



# The Complaints System as an International Mechanism for Protecting Human Rights and Fundamental Freedoms

<sup>1</sup>Halima Khareze\*

<sup>1</sup>University Abdelhamid Ibn Badis of Mostaganem, Algeria. [Halima.khareze@univ-mosta.dz](mailto:Halima.khareze@univ-mosta.dz)

**ABSTRACT:** Human rights and fundamental freedoms are a priority issue at both the national and international levels. The focus on these rights has shifted from the local to the global level, particularly as individuals face numerous violations both within and outside their countries. This situation necessitates the establishment of alternative protection mechanisms through international agreements. Such agreements must include vital oversight mechanisms, including a complaints system that enables individuals or groups to submit complaints about human rights violations to international bodies once all local remedies have been exhausted. This system is based on international agreements, including the International Covenant on Civil and Political Rights and its optional protocols.

**Keywords:** Human rights, protection, international agreements, individual complaints, state complaints.

**Received:** 16/01/2025

**Accepted:** 07/07/2025

**Published:** 07/09/2025

## Introduction

Human rights and fundamental freedoms are a key issue at national and international levels. The focus on these rights has shifted from the local to the global level, resulting in the creation of treaties, conferences and agreements that aim to protect and safeguard them. Although this issue is of universal significance, the primary responsibility for implementing these rights and ensuring the necessary care lies with the nation-state. It must guarantee its citizens a dignified life by enshrining these rights in domestic legislation.

Nevertheless, the reality of international relations is that individuals can face numerous violations both within and outside their countries. This highlights the importance of establishing alternative mechanisms to provide essential protection through international agreements, which must incorporate vital oversight mechanisms to ensure the effective implementation of international obligations.

One of the most important international mechanisms created to promote and protect human rights and fundamental freedoms is the complaints system. Operating within the framework of international efforts to ensure respect for human dignity and hold violators accountable, it plays a vital role in promoting and protecting these rights and freedoms. This mechanism has evolved within the United Nations system and international human rights treaties, enabling individuals and groups to submit complaints against states that violate their rights once all domestic remedies have been exhausted.

This system is significant because it gives individuals a voice in international bodies, creating legal and ethical pressures on states to uphold their international obligations. This reflects a qualitative shift in the understanding of sovereignty, as states can no longer evade accountability for violating internationally recognised human rights. Entities such as the Human Rights Committee, the Committee Against Torture, special rapporteurs and the European Court of Human Rights receive and adjudicate these complaints, ensuring seriousness and fairness by following specific conditions and procedures. These mechanisms make it possible to highlight violations and provide remedies for victims, thereby reinforcing a culture of human rights at international and national levels.

The complaints system, which encompasses both state and individual complaints, has been established by various international human rights agreements and is facilitated by quasi-judicial bodies, such as committees designated to protect human rights, as well as judicial bodies, such as courts focused on human rights and people's protection. This system is implemented not only within treaty frameworks, but also in non-treaty contexts.

So, what is the complaints system? To what extent has it been effective in reducing human rights violations? How effective is it in providing protection?

## **Section One: The Concept of the Complaints System**

The complaints system is an important mechanism for the international application of human rights. It operates within the structures of the United Nations, as well as within treaty bodies, and has been adopted by the International Labour Organization under Articles 24 to 34 of its constitution. It applies to all organised agreements after states have ratified them<sup>1</sup>. Both states and individuals may submit complaints to the relevant monitoring bodies and committees regarding any violations of the rights stipulated in these agreements.

### **First: Definition of the Complaints System**

The complaints system is a mechanism for the international enforcement of human rights law, particularly with regard to human rights treaties. It can be defined as follows: 'The act of an individual or state party submitting a complaint to the bodies responsible for monitoring the implementation of a human rights treaty, alleging that another state party has violated the rights outlined in that treaty.' Complaints may be submitted by either governments (known as state complaints) or individuals (known as individual complaints or communications). The complaints mechanism complements, rather than contradicts, the reporting mechanism<sup>2</sup>.

### **Second: types of complaints**

The complaints mechanism is a fundamental component of the international legal framework for protecting human rights. It is an effective tool for ensuring that states respect their international obligations arising from human rights treaties and agreements. The international system recognises various types of complaints, which differ based on the submitting entity, the receiving body and the nature of the procedures involved. This diversity reflects the variety of legal frameworks and their differing levels of protection for fundamental rights and freedoms. In this section, we will address state and individual complaints as follows:

#### **A. State complaints:**

The system involves interactions between states, whereby one state submits a complaint to the relevant body responsible for overseeing and monitoring treaty provisions, alleging that another state is violating treaty rights and failing to adhere to human rights obligations. It is important to note that human<sup>3</sup> rights treaties are not contracts between a state party and the individuals subject to its jurisdiction, but rather multilateral treaties.

Under this system, all state parties have an interest in ensuring that other state parties comply with their obligations. Legally, it can be asserted that human rights violations in one state concern all other state parties directly. However, this type of complaint can only be pursued in relation to two state parties that have recognised the committee's jurisdiction to receive such complaints<sup>4</sup>. Several human rights treaties include provisions allowing state parties to submit complaints to the designated body (the committee) established under the treaty regarding alleged violations committed by another state party<sup>5</sup>.

---

<sup>1</sup>- Omar Al-Hafsi Farhati et al., *International Mechanisms for the Protection of Human Rights and Fundamental Freedoms: A Study of Global and Regional Protection Agencies and Their Procedures*, 1st edition, Dar Al-Thaqafa for Publishing and Distribution, Amman - Jordan, 2012, p. 203.

<sup>2</sup>- Omar Sadok, *Lectures on Public International Law*, University Publications Office, Algeria, 1995, p. 194.

<sup>3</sup>- Omar Al-Hafsi Farhati et al., *Previous Reference*, p. 105.

<sup>4</sup>- Official Gazette No. 15: Civil and Political Rights. Human Rights Committee. United Nations High Commissioner for Human Rights. Geneva. 2004. P. 27.

<sup>5</sup>- Hafez Abu Saada, *The Role of International Non-Governmental Organisations in the Development of Public International Law*, 1st edition, Dar Al-Nahda Al-Arabiya, Cairo, 2018, p. 444.

Dr Ibrahim Ali Badawi Sheikh posits that the state complaints system essentially involves one state filing a complaint against another, claiming that the latter has violated the human rights it is obliged to respect. The complaint is submitted to the relevant authority specified in the document outlining the commitment to uphold the aforementioned rights<sup>6</sup>.

The aim is to prevent and halt any violations or breaches affecting the rights enshrined in international human rights agreements, and to provide the necessary protection for these rights and freedoms, ensuring their implementation in practice<sup>7</sup>.

### **B – Individual complaints:**

There are nine fundamental international human rights treaties, each of which has established a 'treaty body' (committee) comprising experts who monitor how its state parties implement the treaty's provisions. These bodies (such as the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee Against Torture) have specific criteria for considering individual complaints or communications submitted by individuals<sup>8</sup>. Various terms are used to refer to this type of complaint, including 'messages', 'grievances', and the aforementioned terms 'communications', all of which convey a similar concept despite differences in terminology.

An individual complaint can be defined as an official grievance submitted by an individual who claims that a state party has violated their rights under a treaty. Some treaty bodies have jurisdiction to consider these complaints, provided the relevant state parties have recognised the treaty body's authority to examine individual complaints by issuing a declaration in accordance with the relevant treaty article<sup>9</sup>.

From this perspective, it can be said that the complaints system is a significant step forward in promoting international human rights protection. It represents a profound transformation in the relationship between individuals and international law. It grants individuals the status of 'legal actors' who can hold states accountable before specialised international bodies. The system has broken the barrier of state sovereignty in cases of serious violations, providing a legal framework that enables victims to seek redress and justice beyond their national judicial systems.

Despite facing challenges such as complex procedures, weak enforcement mechanisms and limited engagement from certain states, the complaints system remains a fundamental pillar of the international human rights framework. It reflects the international community's commitment to upholding human dignity and holding violators accountable, regardless of their status or position. Therefore, enhancing the effectiveness of the individual complaints system requires concerted efforts to ensure the independence of the relevant bodies, promote legal awareness and encourage states to join the optional protocols that activate this mechanism. This would lead to a more just, inclusive and equitable international system. This optional system necessitates the recognition and acceptance of the relevant states for the procedure to be implemented.

### **Section Two: The Framework for Submitting Complaints**

The method of processing complaints under Procedure 1503 is named after Economic and Social Council Resolution 1503, which established the procedure. The former Human Rights Commission was mandated to examine patterns of systematic and documented serious human rights violations in all countries, a responsibility which is now held by the Human Rights Council<sup>10</sup>.

---

<sup>6</sup>- Ibrahim Ali Badawi Al-Sheikh, *International Divorce: Human Rights Agreements, Mechanisms and Key Issues*, Dar Al-Nahda Al-Arabiya, Cairo, 2008, p. 147.

<sup>7</sup>- Mohamed Abdelazim Suleiman et al., *Code of Economic, Social and Cultural Rights*, Egyptian Centre, Cairo, no publication date, p. 32.

<sup>8</sup>- Hafez Bou Saada, Previous reference, p. 446.

<sup>9</sup>- The International Labour Office, established in 1919, is an independent international agency of the United Nations representing the permanent secretariat of the International Labour Organization. See:

Arlette Heymann-Doat and Gwenaelle Calves, *Public Liberties and Human Rights*, 6th edition, General Legal Publishing House, Paris, 2005, p. 149.

<sup>10</sup>- Ahmed Qasim Al-Humaidi, 'Procedure (1503): The Oldest Complaint Mechanism in the Field of Human Rights within the United Nations System', available at:

<https://kenanaonline.com/users/elgendiar/posts>

<https://crlsj.com>

Complaints can be submitted within both treaty and non-treaty frameworks, such as the Human Rights Council and specialised agencies. This section will address the conditions for accepting complaints and the procedures for reviewing them.

### **First: Complaints submitted by the Human Rights Council and specialised agencies.**

The Human Rights Council is responsible for examining patterns of systematic and documented violations of human rights and fundamental freedoms in any country worldwide. Any individual or group who claims to be a victim of such violations can submit a complaint.

The Human Rights Council is an intergovernmental body within the United Nations system that is responsible for promoting and protecting human rights around the world. Based in Geneva, it was established in 2006 to replace the former Human Rights Commission. Its tasks include reviewing complaints relating to serious human rights violations.

#### **1. Procedure 1503 – Special Procedure:**

This is the main procedure through which individuals and organisations can submit complaints about systematic and serious human rights violations to the Human Rights Council. For this type of complaint, it is not necessary for the complainant to have exhausted all domestic legal remedies, nor is it necessary for the violation to be linked to an international treaty ratified by the relevant state<sup>11</sup>.

#### **2. Procedures:**

Complaints are referred to the Working Group on Communications, which conducts a preliminary review. Accepted complaints are transferred to the Working Group on Situations, which makes recommendations to the Human Rights Council. The Council then decides on the appropriate action, which may include continuing the review, sending a fact-finding mission or applying political pressure to the state in question.

Although the Council's decisions are not legally binding, they carry significant political and moral weight. This could lead to the state being included in the Council's discussion agenda or the initiation of follow-up procedures.

#### **3. Complaints submitted to specialised agencies:**

These are independent international organisations that operate in collaboration with the United Nations, performing various roles. Some of these roles include mechanisms for protecting human rights within their respective mandates.

One such agency is the International Labour Organization (ILO), which has a complaints mechanism for violations of labour rights. This mechanism enables complaints to be submitted by member states, recognised labour organisations and employers' organisations. The ILO's complaint mechanisms include the Committee of Experts on the Application of Conventions and Recommendations, which reviews state reports and issues observations, and the Committee on Freedom of Association, which receives complaints regarding violations of the right to organise and workers' rights. A fact-finding committee may also be established to investigate serious violations, but this requires the consent of the relevant state.

The United Nations Educational, Scientific and Cultural Organization (UNESCO) addresses violations of human rights relating to education, science, culture and freedom of expression. Its complaints mechanism enables individuals or organisations to report violations of the right to education or freedom of thought and opinion. The Committee on Procedures, established by the UNESCO Executive Board, reviews these complaints, provided that they have not already been submitted to another international body.

While other organisations, such as the World Health Organization (WHO), do not have a direct mechanism for individual complaints, they contribute to the protection of the right to health. Similarly, the Food and Agriculture Organization (FAO) addresses the right to food, but does not permit individual complaints.

---

- <https://web.dev.ohchr.un-icc.cloud/ar/>

<sup>11</sup>- <https://hrdforum.org/hrd-library/international-human-rights-law/human-rights>

Complaints submitted to the Human Rights Council and specialised agencies are complementary tools within the broader framework of protecting human rights at an international level. While Human Rights Council mechanisms address serious and systematic violations, specialised agencies focus on specific professional issues such as labour, education and freedom of expression. Although most of these mechanisms lack binding judicial authority, they play a vital role in documentation, political pressure and developing international standards, thereby enhancing a culture of accountability and commitment to human rights<sup>12</sup>.

### **Second: complaints submitted under international treaties.**

Fundamental international human rights treaties are legal instruments that bind states that ratify them. Many of these treaties are accompanied by optional protocols that establish mechanisms for submitting individual or interstate complaints. These mechanisms provide individuals or states with a legal avenue to contest alleged violations, but they are subject to a set of conditions and procedures. Individual complaints are one of the most commonly used types, enabling individuals to appeal to United Nations treaty bodies once domestic remedies have been exhausted, provided the relevant state has recognised the committee's jurisdiction.

For an individual complaint to be accepted, the following conditions must be met: the relevant state must either be party to the treaty and the optional protocol or have recognised the committee's jurisdiction. Additionally, the complainant must be a direct victim of a guaranteed right violation after exhausting all local remedies.

Some treaties allow member states to submit inter-state complaints alleging violations of the treaty by other states. Notable examples include Article 41 of the International Covenant on Civil and Political Rights, Article 21 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance.

Numerous complaints are submitted under international human rights treaties, whether these are concluded at the United Nations or regional level. Some treaties specifically provide for state complaints, including the International Convention on the Elimination of All Forms of Racial Discrimination.

Many regional human rights treaties have also established complaint systems as a mechanism for international enforcement, including judicial mechanisms such as courts, and quasi-judicial mechanisms such as oversight committees.

### **Third: conditions for accepting complaints and procedures for reviewing them.**

For a complaint to be considered valid and actionable, several conditions must be met:

#### **A. Conditions for accepting complaints**

The complaint must not conflict with the principles outlined in the United Nations Charter, the Universal Declaration of Human Rights and other relevant international human rights and fundamental freedoms documents.

- The complaint must be clearly identifiable, specifying the identity of the complainant.

It must include factual information and relevant claims, along with details of the rights allegedly violated.

- The language used in the complaint should not contain derogatory statements about the state being complained against (objectionable phrases must be removed).

- The complaint must not be politically motivated or based on reports from the press or media.

All domestic remedies must have been exhausted and the matter must not have been previously adjudicated by the United Nations. Complaints must be submitted within a reasonable timeframe<sup>13</sup>.

#### **B. Procedures for reviewing complaints**

The process for handling human rights complaints involves several stages:

---

<sup>12</sup>- <https://hrdforum.org/hrd-library/international-human-rights-law/human-rights>

<sup>13</sup>- Arlette Heymann-Doat and Gwenaëlle Calves, 'Public Liberties and Human Rights', op. cit., p. 151.

### **1. Initial screening of complaints by the Secretariat:**

This involves filtering out unsubstantiated messages and sending the rest to the relevant state for comment. The Secretariat keeps the state's response confidential.

### **2. Examination of complaints by the relevant working group:**

After the initial screening, the complaints are presented to the relevant working group, which reviews them alongside comments from the relevant states, before referring them to the group responsible for situations.

### **3. Review of complaints by the situations working group:**

This group examines cases presented to it, including those still under consideration by the Human Rights Committee or Human Rights Council from previous years<sup>14</sup>. After reviewing them, the group decides whether the complaints provide reliable evidence of human rights violations to be forwarded to the Human Rights Committee (Human Rights Council) for a decision<sup>15</sup>.

### **Conclusion:**

The complaints system is a fundamental pillar of the international human rights framework, enabling individuals, as well as states, to play an active role in the global human rights system. It provides avenues for seeking redress and justice when individuals' rights are violated by their own governments or others. Despite the challenges, the international complaints system has proven to be an effective tool for enhancing accountability and oversight, particularly in situations where local remedies are ineffective or unavailable.

Although the procedures can be complex, this mechanism provides victims with a voice that can be heard internationally, gradually instilling a culture of human rights within the legal frameworks of state parties.

Human rights protection directly affects human dignity, prompting the international community to emphasise safeguarding these rights and freedoms by developing protective mechanisms, including the complaints system to enforce human rights treaties internationally. However, our study of the conditions associated with complaints reveals that nearly all human rights treaties require the explicit prior consent of the relevant states for this mechanism to be used. In such cases, monitoring bodies can only address the matter after the complaining state has informed the respondent state of the violation in an effort to reach an amicable settlement. If no resolution is achieved, the committee cannot independently address the issue and requires a referral from one of the two states.

The effectiveness of the complaints system is evident in its ability to highlight human rights violations that would otherwise go unnoticed, particularly in countries where the judiciary is weak or the political will to protect rights is lacking. However, the procedures for submitting complaints are still relatively complex and require legal and technical support, which may not be accessible to all victims. This limits the widespread use of the system.

There is clearly a need to raise international awareness of these mechanisms, as many individuals and local organisations are unaware of them or of how to access them. Therefore, it is essential to:

- establish a dedicated international judicial body for human rights, mandated to monitor the implementation of human rights treaties;
- Reform oversight bodies to unify the work of committees, particularly with regard to individual complaints and necessary investigations, thereby enhancing their role in monitoring the international application of human rights.

Simplify procedures for individuals and organisations to submit complaints, ensuring easy access to information and legal support.

---

<sup>14</sup>- Abdul Rahim Mohamed Al-Kashef, 'International Oversight on the Application of the International Covenant on Civil and Political Rights: A Comparative Study of the Human Rights Committee's Interpretation and Protection of the Rights Enshrined in the Covenant and Principles Established in This Regard', Dar Al-Nahda Al-Arabiya, Cairo, 2003, pp. 80–82.

<sup>15</sup>- Mohamed Youssef Alawwat and Mohamed Qaleel Al-Mousi, International Human Rights Law: Part One — Sources and Means of Protection, Dar Al-Thaqafa, Jordan, 2005, p. 86.

- Strengthen cooperation between national bodies and international organisations to facilitate access to international justice for victims.

Pressure states to fully respect the recommendations and decisions of international bodies through follow-up and periodic review mechanisms.

Expand the jurisdiction of international bodies by encouraging states to join optional protocols that allow for individual complaints.

- Raise awareness of, and provide training on, complaints mechanisms within member states, particularly among civil society, lawyers and human rights advocates.

## **References:**

### **First: References in Arabic**

#### **Books:**

1. Ibrahim Ali Badawi Al-Sheikh, 'International Application of Human Rights Treaties: Mechanisms and Key Issues, Dar Al-Nahda Al-Arabiya, Cairo, 2008.
2. Hafez Abu Saada, The Role of Non-Governmental International Organisations in the Development of Public International Law, 1st edition, Dar Al-Nahda Al-Arabiya, Cairo, 2018.
3. Mohamed Abdel Azim Suleiman et al., Code of Economic, Social and Cultural Rights, Egyptian Centre, Cairo, no publication date.
4. Mohamed Youssef Alawat and Mohamed Qaleel Al-Mousi, International Law of Human Rights, Volume One: Sources and Means of Protection, Dar Al-Thaqafa, Jordan, 2005.
5. Abdul Rahim Mohamed Al-Kashef, International Oversight on the Implementation of the International Covenant on Civil and Political Rights: A Comparative Study on the Committee on Human Rights in Interpreting and Protecting Rights Enshrined in the Covenant, Dar Al-Nahda Al-Arabiya, Cairo, 2003.
6. Omar Al-Hafsi Farhati et al., International Mechanisms for the Protection of Human Rights and Fundamental Freedoms: A Study of Global and Regional Protection Bodies and Their Procedures, 1st edition, Dar Al-Thaqafa for Poetry and Distribution, Amman, Jordan, 2012.
7. Omar Sadouk, Lectures in Public International Law. University Publications Bureau, Algeria, 1995.
8. **United Nations Publications**
9. Fact Sheet No. 15, 'Civil and Political Rights', Human Rights Committee, United Nations High Commissioner for Human Rights, Geneva, 2004, p. 27.
10. Fact Sheet No. 30: The Human Rights Treaty System in the United Nations. An Introduction to the Core Human Rights Treaties and Treaty Bodies', United Nations Human Rights Commission, 2006, p. 51.

#### **11. Second: references in foreign language:**

12. Arlette Heymann-Doat and Gwenaëlle Calves, Public Liberties and Human Rights, General Library of Law and Jurisprudence, Paris, 2005, p. 149.