rights Agreements and Monitoring Committees

1. from other States Parties:

Some agreements contain provisions for complaints on the part of other States Parties

Have never been used under any Covenant or Convention



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2. Complaints Under Covenants or Conventions

The State Party to the Convention must also

Sign and ratify a separate Protocol or make a declaration, depending on the terms of the Covenant or Convention, and

thereby recognize the competence of the Treaty Monitoring Committee to receive complaints from individuals.



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3. Periodic Reports and Review of the States

- Each State Party has the obligation to report to the Monitoring Committee periodically and in writing on its compliance with the Covenant, Convention and Protocol
- Mandatory under all Human Rights covenants and conventions
- The Committees question the State in a face-to-face Review with the State Committee and Delegation in New York or Geneva
- The States never discuss their non-compliance or failures



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Parallel Reports of the NGOs

- Parallel Reports:
- Individuals, NGOs and communities may also report to the Treaty Body, through Parallel Reports, on the way in which a State does not fulfill its obligations with respect to rights.
- They may contradict the State Report and present the real situation of human rights in that country.
- The Committees use these Reports of the NGOs to question the States.
- Parallel reports of civil society are extremely important for the review of States since it is the only information that they receive aside from official reports.

• **If we do not tell them, they will not know**



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Parallel Reports

- Peoples, Nations, Organizations, individuals
- Written – it may take the form of a letter or report
- Information on the current situation of Indigenous Peoples,
for example:
- **Inadequate implementation** of the enforcement mechanisms
for the protection of rights
- **Lack of procedural resources**
- Racial discrimination as evidenced in **social and economic indicators (ICCPR and ICERD)**
- **Confiscation of Indigenous lands**
- Denial of Indigenous Law with respect to the rights contained
within



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There are 9 Principal Human Rights Covenants and Conventions

1. International Covenant on Civil and Political Rights
Optional Protocol 1 allows complaints

2. International Covenant on Economic, Social and Cultural Rights
Optional Protocol allows complaints. This is new and not in effect (10 ratifications, only 1 (Ecuador))

3. Convention Against Torture

Article 20 allows investigation into systematic violations based on well-founded information

Optional Protocol (allows visits to the detainees)

Art. 22: Declaration allows complaints from individuals



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Principal Conventions on Human Rights, cont'd.

4. **Convention on the Elimination of All Forms of Racial Discrimination**

Art. 14 Declaration allows complaints

Urgent Action/Early Warning Procedure

5. **Convention on the Rights of the Child**

Protocol 1: Optional Protocol concerning the participation of children in armed conflicts

Protocol 2: Optional Protocol concerning the sale of children, child prostitution and child pornography

The CRC does not contain a mechanism for complaints



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Principal Conventions on Human Rights, cont'd.

6. Convention on the Elimination of All Forms of Discrimination against Women

Optional Protocol allows complaints from individuals and investigations on systematic violations

7. Convention on the Rights of Migrant Workers and their Families

Optional Protocol allows complaints

8. Convention on the Rights of Persons with Disabilities

Protocol 1 allows complaints



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A New Convention

International Convention for the Protection of All Persons from Enforced Disappearances

- 20 Ratifications are needed in order for this to be put it into effect; there are currently 18
- Article 30: Allows Complaints in the form of Urgent Action to search for and locate a disappeared person
- Article 31: Declaration of the State allowing complaints



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The CERD Urgent Action/ Early Warning Process

Early Warning: preventing existing problems from escalating into conflicts

Social and economic indicators

Confiscation of lands

Urgent Procedures: requiring immediate attention to prevent or limit the scale or number of serious violations

Serious, massive or persistent cases of racial discrimination

or where there is **risk of racial discrimination**



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CERD: Definitions - Interpretations

All ... exclusion ... or restriction based on race or ethnic origin which has the **purpose or effect of nullifying or impairing the recognition or enjoyment ... of human rights and fundamental freedoms **in the political, economic, social, cultural or any other field of public life.****

General Recommendation XXIII:

To recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation;

To provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics;



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General Recommendation XXIII, cont'd.

- 5. The Committee calls upon States Parties in particular to **recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories.** Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.



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Information Requirements Applicable to Human Rights **Complaints** before Special Procedures and Monitoring Committees, including CERD Urgent Action/Early Warning

Exhaustion of domestic remedies/Application of other international processes

Steps taken, detail:

- which processes have been utilized,
 - including appeals to courts and to other public authorities, and
- with what outcomes.

If these remedies have not been exhausted, explain in detail:

- it could be very prolonged,
- it may not be effective,
- the resource is not available, or
- any other other well-founded reason



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Information Necessary for all **Complaints** Mechanisms, including Special Processes and Monitoring Committees

When and where

- Date, hour and precise location of the incident (Country, state, municipality)

Victim(s)

- Name, number and complete location details of the individuals,
- the people or community that has been or will be affected

What happened – Detailed circumstances of the alleged violation

- Chronologically
- In the case of general measures (legislation or national policies), how the Indigenous Peoples have been or will be affected

Responsible Party(ies)

The person(s) who allegedly committed the violation and reasons for which they are suspected, as well as their relationship, if applicable, with the local or national authorities

Local contact: name, address, telephone, e-mail



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Information Requirements Necessary for Complaints

- **Actions taken by national authorities:** Has the problem been reported to national administrative or judicial authorities? If so, what actions were taken by the authorities to remedy the situation?
- **Actions taken previously at international agencies:** Has any international or regional action been initiated in the human rights mechanisms? What is the status of these actions?
- See Rapporteur Booklet on the Rights of Indigenous Peoples



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Web Page

- <http://www.ohchr.org>
 - Spanish or French (top of the page)
 - Human rights by country (on the same first page)
 - Human Rights Bodies
 - Special Procedures
 - Treaty bodies
 - Sessions by each monitoring committee (state report, NGO documents)
 - Form and requirements for complaints
 - General Recommendations of each Committee



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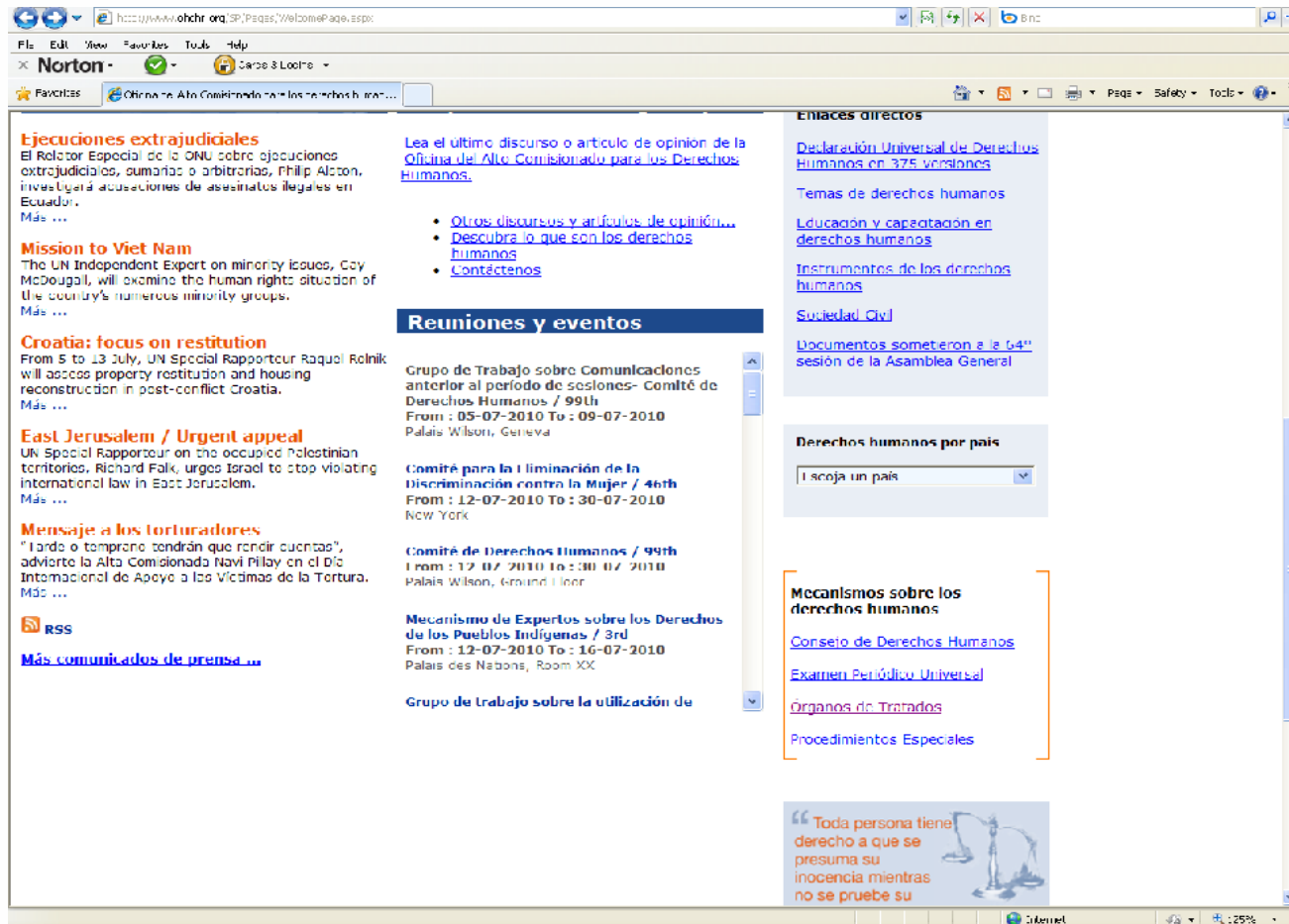


Website for the Office of the High Commissioner Human Rights Bodies



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Website for the Office of the High Commissioner

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Los órganos de derechos humanos

La Oficina del Alto Comisionado para los Derechos Humanos (OACDH) se esfuerza por ofrecer el mejor asesoramiento experto y apoyo a los diversos mecanismos de supervisión de derechos humanos en el sistema de las Naciones Unidas: los órganos basados en la Carta de la ONU, incluido el Consejo de Derechos Humanos, y los órganos creados en virtud de tratados internacionales de derechos humanos, y compuestos por expertos independientes con el mandato de supervisar que los Estados partes en los tratados cumplan sus obligaciones. La mayoría de estos órganos recibe apoyo de secretaría de la Subdivisión de Tratados y del Consejo de la OACDH.

Los órganos basados en la Carta de las Naciones Unidas

- [El Consejo de Derechos Humanos](#)
- [Examen Periódico Universal](#)
- [La Comisión de Derechos Humanos](#) (sustituido por el Consejo de Derechos Humanos)
- [Los Procedimientos especiales de la Comisión de Derechos Humanos](#)

Los órganos de tratados

Hay ocho órganos creados en virtud de tratados de derechos humanos que supervisan la aplicación de los principales [tratados internacionales de derechos humanos](#) :

- [Comité de Derechos Humanos \(CCPR\)](#)
- [Comité de Derechos Económicos, Sociales y Culturales \(CESCR\)](#)
- [Comité para la Eliminación de la Discriminación Racial \(CERD\)](#)
- [Comité para la Eliminación de la Discriminación contra la Mujer \(CEDAW\)](#)
- [Comité contra la Tortura \(CAT\)](#) y [el Protocolo Facultativo de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes - Subcomité para la Prevención de la Tortura](#)
- [Comité de los Derechos del Niño \(CRC\)](#)
- [Comité para la Protección de los Derechos de todos los Trabajadores Migratorios y de sus Familiares \(CMW\)](#)
- [Comité sobre los derechos de las personas con discapacidad \(CRPD\)](#)

Organos de la Carta

[Consejo de Derechos Humanos](#)
[Procedimientos de Denuncias](#)

Organos de tratados

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[Búsqueda de documentos de los órganos de tratados](#)
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[Inscribase aquí para recibir notificaciones de las recomendaciones de los órganos de tratados](#)
[Derecho Internacional](#)

Observaciones generales:

HRI/GEN/1/Rev.9 (Vol.I) CCPR & CESCR
[A C E E U S](#)

HRI/GEN/1/Rev.9 (Vol.II) CERD, CEDAW, CAT & CRC
[A C E E U S](#)

Los órganos basados en la Carta incluyen la antigua Comisión de Derechos Humanos, el Consejo de Derechos Humanos, el Examen Periódico Universal, el Subcomité para la Prevención de la Tortura, el Comité de Derechos Humanos, el Comité de los Derechos del Niño, el Comité de Derechos Económicos, Sociales y Culturales, el Comité de Derechos Humanos, el Comité de Derechos Económicos, Sociales y Culturales, el Comité para la Eliminación de la Discriminación Racial, el Comité para la Eliminación de la Discriminación contra la Mujer, el Comité contra la Tortura, el Comité de los Derechos del Niño, el Comité para la Protección de los Derechos de todos los Trabajadores Migratorios y de sus Familiares, el Comité sobre los derechos de las personas con discapacidad.

Derecho Internacional



Website for the Office of the High Commissioner

Human Rights Bodies

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Omatakuiasin

To all my Family



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