

INDIVIDUAL COMPLAINT MECHANISM UNDER THE U.N. HUMAN RIGHTS CONVENTIONS: HOW EFFECTIVE IS THE MECHANISM?

*(Birleşmiş Milletler İnsan Hakları Sözleşmelerinde
Bireysel Başvuru Usulü: Etkinlik Sorunu)*

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ABSTRACT

The recent increase in the creation of individual complaint mechanisms for individuals or groups who claim to have been violated their rights clearly proves that there has been put a great effort to protect human rights through such mechanisms under relevant covenants. By means of this direct communication procedures individuals are provided with a greater ability to access to the human rights committees under the covenant.

Particularly, U.N. human rights treaties provide direct access to the relevant committee and bring their action before the committee. The general provisions and admissibility rules are regarded very similar to the European Court of Human Rights (ECOHR) and other international courts.

However, there have been still problems in terms of human rights protection via individual complaint mechanism. The main challenge is that the enforcement of committee decisions are upon the will of the State Party as these committees are not judicial organs. While some other sanctions or ways can be found in the international affairs area, the state parties are not seem reluctant to enforce committee decisions.

Keywords: Human rights, human rights treaties, individual complaint, individual complaint mechanism, human rights committees.

ÖZ

İnsan haklarının korunması konusunda şüphesiz en önemli araçlardan birisi hak arama hürriyetidir. Hak arama hürriyeti kişilerin ulusal düzeyde etkili ve adil bir itiraz mekanizmalarını kullanabilme hakkını da

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çermektedir. Bu bağlamda Birleşmiş Milletler İnsan Hakları Sözleşmeleri bireysel başvuru yolunu benimsemiş ve taraf devletler tarafından ihlal edilen insan haklarının ilgili insan hakları komitesine taşınmasına imkan sağlanmıştır.

Başvuru koşulları her bir sözleşmede ayrı ayrı ayrı belirtilmekle birlikte kabul edilebilirlik kriterleri açısından AIHM ve diğer uluslararası mahkemelere başvuru koşulları ile benzerlik arzemektedir.

Komitelerin kararlarının etkinliği ve iç hukuka etkisi bakımından ise hala sorunlar bulunmaktadır. Zira, söz konusu komiteler bir yargı organı olmaması ve kararların uygulanmasında gönüllülük esas olması nedeniyle uygulamada istenen netice elde edilememektedir. Bununla birlikte devletlerin iç hukuktaki uygulamalarının uluslar arası başka bir organın denetimine açmış olmaları ve uluslar arası hukuk sistemi içinde yer alan diğer yaptırım şekilleri insan hakları konusunda evrensel bir farkındalık oluşturmalarına katkı sağladığı düşünülmektedir.

Anahtar Kelimeler: İnsan hakları, bireysel başvuru, BM insan hakları, BM insan hakları komiteleri, Kabul edilebilirlik.

INTRODUCTION

As the number of human rights violation has been increasing year by year all around the world, the efforts to prevent such violations and provide sufficient remedies for the harm derived from those violations have been provided by international organs. Since it has been clearly seen that interim legal rules and judicial steps could not provide necessary protection against violations, international and cooperative bodies and organs have been set forth to provide enough protection.

One of the most important and significant steps in terms of international protection over the rights was to create international courts. There is no doubt that such courts have put great support to stop or, at least decrease the number of violation.

The other solution discovered was to establish human rights committees under the U.N. human rights treaties. These committees used to overview state parties' implementations and publish regular reports. However, this function of the committees did not satisfy the expectations. Because citizens of state parties did not have any chance to access those committees. It clearly means that the lack of individual access, the less of state parties to pay attention to human rights protection issues. Therefore, an individual complaint mechanism was created under those treaties. By means of such mechanism, individuals claiming that their rights have

been violated by the State Parties have the right to bring this violation before the committee established under the relevant treaty.

In the first part, the human rights treaties contain communication mechanism will be introduced. This part includes particularly the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), and the Convention on the Rights of Persons with Disabilities (CRPD).

In the second part of the study, the committees authorized to receive individual complaints and their general aspects and working methods will be addressed. Also in this part, the general provisions and fundamentals of successful proceedings of individual complaint will be proposed.

Finally, in the last part of the article, the effectiveness of such mechanism will be discussed. For instance, whereas some treaties contain distinct and relatively sharp provisions in terms of implementation of committee decisions, some do not provide sufficient protection.

I. U.N. CONVENTIONS THAT AUTHORIZE INDIVIDUAL COMPLAINT MECHANISM

A. The International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) was adopted in 1966 and became into effect in 1976.² However, the individual complaint mechanism established for the ICCPR is not contained in its main body. Instead, the individual complaint mechanism was created in the First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR Protocol).³ The ICCPR Protocol was adopted in 1966 and became effective in 1976.⁴ As of April 15, 2015, there are 168 States Parties to the ICCPR⁵ and 115 States Parties to the ICCPR Protocol.⁶

2 http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en (visited April 15, 2015).

3 Optional Protocol to the International Covenant on Civil and Political Rights, United Nations Treaty Collection, https://treaties.un.org/doc/Treaties/1976/03/19760323%2007-37%20AM/Ch_IV_5p.pdf (last visited April 15, 2015) [Hereinafter Optional Protocol to ICCPR].

4 https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-5&chapter=4&lang=en (last visited April 15, 2015).

5 Supra note 1.

6 Supra note 3.



Both the ICCPR and the ICCPR Protocol are regarded as two of the most universally accepted conventions related to the modern international law concept.⁷ In order to assert such a complaint against a State Party, an individual must be subject to the jurisdiction of the State Party.⁸

B. The International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted in 1966 and became effective in 1976.⁹ At the time of writing this article, there are 164 States Parties to the ICESCR.¹⁰ While there are many points at which the ICESCR mirrors the ICCPR, it is widely held that the terms of the ICCPR are quantifiable and thus subject to quasi-judicial oversight.¹¹ Despite that, unlike the ICCPR, the ICESCR did not contain direct provisions or a protocol creating an individual complaint mechanism.¹²

As the ICESCR did not include such a communication mechanism, during the history of the ICESCR, and especially for the last few decades, all members of civil world including the ICESCR Committee and some governments tried to establish an individual complaint procedure under the ICESCR.¹ Finally, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Optional Protocol to the ICESCR) was adopted on December 10, 2008 in New York. By the day of this article written, there are 45 signatory and 20 Party States to the Optional Protocol.²

It is explained that the ICESCR Protocol espoused the approach of the ICCPR and, naturally, the ICESCR, and also, in its Preamble, it is emphasized that the rights protected by the ICESCR are the result of essential human dignity.³ All States Parties must recognize that “[c]ommunications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party.”⁴

7 HARRINGTON, Alexandra R., “Don’t Mind The Gap: The Rise of Individual Complaint Mechanisms within International Human Rights Treaties”, 22 Duke J. Comp. & Int’l L. 153 (Winter 2012), p.159.

8 Optional Protocol to ICCPR, art. 1.

9 <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsyno=IV3&chapter=4&lang=en> (last visited April 15, 2015).

10 Id.

11 MELISH, Tara J., “Introductory Note to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights”, 48 Int’l L. Materials 256 (2009) p. 257.

12 Id. 256; HARRINGTON, 162.

C.The Convention on the Elimination of All Forms of Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) was adopted in 1965 and entered into force in 1969.¹³ However, the individual complaint mechanism, which was established under its main body, could become effective in 1982.¹⁴

Under the CERD, both individuals and groups of individuals have standing to bring complaints against States Parties to the CERD Committee, as long as they are subject to the jurisdiction of the State Party and the violation pertains to an alleged violation of the rights contained in the CERD.¹⁵

D. The Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) entered into force in 1981 with no provisions regarding the individual communication.¹⁶ However, the efforts to establish an individual complaint mechanism for CEDAW raised year by year and finally, in 1999, an optional protocol providing an individual complaint mechanism (CEDAW Protocol) was adopted.¹⁷ The CEDAW Protocol went into effect one year later, in 2000¹⁸ and, at the time of this article, has 105 States Parties.¹⁹

The CEDAW Protocol begins by stating that States Parties shall recognize the CEDAW Committee as having the authority to receive complaints and also to make decisions regarding these complaints.²⁰

E. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Convention Against Torture and Other Cruel, Inhuman or

13 https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV_2&chapter=4&lang=en (last visited April 15, 2015).

14 HARRINGTON, 166.

15 International Convention on the Elimination of All Forms of Racial Discrimination, art. 14, https://treaties.un.org/doc/Treaties/1969/03/19690312%2008-49%20AM/Ch_IV_2p.pdf. (last visited April 15, 2015) [Hereinafter CERD].

16 https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en (last visited April 15, 2015).

17 HARRINGTON, 167-168; https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en (last visited April 15, 2015).

18 Id.

19 Id.

20 Optional Protocol on the Convention on the Elimination of All Forms of Discrimination Against Women, at pmb1, https://treaties.un.org/doc/Treaties/1999/10/19991006%2005-18%20AM/Ch_IV_8_bp.pdf (last visited April 15, 2015) [Hereinafter Optional Protocol to CEDAW].



Degrading Treatment or Punishment (CAT) was adopted in 1984 and entered into effect in 1987.²¹ Currently, there are 157 States Parties to the CAT.²² Individual complaint mechanism was set forth under article 22.²³ Similar to the other covenants, the CAT supports the universality of human rights and dignities, particularly those principles that protected under earlier international human rights law treaties.²⁴

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

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) was adopted in 1990 and entered into force in 2003.²⁵ There are 47 State Parties to the CMW.²⁶ Individual complaint mechanism was created under its main terms.²⁷

States Parties to the CMW individual complaint mechanism shall agree to allow the CMW Committee to hear complaints from or on behalf of individuals who are within the State Party's jurisdiction and assert that they have been the victim of a CMW right-based violation by the State Party.²⁸ Under the CMW articles, In order to be justifiable, a complaint brought before the CMW is not allowed to be anonymous.²⁹ The complaint cannot, according to the CMW Committee, be "an abuse of the right of submission . . . or be incompatible with the provisions of the [CMW]."³⁰

G. Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities (CRPD) was adopted in 2006 and entered into effect in 2008.³¹ The CRPD itself does not include an individual complaint mechanism; instead, the Optional Protocol to the Convention on the Rights of Persons with Disabilities

21 https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV9&chapter=4&lang=en (last visited April 15, 2015).

22 Id.

23 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 22, https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf (last visited April 15, 2015) [Hereinafter CAT].

24 Id., pmb.; Also HARRINGTON, 171.

25 https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV13&chapter=4&lang=en (last visited April 15, 2015).

26 Id.

27 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 77, https://treaties.un.org/doc/Treaties/1990/12/19901218%2008-12%20AM/Ch_IV_13p.pdf (last visited April 15, 2015) [hereinafter CMW].

28 Id., art. 77(1).

29 Id., art. 77(2).

30 Id., art. 77(2).

31 https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en (last visited April 15, 2015).

(CRPD Protocol) was adopted as an independent document and this protocol entered into effect in 2008.³² Currently, there are 86 State Parties to the individual complaint mechanism under the Optional Protocol to CRPD.³³

States Parties to the CRPD Protocol shall recognize the jurisdiction of the CRPD Committee to receive communications taken by either individuals or groups who are subject to the jurisdiction of the State Party allegedly has violated the rights protected by the CRPD.³⁴

II. PROCEDURAL STRUCTURES AND ADMISIBILITY RULES

A. The Committees and Working Methods

The purpose of an individual complaint mechanism included in a human rights treaty is to establish a communication mechanism for an individual or his representative, or, in certain conditions, a group of individuals to bring their complaint over the violation of a treaty into the committee assigned by the provisions of a treaty.³⁵ For example, according to the ICCPR Protocol, jurisdiction to admit communications from individuals who claim that their human rights guaranteed by the ICCPR have been violated is defined as the Human Rights Committee.³⁶

Unlike the other six international human rights treaties, the CERD requires that a State Party establish a domestic organ that is charged with examining the complaint first.³⁷ If no satisfactory job can be done by that domestic organ the CERD Committee may waive such a requirement and then exercise jurisdiction over the application in question.³⁸ Some States Parties preferred not to establish such an organ and recognized the CERD Committee's power over the complaints.³⁹

Similar rules are established in terms of the authority of the CAT Committee. States Parties to the CAT recognize the power of the CAT Committee to hear communications brought by individuals, or made on behalf of individuals, who are subject to the jurisdiction of the state and who allege that they have been victims of a violation of the CAT by a State

32 Id.; also visit https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15-a&chapter=4&lang=en (last visited April 15, 2015).

33 Id.

34 Optional Protocol to the Convention on the Rights of Persons with Disabilities, art. 1, <https://treaties.un.org/doc/Publication/CTC/Ch-15-a.pdf> (last visited April 15, 2015) [Hereinafter Optional Protocol to CRPD].

35 HARRINGTON, 157.

36 Optional Protocol to ICCPR, at pmb.; HARRINGTON, 159.

37 CERD, art. 14(2).

38 Id., art. 14(5).

39 Supra note 34.



Party.⁴⁰

B. Admissibility

According to the all human rights treaties establish an individual complaint mechanism, in order for the Committee to hear such a complaint, the complainant must satisfy the admissibility rules.

Once a complaint is filed with the Human Rights Committee, the Committee reviews it for admissibility. Those rules can generally be classified as standing rules, exhaustion, and interim measures.

1. Standing

According to the Optional Protocol to the ICCPR, in order for the Committee to hear such a complaint, the complainant must be subject to the jurisdiction of the State Party.⁴¹ As mentioned above, only those individuals who claim that their human rights guaranteed by the ICCPR have been violated is defined as the Human Rights Committee have right to communicate.⁴² While the Committee strictly exercises this rule, in some cases, the Committee allows immediate family members of the alleged victim to communicate to the Committee.⁴³ Harrington cites that the Committee has been willing to grant admission especially in cases of disappearance, alleged unlawful detention and torture, and extrajudicial killings. According to Harrington, the Committee particularly concerns about the individuals and immediate family members directly affected by violations.⁴⁴

Also, neither any appeal that includes no official name, nor any anonymous complaint shall be accepted by the Committee.⁴⁵ Also this right to communicate individually to the Committee cannot be used as “an abuse of the right of submission” or “incompatible with the provisions of the [ICCPR]” as determined by the Human Rights Committee.⁴⁶

All States Parties shall recognize that “[c]ommunications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party.”⁴⁷ Arambulo points out that the term “victim” was

40 CAT, art. 22(1).

41 Optional Protocol to ICCPR, art. 1.

42 Id.

43 HARRINGTON, 160.

44 Id., 161.

45 Optional Protocol to the (ICCPR), art.3.

46 Id.

47 Optional Protocol to ICESCR, art. 2.

used on purpose to assure that the individual complaint mechanism must be interpreted broadly regarding the standing, and to ensure that “the mechanism would have a broad construction into the future.”⁴⁸ The ICESCR Protocol provides that an agent is only allowed to submit a complaint on behalf of another person with that person’s consent or, in the event that consent cannot be established, that the complainant provide a justification as to why consent is unavailable.⁴⁹ Jurisdiction over individual complaints brought under the ICESCR Protocol is vested in the ICESCR Committee.⁵⁰

Under the ICESCR, such complaints incompatible with the provisions of the Covenant are not admissible.⁵¹ Also complainants have to present sufficient evidence other than “reports disseminated by mass media” to the Committee.⁵² Like the ICCPR, an application is not admissible if; such a communication is a misuse of that right,⁵³ or, if the complainant is unknown or, if the complaint is not in writing.⁵⁴ The complainant must specify and show a particular individual harm unless the ICESCR Committee, in certain circumstances, decides to waive that rule if it observes “a serious issue of general importance.”⁵⁵

Under the CEDAW Protocol, the communication; must be compatible with the provisions of the Convention;⁵⁶ it cannot be “manifestly ill-founded or not sufficiently substantiated;”⁵⁷ it cannot be “an abuse of the right to submit a communication;”⁵⁸ and the facts that complaint is based upon must have happened before the State Party was legally bound by the CEDAW Protocol unless the violation continued to occur after the State Party became legally bound under the CEDAW Protocol.⁵⁹

The CAT includes similar provisions in terms of standing. The CAT Committee cannot accept communications that are made anonymously⁶⁰ and those complaints which the Committee finds “to be an abuse of the

48 ARAMBULO, Kitty, “Drafting an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: Can an Ideal Become Reality?”, 2 U.C. Davis J. Int’l L. & Pol’y 111 (1996), p. 132.

49 Optional Protocol to ICESCR, art. 2.

50 *Id.*, art. 1.

51 *Id.*, art. 3(2)(d).

52 *Id.*, art. 3(2)(e).

53 *Id.*, art. 3(2)(f).

54 *Id.*, art. 3(2)(g).

55 *Id.*, art. 4.

56 Optional Protocol to CEDAW, art. 4(2)(b).

57 *Id.*, art. 4(2)(c).

58 *Id.*, art. 4(2)(d).

59 *Id.*, art. 4(2)(e).

60 CAT, art. 22(2).



right of submission . . . or incompatible with the provisions of [the CAT].”⁶¹

The CMW provides that a State Party to the individual complaint mechanism can withdraw from it at any time, whereas a withdrawal cannot terminate complaints pending against the State Party at the time of the withdrawal.⁶²

Under the Optional Protocol to the CRPD, complaints can be submitted if; the communication made by a determinable individual or group; ⁶³ the complaint is not “an abuse of the right of submission”; is not “incompatible” with the CRPD⁶⁴; and is “manifestly ill-founded or not sufficiently substantiated”.⁶⁵ According to the Optional Protocol to CRPD, the Committee can receive complaints that about the events that has happened after the date on which the CRPD Protocol became binding for the State Party, however the Committee can hear those complaints in which the events complained of continued to occur after the date on which the State Party became bound by the CRPD Protocol.⁶⁶

2. Exhaustion

In order for individuals to make a complaint to the Committee, all domestic judicial proceedings must be exhausted.⁶⁷ However, if the Committee observes and finds an unreasonable delay in terms of domestic law procedures which prevent the complainant to seek the domestic remedies, the Committee may ignore that requirement of standing.⁶⁸ This exception to this requirement is also defined by a resolution of the General Assembly, the Human Rights Council stating that domestic remedies would be “ineffective or unreasonably prolonged”.⁶⁹ For instance, the communication is not required to exhaust domestic remedies as long as when there is a legislative limit the victim to go further, or when the complainant has been prevented from accessing to those judicial remedies.⁷⁰ Also no complaint can be pending before another international body or be the subject of a settlement as provided by an international body.⁷¹

61 Supra note 24.

62 CMW, art. 77(8).

63 Optional Protocol to CRPD, art. 2(a).

64 Id., art. 2(b).

65 Id., art.. 2(e).

66 Id., art. 2(f).

67 Id., art. 2.

68 Optional Protocol to the (ICCPR), art.5.

69 Human Rights Council Resolution 5/1 of 27 September 2007, par. 87 (g), http://ap.ohchr.org/documents/E/HRC/decisions/A_HRC_DEC_6_102.pdf (last visited 15/04/2015).

70 See, “Complaint Procedure of the Human Rights: Frequently Asked Questions?,” <http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx> (last visited April 15, 2015).

71 Optional Protocol to ICCPR, art.5.

Like the ICCPR, the ICESCR Protocol requires to have exhausted all domestic remedies as long as such remedies are not reasonably extended.⁷² Any complaint cannot be submitted if more than one year passed after the final decision of appropriate domestic procedures if the complainant cannot show a reasonable cause that prevented him from using this procedure under the ICESCR.⁷³ While an application is not admissible if the violation happened before the State party became a party of the ICESCR, if that violation continued after becoming bound by the ICESCR, such a claim is admissible.⁷⁴ Like the ICCPR, the ICESCR does not find any application admissible if the substance of the claim was brought to another international organ or the substance of the claim is being investigated by another international body.⁷⁵

The CERD has only one rule regarding the admissibility. According to the CERD, a complainant must have exhausted all appropriate domestic remedies before communicating to the CERD Committee unless when the application of the remedies is unreasonably prolonged.⁷⁶

The similar rules regarding to the term of exhaustion apply to those communicating to the CEDAW Committee. All applicable domestic remedies regarding the subject matter of the complaint must have been exhausted before complaining under the CEDAW Protocol unless the application of such remedies is unreasonably prolonged or ineffective.⁷⁷ Also, the same claim cannot have been brought before another international body, nor can it be pending before another international body at the time the complainant brings the CEDAW Protocol-based complaint.⁷⁸

According to the CAT, the complaints where the complainant has not exhausted all necessary domestic remedies, unless “the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation;”⁷⁹ or where “the same matter has not been, and is not being, examined under another procedure of international investigation or settlement.”⁸⁰

According to the CMW, those complaints are considered non-justifiable where the same matter has been or being investigated by another

⁷² Optional Protocol to ICESCR, art.3(1).

⁷³ *Id.*, art. 3(2)(a).

⁷⁴ *Id.*, art. 3(2)(b).

⁷⁵ *Id.*, art. 3(2)(c).

⁷⁶ CERD, art. 14 (7)(a).

⁷⁷ Optional Protocol to CEDAW, art. 4(1).

⁷⁸ *Id.*, art. 4(2)(a).

⁷⁹ CAT, art. 22(4)(b).

⁸⁰ *Id.*, art. 22(4)(a).



international body,⁸¹ and where all necessary domestic remedies have not been exhausted unless the CMW Committee finds that “the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to that individual”.⁸²

Under CRPD provisions, the Committee cannot hear such complaints where the same matter has been or being investigated by another international body,⁸³ and where all necessary domestic remedies have not been exhausted unless the exhaustion of these remedies is unreasonable or not likely to bring about meaningful relief to the complainant”.⁸⁴

3. Interim Measures

Once a complaint satisfies the primary communication requirements, it is decided on the merits.⁸⁵ These decisions focus on the power of the alleged violations and frequently are regarded as the issue of admissibility.⁸⁶ Particularly urgent life situations such as death penalty cases, the Human Rights Committee accepts that it has the power to request from the State Party to take necessary interim measures to guarantee the right in question.⁸⁷

Under the ICESCR Protocol, the ICESCR Committee has the power to ask a State Party take some interim measures essential to protect the life, integrity, and security of the complainant until the final decision.⁸⁸ The Protocol also clearly prohibits the States Parties from any kind “of ill-treatment or intimidation as a consequence of communicating with the Committee” against to the complainant.⁸⁹

Similarly, the CEDAW Protocol empowers the CEDAW Committee to request the State Party at issue take interim measures in order to protect the complainants’ rights and prevent any form of damages until the final decision of the Committee.⁹⁰ Beyond that power, the CEDAW Protocol explicitly requires that “[a] State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the

81 CMW, art. 77(3)(a).

82 *Id.*, art. 77(3)(b).

83 Optional Protocol to CRPD, art.2(c).

84 *Id.*, art.2(d).

85 HARRINGTON, 162.

86 *Id.*

87 *Id.*; Also BIJNSDROP, Mireille G.E., “The Strength of the Optional Protocol to the United Nations Women’s Convention”, 18 *Neth. Q. Hum. Rts.* 329 (2000), p. 331.

88 Optional Protocol to ICESCR, art. 5(1).

89 *Id.*, art. 5(1).

90 Optional Protocol to CEDAW, art. 5.

Committee pursuant to the present Protocol.”⁹¹ The CEDAW Protocol also requires States Parties to provide sufficient information on the Protocol, its terms, and the results of complaints brought before the CEDAW Committee that involve the State Party.⁹²

Under the CAT, there is no clear provision empowers the Committee an authority to request from the State Party against which a complaint has been brought to take interim measures. It is only set forth under Article 13 in which States Parties against whom an individual made a complaint of torture or related activities are required to protect that individual “against all ill-treatment or intimidation.”⁹³ In such cases, State Parties shall provide protections also for the witnesses.⁹⁴

Following the trend in individual complaint mechanism creation, the CRPD Protocol allows the CRPD Committee to request that a State Party implement interim measures for the protection of the complainant prior to the CRPD’s final decision in a complaint.⁹⁵

However, the Optional Protocol to CEDAW and the CMW do not require that the relevant Committee to ask for any interim measures.⁹⁶

4. Enforcement of the Committee Decisions

As generally known, only a small number of treaties include a formal and treaty-based enforcement mechanism. Saunders prefers to refer such mechanisms as “adjudicative-type mechanisms”.⁹⁷ These mechanisms are constituted under those human rights treaties that officially establish human rights courts. Supporting her statements, she gives the European Court of Human Rights that has and use its own particular and empowered investigation procedures, and therefore its authority is deemed to be judicial authority.⁹⁸ For example, in any case brought by a party, each party is represented by legal counsel, and they have right to make judicial arguments, and the case is decided by judges that has the authority.

While some treaties established court mechanisms to effectively protect the human rights, the human rights treaties studied do not provide such mechanism, instead they established “reporting and/or monitoring

91 *Id.*, art. 11.

92 *Id.*, art. 13.

93 CAT, art.13.

94 *Id.*

95 Optional Protocol to CRPD, art. 4.

96 See the Optional Protocol to CEDAW; the CMW.

97 SAUNDERS, Pamela Quinn, “The Integrated Enforcement of Human Rights”, 45 N.Y.U. J. Int’l L. & Pol. 97 (Fall 2012), p. 109.

98 *Id.*, 110.



system”⁹⁹ as the essential mean to enforce the committee decisions. She, calling that system as “reporting mechanisms”, states that “nearly every human rights treaty under the auspices of the United Nations, for example, originally created self-reporting obligations, without more, as the mechanism for formal compliance review.”¹⁰⁰

When a treaty committee finds that the claimant’s human rights have been violated, this decision is not enforceable like a domestic court’s decision.¹⁰¹ The treaty committee may publicly proclaim that the State Party has violated the complainant’s right protected under the relevant treaty.¹⁰² The treaty committee may also ask the State Party take necessary steps and provide the treaty committee with information on the measures taken to the violation.¹⁰³ Additionally, the Committee may announce that the State Party has violated the rights must compensate.¹⁰⁴ However this announcement is not enforceable neither within international area, nor domestic courts.¹⁰⁵ While the individual complaint mechanisms are provided by international human rights treaties mentioned above, the Committee decisions have no direct power over the State Parties, instead, as Hamamoto points out, the Committee decisions can enforced by the State Parties as long as the States Parties intend to comply with the Committee decisions, as some states are more reluctant to enforce the decisions of treaty committees within the domestic area.¹⁰⁶

CERD issues Concluding Observations regarding the country reports periodically submitted by states parties pursuant to Article 9 of the Race Convention.¹⁰⁷ States are required to provide information on the legislative, judicial, administrative, or other measures which they have implemented to enforce the provisions of the Convention.¹⁰⁸ Weissbrodt

99 Id.

100 Id., 111.

101 Human Rights Committee, General Comment No. 33: The Obligations of State Parties Under the Optional Protocol to the International Covenant on Civil and Political Rights, U.N. Doc. CCPR/C/GC/33 (Nov. 5, 2008), at <http://www2.ohchr.org/english/bodies/hrc/comments.htm> (last visited April 15, 2015) [Hereinafter Human Rights Committee, General Comment No. 33].

102 Human Rights Committee, General Comment No. 33, para. 12.

103 Id., para. 14.

104 See, *Wilson v. Philippines*, Views, Human Rights Comm. 79th Sess., Oct. 20 - Nov. 7, 2003, U.N. Doc. CCPR/C/79/D/868/1999 (Nov. 11, 2003).

105 Id.

106 HAMAMOTO, Shotaro, “An Undemocratic Guardian of Democracy - International Human Rights Complaint Procedures”, 38 Victoria U. Wellington L. Rev. 199 (2007), p. 200.

107 CERD, art. 9.

108 WEISSBRODT, David, “The Approach of the Committee on the Elimination of Racial Discrimination to Interpreting and Applying International Humanitarian Law”, 19 Minn. J. Int’l L., 327 (Summer 2010), p. 335; O’FLAHERTY, Michael, “Human Rights and the UN: Practice Before the Treaty Bodies”, The Hague: M. Nijhoff Publishers, 81 (2002), p. 82.

strongly stresses that “[a]lthough other human rights instruments receive greater discussion in the Concluding Observations issued by CERD, issues of humanitarian law do receive consideration from the Committee”.¹⁰⁹

III. EFFECTIVENESS OF THE MECHANISM

All of the covenants mentioned above allow the State Parties to renounce its status as a party to the Protocol or the Covenant with some slight differences in terms of notification periods and the effectiveness of the renunciation.¹¹⁰ Even though the Optional Protocol to the ICCPR, the CERD, and the CAT allow the State Parties to withdraw from their party status, those applications made before the renunciation becomes effective may still be decided by the Committee provided by the Covenant.¹¹¹ The ICESCR and CEDAW Committees are only allowed to decide over the cases pending until the withdrawal becomes effective.¹¹² It is obvious that, such rules aim to maintain the continued primacy of states in international law system.¹¹³ Those rules also emphasize the significance of the international duties that states are obliged to assume within the international human rights system, and therefore those rules ban the State Parties from withdraw suddenly in order to escape from the jurisdiction of the relevant committee as a mean of preventing the investigation might be made by the committee.¹¹⁴

The effectiveness of such mechanisms are not defined or explained in any treaty. Using the general definitions of the effectiveness, it can be concluded that any mean is deemed to be effective if it results in the specific goal aimed by the treaty.¹¹⁵

These UN human rights treaties’ priority is individuals rather than states, and therefore the exclusive relations between states regarding to the human rights are no longer valid justification.¹¹⁶ Spagnoli believes that this change of international law approach in the context of the UN human rights treaties unable the victims of human right violations communicate

109 WEISBRODT, 343.

110 Optional Protocol to ICCPR, art. 12; Optional Protocol to ICESCR, art. 20(1); CERD, art. 14(3); Optional Protocol to CEDAW, art. 19(1); CAT, art. 22(8).

111 Optional Protocol to ICCPR, art.12; CERD, art. 14(3); CAT, art. 22(8).

112 Optional Protocol to ICESCR, art. 20(2); Optional Protocol to CEDAW, art. 19(2).

113 HARRINGTON, 176.

114 Id.

115 SHANY, Yuval, “Assessing the Effectiveness of International Courts: A Goal-Based Approach”, 106 Am. J. Int’l L. 225 (April 2012), p. 270.

116 SPAGNOLI, Flip, “The Globalization of Human Rights Law: Why Do Human Rights Need International Law?”, 14 Tex. Wesleyan L. Rev. 317 (Spring 2008), p. 331; Also see, “Toward An International Rule Of Law / 2010 Report”, 24 Pac. McGeorge Global Bus. & Dev. L.J., 201 (2011), p. 203, 222 - 223.



with the international organs against their states.¹¹⁷ He also points out that by means of those treaties and mechanisms principles are established by the framers and international law can be used against those states violates human rights obligations even though domestic laws do not contain such requirements.¹¹⁸

Even though such individual complaint mechanisms were established under those human rights treaties, there are several problems regarding the effectiveness of that mechanism. Firstly, a large number of states have not recognized the competence of the relevant mechanisms, or have they failed to ratify the treaties that provide individual complaint mechanism.¹¹⁹

Also, there are great number of reports provided by the states and international organs in terms of the inquisitor procedures. However, many states have not been conforming with that requirement and they have not submitted the reports required by the treaties.¹²⁰ Additionally, the huge number of reports make difficult to struggle with these reports, and as a central report mechanism has not been able to created yet, reporting requirements put more burden for states and also for the Secretariat.¹²¹ Their worst aspect is that those decisions of the committees relevant to the treaties cannot be implemented at the domestic level.¹²² Therefore, it is commonly accepted that those treaties have no real effect over the State Parties other than shaming the State Parties by proclaiming those States as culpable of violating human rights.¹²³

The international system mostly relies upon the belief that governments will faithfully enforce international human rights standards within their own domestic systems and provide sufficient domestic remedies to redress violations.¹²⁴ However, in reality, international human rights institutions are mostly limited to monitoring state compliance and promoting adherence to underdeveloped international standards through dialogue, condemnation, and moral sanctions, and therefore those institutions, as they don't have direct power or independent authority, have limited effect

117 SPAGNOLI, 331.

118 *Id.*, 332.

119 <http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/humanrightskonceptsideasandfora/theconceptsofhumanrightsanintroduction/international-supervisory-mechanism-for-human-rights/> (last visited April 15, 2015). [Hereinafter Project].

120 *Id.*

121 *Id.*

122 HARRINGTON, 176.

123 *Id.*, 176.

124 DONOHO, Douglas, "Human Rights Enforcement in the Twenty-First Century", 35 Ga. J. Int'l & Comp. L., 1 (Fall, 2006), p. 5.

over the states.¹²⁵

Some states have put some effort to implement the decisions of the committees, whereas some of them, relying sovereignty issues, are very reluctant to enforce those decisions made by the committees at the domestic level.¹²⁶ According to Harrington, individual complaint mechanism has a significant importance not because that the individuals whose rights are violated can get damages based upon the request of the committee, rather, the states are invited to be transparent and accountable before an individual communication.¹²⁷ In this regard, he believes that the individual complaint mechanism is critical and the findings of the committees against a state are significant as the State Parties have committed a violation are released to the whole world.¹²⁸

Harrington believes that the individual complaint mechanisms are useful because the international organs have not biases as much as domestic judiciaries.¹²⁹ Individuals who are victim of human rights violations and who have not sufficient protection in domestic level are able to receive international attention by communicating to the relevant committees.¹³⁰

The increase of the number of international human rights treaties that include individual complaint mechanism has changed the individuals' position and allowed them to engage with the international law system, as a result of this development growth of the individual complaint mechanism has created primary actors in the scope of international human rights system.¹³¹ By means of the individual complaint mechanism international human right system is deviated from the traditional international law approach and individuals may communicate to the relevant committees without any permission or representation provided by states.¹³²

Even though the individual complaint mechanisms cannot provide any punitive and coercive punitive remedies for the victims of human rights violations, and also the only consequence is proclaiming a state as a violator, this does not, decrease the significant impact over the individuals

125 Id.

126 HARRINGTON, 176; HELFER, Laurence R., "Overlegalizing Human Rights: International Relations Theory and the Commonwealth Caribbean Backlash Against Human Rights Regimes", 102 Colum. L. Rev. 1894 (2002), p. 1894.

127 HARRINGTON, 176-177.

128 Id., 177.

129 Id., 178.

130 Id. ; BIJNSDROP, Mireille G.E., "The Strength of the Optional Protocol to the United Nations Women's Convention", 18 Neth. Q. Hum. Rts. 329 (2000), p. 337.

131 HARRINGTON, 178; TANG, Kwong-Leung, "The Leadership Role of International Law in Enforcing Women's Rights: The Optional Protocol to the Women's Convention", 8 Gender & Dev. 65 (2000), p. 67-68.

132 HARRINGTON, 178.



to encourage them to communicate to the relevant international organs and therefore create some glances to the state party.¹³³ If the international community had not created the individual complaint mechanism, many human right violations, particularly extra-judicial deaths would not be heard by the world.¹³⁴ Harrington points out that the international community could not be aware of those violations if that individual complaint mechanism did not espouse personal communication instead of state- to- state approach communication.¹³⁵ Also, he argues that even though human rights treaties are not adequate to affect states' actions because of the lack direct enforcement tools,¹³⁶ Hathaway believes that human rights "treaties may have broader positive effects not captured by the analysis."¹³⁷ As stated in their article, those human rights treaties and individual complaint mechanisms have both a global expressive effect in the international community and a creative domestic effect in states.¹³⁸

Baumgartner, accepting that human rights treaties could not provide adequate effects at domestic level, argues that there is a great correlation between the right to counsel and human rights improvements at domestic level.¹³⁹

On the other hand, while many human rights violations can be monitored and redressed by means of individual complaint mechanisms, there are a huge number of violations have not been reported and therefore they are not known.¹⁴⁰ Those states restrict the media reports, and prevent individuals from communicating with the international society in order to obstacle such violations.¹⁴¹

CONCLUSION

There is a common belief shared by many advocates improving the effectiveness of the enforcement capacities of human rights treaties. Donoho argues that recent developments regarding the several approaches to human rights enforcement, particularly the European Court of Human Rights enforcement system should be studied.¹⁴² However, as Donoho

133 HARRINGTON, 180.

134 Id.

135 Id.

136 HATHAWAY, Oona A., "Do Human Rights Treaties Make a Difference?", 112 Yale L. J, 1935 (2002), p. 1940.

137 HATHAWAY, 2021.

138 GOODMAN, Ryan & JINKS, Derek, "Measuring the Effects of Human Rights Treaties", 14 E.J.I.L., Vol. 14, No.1, 171 (2003), p. 182.

139 BAUMGARTNE, Samuel P., "Does Access to Justice Improve Countries' Compliance with Human Rights Norms?--An Empirical Study," 44 Cornell Int'l L.J. 441 (Fall 2011), p. 486.

140 GOODMAN & JINKS, 175

141 Id.

142 For further discussions and the three approachments regarding the same issue, see

points out, most conventional international human right norms include abstract, ambiguous and general provisions.¹⁴³It is nearly impossible to find specific definitions over most essential rights such as privacy, equal protection, due process and freedom of speech, and therefore, international human rights norms are cannot be determined easily.¹⁴⁴ Donoho argues that in order to obtain a common implementation and enforcement, even though the provisions and definitions are not clear, they can be interpreted and also given determinable meanings via: “(1) monitoring, supervisory and promotional activities by international institutions; and, (2) application and interpretation by international judicial or quasi-judicial dispute settlement mechanisms.”¹⁴⁵ Nonetheless, as Roth concludes, exclusive sovereignty approach still is the basic feature of the international legal system, and this respect to the sovereignty of states restricts not only creating binding and enforceable duties¹⁴⁶ over the human right establishment of binding obligations and enforceable means.

DONOHO, 8-10.

143 DONOHO, 29.

144 DONOHO, Douglas Lee, , “Democratic Legitimacy in Human Rights: The Future of International Decision-Making”, 21 Wis. Int’l L.J. 1- 29 (Winter 2003) [Hereinafter Legitimacy].

145 DONOHO, (Legitimacy), 64.

146 ROTH, Brad R., “The Enduring Significance of State Sovereignty”, 56 Fla. L. Rev. 1017- 1048 (December 2004).



BIBLIOGRAPHY

ARAMBULO, Kitty, "Drafting an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: Can an Ideal Become Reality?", **2 U.C. Davis J. Int'l L. & Pol'y**, 111 (1996).

BAUMGARTNE, Samuel P., "Does Access to Justice Improve Countries' Compliance with Human Rights Norms? An Empirical Study," **44 Cornell Int'l L.J.**, 441 (Fall 2011).

BIJNSDORP, Mireille G.E., "The Strength of the Optional Protocol to the United Nations Women's Convention", **18 Neth. Q. Hum. Rts.**, 329 (2000).

DONOHO Douglas Lee, "Human Rights Enforcement in the Twenty-First Century", **35 Ga. J. Int'l & Comp. L.**, 1 (Fall 2006).

DONOHO Douglas Lee, "Democratic Legitimacy In Human Rights: The Future of International Decision-Making", **21 Wis. Int'l L.J.**, 1 (Winter 2003)[Hereinafter Legitimacy].

GOODMAN, Ryan & JINKS, Derek, "Measuring the Effects of Human Rights Treaties", **14 E.J.I.L., Vol. 14, No.1**, 171 (2003).

HAMAMOTO, Shotaro, "An Undemocratic Guardian of Democracy - International Human Rights Complaint Procedures", **38 Victoria U. Wellington L. Rev.**, 199 (2007).

HARRINGTON, Alexandra R., "Don't Mind The Gap: The Rise of Individual Complaint Mechanisms within International Human Rights Treaties", **22 Duke J. Comp. & Int'l L., Winter 2012**, 153 (2012).

HATHAWAY, Oona A., "Do Human Rights Treaties Make a Difference?", **111 Yale L.J.**, 1935 (2002).

HELPER, Laurence R., "Overlegalizing Human Rights: International Relations Theory and the Commonwealth Caribbean Backlash Against Human Rights Regimes", **102 Colum. L. Rev.**, 1894 (2002).

MELISH, Tara J., "Introductory Note to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights", **48 Int'l L. Materials**, 256 (2009).

O'FLAHERTY, Michael, "Human Rights and the UN: Practice Before the Treaty Bodies", **The Hague: M. Nijhoff Publishers**, 81 (2002).

ROTH Brad R., "The Enduring Significance of State Sovereignty", **56 Fla. L. Rev.** 1017 (December 2004).

SAUNDERS, Pammela Quinn, 'The Integrated Enforcement of Human Rights', **45 N.Y.U. J. Int'l L. & Pol.** 97 (Fall 2012).

SHANY, Yuval, "Assessing the Effectiveness of International Courts: A Goal-Based Approach", **106 Am. J. Int'l L.**, 225 (April 2012).

SPAGNOLI Flip, "The Globalization Of Human Rights Law: Why Do Human Rights Need International Law?", **14 Tex. Wesleyan L. Rev.** 317 (Spring 2008).

TANG, Kwong-Leung, "The Leadership Role of International Law in Enforcing Women's Rights: The Optional Protocol to the Women's Convention", **8 Gender & Dev.** 65, 67 (2000).

WEISSBRODT David, "The Approach of the Committee on the Elimination of Racial Discrimination to Interpreting and Applying International Humanitarian Law", **19 Minn. J. Int'l L.**, 327 (Summer 2010).

Other Sources:

Complaint Procedure of the Human Rights (Frequently Asked Questions?) <http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx> (last visited April 15, 2015).

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations Treaty Collections, https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf (last visited April 15, 2015) [Hereinafter CAT].

Convention on the Elimination of All Forms of Discrimination Against Women, opened for signature Mar. 1, 1980, (entered into force Sept. 3, 1981) [hereinafter CEDAW].

Human Rights Committee, General Comment No. 33: The Obligations of State Parties Under the Optional Protocol to the International Covenant on Civil and Political Rights, U.N. Doc. CCPR/C/GC/33 (Nov. 5, 2008), at <http://www2.ohchr.org/english/bodies/hrc/comments.htm> (last visited April 15, 2015) [hereinafter Human Rights Committee, General Comment No. 33].

Human Rights Council Resolution 5/1 of 27 September 2007, par. 87 (g), http://ap.ohchr.org/documents/E/HRC/decisions/A_HRC_DEC_6_102.pdf (last visited April 15, 2015) [Hereinafter Resolution].

International Convention on the Elimination of All Forms of Racial Discrimination, art. 14, https://treaties.un.org/doc/Treaties/1969/03/19690312%2008-49%20AM/Ch_IV_2p.pdf. (last visited



April 15, 2015) [Hereinafter CERD].

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 77, https://treaties.un.org/doc/Treaties/1990/12/19901218%2008-12%20AM/Ch_IV_13p.pdf (last visited April 15, 2015) [hereinafter CMW].

Optional Protocol to the International Covenant on Civil and Political Rights, United Nations Treaty Collection, https://treaties.un.org/doc/Treaties/1976/03/19760323%2007-37%20AM/Ch_IV_5p.pdf (last visited April 15, 2015) [Hereinafter Optional Protocol to ICCPR].

Optional Protocol to International Covenant on Economic, Social, and Cultural Rights, United Nations Treaty Collection, https://treaties.un.org/doc/Publication/CTC/Ch_IV_3_a.pdf (last visited April 15, 2015) [Hereinafter ICESCR Protocol].

Optional Protocol on the Convention on the Elimination of All Forms of Discrimination Against Women, at pmb1, https://treaties.un.org/doc/Treaties/1999/10/19991006%2005-18%20AM/Ch_IV_8_bp.pdf (last visited April 15, 2015) [Hereinafter Optional Protocol to CEDAW].

Optional Protocol to the Convention on the Rights of Persons with Disabilities, <https://treaties.un.org/doc/Publication/CTC/Ch-15-a.pdf> (last visited April 15, 2015) [Hereinafter Optional Protocol to CRPD].

“Wilson v. Philippines, Views”, Human Rights Comm. 79th Sess., Oct. 20-Nov. 7, 2003, U.N. Doc. CCPR/C/79/D/868/1999 (Nov. 11, 2003).

http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en (visited April 15, 2015).

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-5&chapter=4&lang=en (last visited April 15, 2015).

http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en (last visited April 15, 2015).

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3-a&chapter=4&lang=en (last visited April 15, 2015).

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en (last visited April 15, 2015).

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en (last visited April 15, 2015).

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en (last visited April 15, 2015).

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en (last visited April 15, 2015).

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&lang=en (last visited April 15, 2015).

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en (last visited April 15, 2015).

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15-a&chapter=4&lang=en (last visited April 15, 2015).

<http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/humanrightsconceptsideasandfora/theconcepts of human rights an introduction/international supervisory mechanism for human rights/> (last visited April 15, 2015) [Hereinafter project].

Toward an International Rule of Law / 2010 Report, 24 Pac. McGeorge Global Bus. & Dev. L.J., 201- 203 and 222-223(2011).

(Footnotes)

1 MELISH, 256.

2 https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3-a&chapter=4&lang=en (last visited April 15, 2015).

3 Optional Protocol to ICESCR, at pmb1. https://treaties.un.org/doc/Publication/CTC/Ch_IV_3_a.pdf (last visited April 15, 2015) [Hereinafter ICESCR Protocol].

4 Id, art.2.