

A practical guide to making a complaint to the CEDAW Committee

SUMMER 2020

The Convention on the Elimination of Discrimination against Women (CEDAW) aims to eliminate discrimination against women in the exercise of their civil, political, economic, social and cultural rights. The Optional Protocol to CEDAW provides an opportunity for specific redress when a State violates women's rights. This briefing note explains the individual complaints procedure under CEDAW.

CEDAW OPTIONAL PROTOCOL

1 By ratifying CEDAW, States commit themselves to implement its standards at the national level and undertake to put in place legal, policy and programmatic measures to end discrimination against women in all forms. Under the Optional Protocol to CEDAW, an individual or group of individuals (or someone acting on their behalf) may submit a complaint ("communication") to the Committee on the Elimination of Discrimination against Women (the CEDAW Committee)¹ alleging a violation of their rights under the Convention by a State Party. Individuals may only use the complaint mechanism if the State Party has ratified the Optional Protocol and recognised the competence of the CEDAW Committee to receive and consider individual complaints and provide views and recommendations. To date, 114 States have ratified the Optional Protocol to CEDAW.²

HOW TO SUBMIT A COMPLAINT

- 2** In order for a complaint (communication) by an individual or group of individuals to be admissible, a number of conditions must be met:
- i Ratification:** The complaint must concern a State Party that has ratified CEDAW and its Optional Protocol.
 - ii Jurisdiction:** Communications may be submitted by or on behalf of individuals or groups of individuals under the jurisdiction of the State Party who claim to be a victim of a violation of a right contained in the Convention. If communications are submitted on behalf of an individual or group, this must be done with the consent of the alleged victim(s).
 - iii Form of communication:** Communications must be submitted in writing and cannot be submitted anonymously.
 - iv Exhaustion of domestic remedies:** A communication can only be considered by the CEDAW Committee if all available legal remedies have been exhausted at the national level. This means that the complaint must be submitted to all available domestic courts or otherwise evidence is provided explaining why national remedies are ineffective, unavailable or unreasonably prolonged. Exceptions may apply in cases where domestic remedies are not available, where pursuing domestic remedies would take an unreasonably long time, or if domestic remedies do not provide effective relief.
- 3** Complaints will be rejected by the CEDAW Committee if they are submitted anonymously, if the complaint is in respect of a State Party that has not ratified the Optional Protocol or of it relates to a matter that is being considered by another international treaty body or has already been considered by the CEDAW Committee.

¹ The CEDAW Committee is a body of 23 independent experts on women's rights from around the world that monitors the implementation of CEDAW.

² As at 28 July 2020.

INFORMATION TO INCLUDE IN A COMPLAINT

- 4** The complaint should provide the Committee with the relevant facts, including:
- + information concerning the author of the complaint and victim(s) (if not the author);
 - + information on the State Party;
 - + the facts of the complaint and the nature of the alleged violations;
 - + the provisions of CEDAW which have been violated by the State Party;
 - + steps taken to exhaust domestic remedies;
 - + information regarding examination of the complaint by any other international procedure.

All relevant supporting documentation should be submitted with the complaint and referenced in the complaint document.

CONSIDERATION OF COMPLAINT

- 5** If the Committee registers a case, it will transmit the complaint to the State Party, which has six months to respond on both its admissibility and merits (two months if the State Party challenges admissibility only). The State Party's response will then be transmitted to the complainant, who will also be given an opportunity to comment within a time frame fixed by the Committee.
- 6** If the Committee decides that the complaint is inadmissible, the case is finished. If it decides that it is admissible, the Committee will move on to the merits stage and issue its views on the merits. If the Committee finds that a violation has taken place, it will make recommendations to the State Party which has six months to respond to the CEDAW Committee indicating the action it has taken to remedy the violation and implement the Committee's recommendations.

URGENT INTERIM MEASURES

- 7** As soon as the CEDAW Committee receives a complaint, it has the power to recommend urgent interim measures to a State Party where it considers such measures are necessary to avoid irreparable damage to the victim(s) of the alleged violation.

SUMMARY OF THE CEDAW INDIVIDUAL COMPLAINT PROCEDURE

1. Submission of complaint

- a. In writing
- b. Not anonymous
- c. In one of the six official UN languages (English, French, Spanish, Russian, Arabic or Chinese)
- d. Complaint concerns a State Party to CEDAW and the Optional Protocol
- e. The individual making the complaint claims to be a victim of a violation of a right contained in CEDAW

2. Contents of the complaint

- a. Relevant facts and supporting documentation show what provisions of CEDAW have been violated
- b. Information provided on how domestic remedies have been exhausted (such as bringing a case before a domestic court) or why national remedies are not effective or available
- c. Confirmation that the complaint has not been considered by any other international mechanism

3. Consideration of the complaint by the CEDAW Committee

- a. Transmission of complaint to State Party for comment on admissibility and merits
- b. Transmission of State Party response to complainant for comment
- c. CEDAW Committee decision on admissibility and merits
- d. Transmission of Committee findings and recommendations to the State Party
- e. Written response by State Party detailing steps taken to remedy the violation