



LAWASIA

THE LAW ASSOCIATION FOR ASIA AND THE PACIFIC

LAWASIA MANUAL ON THE INTERNATIONAL RIGHT TO REMEDY



First Edition

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LAWASIA MANUAL ON THE INTERNATIONAL RIGHT TO REMEDY

Your essential guide to the Right to Remedy

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Shyam Divan
LAWASIA President



In the early 1900s, Rabindranath Tagore published a collection of poems, *Gitanjali*, which opens:

*Where the mind is without fear and the head is
held high;
Where knowledge is free;
Where the world has not been broken up into
fragments by narrow domestic walls*

More than a century later, these words remain aspirational and inspirational for those of us in the business of creating safe spaces. Spaces that are accommodative, inclusive and enabling of debate, discussion, disagreement and yes, humour. Creating, expanding and securing sanctuaries of freedom is a key purpose of the rule of law, the independence of the judiciary, the profession of law, and its eminent cousin, judging. This enterprise requires building impartial institutions at home and further afield.

The international right to remedy, at its heart, provokes institutional responsibility: it petitions global forums to address violations of human rights when domestic avenues fall short.

A fine example is the International Court of Justice, July 2025 [Advisory Opinion on Obligations of States in Respect of Climate Change](#). The Court observed:

"[456]...A complete solution to this daunting, and self-inflicted, problem requires the contribution of all fields of human knowledge, whether law, science, economics or any other. Above all, a lasting and satisfactory solution requires human will and wisdom — at the individual, social and political levels — to change our habits, comforts and current way of life in order to secure a future for ourselves and those who are yet to come..."

The international right to remedy is about the pursuit of justice in an interconnected world. It complements and supplements domestic institutions.

LAWASIA's Manual on the International Right to Remedy is an effort to build upon Sustainable Development Goal 16 (SDG 16), adopted on 25 September 2015 by all United Nations Member States as part of the 2030 Agenda for Sustainable Development. SDG 16 calls for, "promoting peaceful and inclusive societies, providing access to justice for all and building effective, accountable and inclusive institutions at all levels."^[1]

PRESIDENT'S FOREWORD

This manual is both a guide and an invitation. Spanning nine chapters – covering human rights, business and human rights, environmental law, digital rights, the protection of lawyers, a practical checklist, tabulated case references, and an overview of national human rights institutions – this manual offers practitioners a map of the terrain, and a prompt to reflect on where gaps persist.

This manual benefits from the contributions and guidance of many. I extend my heartfelt gratitude to: Dr. Tahlia Gordon and staff at the College of Law, Sydney; Meru Gokhale and Palak Yadav of Editrix.ai; co-authors Aparna T.S. and Saushriya Havelia; researchers Aastha Patel and Taqdees Fatima; project advisors Prof. Yasushi Higashizawa, Dr. Gordon Hughes, Sugandha Yadav, Ria Singh Sawhney, Devansh Mohta, Govind Manoharan, and the LAWASIA Human Rights Committee. I gratefully acknowledge the steadfast support of the LAWASIA Secretariat particularly Magda Imre, Shanna Venter, Julie Do, Swapna Kulkarni and Nada Poole. I also acknowledge the unwavering support to LAWASIA by: the Law Council of Australia, the Law Society of New South Wales, the Bar Association of India, the Korean Bar Association, the College of Law, Sydney, and the Japan Federation of Bar Associations.

I hope the LAWASIA Manual moves us forward, in Tagore's vision, to a world:

*Where the clear stream of reason has not lost
Its way into the dreary desert sand of dead
habit*

Shyam Divan, LAWASIA President

24 September 2025

1] Sustainable Development Goal 16. United Nations, 2015. <http://sdgs.un.org/goals/goal16>

ACKNOWLEDGEMENTS

This manual was conceived as a collaborative effort to expand understanding of the scope, content, and implementation of the right to an effective remedy under international human rights law. Recognizing that this right lies at the heart of international human rights, the manual seeks to provide a practical resource for bar associations, legal practitioners, and institutions working to uphold human rights standards. We extend our sincere thanks to all those whose guidance, research, and critical engagement have shaped the development and direction of this publication.

We gratefully acknowledge the individuals and organizations listed below for their roles in supporting this initiative:

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We are especially grateful to the following organisations whose continued support has been vital to advancing LAWASIA's wider human rights mandate and activities:

LAWASIA SUPPORTING ORGANISATIONS

- [The Law Society of New South Wales](#)
- [Law Council of Australia](#)
- [The Bar Association of India](#)
- [Korean Bar Association](#)
- [College of Law, Sydney](#)
- [Japan Federation of Bar Associations](#)

LAWASIA Supporting Organisations



ABOUT LAWASIA

WHO WE ARE

LAWASIA is a regional association of lawyers, judges, jurists, and legal organizations that advocates for the interests and concerns of the Asia-Pacific legal profession. For over fifty years, LAWASIA has operated as a platform to promote the cross-jurisdictional exchange of legal knowledge, as a voice of the legal profession, and as a conduit for encouraging adherence to the mutually held principles of the rule of law, professional integrity, and the protection of human rights.

MISSION STATEMENT

LAWASIA's combined activities serve to:

- encourage and facilitate regional interaction at all levels among law associations, judges, lawyers, and others involved in the legal community;
- provide an established voice for the interests of the legal community in Asia and the Pacific;
- promote the rule of law, respect for human rights, and high standards of legal practice; and
- facilitate quality cross-border legal education that is available and relevant to all jurisdictions, regardless of resources or level of development, for the purpose of enhancing the caliber of legal practice throughout the region.

OBJECTIVES

LAWASIA's central aim is to strengthen relations among law associations, lawyers, the private sector, and government representatives in the Asia-Pacific. In the course of its activities across diverse political, social, cultural, and economic contexts in the Asia-Pacific, LAWASIA is further guided by the objects described below:

- promote the administration of justice, the protection of human rights, and the maintenance of the rule of law within the region;
- advance the standard of legal education within the region by all practicable means;
- encourage communication and liaison among members in relation to general and specialized areas of law;
- enhance the development of members' legal practices and their professional and business relations within the region;
- further the diffusion of knowledge of the laws of the various jurisdictions within the region;
- promote development of the law in the region;
- advance the science of jurisprudence in all its phases and promote the study and development of international law and of comparative law;
- promote uniformity within the region in appropriate fields of law;
- further international understanding and goodwill;
- assist and cooperate with international, regional, or other organizations having all or any of the abovementioned objects or similar objects;
- foster relations and exchange between lawyers and associations and organizations of lawyers within the region; and
- uphold and advance the status of the legal profession within the region.

ABOUT THE MANUAL

The *LAWASIA Manual on the International Right to Remedy* (2025) was conceived in 2023 by Shyam Divan, as co-chair of the LAWASIA Human Rights Committee and now president of LAWASIA (2023 – 2025), and Prof. Yasushi Higashizawa, who also served as co-chair of the LAWASIA Human Rights Committee during that period.

A focused working group led the drafting and research process from 2024 to 2025, supported by advisors and editors. This manual is tailored for bar associations and lawyers across the Asia-Pacific. The manual presents a snapshot of current frameworks, challenges, and developments relating to the right to remedy. It is designed to evolve and support practitioners in translating international human rights principles into effective, real-world legal action.

This manual explores the right to remedy and reparation. It focuses on key questions and issues in the right-to-remedy discourse and explores key international instruments and forums governing the right to remedy. The manual is a part of LAWASIA's efforts to attain SDG 16 which calls for "Peace, Justice and Strong Institutions and the creation of effective, accountable, and transparent institutions, the protection of fundamental freedoms and the promotion of non-discriminatory laws".¹

This manual has been published primarily for legal practitioners as a point of reference. In addition to practitioners, it is hoped that other members of the legal profession and perhaps the judiciary will find this manual useful. It aims to bridge the gap between the principles provided and access to grievance mechanisms that respond to violations guided by these principles.

¹ United Nations, "Goal 16: Promote Just, Peaceful and Inclusive Societies," United Nations Sustainable Development Goals. Assessed March 28, 2025. <https://sdgs.un.org/goals/goal16>.

TABLE OF CONTENTS

Table of Abbreviations

PART I: THEMATIC INQUIRY

Chapter 1 – Introduction	1
Chapter 2 – Right to Remedy under International Human Rights Law and International Humanitarian Law	13
Chapter 3 – Right to Remedy under Business and Human Rights	46
Chapter 4 – Right to Remedy under Environmental Rights	54
Chapter 5 – Right to Remedy and Digital Rights	80
Chapter 6 – Protection of Lawyers and the Legal Profession under International Law	103

PART II: TOOLS AND REFERENCE

Chapter 7 – Encounters with International Law in the ESCAP Region: A Case Index	107
Chapter 8 – Directory of NHRIs/NHRCs in the ESCAP Region	112
Chapter 9 – Broad Checklist	123
Table of Instruments	126



TABLE OF ABBREVIATIONS

Abbreviation	Meaning
ACHPR	African Commission on Human and Peoples' Rights
ACHR	American Convention on Human Rights
ADB	Asian Development Bank
AfCHPR	African Court on Human and Peoples' Rights
APC	Association for Progressive Communications
AU	African Union
CAO	Compliance Advisor Ombudsman
CAT	Committee Against Torture
CBD	Convention on Biological Diversity
CCPR	United Nations Human Rights Committee (also referred to as the Committee on Civil and Political Rights)
CCW	Certain Conventional Weapons
CDAFA	California Comprehensive Computer Data Access and Fraud Act
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CFA	Committee on Freedom of Association
CFAA	Computer Fraud and Abuse Act (<i>in USA</i>)
CHR	Commissioner for Human Rights (<i>in Russia</i>)
CIHL	Customary International Humanitarian Law
CJEU	Court of Justice of the European Union
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CNCDH	French National Consultative Commission on Human Rights
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
DIMR	German Institute for Human Rights (Deutsches Institut für Menschenrechte)
DPA	Data Protection Authorities
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECOSOC	United Nations Economic and Social Council
EIA	Environmental Impact Assessment
ENMOD	Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (Environmental Modification Convention)
EOC	Equal Opportunities Commission (<i>in Hong Kong</i>)
ESCAP	Economic and Social Commission for Asia and the Pacific
EU	European Union
GANHRI	Global Alliance of National Human Rights Institutions
GDPR	General Data Protection Regulation (<i>in EU</i>)
GNHRE	Global Network for the Study of Human Rights and the Environment
HRC	Human Rights Council
HRCAC	Human Rights Council Advisory Committee
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
IBA	International Bar Association
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice

ICO	Information Commissioner's Office (<i>in UK</i>)
ICRC	International Committee of the Red Cross
IGF	United Nations Internet Governance Forum
IHL	International Humanitarian Law
IHRL	International Human Rights Law
ILC	International Law Commission
ILO	International Labour Organization
IRPC	Internet Rights and Principles Coalition
ITLOS	International Tribunal for the Law of the Sea
IUCN	International Union for Conservation of Nature
LAWASIA	The Law Association for Asia and the Pacific
LMO	Living Modified Organisms
MNE	Multinational Enterprise
NA	Not Applicable
NCP	National Contact Point
NDC	Nationally Determined Contributions
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
NHRI	National Human Rights Institution
OAS	Organization of American States
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
OPAC	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
OPSC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
PCIJ	Permanent Court of International Justice
PDF	Portable Document Format
PISFCC	Pacific Islands Students Fighting Climate Change
POP	Persistent Organic Pollutants
SID	Small Island Developing States
SUHAKAM	Human Rights Commission of Malaysia (Suruhanjaya Hak Asasi Manusia Malaysia)
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNGA	United Nations General Assembly
UNGP	United Nations Guiding Principles on Business and Human Rights
UNSC	United Nations Security Council
UPR	Universal Periodic Review
v.	Versus
VK	Vkontakte
WIPO	World Intellectual Property Organization
WIPO AMC	WIPO Arbitration and Mediation Center
WIPO DCTI	WIPO Digital Copyright and Trademark Infringement
WSIS	World Summit on the Information Society
WYCJ	World Youth for Climate Justice

PART I: **THEMATIC INQUIRY**



CHAPTER I: **INTRODUCTION**



CHAPTER 1: INTRODUCTION

Ubi jus ibi remedium.
Where there is a right, there is a remedy.

Contents

- 1.1 [What is the right to remedy? Why focus on it?](#)
- 1.2 [Thematic enquiries into the right to a remedy](#)
- 1.3 [What are the key issues to look out for in this manual?](#)

1.1. What is the right to remedy? Why focus on it?

Under international law, victims of human rights violations have a right to an effective ‘remedy.’² This right, considered one of the basic pillars of the rule of law, encompasses an obligation of States to bring to justice perpetrators of human rights abuses and to provide appropriate reparation to victims. The right to a remedy may include, for example, an apology, restitution, rehabilitation, financial or nonfinancial compensation, and punitive sanctions or the prevention of harm through injunctions and/or guarantees of non-repetition. The right to a remedy is not a right to a single remedy but to the right to “choose and obtain a bouquet of remedies.”³ The type of remedy sought and granted will depend on various factors, including the nature of the abuses and the personal preferences of the rights holder. This flexible approach recognizes that no single remedy may fully address the injury experienced by the victim and that different remedies may be more effective in different situations.

The right to remedy is a basic legal principle and is understood in contemporary international law as a right to full reparation for human rights violations. In other words, victims of human rights violations are said to have a right to a remedy that, to the fullest extent, makes the victim whole or restores the victim to the status before the violation was committed. This principle is called *ubi jus ibi remedium* and means, “where there is a right, there is a remedy.” The modern articulation of the right to remedy is traced to the Permanent Court of International Justice (PCIJ) in 1928 in the *Case Concerning the Factory at Chorzów* 1928 PCIJ Series A No. 17, as follows:

The essential principle ... is that reparation must, as far as possible, wipe out all consequences of the illegal act and reestablish the situation which would, in all probability,

² The right to a remedy is, for example, embodied in Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (December 10, 1948), art. 8; International Covenant on Civil and Political Rights, December 16, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976), arts. 2(3), 9(5), 14(6); International Convention on the Elimination of All Forms of Racial Discrimination, December 21, 1965, 660 U.N.T.S. 195 (entered into force January 4, 1969), art. 6; Convention on the Rights of the Child, November 20, 1989, 1577 U.N.T.S. 3 (entered into force September 2, 1990), art. 39; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984, 1465 U.N.T.S. 85 (entered into force June 26, 1987), art. 14; Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90 (entered into force July 1, 2002), art. 75.

³ “Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises :” United Nations. Accessed May 18, 2024. <https://digitallibrary.un.org/record/1637428?v=pdf>.

have existed if that act had not been committed. Restitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear ...⁴

The *Chorzów Factory* case concerned a property dispute between Germany and Poland that arose out of an agreement between the two States after World War I. Germany agreed to transfer the territory of Upper Silesia to Poland, and in exchange, Poland agreed not to take any German property in the territory. However, Poland breached that agreement and acquired two German properties, including a factory at Chorzów. The court held that Poland violated the agreement it had made with Germany and determined that Germany's position should be restored to the status before the right had been violated. In essence, the court took the position that "the reparations must turn back the time as if no harm was done."⁵

Since the *Chorzów* case, the right to remedy has been recognized by States and documented in many human rights instruments and has been confirmed doctrinally and in practice. Today, a comprehensive set of principles adopted by the United Nations some seventy years after the *Chorzów* case now governs the right to a remedy and reparation in international human rights law (IHRL) and international humanitarian law (IHL).⁶ This set of principles is formally known as the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (hereafter UN Basic Principles and Guidelines 2005).⁷ They are a framework and guideline for victims of human rights violations that set out the right to access to justice, a remedy, and reparation.⁸

As to the right to access to justice, the *UN Basic Principles and Guidelines 2005* state that victims are entitled to fair and impartial proceedings and an effective judicial remedy in both domestic and international jurisdictions. In accordance with this principle, States must ensure the privacy and safety of victims and others during proceedings and that the inconvenience of carrying out these proceedings is minimized. As to reparations, the *UN Basic Principles and Guidelines 2005* state that reparations must be proportional to the violations and harm suffered. As to the requirement to provide access to information on violations and human rights mechanisms, the *UN Basic Principles and Guidelines 2005* specify that States must inform the victims and the public of their rights, the services they may access (for example, medical and legal), and the causes or conditions that resulted in the violations.

⁴ *Case concerning the Factory at Chorzow (Germany v. Poland)*, Permanent Court of International Justice, Series A. No. 17, September 13, 1928. https://www.icj-cij.org/sites/default/files/permanent-court-of-international-justice/serie_A/A_17/54_Usine_de_Chorzow_Fond_Arret.pdf.

⁵ Antoine Buyse, *Lost and Regained? Restitution as a Remedy for Human Rights Violations in the Context of International Law*, *ZaöRV* 68 (2008), 129 – 153. Accessed May 20, 2025. https://www.zaoerv.de/68_2008/68_2008_1_a_128_154.pdf.

⁶ United Nations, *Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, G.A. Res. 60/147, December 16, 2005. Accessed January 10, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>

⁷ United Nations, *Basic Principles and Guidelines on the Right to Remedy and Reparation for victims of Gross Violations of International Human Rights Law and serious violations of International Humanitarian Law*, 2005.

⁸ For a detailed explanation as to how the principles were drafted, see UNGA Res. 60/147. Accessed January 14, 2025. https://legal.un.org/avl/pdf/ha/ga_60-147/ga_60-147_ph_e.pdf.

The *UN Basic Principles and Guidelines 2005* marked a watershed moment in IHRL and IHL. They represented the first set of codified principles on the right to a remedy and reparation by States. Until their adoption, the principles governing the right to a remedy and reparation had been developed on an ad hoc basis and were generally applied inconsistently by States. This is primarily due to a lack of enforceability of IHL and IHRL by States.⁹ Prior to the *UN Basic Principles and Guidelines 2005*, the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985* presented early efforts to bring international recognition to victims' rights, affirming that victims needed to be treated with compassion and dignity, and have access to mechanisms of redress. It outlined measures to strengthen the access to justice at international, regional and national levels, which would later inform and be reflected in broader frameworks such as the *UN Basic Principles and Guidelines 2005*.¹⁰

Today, the *UN Basic Principles and Guidelines 2005* are widely accepted.¹¹ This acceptance has spurred the adoption of other international human rights instruments addressing the right to a remedy in specific areas. For example, the United Nations Guiding Principles on Business and Human Rights set out the right to remedy in the context of business-related human rights harms.¹² Additionally, the right to remedy has been applied to environmental rights and digital rights.

According to Amnesty International's Annual Report 2023/24: The State of the World's Human Rights was a year marked by "escalating conflicts and the gradual breakdown of international law."¹³ This breakdown, which is not confined to 2023, has led to an erosion of rights and a breakdown of the rule of law and is likely to accelerate with the "rapid advances" being made in artificial intelligence (AI) and the "dominance of Big Tech."¹⁴ As Amnesty International has stated:

... If the tech-related abuses witnessed in 2023 are anything to go by, prospects for our future are chilling indeed.

⁹ Julie Cassidy, "WATCHDOG OR PAPER TIGER: THE ENFORCEMENT OF HUMAN RIGHTS IN INTERNATIONAL FORUMS," 2008, 10 *UNDLAR* 37, 38.

¹⁰ United Nations General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, A/RES/40/34, November 29, 1985. Accessed January 16, 2025. <https://www.legal-tools.org/doc/b3fde4/>

¹¹ United Nations General Assembly, *Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence*, A/76/180, July 19, 2021, para. 56. Accessed January 16, 2025. <https://www.ohchr.org/en/documents/thematic-reports/a76180-promotion-truth-justice-reparation-and-guarantees-non-recurrence>.

¹² United Nations Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (Geneva: United Nations, 2011). Accessed January 23, 2025. https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

¹³ "Amnesty International Sounds Alarm on a Watershed Moment for International Law amid Flagrant Rule-Breaking by Governments and Corporate Actors." Amnesty International. April 24, 2024. Accessed April 29, 2025. <https://www.amnesty.org/en/latest/news/2024/04/amnesty-international-sounds-alarm-international-law-flagrant-rule-breaking-governments-corporate-actors/>.

See also, Amnesty International, "THE STATE OF THE WORLD'S HUMAN RIGHTS: April 2024", April 23, 2024. Accessed April 29, 2025. <https://www.amnesty.org/en/documents/pol10/7200/2024/en/>.

¹⁴ "Amnesty International Sounds Alarm on a Watershed Moment for International Law amid Flagrant Rule-Breaking by Governments and Corporate Actors." Amnesty International. April 24, 2024.

Tech is enabling pervasive erosions of rights: perpetuating racist policies, enabling spreading misinformation and curtailing freedoms of expression. Big Tech ignored or minimized those harms, even in armed conflict contexts such as in Ethiopia; Israel and the Occupied Palestinian Territories; Myanmar; and Sudan. With the alarming rise in online incitement and other harmful content against both Palestinian and Jewish communities, Europe and the USA also saw marked increases in anti-Muslim and antisemitic hate crimes.¹⁵

The impact of this erosion continues to see violations of rights in IHRL, IHL, international environmental law, and international digital rights escalate. Therefore, understanding how to access remedies and reparations for States, individuals, and groups of individuals is a priority.

1.2 Thematic inquiries into the right to a remedy

This manual is divided into four thematic areas:

- (i) International Human Rights Law and International Humanitarian Law
- (ii) Business and Human Rights
- (iii) Environmental Rights
- (iv) Digital Rights
- (v) Protection of Lawyers

This thematic inquiry and division reflect an attempt to document the remedies available in distinct areas, recognizing that the application of the law, the forms of remedies available, the notion of “harm,” and the forums available differ based on the specific rights addressed.

1.3 What are the key issues to look out for in this manual?

Before commencing a claim alleging a violation of international law, practitioners should consider the forums, the basis for jurisdiction, any issues of standing, relevant procedural requirements, substantive arguments for the merits, remedies sought, and enforcement prospects. This section identifies some of the issues practitioners should consider, i.e., choice of forum, locus standi, key definitions and nature of remedies. Ensuing chapters will provide further information in relation to these considerations.

1.3.1 Choice of Forum

One of the most important issues in seeking redress for a violation of rights is understanding the remit of international forums. This is because the jurisdiction of international forums differs significantly depending on who is bringing the complaint and against whom the complaint is made. For example, there are three main procedures for bringing complaints of violations of human rights treaties before treaty bodies, depending on who lodges a complaint.¹⁶ Complaints lodged by individuals are governed by the procedure dealing with individual communications.¹⁷ Complaints lodged by States Parties about

¹⁵ Amnesty International, “*THE STATE OF THE WORLD’S HUMAN RIGHTS: April 2024*”, April 23, 2024.

¹⁶ “Complaints about Human Rights Violations.” Office of the United Nations High Commissioner for Human Rights. Accessed January 14, 2025. <https://www.ohchr.org/en/treaty-bodies/complaints-about-human-rights-violations#inquiries>.

¹⁷ See “Complaints about Human Rights Violations.” Office of the United Nations High Commissioner for Human Rights, and United Nations Human Rights Office of the High Commissioner, *Fact Sheet No. 07 (Rev. 2): Individual Complaints Procedures under the United Nations Human Rights Treaties*, May 1, 2013, p. 4, para. 2. Accessed

alleged violations of a treaty by another State are governed by the interstate communications procedures. Inquiries by treaty bodies at the request of a State are governed by the inquiries procedures.¹⁸ It is important to note these different procedures.

With respect to complaints by individuals, as opposed to by a State, it is important to note that complaints will be accepted and acted upon only if the State involved is a party to the treaty and recognizes the treaty as a legitimate grievance mechanism to address the alleged violation(s). Accordingly, an individual can bring a complaint only against a State that has both ratified (or acceded to) the treaty and accepted the associated individual complaint mechanism.¹⁹ Therefore, the first step in lodging a complaint is to determine the treaties and individual complaint mechanisms to which the State that is the object of the complaint is a party.

If the State has accepted more than one individual complaint mechanism, it is possible that the individual may have a choice of forum. However, one must be cognizant of the fact that there are differences as to the date of acceptance of different complaint mechanisms that may also limit the choice of forum, since the violation must have occurred after ratification, unless the violation is continuing. Further, an individual can bring a complaint only of a violation of rights set out in the treaty associated with the complaint mechanism.²⁰ Therefore, the next step is to determine whether the fact situation relates to a violation of rights in more than one of the treaties (having a complaint mechanism that the State in question has ratified).²¹

It is also important to note that some forums have discretionary powers with respect to complaints made by individuals. For example, the United Nations Human Rights Committee (CCPR; also referred to as “Committee on Civil and Political Rights”) will consider individual communications against States Parties to the *First Optional Protocol to the International Covenant on Civil and Political Rights* (ICCPR), as will the Committee against Torture (CAT).²² However, the Committee on the Elimination of Racial Discrimination (CERD) “may” consider individual communications relating to States Parties who have made the necessary declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).²³ Likewise, the Committee on the Rights of Persons with

February 12, 2025. <https://www.ohchr.org/en/publications/fact-sheets/fact-sheet-no-07-rev-2-individual-complaints-procedures-under-united>.

¹⁸ “Complaints about Human Rights Violations.” Office of the United Nations High Commissioner for Human Rights.

¹⁹ “Complaints about Human Rights Violations.” Office of the United Nations High Commissioner for Human Rights.

²⁰ United Nations Human Rights Office of the High Commissioner, *Fact Sheet No. 07 (Rev. 2): Individual Complaints Procedures under the United Nations Human Rights Treaties*, May 1, 2013.

²¹ United Nations Human Rights Office of the High Commissioner, *Fact Sheet No. 07 (Rev. 2): Individual Complaints Procedures under the United Nations Human Rights Treaties*, May 1, 2013.

²² United Nations, *First Optional Protocol to the International Covenant on Civil and Political Rights*, G.A. Res. 2200A (XXI), U.N. Doc. A/6316, adopted on December 16, 1966, entered into force March 23, 1976. Accessed February 5, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-international-covenant-civil-and-political>.

²³ United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination*, G.A. Res. 2106 (XX), U.N. Doc. A/6014, adopted on December 21, 1965, entered into force January 4, 1969, art. 14. Accessed February 5, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>.

Disabilities “may” consider individual communications relating to States Parties to the *Optional Protocol to the Convention on the Rights of Persons with Disabilities* (CRPD).²⁴

Moreover, it is also important to be aware of the time frames and processes stipulated by each forum for making complaint(s). For example, CERD requires that a complainant submit their case within six months following the exhaustion of domestic remedies. On the other hand, the CCPR imposes no time limit within which to bring a claim. However, if there are long delays in bringing the claim, the CCPR may consider this delay and require a “convincing” or “reasonable” explanation to justify the significant delay.²⁵

Additionally, it is important to note that most forums generally require that complaints be made in writing, and most forums require that the complainant specify the exhaustive means the complainant has taken to seek any remedies in their home country.²⁶ Some forums will decline to accept a complaint if the complaint has been considered by another international forum. For example, the CAT stipulates that a parallel complaint must not be made before another international forum, either currently or in the past. Under Article 22(5)(a) of the CAT and Rule 113(d) of the CAT’s *Rules of Procedure*, CAT/C/3/Rev.7 (July 5, 2023), a complaint is inadmissible if the matter is being, or has ever been, examined under another procedure of international investigation or settlement.²⁷ ²⁸This applies whenever a procedure of international investigation has been invoked, even if that procedure has been concluded. This limitation is juxtaposed with the ICERD, which sets no bar on bringing a complaint before it if the complaint has been brought or is simultaneously being brought to another forum.²⁹

It is also important to understand and note that some forums are judicial, while others are quasi-judicial, and some forums are international, while others are domestic, and each has its own procedures for lodging complaints. For example, there are three courts — the European Court of Human Rights (ECtHR), the Inter-American Court of Human Rights (IACtHR), and the African Court on Human and Peoples’ Rights (AfCHPR) all have different lodgment procedures for complaints. Likewise, there are

²⁴ United Nations, *Optional Protocol to the Convention on the Rights of Persons with Disabilities*, G.A. Res. 61/106, U.N. Doc. A/61/611, adopted December 13, 2006, entered into force May 3, 2008. Accessed February 5, 2005. <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-persons-disabilities>.

²⁵ Human Rights Committee, *Decision adopted by the Committee under the Optional Protocol regarding communications Nos. 2895/2016 and 2896/2016*, UN Doc. CCPR/C/138/D/2895/2016 and CCPR/C/138/D/2896/2016, September 5, 2023, para. 6.6. Accessed February 10, 2025. <https://digitallibrary.un.org/record/4020404?v=pdf>.

²⁶ “Complaints Procedures under the Human Rights Treaties.” OHCHR. Accessed February 15, 2025. <https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures/complaints-procedures-under-human-rights-treaties>.

²⁷ United Nations, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 1465 U.N.T.S. 85, adopted December 10, 1984, entered into force June 26, 1987, art. 22. Accessed February 15, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

²⁸ United Nations, Committee against Torture, *Rules of Procedure: Committee against Torture*, CAT/C/3/Rev.7, July 5, 2023. Accessed February 17, 2025. <https://digitallibrary.un.org/record/4016901?ln=en&v=pdf>.

²⁹ United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination*, G.A. Res. 2106 (XX), U.N. Doc. A/6014, adopted on December 21, 1965, entered into force January 4, 1969, art. 16. Accessed February 5, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>.

different international tribunals and courts, including the International Court of Justice (ICJ), the International Criminal Court (ICC), and international criminal tribunals, which also have differing complaint lodgment procedures and varied answers as to who may invoke the jurisdiction of these courts. Additionally, national human rights institutions (NHRI), which are official and legally independent institutions established by a State, have the power to investigate allegations of human rights abuses and provide redress for victims with differing complaint-lodgment processes.³⁰ Some NHRIs even have the power to make binding and enforceable determinations on complaints alleging violations of human rights, although most have the power only to make recommendations.³¹

Lastly, it is important to be aware that, in recent years, there has been a growing number of cases in some jurisdictions in which individuals have used domestic courts to hear allegations of international human rights violations.³² The legal principle of universal jurisdiction is also available to States, which allows or requires them to bring criminal proceedings in respect of certain crimes (such as genocide, torture, piracy, slave trade etc.) irrespective of the location of the crime, and the nationality of the perpetrator or the victim or whether the crime had an impact on the State, in domestic courts.³³

1.3.2 Locus Standi

Just as it is important to be cognizant of the jurisdiction of each forum, it is also important to understand the standing requirements of each forum before submitting a complaint. Practitioners must ensure that applicants or plaintiffs have the requisite standing to commence claims before a claim is commenced. While access to justice is a core human rights principle and is enshrined in numerous treaties, it does not mean that everyone has the right to appear in every forum.³⁴

“Standing,” or the Latin phrase *locus standi*, refers to the “right of appearance in a court of justice or before a legislative body on a given question.”³⁵ Standing is not a given and, certainly in the international law context (where *jus standi* is frequently mentioned), has historically been granted sparingly to individuals. This is because of a traditional view that international law was primarily concerned with the rights and duties of States, not individuals. Pursuant to this theory, which has since been rejected by some courts, individual international rights are not possible, as the individual is only an “object,” not a

³⁰ “A Manual on National Human Rights Institutions” Asia Pacific Forum, May 2018. Accessed February 17, 2025. <https://cdn.sanity.io/files/upt0oqh4/production/ccc6555dd8f7d78e0a525461f9c1e5f5b81805d8.pdf>.

³¹ “A Manual on National Human Rights Institutions” Asia Pacific Forum, May 2018, p.12 – 14, 151.

³² Michael Kirby, “Domestic Implementation of International Human Rights Norms,” *Australian Journal of Human Rights*, [1999] AUJIHRights 27; (1999) 5(2). Accessed February 17, 2025. <https://www.austlii.edu.au/cgi-bin/viewdoc/au/journals/AUJIHRights/1999/27.html>

³³ Anne Lagerwall and Marie-Laurence Hébert-Dolbec, “Universal Jurisdiction,” Oxford Public International Law, last updated July 2022. Accessed February 17, 2025. <https://opil.ouplaw.com/display/10.1093/law-mpeipro/e2259.013.2259/law-mpeipro-e2259>.

³⁴ See UDHR, 1948, art. 8 and 10 and ICCPR, 1966, art. 2(3), 9(4) and 14(1). S

³⁵ Henry Campbell Black, *Black’s Law Dictionary* (St. Paul, MN: West Publishing Co., 1968). Accessed February 18, 2025. <https://www.latestlaws.com/wp-content/uploads/2015/04/Blacks-Law-Dictionary.pdf>.

“subject,” of international law.³⁶ So, if individuals are not “subjects” of international law, they cannot be accorded the requisite standing to enforce international law.

This traditional view, while somewhat a relic of the past, still permeates some forums. For example, individuals and groups of individuals have no *jus standi* to initiate proceedings before the ICJ or the ICC; however, at the ICC, victims are granted limited procedural standing under Articles 68 and 75 of the Rome Statute, allowing for participation and reparations once proceedings are underway.³⁷ or do non-governmental organizations (NGOs), corporations, or any other private entities have standing at the ICC.³⁸ However, it is important to be aware that an individual or a collection of individuals may request the United Nations to initiate proceedings for an advisory opinion under Article 65 of the *Statute of the ICJ*.³⁹ For example, in March 2023, the United Nations General Assembly adopted Resolution No. A/77/L.58, seeking the advisory opinion of the ICJ on the obligations of States in respect of climate change on the basis of an initiative spearheaded by the Republic of Vanuatu in 2019, through the Pacific Islands Students Fighting Climate Change (PISFCC) and gained global traction through the umbrella organisation World’s Youth for Climate Justice (WYCJ).⁴⁰

Equally, the *Statute of the ICJ* has traditionally dictated that States may not intervene in a case unless they have an affected legal interest. Article 62 of the statute does allow a State to request permission to intervene in ICJ proceedings but only if it has an interest of a legal nature that may be affected by the decision in the case.⁴¹ Article 62 has been upheld on numerous occasions and has resulted in States being prevented from appearing before the ICJ, if they have no legal interest in the case.⁴² In

³⁶ See for example, *Filartiga v. Peña-Irala*, 630 F.2d 876 (2d Cir. 1980), United States Court of Appeal for Second Circuit, June 30, 1980. Accessed February 17, 2025. <https://ccrjustice.org/sites/default/files/attach/2017/09/Filartiga%20Judgment%201-10-84.pdf>.

For a discussion on the theory and the courts that have rejected this theory see Julie Cassidy, “Emergence of the Individual as an International Juristic Entity: Enforcement of International Human Rights,” *Deakin Law Review* 9, no. 2 (2004): 533. Accessed February 17, 2025. <https://ojs.deakin.edu.au/index.php/dlr/article/view/255>

³⁷ Article 34(1) of Statute of the International Court of Justice, 33 U.N.T.S. 99 adopted June 26, 1945, entered into force October 24, 1945, provides that “only states may be parties in cases before the Court.” Accessed February 17, 2025. https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtsg_no=I-3&chapter=1&clang=en. The ICC does not have an equivalent locus standi provision, however many articles in Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90, adopted July 17, 1998, entered into force July 1, 2002, focus on the ICC’s jurisdiction vis-à-vis the State. Accessed February 17, 2025. <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>. Also see, “Victims,” International Criminal Court. Accessed February 17, 2025. <https://www.icc-cpi.int/about/victims>.

³⁸ See for example, *Nottebohm Case (Liechtenstein v. Guatemala) (Second Phase)* [1955] I.C.J. Rep. 4, April 6, 1955. Accessed February 20, 2025. <https://www.icj-cij.org/sites/default/files/case-related/18/018-19550406-JUD-01-00-EN.pdf>; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia) (Preliminary Objections)* [1996] I.C.J. Rep. 595, 692, July 11, 1996. Accessed February 20, 2025. <https://www.icj-cij.org/sites/default/files/case-related/91/091-19960711-JUD-01-00-EN.pdf>.

³⁹ *Statute of the International Court of Justice*, 1945.

⁴⁰ The World’s Youth for Climate Justice (WYCJ) is a global youth-led campaign that advocated for an advisory opinion from the ICJ on climate change and human rights. It originated from the Pacific Islands Students Fighting Climate Change (PISFCC), a group of 27 law students from the University of the South Pacific, whose 2019 proposal was tabled by the Government of Vanuatu at the Pacific Islands Forum. You may read about the campaign here: <https://www.wy4cj.org/our-story>. On 23 July 2025, the ICJ issued an advisory opinion where a breach in a State’s obligations with respect to climate change constitutes an internationally wrongful act. *Obligations of States in Respect of Climate Change*, Advisory Opinion, [2025] International Court of Justice, General List No. 187.

⁴¹ *Statute of the International Court of Justice*, 1945.

⁴² See for example, *Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v Libyan Arab Jamahiriya)* (1982) ICJ Rep 18, February 24, 1982. Accessed February 20, 2025. <https://www.icj-cij.org/sites/default/files/case-related/63/063-19820224-JUD-01-00-EN.pdf>; *Continental Shelf (Libyan Arab Jamahiriya / Malta) (Libyan Arab*

the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* ICJ Reports 1982, pg. 18, for example, the ICJ rejected Malta's application to intervene on the basis that Malta had no legal interest that could be affected by the dispute.⁴³

The position of the ICJ and ICC with respect to individual standing is juxtaposed with the liberalization of standing demonstrated by the IACtHR, which, since 2010, has granted locus standi to individuals, the Court of Justice of the European Union (CJEU) and the ECtHR, which grant *jus standi* to individuals.⁴⁴ ⁴⁵ The admissibility of a case, closely linked to standing, generally depends on demonstrating the following:

- (a) how the complaint is compatible with the provisions provided by a law or a treaty;
- (b) how one could claim the title of a victim and the harm inflicted;
- (c) whether the complaint is sufficiently substantiated;
- (d) whether one has exhausted all domestic remedies;
- (e) how the complaint is not an abuse of the complaint process;
- (f) whether the complaint is being reviewed by another international grievance mechanism;
- (g) whether the complaint is precluded by a reservation the State has made to the treaty regarding certain communications; and/or
- (h) whether the complaint is made when the complaint mechanism for your State is in force.⁴⁶

1.3.3 The Definition of Harm

It is critical to be aware of and understand how international law defines "harm." While all treaties and conventions refer to "harm" inflicted on individuals, collectives, and other entities, the way they define "harm" differs significantly. For example, under IHL, a person is entitled to a remedy in response to a "serious violation" or a "grave breach." A "serious violation" is different in meaning from a "grave breach." A "grave breach" refers, in the most basic terms, to a serious violation of the law. Such violations would include the following:

... wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and

Jamahiriya v Malta) (1985) ICJ Rep 13, June 3, 1985. Accessed February 20, 2025. <https://www.icj-cij.org/sites/default/files/case-related/68/068-19850603-JUD-01-00-EN.pdf>; *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v Honduras)* (1992) ICJ Rep 351, September 11, 1992. Accessed February 20, 2025. <https://www.icj-cij.org/sites/default/files/case-related/75/075-19920911-JUD-01-00-EN.pdf>

⁴³ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v Libyan Arab Jamahiriya)* (1982) ICJ Rep 18, February 24, 1982.

⁴⁴ However, a State may take up the case of one of nationals and invoke against another State the wrongs which its national claims to have suffered at the hands of the latter; the dispute then becomes one between States. See "Frequently Asked Questions." International Court of Justice, question 2. Accessed February 20, 2025. <https://www.icj-cij.org/frequently-asked-questions>.

⁴⁵ Organization of American States (OAS), Inter-American Court of Human Rights, *Rules of Procedure of the Inter-American Court of Human Rights*, 1980, later revised in November 2009. Accessed February 20, 2025. https://www.oas.org/36ag/english/doc_referencia/reglamento_corteidh.pdf.

⁴⁶ While this list reflects common considerations, it may not apply uniformly to every court but serves as a general overview of typical expectations.

appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.⁴⁷

In 1977, the definition of “grave breaches” was expanded to include other serious violations of international humanitarian law, such as the taking of hostages, making civilians the object of an attack, and making medical personnel or facilities the object of an attack.⁴⁸

“Serious violations,” on the other hand, are broader than “grave breaches” and are considered “war crimes” by the International Committee of the Red Cross (ICRC) if they endanger protected persons or objects or breach important values.⁴⁹ The ICRC further states that important values can be breached even without physically damaging persons or objects directly, such as the abuse of dead bodies and/or the recruitment of children under the age of fifteen into armed forces.⁵⁰ Serious violations of IHL are therefore, as the ICRC outlines:

1. “grave breaches” as specified under the four Geneva Conventions of 1949 (Articles 50, 51, 130, 147 of Conventions I, II, III and IV respectively)
2. grave breaches as specified under Additional Protocol I of 1977 (Articles 11 and 85)
3. war crimes as specified under Article 8 of the Rome Statute of the International Criminal Court, opened for signature July 17, 1998, 2187 UNTS 90 (entered into force July 1, 2002); and
4. other war crimes in international and non-international armed conflicts in customary international humanitarian law.⁵¹

While the definitions of a “grave breach” and “serious violation” appear to be clear on paper and their differences in meaning apparent, there has been some ambiguity as to how they are used in prosecuting violations of IHRL and, for example, whether “grave breaches” amount to war crimes.⁵²

⁴⁷ *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, 75 UNTS 31, adopted on August 12, 1949, entered into force 21 October 1950, art. 50; *Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea*, 75 UNTS 85, adopted on August 12, 1949, entered into force 21 October 1950, art. 51; *Geneva Convention Relative to the Treatment of Prisoners of War*, 75 UNTS 135, adopted on August 12, 1949, entered into force 21 October 1950, art. 130; *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, 75 UNTS 287, adopted on August 12, 1949, entered into force 21 October 1950, art. 147. Accessed February 20, 2025. <https://ihl-databases.icrc.org/en/ihl-treaties/geneva-conventions-1949additional-protocols-and-their-commentaries>.

⁴⁸ *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I)*, 1125 UNTS 3, adopted on June 8, 1977, entered into force on December 7, 1978. Accessed February 20, 2025. <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977?activeTab=1949GCs-APs-and-commentaries>.

⁴⁹ “What are “serious violations of international humanitarian law.” International Committee of the Red Cross, 2012. Accessed February 25, 2025. <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/2012/att-what-are-serious-violations-of-ihl-icrc.pdf>.

⁵⁰ “What are “serious violations of international humanitarian law.” International Committee of the Red Cross, 2012.

⁵¹ “What are “serious violations of international humanitarian law.” International Committee of the Red Cross, 2012.

⁵² Chile Eboe-Osuji, “Grave Breaches as War Crimes: Much Ado About ‘Serious Violations’?” International Criminal Court, April 4, 2011. Accessed February 25, 2025. <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/827EE9EC-5095-48C0-AB04-E38686EE9A80/283279/GRAVEBREACHESMUCHADOABOUTSERIOUSVIOLATIONS.pdf>.

Further, it is important to be aware of and understand how harm is demonstrated. For example, the [Strasbourg Principles of International Environmental Human Rights Law](#) (Strasbourg Principles) stipulate that it is important to showcase the tangible effects of harm on human rights and the environment, whether past, present, or future.⁵³ Accordingly, evidence presented must reveal a real and not-too-remote risk of harm for future cases. In complaints alleging environmental rights violations, the harm must have a certain level of severity, bringing into consideration the intensity and duration of the harm and a general context of environmental emergencies. For example, there is a presumption of harm when pollution surpasses binding limits or when individuals reside in zones designated as dangerous. Notwithstanding, demonstrating a grave breach can be difficult. Evidence can be scarce, witnesses may be reluctant to come forward, and there may be an unwillingness by relevant authorities to carry out relevant investigations.

1.3.4 Nature of Remedies Envisioned

Finally, it is also important to be aware of and understand that remedies differ significantly. For example, substantive remedies typically comprise compensation, rehabilitation, relief for victims, and guarantees of non-repetition. Here, the relief is qualitative, as it relates to the harm inflicted and damage caused to the victims. Substantive remedies are normative and extend their ambit by way of effective advocacy and evolving jurisprudence.

An effective substantive remedy must generally stop the violation and provide reparation in the form of restitution, compensation, rehabilitation, victim satisfaction, and guarantees of non-repetition. Specific violations may require specialized remedies that include payment of wages or benefits in administrative abuses or reinstatement of dismissed workers or admission of discriminated students. However, there are also times when a declaratory order that clarifies legal matters, such as the constitutionality of a provision, can suffice as a remedy. On the other hand, a procedural remedy addresses issues related to the procedure or process followed in a legal case, such as correcting errors in the handling of evidence, ensuring proper notification of hearings, or rectifying procedural irregularities. A combination of substantive and procedural remedies may be pursued.

The landmark case of *Brown v. Board of Education of Topeka*, 347 US 483 (1954), in the United States illustrates both procedural and substantive remedies in the context of civil rights and education.⁵⁴ In this case, Oliver Brown, an African American father in Topeka, Kansas, sued the local board of education after his daughter, Linda Brown, was denied admission to a nearby white-only school. Brown argued

⁵³ The Strasbourg Principles of International Environmental Human Rights Law was drafted by a group of experts in human rights and environmental law during a conference at the European Court of Human Rights in Strasbourg. The Strasbourg Principles are not an official document of the European Court of Human Rights or the Council of Europe, however, they serve as a guiding principle for environmental matters at an international level.

The Strasbourg Principles of International Environmental Human Rights Law, Global Network for the Study of Human Rights and the Environment (GNHRE). Accessed February 25, 2025. <https://www.elgaronline.com/view/journals/jhre/13/0/article-p195.xml>.

⁵⁴ *Brown v Board of Education of Topeka*, 347 US 483 (1954), United States District Court, District of Kansas, May 17, 1954. Accessed February 25, 2025. <https://supreme.justia.com/cases/federal/us/347/483/>.

that the segregation of public schools based on race violated the Fourteenth Amendment's equal protection clause in the Constitution of the United States. In this case, procedural remedies ensured that the legal process was followed, allowing for a fair and thorough examination of the case. The substantive remedy, embodied in the Supreme Court's decision, addressed the underlying issue of racial segregation in education, leading to significant legal and societal changes aimed at promoting equality and civil rights.

CHAPTER II:

RIGHT TO REMEDY UNDER INTERNATIONAL HUMAN RIGHTS LAW & INTERNATIONAL HUMANITARIAN LAW



CHAPTER 2: RIGHT TO REMEDY UNDER INTERNATIONAL HUMAN RIGHTS LAW AND INTERNATIONAL HUMANITARIAN LAW

Contents

- 2.1 [Sources of the right to remedy](#)
- 2.2. [Key instruments governing international human rights law and international humanitarian law](#)
- 2.3. [Types of remedies](#)
- 2.4 [Forums](#)
- 2.5 [Key questions and issue](#)
- 2.6 [Cases](#)

2.1 Sources of the right to remedy

2.1.1 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UN Basic Principles and Guidelines 2005)

A number of international instruments provide for a right to remedy under international human rights and international humanitarian law. These instruments include the *Universal Declaration of Human Rights 1948*, the *International Covenant on Civil and Political Rights (1966)*, the *European Convention on Human Rights (1950)*, the *Convention (IV) respecting the Laws and Customs of War on Land (The Hague Convention; 1907)* and others.

The *UN Basic Principles and Guidelines 2005* are consolidation of the existing obligations under these laws and are a comprehensive framework centered around the rights of victims of human rights violations relating to reparation, remedies, and access to justice within domestic legal systems. In centering the importance of the victim's perspective, the principles transformed the understanding of the victim's right to remedy. They provided structures, approaches, processes, and techniques for fulfilling existing legal responsibilities under international human rights law and international humanitarian law.

(a) Table 2.1. UN Basic Principles and Guidelines 2005

Principles 1 – 2	Emphasizes the responsibilities of the State to align their domestic legal systems with IHRL and IHL.
Principle 3	Describes the scope of the obligation.
Principles 4 – 5	Emphasizes the State's obligation to ensure accountability for gross violations of IHRL and IHL and ensure appropriate provisions are in place for implementing this.

Principles 6 – 7	Articulates that no statutes of limitations apply to gross violations of IHRL and IHL.
Principle 8 – 9	Defines victims of gross violations of IHRL and serious violations of IHL.
Principle 10	Addresses the treatment of victims.
Principle 11	Articulates the right to remedies for victims.
Principles 12 – 14	Highlight the State's obligations to ensure victims' access to justice.
Principles 15 – 23	Highlights the duty of the State to ensure proportional reparations, while demarcating what restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition include.
Principle 24	Addresses the right to access relevant information regarding rights, remedies, public services, causes, and learning the truth.
Principle 25	Strongly emphasizes that the application of the <i>UN Basic Principles and Guidelines 2005</i> must be consistent with IHRL and IHL and must be without discrimination of any kind.
Principle 26	States that the <i>UN Basic Principles and Guidelines 2005</i> do not limit or reduce existing rights or obligations under domestic and international law.
Principle 27	States that the <i>UN Basic Principles and Guidelines 2005</i> must not be construed in a way that diminishes the rights of others and the due process rights of accused persons under applicable standards.

(b) Table 2.2. Key international instruments that provide for a right to remedy under international human rights law

UN Basic Principles and Guidelines 2005	Principles 11 – 23 discuss the right to remedy, access to justice, and proportional reparations.
Universal Declaration of Human Rights, 1948	Article 8 states that everyone has the right to an effective remedy by competent national tribunals for acts violating their fundamental rights granted by law.

International Covenant on Civil and Political Rights (ICCPR)	Article 2 obligates States to ensure individuals within their jurisdiction enjoy the rights outlined in the covenant without discrimination and to provide an effective remedy for violations.
European Convention on Human Rights (ECHR)	Article 13 guarantees the right to an effective remedy before a national authority for violations of rights protected under the convention.
Charter of Fundamental Rights of the European Union, 2000 ⁵⁵	Article 47 guarantees the right to an effective remedy and a fair trial before an independent and impartial tribunal.
Human Rights Committee	General Comment 31 sets out a general legal obligation imposed on States Parties to the ICCPR regarding the provision of effective remedies for violations of rights outlined in the covenant.

(c) Table 2.2.1 Key international instruments that provide for a right to remedy under international humanitarian law

Convention (IV) respecting the Laws and Customs of War on Land (The Hague Convention; 1907)	Article 3 notes that a belligerent party which violates the regulation shall be, if the case demands, liable to pay compensation.
Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (1977)	Article 91 states that a party to the conflict which violates the provisions of the Conventions or of the Protocol shall be liable to pay compensation and shall be responsible for all acts committed by persons forming part of its armed forces.

(d) Customary International Law - Rule 150 of CIL states that a State responsible for violations of international humanitarian law is required to make full reparation for the loss or injury caused.

⁵⁵ European Union. *Charter of Fundamental Rights of the European Union*, adopted on December 7, 2000, revised December 12, 2007, entered into force on December 1, 2009. Official Journal of the European Communities, C 326/391. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012P/TXT>

2.2.2 Key instruments governing international human rights law and international humanitarian law

(a) Table 2.2.2 International Human Rights Law Instruments

Universal Declaration of Human Rights, 1948 ⁵⁶	Convention on the Prevention and Punishment of the Crime of Genocide, 1948 ⁵⁷
Convention relating to the Status of Refugees, 1951 ⁵⁸ and Protocol relating to the Status of Refugees, 1966 ⁵⁹	Discrimination (Employment and Occupation) Convention (No. 111), 1958 ⁶⁰
International Convention on the Elimination of All Forms of Racial Discrimination, 1965 ⁶¹	International Covenant on Economic, Social and Cultural Rights, 1966 ⁶²
International Covenant on Civil and Political Rights, 1966 ⁶³	Convention on the Elimination of All Forms of Discrimination against Women, 1979 ⁶⁴

⁵⁶ United Nations General Assembly. *Universal Declaration of Human Rights*, GA Res. 217 (III)[A], UN Doc. A/810, adopted on December 10, 1948. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁵⁷ United Nations General Assembly. *Convention on the Prevention and Punishment of the Crime of Genocide*, GA Res. 260 A (III), 78 UNTS 277, adopted on December 9, 1948, entered into force on January 12, 1951. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.

⁵⁸ United Nations General Assembly. *Convention Relating to the Status of Refugees*, GA Res. 429(V), 189 UNTS. 137, adopted on July 28, 1951, entered into force on April 22, 1954. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees>.

⁵⁹ United Nations General Assembly. *Protocol Relating to the Status of Refugees*, GA Res. 2198 (XXI), 606 UNTS 267, adopted on January 31, 1967, entered into force on October 4, 1967. <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-relating-status-refugees>.

⁶⁰ International Labour Organization. *Discrimination (Employment and Occupation) Convention (No. 111)*, adopted on June 25, 1958, entered into force on June 15, 1960. https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C111.

⁶¹ United Nations General Assembly. *International Convention on the Elimination of All Forms of Racial Discrimination*, GA Res. 2106 (XX), 660 UNTS. 195, adopted on December 21, 1965, entered into force on January 4, 1969. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>.

⁶² United Nations General Assembly. *International Covenant on Economic, Social and Cultural Rights*, GA Res. 2200A (XXI), 993 UNTS. 3, adopted on December 16, 1966, entered into force on January 3, 1976. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

⁶³ United Nations General Assembly. *International Covenant on Civil and Political Rights*, GA Res. 2200A(XXI), 999 UNTS. 171, adopted on December 16, 1966, entered into force on March 23, 1976. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁶⁴ United Nations General Assembly. *Convention on the Elimination of All Forms of Discrimination against Women*, GA Res. 34/180, 1249 UNTS 13, adopted on December 18, 1979, entered into force on September 3, 1981. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 ⁶⁵	Convention on the Rights of the Child, 1989 ⁶⁶
Indigenous and Tribal Peoples Convention 1989 (No. 169) ⁶⁷	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 ⁶⁸
Convention on the Rights of Persons with Disabilities, 2006 ⁶⁹	United Nations Declaration on the Rights of Indigenous Peoples, 2007 ⁷⁰
The Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), 1950 ⁷¹	American Convention on Human Rights "Pact of San Jose, Costa Rica," 1969 ⁷²
African Charter on Human and Peoples' Rights, 1981 ⁷³	International Convention for the Protection of All Persons from Enforced Disappearance, 2006 ⁷⁴

(b) Table 2.2.3 International Humanitarian Law Instruments

⁶⁵ United Nations General Assembly. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, GA Res. 39/46, 1465 UNTS 85, adopted on December 10, 1984, entered into force on June 26, 1987. <https://www.ohchr.org/sites/default/files/cat.pdf>.

⁶⁶ United Nations General Assembly. *Convention on the Rights of the Child*, GA Res. 44/25, 1577 UNTS 3, adopted on November 20, 1989, entered into force on September 2, 1990. <https://www.ohchr.org/sites/default/files/crc.pdf>.

⁶⁷ International Labour Organization. *Indigenous and Tribal Peoples Convention (No. 169)*, adopted on June 27, 1989, entered into force on September 5, 1991. https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REV,en,C169,/Document.

⁶⁸ United Nations General Assembly. *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, GA Res. A/RES/45/158, 2220 UNTS 3, adopted on December 18, 1990, entered into force on July 1, 2003. <https://www.ohchr.org/sites/default/files/cmwf.pdf>.

⁶⁹ United Nations General Assembly. *Convention on the Rights of Persons with Disabilities*, GA Res. A/RES/61/106, 2515 UNTS 3, adopted on December 13, 2006, entered into force on May 3, 2008. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

⁷⁰ United Nations General Assembly. *United Nations Declaration on the Rights of Indigenous Peoples*, G.A. Res. 61/295, adopted on September 13, 2007. https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.

⁷¹ Council of Europe. *Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)*, as amended by Protocol No. 15 (CETS No. 213), adopted on November 4, 1950, entered into force on September 3, 1953. https://www.echr.coe.int/documents/d/echr/convention_ENG.

⁷² Organization of American States. *American Convention on Human Rights ("Pact of San José, Costa Rica")*, adopted on November 22, 1969, entered into force on July 18, 1978. https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf.

⁷³ Organization of African Unity. *African Charter on Human and Peoples' Rights*, adopted on June 01, 1981, entered into force on October 21, 1986. <https://au.int/en/treaties/african-charter-human-and-peoples-rights>.

⁷⁴ United Nations General Assembly. *International Convention for the Protection of All Persons from Enforced Disappearance*, GA Res. A/RES/61/177, 2716 UNTS 3, adopted on December 20, 2006, entered into force on December 23, 2010. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced>.

Convention (IV) respecting the Laws and Customs of War on Land, 1907 (The Hague Convention) ⁷⁵	Rome Statute of the International Criminal Court, 1998 ⁷⁶
Geneva Conventions I – IV, 1949 (a) Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field ⁷⁷ (b) Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea ⁷⁸ (c) Convention (III) relative to the Treatment of Prisoners of War ⁷⁹ (d) Convention (IV) relative to the Protection of Civilian Persons in Time of War ⁸⁰	Additional Protocols to the Geneva Conventions (a) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977 ⁸¹ (b) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977 ⁸² (c) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), 2005 ⁸³

⁷⁵ Second International Peace Conference, The Hague. *Convention (IV) Respecting the Laws and Customs of War on Land*, adopted on October 18, 1907; entered into force on January 26, 1910. <https://ihl-databases.icrc.org/en/ihl-treaties/hague-convention-iv-1907>

⁷⁶ United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. *Rome Statute of the International Criminal Court*, adopted July 17, 1998, entered into force July 1, 2002. <https://www.icc-cpi.int/publications/core-legal-texts/rome-statute-international-criminal-court>.

⁷⁷ Diplomatic Conference for the Establishment of International Conventions for the Protection of War Victims. *Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, adopted August 12, 1949, entered into force October 21, 1950. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.30_GC-I-EN.pdf

⁷⁸ Diplomatic Conference for the Establishment of International Conventions for the Protection of War Victims. *Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea*, adopted August 12, 1949, entered into force October 21, 1950. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.31_GC-II-EN.pdf.

⁷⁹ Diplomatic Conference for the Establishment of International Conventions for the Protection of War Victims. *Convention (III) Relative to the Treatment of Prisoners of War*, adopted August 12, 1949, entered into force October 21, 1950. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.32_GC-III-EN.pdf.

⁸⁰ Diplomatic Conference for the Establishment of International Conventions for the Protection of War Victims. *Convention (IV) Relative to the Protection of Civilian Persons in Time of War*, adopted August 12, 1949, entered into force October 21, 1950. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf.

⁸¹ Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law. *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, adopted June 8, 1977, entered into force December 7, 1978. <https://legal.un.org/avl/ha/pagc/pagc.html>.

⁸² Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law. *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, adopted June 8, 1977, entered into force December 7, 1978. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.35_AP-II-EN.pdf.

⁸³ Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law. *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Adoption of an Additional Distinctive Emblem (Protocol III)*, adopted December 8, 2005, entered into force January 14, 2007. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.36_AP-III-EN.pdf.

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, 1972 ⁸⁴	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 1992 ⁸⁵
The Arms Trade Treaty, 2013 ⁸⁶	Convention on Cluster Munitions, 2008 ⁸⁷
Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, 1925 ⁸⁸	Convention on the Prevention and Punishment of the Crime of Genocide, 1948 ⁸⁹
Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, 1968 ⁹⁰	Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD), 1976 ⁹¹
The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 1980 (Convention on Certain Conventional Weapons) ⁹²	International Convention Against the Recruitment, Use, Financing and Training of Mercenaries, 1989 ⁹⁹

⁸⁴ United Nations General Assembly. *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, GA Res. 2826 (XXVI), adopted December 16, 1971, entered into force March 26, 1975. <https://legal.un.org/avl/ha/cpdpsbttwd/cpdpsbttwd.html>.

⁸⁵ Conference on Disarmament. *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction*, GA Res. A/RES/47/39, 1975 UNTS 45, adopted September 3, 1992, entered into force April 29, 1997. <https://legal.un.org/avl/ha/cpdpsucw/cpdpsucw.html>.

⁸⁶ United Nations General Assembly. *Arms Trade Treaty*, adopted April 2, 2013, entered into force December 24, 2014. <https://www.thearmstradetreaty.org/hyper-images/file/TheArmsTradeTreaty1/TheArmsTradeTreaty.pdf>.

⁸⁷ Dublin Diplomatic Conference on Cluster Munitions. *Convention on Cluster Munitions*, 2688 UNTS 39, adopted May 30, 2008, entered into force August 1, 2010. <https://geneva-s3.unoda.org/static-unoda-site/pages/templates/convention-on-cluster-munitions/Convention%2Bon%2BCluster%2BMunitions%2BE.pdf>.

⁸⁸ Conference for the Supervision of the International Trade in Arms and Ammunition. *Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare*, signed June 17, 1925, entered into force February 8, 1928. <https://ihl-databases.icrc.org/en/ihl-treaties/geneva-gas-prot-1925>.

⁸⁹ United Nations General Assembly. *Convention on the Prevention and Punishment of the Crime of Genocide*, GA Res. 260 A (III), adopted December 9, 1948, entered into force January 12, 1951. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.

⁹⁰ United Nations General Assembly. *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity*, GA Res. 2391 (XXIII), adopted November 26, 1968, entered into force November 11, 1970. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.27_convention_statutory_limitations_warcrimes.pdf.

⁹¹ United Nations General Assembly. *Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD)*, GA Res. 31/72, adopted December 10, 1976, entered into force October 5, 1978. https://treaties.un.org/doc/Treaties/1978/10/19781005_00-39_AM/Ch_XXVI_01p.pdf.

⁹² United Nations Conference on Prohibitions or Restrictions of the Use of Certain Conventional Weapons Which May Be Deemed Excessively Injurious or to Have Indiscriminate Effects. *Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects*, 1342 UNTS 137, adopted October 10, 1980, entered into force December 2, 1983. https://www.icrc.org/sites/default/files/external/doc/en/assets/files/other/icrc_002_0811.pdf.

⁹⁹ United Nations General Assembly. *International Convention Against the Recruitment, Use, Financing and Training of Mercenaries*, 2163 UNTS 75, GA Res. 44/34, adopted December 4, 1989, entered into force October 20, 2001. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-against-recruitment-use-financing-and>.

(a) Amendment to Article I of the Convention⁹³ (e) Protocols to the Convention on Certain Conventional Weapons: Protocol on Non-Detectable Fragments (Protocol I), 1980⁹⁴ Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (amended further in 1996)⁹⁵ Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III), 1980⁹⁶ Protocol on Blinding Laser Weapons (Protocol IV to the 1980 Convention), 1995⁹⁷ Protocol on Explosive Remnants of War (Protocol V to the 1980 CCW Convention), 2003⁹⁸	
Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997 (Anti-Personnel Mine Ban Convention)¹⁰⁰	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000¹⁰¹

It should additionally be noted that [Customary International Humanitarian Law](#) (CIHL) may also be applicable.

2.3 Types of Remedies

⁹³ Second Review Conference. *Amendment to Article I of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects*, 2260 UNTS 82, adopted on December 21, 2001, entered into force on May 18, 2004. https://treaties.un.org/doc/Treaties/2001/12/20011221%2001-23%20AM/Ch_XXVI_02_cp.pdf.

⁹⁴ United Nations. *Protocol on Non-Detectable Fragments (Protocol I)*, UN, A/CONF.95/15, 27, adopted October 10, 1980, entered in force December 2, 1983. <https://ihl-databases.icrc.org/en/ihl-treaties/ccw-protocol-i-1980>.

⁹⁵ United Nations. *Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II, as amended on May 3, 1996)*, CCW/CONF.II/16, entered in force December 3, 1998. <https://ihl-databases.icrc.org/en/ihl-treaties/ccw-amended-protocol-ii-1996>.

⁹⁶ United Nations. *Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III)*, A/CONF.95/15, adopted October 10, 1980, entered in force December 2, 1983. <https://ihl-databases.icrc.org/en/ihl-treaties/ccw-protocol-iii-1980>.

⁹⁷ United Nations. *Protocol on Blinding Laser Weapons (Protocol IV)*, CCW/CONF.II/7, adopted October 13, 1995, entered in force July 30, 1998. <https://ihl-databases.icrc.org/en/ihl-treaties/ccw-protocol-iv>.

⁹⁸ United Nations. *Protocol on Explosive Remnants of War (Protocol V)*, CCW/MSP/2003/2, adopted November 28, 2003, entered in force November 12, 2006. <https://ihl-databases.icrc.org/en/ihl-treaties/ccw-protocol-v>.

¹⁰⁰ Diplomatic Conference on a Total Ban on Anti-Personnel Mines. *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*, 2056 UNTS 211, adopted September 18, 1997, entered into force March 1, 1999. <https://legal.un.org/avl/ha/cpusptam/cpusptam.html>.

¹⁰¹ United Nations General Assembly. *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, GA Res. A/RES/54/263, 2173 UNTS 222, adopted May 25, 2000, entered into force February 12, 2002. <https://www.nihr.org.uk/en/MediaHandler/GenericHandler/pdf/HR/Humanitarian-law/Optional%20Protocol%20to%20the%20Convention%20on%20the%20Rights%20of%20the%20Child%20on%20the%20Involvement%20of%20Children%20in%20Armed%20Conflict.pdf>.

2.3.1 What constitutes a “remedy”?

Principle 11 of the *UN Basic Principles and Guidelines 2005* provide that remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim’s right to:

- (a) Equal and effective access to justice (Principles 12, 13, 14)
- (b) Adequate, effective and prompt reparation for harm suffered (Principles 15 to 23)
- (c) Access to relevant information concerning violations and reparation mechanisms. (Principle 24)

The same principles, which serve as a major source for the international right to remedy, state that reparations for a harm suffered must be “*proportional to the gravity of the violation.*”¹⁰² To comply with the *UN Basic Principles and Guidelines 2005*, a full and effective reparation would manifest in the following forms: ¹⁰³

Table 2.3.1 Full and effective reparations as per UN Basic Principles and Guidelines 2005

19. Restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property.¹⁰⁴
20. Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as: a) Physical or mental harm; b) Lost opportunities, including employment, education and social benefits; c) Material damages and loss of earnings, including loss of earning potential; d) Moral damage; e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.¹⁰⁵
21. Rehabilitation should include medical and psychological care as well as legal and social services.¹⁰⁶
22. Satisfaction should include, where applicable, any or all of the following:

¹⁰² United Nations General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, Resolution 60/147, adopted on December 12, 2005, principle 15. Accessed February 15, 2025. <https://undocs.org/en/A/RES/60/147>.

¹⁰³ *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005.

¹⁰⁴ *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005, principle 19.

¹⁰⁵ *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005, principle 20.

¹⁰⁶ *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005, principle 21.

- a) Effective measures aimed at the cessation of continuing violations;
- b) Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations;
- c) The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities;
- d) An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim;
- e) Public apology, including acknowledgement of the facts and acceptance of responsibility;
- f) Judicial and administrative sanctions against persons liable for the violations;
- g) Commemorations and tributes to the victims;
- h) Inclusion of an accurate account of the violations that occurred in IHRL and IHL training and in educational materials at all levels.¹⁰⁷

23. Guarantees of non-repetition should include, where applicable, any or all of the following measures, which will also contribute to prevention:

- (a) Ensuring effective civilian control of military and security forces;
- (b) Ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality;
- (c) Strengthening the independence of the judiciary;
- (d) Protecting persons in the legal, medical, and health-care professions, the media and other related professions, and human rights defenders;
- (e) Providing, on a priority and continued basis, human rights and IHL education to all sectors of society and training for law enforcement officials as well as military and security forces;
- (f) Promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises;
- (g) Promoting mechanisms for preventing and monitoring social conflicts and their resolution;
- (h) Reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law.¹⁰⁸

General comment No. 3 (2012) on the implementation of article 14 by States parties, 2012 on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment suggests that rehabilitation “*should be holistic and include medical and psychological care as well as legal and social services*” and that it should also “*[aim to restore] full inclusion and participation in society.*”¹⁰⁹

2.4 Forums

¹⁰⁷ *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005, principle 22.

¹⁰⁸ *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005, principle 23.

¹⁰⁹ United Nations, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 1465 U.N.T.S. 85, adopted December 10, 1984, entered into force June 26, 1987, art. 22. Accessed February 15, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

There are multiple forums that can be approached for redress. These forums include those at an international and regional level. They apply different international law treaties and various mechanisms to address human rights violations.

2.4.1 Judicial grievance mechanisms

2.4.1(a) International Criminal Court (ICC)¹¹⁰

The primary mandate of the ICC is to prosecute individuals for the most serious crimes of international concern, including genocide, crimes against humanity, war crimes, and the crime of aggression. The role of the ICC is complementary, intervening when national courts are unable or unwilling to prosecute, based on the principle of complementarity.¹¹¹

What is the jurisdiction of the International Criminal Court?

The ICC may exercise jurisdiction in a situation where genocide, crimes against humanity, or war crimes were committed on or after July 1, 2002, and where the crimes were committed by a State Party national, or in the territory of a State Party, or in a State that has accepted the jurisdiction of the court; or the crimes are referred to the ICC prosecutor by the United Nations Security Council (UNSC) pursuant to a resolution adopted under Chapter VII of the UN Charter. A non-state party can accept jurisdiction by submitting a declaration to facilitate a referral or examination by the prosecutor. Since July 2018, acts of aggression can be referred to the court by the UN Security Council, acting under Chapter VII of the UN Charter, irrespective of whether the acts involve a State or non-state party.

What legislation applies?

Its founding treaty, the *Rome Statute of the International Criminal Court*, grants the ICC jurisdiction over four major crimes: genocide, crimes against humanity, war crimes, and crimes of aggression. The ICC draws its understanding of war crimes from the Geneva Conventions.¹¹²

How can the ICC be approached?

The ICC exercises its jurisdiction as detailed in Article 13 of the Rome Statute:

- (a) The ICC prosecutor initiates investigations *proprio motu* in accordance with Article 15.
- (b) A referral by a State Party to the Prosecutor with information of a 'situation' under Article 14 of the Rome Statute.
- (c) A referral by the UN Security Council to the Prosecutor, acting under Chapter VII of the UN Charter.
- (d) Under Article 75 of the Rome Statute, the court may make an order directly against a convicted person for reparations to or in respect of victims, including restitution, compensation, and

¹¹⁰ See, International Criminal Court, "*International Criminal Court*." Accessed February 16, 2025. <https://www.icc-cpi.int>.

¹¹¹ The principle of complementarity means that the ICC has secondary jurisdiction after the national courts and can only act in a situation where the States are unwilling or unable to prosecute crimes in its jurisdiction.

¹¹² United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. *Rome Statute of the International Criminal Court*, July 17, 1998. United Nations, Treaty Series, vol. 2187, p. 3. Accessed <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>.

rehabilitation. Before making such an order, the court may invite and shall consider representations from the convicted person, victims, other interested persons, or States.¹¹³

It may also be noted that after receiving information, the Prosecutor then makes an assessment on whether to proceed for further investigation. If the Prosecutor finds that there is reasonable basis to proceed with an investigation, they submit the matter to the Pre-Trial Chamber. If the Pre-Trial Chamber considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation.¹¹⁴

2.4.1(b) The International Court of Justice (ICJ)¹¹⁵

The ICJ considers two types of cases: (1) legal disputes between States submitted to it (contentious cases) and (2) requests for advisory opinions on legal questions referred by United Nations organs and specialized agencies (advisory proceedings). Only member states of the United Nations, other States Parties to the Statute of the Court, and those who accept jurisdiction under certain conditions can be parties to contentious cases. Proceedings may be commenced in two ways: (1) by means of an application and (2) through notification of a special agreement.¹¹⁶

Pursuant to Article 38 of the Statute of the ICJ, the court adjudicates disputes on the basis of:

- (a) international conventions;
- (b) international custom, as evidence of general practice accepted as law;
- (c) the general principles of law recognized by civilized nations; and
- (d) subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, which serve as subsidiary means for determining rules of law. The court also has the power to decide a case *ex aequo et bono*, if the parties agree thereto.¹¹⁷

As noted in Chapter 1 of this manual, individuals and groups of individuals have no *jus standi* to initiate proceedings before the ICJ. A State may bring a case in the ICJ against another State and may also take up a case of one of its nationals against another State.

2.4.1(c) International Human Rights Treaty Bodies

The human rights treaty bodies are committees of independent experts that monitor implementation of the core international human rights treaties, such as the ICCPR, ICERD, the *Convention on the Rights of the Child* (CRC), and others.

¹¹³ United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. *Rome Statute of the International Criminal Court*, July 17, 1998. United Nations, Treaty Series, vol. 2187, p.3, arts. 13, 14 and 15. <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>.

¹¹⁴ *Rome Statute of the International Criminal Court*, 1998.

¹¹⁵ See, "How the Court Works." International Court of Justice (ICJ). Accessed March 12, 2025. <https://www.icj-cij.org/how-the-court-works>.

¹¹⁶ "Statute of the International Court of Justice." International Court of Justice. Accessed March 12, 2025. <https://www.icj-cij.org/statute>.

¹¹⁷ "Statute of the International Court of Justice." International Court of Justice.

Which committees accept complaints made by non-state actors (i.e., individuals, groups of individuals, corporations, NGOs)?

- (i) **Human Rights Committee** – This committee is a body of independent experts that monitors implementation of the ICCPR by its States Parties. The committee may consider complaints by non-state actors against States Parties to the First Optional Protocol to the Covenant.¹¹⁸
- (ii) **Committee on the Elimination of Racial Discrimination** – This committee is a body of independent experts that monitors implementation of the CERD by its States Parties. This committee may consider complaints by non-state actors against States Parties who have made the necessary declaration under Article 14 of the convention.¹¹⁹
- (iii) **Committee against Torture** – This committee is a body of ten independent experts that monitors implementation of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* by its States Parties. This committee may consider complaints by non-state actors against States Parties who have made the necessary declaration under Article 22 of the convention.¹²⁰
- (iv) **Committee on the Elimination of Discrimination against Women (CEDAW)** – This committee is a body of independent experts that monitors implementation of the CEDAW. This committee may consider complaints by non-state actors against States Parties to the Optional Protocol to the Convention.¹²¹
- (v) **Committee on the Rights of Persons with Disabilities** – This committee is the body of independent experts that monitors implementation of the Convention on the Rights of Persons with Disabilities by the States Parties. This committee may consider complaints against States Parties by non-state actors to the *Optional Protocol to the Convention*.¹²²
- (vi) **Committee on the Rights of the Child** – This committee monitors and implements the *Convention on the Rights of the Child* and its protocols (OPSC, OPAC).¹²³
- (vii) **Committee on Enforced Disappearances** – This committee monitors and implements the *International Convention for the Protection of All Persons from Enforced Disappearance*. This

¹¹⁸ “Human Rights Committee.” OHCHR. Accessed March 15, 2025. <https://www.ohchr.org/en/treaty-bodies/ccpr>.

¹¹⁹ “Committee on the Elimination of Racial Discrimination,” OHCHR. Accessed March 20, 2025. <https://www.ohchr.org/en/treaty-bodies/cerd>.

¹²⁰ “Committee against Torture,” OHCHR. Accessed March 20, 2025. <https://www.ohchr.org/en/treaty-bodies/cat>.

¹²¹ “Committee on the Elimination of Discrimination Against Women,” OHCHR, Accessed March 20, 2025. <https://www.ohchr.org/en/treaty-bodies/cedaw>.

¹²² “Committee on the Rights of Persons with Disabilities.” OHCHR, Accessed March 20, 2025. <https://www.ohchr.org/en/treaty-bodies/crpd>.

¹²³ “Committee on the Rights of the Child.” OHCHR, Accessed March 20, 2025. <https://www.ohchr.org/en/treaty-bodies/crc>.

committee may consider complaints against States Parties by non-state actors who have made the necessary declaration under Article 31 of the convention.¹²⁴

- (viii) **Committee on Economic, Social and Cultural Rights** – This committee monitors and implements the *International Covenant on Economic, Social and Cultural Rights*. This committee may consider complaints by non-state actors against States Parties to the *Optional Protocol to the Covenant*.¹²⁵
- (ix) **Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families** – This committee is composed of fourteen independent experts that monitor the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by its States Parties. Article 77 of the convention empowers the committee to receive and consider individual communications alleging violations of the convention by States Parties who made the necessary declaration. As of January 1, 2025, the individual complaint mechanism under this convention has not yet entered into force. It will become operative when ten States Parties have made the necessary declaration under Article 77.¹²⁶

Who can make a complaint?

As per the Office of the United Nations High Commissioner for Human Rights (OHCHR) website, anyone can lodge a complaint with a committee against a State, provided two conditions are met: (i) the State is a party to the treaty; and (ii) the State has accepted the committee's competence to examine individual complaints.¹²⁷ There are three main procedures for bringing complaints of violations of the provisions of the human rights treaties before the human rights treaty bodies:

- (i) **Individual Communications.** Nine human rights treaty bodies may, under particular circumstances, consider individual complaints or communications from individuals.¹²⁸ Complaints may also be brought by third parties on behalf of individuals, provided they have given their written consent or where they are incapable of giving such consent.¹²⁹
- (ii) **State-to-State Complaints.** The following human rights treaties contain provisions to allow for States Parties to complain to the relevant treaty body about alleged violations of the treaty by another State Party.

¹²⁴ "Committee on Enforced Disappearances." OHCHR. Accessed March 20, 2025. <https://www.ohchr.org/en/treaty-bodies/ced>.

¹²⁵ "Committee on Economic, Social and Cultural Rights." OHCHR. Accessed March 20, 2025. <https://www.ohchr.org/en/treaty-bodies/cescr>.

¹²⁶ "Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families." OHCHR. Accessed March 20, 2025. <https://www.ohchr.org/en/treaty-bodies/cmw>.

¹²⁷ "Reporting violations." OHCHR. Accessed March 23, 2025. https://www.ohchr.org/en/reporting_violations.

¹²⁸ "Reporting violations." OHCHR.

¹²⁹ "Reporting violations." OHCHR.

- Article 21 of the CAT and Article 74 of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (CMW) set out a procedure for the relevant committee to consider complaints from one State Party that considers that another State Party is not giving effect to the provisions of the convention in question.¹³⁰ This procedure applies only to States Parties that have made a declaration accepting the competence of the committee in this regard.¹³¹
- Articles 11 – 13 of the ICERD and Articles 41 – 43 of the ICCPR set out a more elaborate procedure for the resolution of disputes between States Parties over a State's fulfillment of its obligations under the relevant convention/covenant through the establishment of an *ad hoc* conciliation commission.¹³² ¹³³ Under the ICERD, the procedure applies to all States Parties to the ICERD.¹³⁴ Under the ICCPR, the procedure applies only to States Parties that have made a declaration accepting the competence of the committee in this regard.¹³⁵
- Article 29 of the CEDAW, Article 30 of the CAT, and Article 92 of the CMW provide for disputes between States Parties concerning interpretation or application of the convention to be resolved in the first instance by negotiation or, failing that, by arbitration. One of the States involved may refer the dispute to the ICJ if the parties fail to agree to arbitration terms within six months. States Parties may exclude themselves from this procedure by making a declaration at the time of ratification or accession, in which case, in accordance with the principle of reciprocity, they are barred from bringing cases against other States Parties.¹³⁶

¹³⁰ United Nations General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, A/RES/39/46, adopted on 10 December 1984, entered into force 26 June 1987, art. 21. Accessed March 23, 2025. https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_39_46.pdf.

United Nations General Assembly. *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. A/RES/45/158, adopted on 18 December 1990, entered into force 1 July 2003), art. 74. Accessed March 23, 2025. https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_45_158.pdf.

¹³¹ *Convention against Torture*, 1984. *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, 1990.

¹³² United Nations General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, A/RES/2106, adopted on December 21, 1965, entered into force January 4, 1969, arts 11 – 13. Accessed March 23, 2025. [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_2106\(XX\).pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_2106(XX).pdf).

¹³³ United Nations General Assembly, *International Covenant on Civil and Political Rights*, A/RES/2200A, adopted on December 16, 1966, entered into force March 23, 1976, arts. 41 – 43. Accessed March 23, 2025. [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_2200A\(XXI\)_civil.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_2200A(XXI)_civil.pdf).

¹³⁴ *International Convention on the Elimination of All Forms of Racial Discrimination*, 1965.

¹³⁵ *International Covenant on Civil and Political Rights*, 1966.

¹³⁶ United Nations General Assembly. *Convention on the Elimination of All Forms of Discrimination against Women*. A/RES/34/180, December 18, 1979; entered into force September 3, 1981. Accessed March 23, 2025. https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_34_180.pdf.

Convention against Torture, 1984.

- (iii) **Inquiries.** The CAT and CEDAW may, on their own initiative, initiate inquiries if they have received reliable information containing well-founded indications of serious or systematic violations of the conventions in a State Party.¹³⁷

What is the jurisdiction of these committees?

A complaint under one of the four treaties can be brought only against a State that satisfies two conditions. First, it must be a party to the treaty in question, having ratified or otherwise accepted it. Second, the State Party must have recognized the competence of the committee established under the relevant treaty to consider complaints from non-state actors.¹³⁸

In the case of the ICCPR and CEDAW, a State recognizes the committee's competence by becoming a party to a separate treaty: the First Optional Protocol to the Covenant or the Optional Protocol to the Convention.

In the case of the CAT and CERD, States Parties recognize the committee's competence by making a declaration to that effect under a specific article of the convention, Articles 22 and 14, respectively.

2.4.1(d) Regional Human Rights Courts and Commissions

Certain regions, namely South America, Africa, and Europe, have established human rights courts and commissions that hear cases involving violations within their respective jurisdictions:

Table 2.4.1(d)

Europe	Latin America	Africa	Asia
European Court of Human Rights	Inter-American Court of Human Rights	African Court on Human and Peoples' Rights	Arab Human Rights Committee
	Inter-American Commission on Human Rights	African Commission on Human and Peoples' Rights	ASEAN Intergovernmental Commission on Human Rights

(i) European Court of Human Rights

The European Court of Human Rights (ECtHR) rules on allegations of violations of the civil and political rights that are set out in the European Convention on Human Rights.¹³⁹ As per the convention, two

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990.

¹³⁷ "Complaints about Human Rights Violations: Inter-State Communications Procedure." OHCHR. Accessed March 23, 2025. <https://www.ohchr.org/en/treaty-bodies/complaints-about-human-rights-violations#interstate>.

¹³⁸ "Complaints procedures under the human rights treaties," OHCHR. Accessed March 23, 2025. <https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures/complaints-procedures-under-human-rights-treaties>.

¹³⁹ Council of Europe. *Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)*, CETS No. 005, adopted on November 4, 1950; entered into force September 3, 1953. Accessed March 23, 2025. <https://www.refworld.org/legal/agreements/coe/1950/en/18688>.

types of applications can be made to the ECtHR: (1) individual applications lodged by any person, group of individuals, company, or NGO having a complaint about a violation of their rights; and (2) interstate applications brought by one State against another. Cases can be brought only against one or more States that have ratified the convention. Any applications against third States or individuals, for example, will be declared inadmissible.

(ii) Inter-American Commission on Human Rights

The Inter-American Commission on Human Rights (IACHR) addresses human rights conditions and violations in the thirty-five member states of the Organization of American States (OAS). Any person or group of persons or non-governmental entity legally recognized in one or more of the member states of the OAS may submit petitions to the commission on their own behalf or on behalf of third persons concerning alleged violations of a human right recognized in, as the case may be, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights “Pact of San José” and other regional treaties.^{140 141}

(iii) Inter-American Court of Human Rights

The Inter-American Court of Human Rights interprets and enforces the provisions of the *American Convention on Human Rights “Pact of San Jose, Costa Rica”*.¹⁴² The court may decide only cases brought against the twenty OAS member states that have specifically accepted the court’s jurisdiction under Article 62, and those cases must first be processed by the Inter-American Commission on Human Rights. Additionally, only States Parties and the commission may refer cases to the court.

(iv) African Court on Human and Peoples’ Rights

The African Court on Human and Peoples’ Rights is concerned with the interpretation and application of the *African Charter on Human and Peoples’ Rights* (Banjul Charter) and other instruments. Its jurisdiction extends to those States that have ratified the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights.^{143 144} The court may decide complaints against any State Party to the protocol referred to it by the African Commission on Human and Peoples’ Rights; a State Party (as respondent or petitioner in a case before the commission, or on behalf of an individual citizen); or African intergovernmental organizations.¹⁴⁵

¹⁴⁰ Organization of American States. *American Declaration of the Rights and Duties of Man*. Adopted May 2, 1948. Accessed March 23, 2025. <https://www.oas.org/juridico/english/ga-res98/eres1591.htm>

¹⁴¹ Organization of American States. *American Convention on Human Rights: “Pact of San José, Costa Rica.”* adopted November 22, 1969; entered into force July 18, 1978. Accessed March 25, 2025. <https://treaties.un.org/doc/publication/unts/volume%201144/volume-1144-i-17955-english.pdf>.

¹⁴² *American Convention on Human Rights: “Pact of San José, Costa Rica,”* 1969.

¹⁴³ Organization of African Unity. *African Charter on Human and Peoples’ Rights*, adopted on June 27, 1981; entered into force October 21, 1986. OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M 58. Accessed March 25, 2025. <https://www.refworld.org/legal/agreements/oau/1981/en/17306>.

¹⁴⁴ Organization of African Unity. *Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights*, OAU Doc. OAU/LEG/EXP/AFCHPR/PROT(III), adopted on June 10, 1998, entered into force January 25, 2004. Accessed March 25, 2025. <https://www.refworld.org/legal/constinstr/oau/1998/en/12453>.

¹⁴⁵ “Homepage.” African Commission on Human and Peoples’ Rights. Accessed March 25, 2025. <https://achpr.au.int/>.

The court also has jurisdiction to hear cases brought by individuals and non-governmental organizations with observer status before the African Commission, but only when the relevant State has accepted this jurisdiction by making a declaration under Article 34 of the protocol.

(v) African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights promotes and protects human rights in the fifty-four member states of the African Union that have ratified the *African Charter on Human and Peoples' Rights*.¹⁴⁶ The commission accepts complaints ("communications") from individuals, groups of individuals, non-governmental organizations, and States concerning alleged violations of the African Charter on Human and Peoples' Rights.

(vi) Court of Justice of the European Union

The Court of Justice of the European Union (CJEU) is the highest judicial authority within the European Union.¹⁴⁷ Its primary role is to ensure the uniform interpretation and application of European Union (EU) law across all member states and to resolve legal disputes involving EU institutions, member states, and, in certain cases, private individuals and companies. EU institutions (such as the Commission, Parliament, and Council), EU member states, national courts (via preliminary rulings), and individuals or companies (indirectly via national courts or directly before the General Court) can approach the court.

The jurisdiction of the CJEU is both direct and indirect and includes proceedings against member states for failure to fulfill an obligation; against EU institutions for failure to act or for annulment; and referrals by national courts on a preliminary ruling on the interpretation or validity of an EU law. Certain direct actions, such as those brought by or against EU institutions or concerning Commission-imposed fines, are reserved for the Court of Justice under Article 51 of its statute. The court also hears appeals from the decisions of the General Court.

2.4.2 Non-judicial grievance mechanisms

2.4.2(a) Human Rights Council¹⁴⁸

The Human Rights Council (HRC) was established by the United Nations General Assembly in 2006. It serves as the UN's primary intergovernmental body for promoting and protecting human rights globally. This multinational platform addresses human rights violations, responds to human rights emergencies, and recommends measures for implementation. It contributes to setting international human rights standards and fosters accountability through its mechanisms.

What types of complaints are admissible under the HRC complaints procedure?

¹⁴⁶ *African Charter on Human and Peoples' Rights*, 1981.

¹⁴⁷ "Court of Justice of the European Union." European Union. Accessed March 25, 2025. https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/court-justice-european-union-cjeu_en.

¹⁴⁸ "Welcome to the Human Rights Council." OHCHR. Accessed March 25, 2025. <https://www.ohchr.org/en/hr-bodies/hrc/about-council>.

The HRC will accept only a complaint that meets the following criteria:

- (a) The complaint is in writing and is submitted in one of the six official UN languages (Arabic, Chinese, English, French, Russian, and Spanish).
- (b) The complaint contains a description of the relevant facts (including names of alleged victims, dates, location, and other evidence), with as much detail as possible, and shall not exceed fifteen pages.
- (c) The complaint is not manifestly politically motivated.
- (d) The complaint is not based exclusively on reports disseminated by mass media.
- (e) The complaint is not already being dealt with by a special procedure, a treaty body, or other United Nations or similar regional complaints procedure in the field of human rights.
- (f) Domestic remedies have been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.
- (g) The complaint does not use language that is abusive or insulting.
- (h) The complaint procedure is not mandated to seek remedies in individual cases or to provide compensation to alleged victims.¹⁴⁹

What is the complaint procedure for the council?

The complaint procedure of the HRC addresses “gross and reliably attested violations of all human rights and fundamental freedoms, occurring in any part of the world and under any circumstances.”¹⁵⁰ It is a universal complaint procedure that addresses all human rights and fundamental freedoms in its member states.

Who can make a complaint and against whom?

Any individual, group of individuals, or non-governmental organization (NGO) can make a complaint.¹⁵¹ A complaint can be made against any of the 193 member states, regardless of whether they have signed a treaty or have reservations under a certain instrument.¹⁵²

What legislation applies?

Both IHRL and IHL apply. “Violations” include civil, political, economic, social, and cultural rights occurring in any part of the world and under any circumstances, including in situations of armed conflict, and breaches of international humanitarian law or threats to peace.

What is the jurisdiction of the Human Rights Council?

The HRC comprises forty-seven member states elected directly and individually by a majority of the 193 states of the UN General Assembly. While the redress mechanisms offered by the HRC are not legally enforceable, the council functions by adding pressure on member states to comply with

¹⁴⁹ “Frequently Asked Questions.” OHCHR. Accessed March 25, 2025. <https://www.ohchr.org/en/hr-bodies/hrc/complaint-procedure/faq>.

¹⁵⁰ “Human Rights Council Complaint Procedure.” OHCHR. Accessed March 25, 2025. <https://www.ohchr.org/en/hr-bodies/hrc/complaint-procedure/hrc-complaint-procedure-index>.

¹⁵¹ “Human Rights Council Complaint Procedure.” OHCHR.

¹⁵² “Human Rights Council Complaint Procedure.” OHCHR.

international human rights standards and, where appropriate, treaties and conventions to which the State is a party.

Is the complaint confidential?

The complaints procedure is confidential. That is, all the materials provided by the complainant and the State are confidential and are not made public unless the HRC decides otherwise.¹⁵³ In addition, some stages of the proceedings are confidential. Complaints cannot, however, be made anonymously.

2.4.2(b) United Nations Special Procedures

The United Nations Special Procedures are independent human rights experts or groups appointed by the HRC to address specific human rights issues or country situations.¹⁵⁴ They conduct country visits, respond to reports of violations, contribute to the development of international human rights standards, and engage in advocacy.¹⁵⁵ Any individual, group, civil society organization, intergovernmental entity, or national human rights body can submit “communications” or a complaint to the United Nations Special Procedures. The complaint procedure considers consistent patterns of gross and reliably attested human rights violations worldwide.¹⁵⁶ The Working Group on Communications and the Working Group on Situations handle written complaints and bring patterns of violations to the HRC’s attention.

¹⁵⁷ ¹⁵⁸

What is the communications procedure under UN Special Procedures?

Communications are letters sent by the Special Procedures to governments, intergovernmental organizations, businesses, or military or security companies.¹⁵⁹ These letters report on allegations of human rights violations pertaining to past human rights violations; ongoing or potential human rights violations; and concerns regarding legislation, bills, policies, or practices that do not comply with international human rights law and standards. The communication(s) request clarifications from recipients and, where necessary, request that concerned authorities take action or investigate, stop the violation, bring justice, and ensure remedies are available to the victim(s) and their families. The communications additionally identify and specify applicable human rights provisions.¹⁶⁰

Who can submit information to the Special Procedures and how?

¹⁵³ “Human Rights Council Complaint Procedure.” OHCHR.

¹⁵⁴ “Special Procedures of the Human Rights Council.” OHCHR. Accessed March 25, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council>.

¹⁵⁵ “Special Procedures of the Human Rights Council.” OHCHR.

¹⁵⁶ Refer to UN Human Rights Council, *Institution-building of the United Nations Human Rights Council*, A/HRC/RES/5/1, June 18, 2007. Accessed March 28, 2025. <https://www.refworld.org/legal/resolution/unhrc/2007/en/70503>.

¹⁵⁷ “Working Group on Communications.” OHCHR. Accessed March 28, 2025. <https://www.ohchr.org/en/hr-bodies/hrc/complaint-procedure/wg-communications>.

¹⁵⁸ “Working Group on Situations.” OHCHR. Accessed March 28, 2025. <https://www.ohchr.org/en/hr-bodies/hrc/complaint-procedure/wg-situations>.

¹⁵⁹ “What Are Communications?” OHCHR. Accessed March 28, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications>.

¹⁶⁰ “What Are Communications?” OHCHR.

Any individual, group, civil society organization, intergovernmental entity, or national human rights body can submit information to the Special Procedures via the [Special Procedures Submission online form](#).¹⁶¹ ¹⁶² The online form is recommended because it includes categories of information required by experts to examine a case and, if criteria are met, to proceed.

The criteria applied to act on a submission are set out in the Special Procedures Code of Conduct.¹⁶³ This code stipulates that the submission should not be politically motivated or abusive, should contain a factual description of the alleged human rights abuses, should not rely exclusively on media reports, and should be submitted on the basis of credible and detailed information.

What legislation applies?

The Special Procedures considers IHRL wherever applicable for the submission.

2.4.2.(c) Special Rapporteurs¹⁶⁴

Special Rapporteurs are independent human rights experts appointed by the UN Human Rights Council to monitor, investigate, and report on specific human rights issues or country situations. Working independently and supported by the OHCHR, they engage with governments and civil society, conduct country visits, prepare annual thematic reports, and address individual cases through formal communications.

The complaint procedure, called “communications,” involves sending formal letters to governments, intergovernmental organizations, businesses, or other entities regarding allegations of human rights violations. These may concern past, ongoing, or potential violations, as well as laws or policies that conflict with international human rights standards. The aim is to alert authorities, request prevention and remedies, and raise awareness through reporting to the UN Human Rights Council.¹⁶⁵

Who can submit a complaint and how?

Any individual, group, civil-society organization, inter-governmental entity or national human rights bodies can submit a complaint to the special rapporteur through an [online form](#).

What is the criteria they apply to act on a submission?

Special Rapporteurs determine their course of action based on their Code of Conduct and the following general criteria:

- (a) The complaint must not be manifestly unfounded or politically motivated.
- (b) It must contain a factual, credible, and detailed description of the alleged human rights violations.

¹⁶¹ “What Are Communications?” OHCHR.

¹⁶² The form can be found at the bottom of the page.

¹⁶³ United Nations Human Rights Council, *Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council*, A/HRC/5/L.3/Rev.1, adopted June 18, 2007. <https://docs.un.org/en/A/HRC/5/L.3/REV.1>

¹⁶⁴ “Special Procedures of the Human Rights Council.” OHCHR.

¹⁶⁵ “What Are Communications?” OHCHR.

- (c) Abusive language should be avoided.
- (d) The complaint should not rely solely on mass media reports.¹⁶⁶

Please note that this complaint procedure does not require:

- (a) The concerned State to have ratified an international or regional human rights treaty.
- (b) The alleged victim to have exhausted domestic remedies before submitting a communication.¹⁶⁷

Relevant Special Rapporteurs to note:¹⁶⁸

1. [Special Rapporteur in the field of cultural rights](#)
2. [Special Rapporteur on the right to development](#)
3. [Special Rapporteur on the rights of persons with disabilities](#)
4. [Special Rapporteur on the right to education](#)
5. [Special Rapporteur on extrajudicial, summary or arbitrary executions](#)
6. [Special Rapporteur on the right to food](#)
7. [Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#)
8. [Special Rapporteur on the rights to freedom of peaceful assembly and of association](#)
9. [Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health](#)
10. [Special Rapporteur on the promotion and protection of human rights in the context of climate change](#)
11. [Special Rapporteur on the human right to a clean, healthy and sustainable environment](#)
12. [Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes](#)
13. [Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context](#)
14. [Special Rapporteur on the situation of human rights defenders](#)
15. [Special Rapporteur on the independence of judges and lawyers](#)
16. [Special Rapporteur on the rights of Indigenous Peoples](#)
17. [Special Rapporteur on the human rights of internally displaced persons](#)
18. [Special Rapporteur on the elimination of discrimination against persons affected by leprosy \(Hansen's disease\) and their family members](#)
19. [Special Rapporteur on the human rights of migrants](#)
20. [Special Rapporteur on minority issues](#)
21. [Special Rapporteur on extreme poverty and human rights](#)
22. [Special Rapporteur on the right to privacy](#)
23. [Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance](#)
24. [Special Rapporteur on freedom of religion or belief](#)
25. [Special Rapporteur on the sale, sexual exploitation and sexual abuse of children](#)
26. [Special Rapporteur on contemporary forms of slavery, including its causes and its consequences](#)
27. [Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism](#)
28. [Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment](#)
29. [Special Rapporteur on trafficking in persons, especially women and children](#)

¹⁶⁶ *Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council*, 2007.

¹⁶⁷ "What Are Communications?" OHCHR.

¹⁶⁸ "Current and Former Mandate Holders (Existing Mandates)." OHCHR. Accessed March 28, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/current-and-former-mandate-holders-existing-mandates>.

30. [Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence](#)
31. [Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights](#)
32. [Special Rapporteur on violence against women and girls, its causes and consequences](#)
33. [Special Rapporteur on the human rights to safe drinking water and sanitation](#)
34. [Special Rapporteur on the independence of judges and lawyers](#)

Country mandates for the Asia-Pacific:¹⁶⁹

1. [Special Rapporteur on the situation of human rights in Afghanistan](#)
2. [Special Rapporteur on the situation of human rights in Cambodia](#)
3. [Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea](#)
4. [Special Rapporteur on the situation of human rights in the Islamic Republic of Iran](#)
5. [Special Rapporteur on the situation of human rights in Myanmar](#)
6. [Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967](#)
7. [Special Rapporteur on the situation of human rights in the Russian Federation](#)

2.4.2(d) Universal Periodic Review (UPR)¹⁷⁰

The Human Rights Council conducts UPRs (or peer reviews) on the human rights records of all 193 UN member states. The UPR was established together with the HRC on March 15, 2006, by the General Assembly in accordance with resolution 60/251. Each year, the UPR Working Group has three sessions in which fourteen States are reviewed in each session. Since the first UPR occurred in 2008, all 193 member states have been peer-reviewed three times.¹⁷¹

Who conducts the UPR?

The UPR is conducted by a UPR Working Group comprising the forty-seven members of the HRC. The review is conducted with the assistance of a group of three states, known as *troikas* or rapporteurs.¹⁷²

173

What is the basis of the UPR?

The basis of the UPR is:

- (i) The [Charter of United Nations](#);
- (ii) The [Universal Declaration of Human Rights](#);
- (iii) human rights instruments (ratified by the State);
- (iv) voluntary pledges and commitments (national human rights policies/programs implemented) made by States (including those made during their candidatures for election to the council); and

¹⁶⁹ "Current and Former Mandate Holders (Existing Mandates)." OHCHR.

¹⁷⁰ "Universal Periodic Review." OHCHR. Accessed March 28, 2025. <https://www.ohchr.org/en/hr-bodies/upr/upr-home>.

¹⁷¹ "Universal Periodic Review." OHCHR.

¹⁷² The selection of *troikas* for each State is done by drawing lots following elections for Council at the General Assembly.

¹⁷³ "Basic Facts about the UPR." OHCHR. Accessed March 28, 2025. <https://www.ohchr.org/en/hr-bodies/upr/basic-facts>.

- (v) applicable international humanitarian law.¹⁷⁴

The documents prepared and examined during the UPR include:

- (i) information prepared by the State concerned, which may take the form of a national report;
- (ii) any other information (separate from the report) considered relevant, which may be delivered orally or in writing.¹⁷⁵
- (iii) a compilation prepared by the OHCHR that contains reports of treaty bodies and reports by independent human rights experts and groups (known as [Special Procedures](#)), including observations and comments made by the State concerned; and
- (iv) credible and reliable documents/information shared by other stakeholders (including national human rights institutions and NGOs), a summary of which will be shared by the OHCHR.¹⁷⁶

What legislation applies?

Aside from international human rights law, the UPR also considers applicable international humanitarian law, since it tends to overlap with international human rights law.

How can other stakeholders, aside from the State, participate in or contribute to the UPR?¹⁷⁷

According to *Human Rights Council Resolution 5/1*, the UPR must ensure the participation of relevant stakeholders, including national human rights institutions and non-governmental organizations (NGOs) in accordance with the [General Assembly resolution 60/251](#) and the [Economic and Social Council resolution 1996/31](#).¹⁷⁸

The following stakeholders can contribute to the review in the following ways:

- (i) The State subject to the UPR may undertake a consultation process before submitting its national report.
- (ii) Stakeholders may submit “additional, credible and reliable information” to the UPR, which will be compiled by the OHCHR.
- (iii) Stakeholders may attend the review of the working group.¹⁷⁹
- (iv) Before the adoption of the outcome report, stakeholders are offered the opportunity to share general comments.
- (v) The outcome should, as appropriate, also be implemented by relevant stakeholders.

¹⁷⁴ Office of the United Nations High Commissioner for Human Rights. *Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism* [as of July 2008]. Geneva: UN OHCHR, July 2008. Accessed March 28, 2025. <https://www.ohchr.org/sites/default/files/HRBodies/UPR/Documents/TechnicalGuideEN.pdf>.

¹⁷⁵ The separate written submission must not exceed 20 pages. States are also encouraged to submit these documents after a broad consultation process with relevant stakeholders at a national level.

¹⁷⁶ Ibid.

¹⁷⁷ The United Nations Human Rights Council. *Organizational and Procedural Matters, Human Rights Bodies and Mechanisms, Universal Periodic Review: Follow-up to Human Rights Council Resolution 5/1: Draft Decision Submitted by the President*. A/HRC/6/L.24, September 24, 2007. Geneva: United Nations. Accessed March 28, 2025. <https://documents.un.org/doc/undoc/ltd/g07/143/22/pdf/g0714322.pdf> and the *Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism*, 2008 is useful in this regard.

¹⁷⁸ *Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism*, 2008.

¹⁷⁹ However, stakeholders cannot actively participate in the interactive dialogue.

2.4.2(e) National Human Rights Institution (NHRI) / National Human Rights Commission (NHRC) (regional)

NHRIs and NHRCs are independent bodies mandated to monitor, promote, and protect human rights at the national level. While their structures and powers vary, they commonly handle complaints, conduct investigations, issue advisory opinions, and publish reports. As accessible, non-judicial forums, they play a vital role in providing redress where judicial remedies are unavailable or delayed. Many have the power to recommend remedies, facilitate mediation, or refer cases to competent authorities. Their effectiveness is assessed against the [Paris Principles](#). Increasingly, NHRIs also address extraterritorial human rights concerns—particularly in the areas of business, the environment, and migration—thereby helping to bridge the gap between victims and State accountability.

2.4.3 Other mechanisms

2.4.3(a) Human Rights Council Advisory Committee (HRCAC)

The HRCAC was established following HRC Resolution 5/1 and was set up to serve as the “think tank” of the HRC. The HRCAC provides the HRC with expert advice (focusing on studies and research) in the manner and form requested by it. It focuses on implementation-based advice and proposes suggestions for further research proposals, limited to thematic issues under the HRC’s mandates.¹⁸⁰ It does not adopt any resolution or decision. The HRCAC is composed of eighteen independent experts from regions across the world. Members of the HRCAC are required to serve for a period of three years and can be reelected once. The HRCAC chair presents their annual report to the HRC, which is followed by an interactive dialogue with States and United Nations Economic and Social Council (ECOSOC)-accredited NGOs.¹⁸¹

Does the HRCAC interact with other stakeholders?¹⁸²

For the purpose of its research, the HRCAC relies on and gathers data and information from various stakeholders, including member states, international organizations, NHRIs, and non-governmental organizations (NGOs).¹⁸³

2.4.3(b) International Law Commission (ILC)¹⁸⁴

The ILC, established by *UN General Assembly Resolution 174* in November 1947, aims to codify international law and address issues in public and private international law, fulfilling the obligations of Article 13(1) of the UN Charter. Upon General Assembly request, the ILC appoints a special rapporteur

¹⁸⁰ “Advisory Committee.” OHCHR. Accessed March 28, 2025. <https://www.ohchr.org/en/hr-bodies/hrc/advisory-committee/hrcac-index>.

¹⁸¹ “Advisory Committee – Membership.” OHCHR. Accessed March 28, 2025. <https://www.ohchr.org/en/hr-bodies/hrc/advisory-committee/members>.

¹⁸² Office of the United Nations High Commissioner for Human Rights. *How Research Leads to Action: Celebrating the 10th Anniversary of the Advisory Committee of the Human Rights Council*. Geneva: UN OHCHR, 2018. Accessed March 28, 2025. <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/AdvisoryCom/HowResearchLeadsAction.pdf>

¹⁸³ “Information Note for Ngos on the Human Rights Council Advisory Committee.” OHCHR. Accessed March 28, 2025. <https://www.ohchr.org/en/hr-bodies/hrc/advisory-committee/ngo-participation>.

¹⁸⁴ “About.” International Law Commission. Accessed March 28, 2025. <https://legal.un.org/ilc/>.

to gather submissions from member states and publishes reports that refine and codify international law, thereby strengthening access to justice.

2.5 Key Questions and Issues

2.5.1 What is the primary difference between IHL and IHRL?¹⁸⁵

The primary difference between IHL and IHRL is that IHL applies in international and non-international armed conflict, while IHRL applies at all times, during times of armed conflict as well as peace. Further, IHRL allows a State to suspend certain human rights if it is facing an emergency. IHL cannot be suspended except as provided under Article 5 of the Fourth Geneva Convention.

2.5.2 Who is a victim of violations under IHL and IHRL?

Principle 8 of the *UN Basic Principles and Guidelines 2005* introduced significant changes to the right-to-remedy discourse by recognizing four distinct types of victims:

- (b) direct victims;
- (c) collective victims;
- (d) dependents or family of direct victims; and
- (e) individuals injured while intervening to assist victims.¹⁸⁶

The *UN Basic Principles and Guidelines 2005* recognize the importance of acknowledging a victim's status and refraining from victim-blaming. They obligate States and other entities to treat victims with humanity, respect, and dignity, ensuring their safety, privacy, and that of their families.

2.5.3 What constitutes a gross violation of IHRL and a serious violation of IHL?

A serious violation occurs in the context of war and endangers protected persons, objects, or important values. Serious violations of IHL include:

- (i) grave breaches as specified under the four *Geneva Conventions of 1949* (Articles 50, 51, 130, and 147 of Conventions I, II, III, and IV, respectively);
- (ii) grave breaches as specified under 11 and 85);
- (iii) war crimes as specified under Article 8 of the *Rome Statute of the International Criminal Court*; and
- (iv) other war crimes in international and non-international armed conflicts in customary international humanitarian law.¹⁸⁷

¹⁸⁵ Additional Notes. While IHRL serves as a source for substantive International Criminal Law, caution is advised in directly transposing every rule of IHRL into ICL due to structural differences between human rights law and international humanitarian law (IHL).

¹⁸⁶ They are direct and collective victims that suffered harm including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law.

¹⁸⁷ "What Are 'Serious Violations of International Humanitarian Law'? Explanatory Note." International Committee of Red Cross. Accessed April 2, 2025. <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/2012/att-what-are-serious-violations-of-ihl-icrc.pdf>.

There is no universally accepted definition of the term “gross violation” of human rights under IHRL, nor is there a formally determined content of the concept itself.¹⁸⁸ However, gross violations of IHRL generally include a violation of civil and political rights as well as social, economic, and cultural rights. Paragraph 30 of the UN *Vienna Declaration and Programme of Action* provides that:

... [gross and systemic] violations and obstacles include, as well as torture and cruel, inhuman and degrading treatment or punishment, summary and arbitrary executions, disappearances, arbitrary detentions, all forms of racism, racial discrimination and apartheid, foreign occupation and alien domination, xenophobia, poverty, hunger and other denials of economic, social and cultural rights, religious intolerance, terrorism, discrimination against women and lack of the rule of law.¹⁸⁹

Further assistance in defining “gross violation” is provided by Stanislav Chernichenko stated that “*gross and large-scale human rights violations ... [should include] murder, including arbitrary execution; torture; genocide; apartheid; discrimination on racial, national, ethnic, linguistic, or religious grounds; establishing or maintaining over persons the status of slavery, servitude, or forced labour; enforced or involuntary disappearances; arbitrary and prolonged detention; deportation or forcible transfer of population*”.¹⁹⁰

The International Law Commission Commentary on Article 40 of the *Draft Articles on Responsibility of States for Internationally Wrongful Acts*, stipulates that there are two criteria in assessing whether the gravity of a given violation amounts to a “gross violation” of human rights: (i) “*the character of the obligation breached*” and (ii) “*the intensity of the breach*.”^{191 192}

The *travaux préparatoires* and the subsequent practice under *ECOSOC Resolution 1503 (XLVIII)*, also known as the “1503 procedure” (which is considered the oldest human rights complaint mechanism), define the term “patterns of gross violation” as those violations that were so severe that they could not

¹⁸⁸ Roger-Claude Liwanga, “The Meaning of Gross Violation of Human Rights: A Focus on International Tribunals’ Decisions over the DRC Conflicts,” *Denver Journal of International Law and Policy* 44 (2015): 67–104. Accessed April 2, 2025. <https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1028&context=djilp>

¹⁸⁹ World Conference on Human Rights. *Vienna Declaration and Programme of Action*, adopted on June 25, 1993. Accessed April 2, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action>

¹⁹⁰ United Nations Economic and Social Council. *Expanded Working Paper Submitted by Mr. Stanislav Chernichenko in Accordance with Decision 1996/116 of 29 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities*. E/CN.4/Sub.2/1997/29, May 28, 1997. Accessed April 2, 2025. <https://www.refworld.org/reference/themreport/unsubcom/1997/en/39846>

¹⁹¹ International Law Commission. *Draft Articles on Responsibility of States for Internationally Wrongful Acts*. Supplement No. 10 (A/56/10), ch. IV.E.1. November 2001. Accessed April 2, 2025. <https://www.refworld.org/legal/otherinstr/ilc/2001/en/20951>.

¹⁹² International Law Commission. *Draft Articles on Responsibility of States for Internationally Wrongful Acts*, UN Doc. A/56/10. Accessed April 5, 2025. https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf

Note however, In the discourse surrounding types of violations, there were assertions that it undermined its relevance to victims and that it failed to address the substantive claims of human rights and international humanitarian law or clearly define their scopes. Despite resistance, there was recognition of a normative connection between the right to reparation in both IHRL and IHL, as evidenced by overlapping norms and shared human values.

be considered as falling exclusively within domestic jurisdiction.¹⁹³ A “*pattern of gross and reliably attested violations of human rights*” includes several victims and multiple breaches over a short period of time that are inhuman or degrading in character. This can also imply the existence of an element of planning.¹⁹⁴

In addition to quality, quantity, time, and planning, the seriousness of a violation can be assessed by considering the failure of the State to initiate prosecutions, to ensure judicial or administrative measures to prosecute the perpetrators of the violation, and/or to take other measures to prevent the continual occurrence of atrocities.¹⁹⁵

2.5.4 Who can be held liable for violations of IHL and IHRL?

a. IHRL

IHRL stipulates obligations that States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, protect, and fulfill human rights. The obligation to respect requires States Parties to refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States Parties to protect individuals and groups against human rights abuses.¹⁹⁶

If a human rights violation occurs in a State that has committed to respect and guarantee human rights within one of the regional human rights regimes or the UN regime, the affected person could present their case before an international forum that could declare the international responsibility of the State for that violation. Once the legal process is completed, the competent international human rights authority would be able to sanction the State.

b. International Humanitarian Law

(i) State Actors

(ii) Non-State Actors

Armed groups	opposition	Rule 139 of CIHL
Individuals		Rules 151, 154, and 155 of CIHL Article 25 of the Rome Statute Article 50 of Geneva Convention I Article 51 of Geneva Convention II

¹⁹³ United Nations Economic and Social Council, *Procedure for Dealing with Communications Relating to Violations of Human Rights and Fundamental Freedoms*, E/RES/1503(XLVIII). Adopted May 27, 1970. Accessed April 5, 2025. <https://digitallibrary.un.org/record/214705?v=pdf>

¹⁹⁴ Rathgeber, Theodor. “Complaints Procedure: Human Rights Council.” In *Max Planck Encyclopedia of International Procedural Law*, 2024, sec. 4, 47–48. Accessed April 10, 2025. <https://opil.ouplaw.com/display/10.1093/law-mpeipro/e1610.013.1610/law-mpeipro-e1610>.

¹⁹⁵ Liwanga, “Meaning of Gross Violation of Human Rights.”

¹⁹⁶ “International Human Rights Law.” OHCHR. Accessed April 10, 2025. <https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>.

	Article 130 of Geneva Convention III Article 147 of Geneva Convention IV Articles 86(2) and 87 of Additional Protocol I to the Geneva Conventions
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At present, international corporations cannot be held liable for violations of IHL and IHRL. However, some jurisdictions have developed domestic laws to guarantee and enforce certain human rights as well as to hold corporations and companies liable for the human rights violations.¹⁹⁷

2.5.5 What are the requirements for accessing international mechanisms?

Claudio Grossman Guiloff's article "*Reparation to Individuals for Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*," identifies three forums where individuals can seek reparations: *domestic*, *interstate*, and *international*. Guiloff explains that at the domestic level, certain violations of IHRL and IHL may be brought before the courts of the State allegedly responsible. Access to international mechanisms, however, often requires the exhaustion of domestic remedies to prevent misuse of international procedures.

2.5.6 What are the criteria to assess the exhaustion of domestic remedies?

According to the Human Rights Council FAQs, if a State Party is allegedly in violation of a human right, a communication claiming exhaustion of domestic remedies must include documentary proof that all remedies have been pursued, unless they are ineffective or unduly prolonged. Exceptions apply, such as when there is no independent judiciary, access to remedies is denied, or due process is restricted. If the State Party contends that not all remedies have been exhausted, it may be asked to clarify what effective remedies are available to the victim in the particular case.¹⁹⁸

2.5.7 Locus Standi

The locus standi for each committee/court/tribunal is outlined in section 2.4, "Forums."

2.5.8 Extraterritorial application¹⁹⁹

This concept is crucial when discussing situations where a State Party is held accountable for human rights violations even when they occur outside its borders. The issue of the extraterritorial application of human rights laws has been a contentious topic, balancing considerations of universality against the

¹⁹⁷ Dr. Jennifer Zerk. *Corporate Liability for Gross Human Rights Abuses: Towards a Fairer and More Effective System of Domestic Law Remedies*. Report prepared for the Office of the United Nations High Commissioner for Human Rights. Geneva: OHCHR, 2012. Accessed April 10, 2025. <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/DomesticLawRemedies/StudyDomesticLawRemedies.pdf>

¹⁹⁸ "Frequently Asked Questions." OHCHR. "Frequently Asked Questions." OHCHR. Accessed April 10, 2025. <https://www.ohchr.org/en/hr-bodies/hrc/complaint-procedure/faq>.

¹⁹⁹ Philipp Janig, "Extraterritorial Application of Human Rights," in *Elgar Encyclopedia of Human Rights*, vol. II, ed. Christina Binder, Manfred Nowak, Jane A. Hofbauer, and Philipp Janig (Edward Elgar Publishing), 2021, 180 – 191. Accessed April 13, 2025. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3906741#:~:text=Philipp%20Janig,-Bundeswehr%20University%20Munich&text=The%20extraterritorial%20application%20of%20human,lead%20to%20such%20extraterritorial%20obligations.

limitations of State willingness and capacity. Different forums, including universal and regional systems, have approached this issue with varying degrees of uniformity. While treaty bodies have shown some divergence in their approaches, there has been a clear trend toward gradually expanding the territorial reach of treaties, with mutual reinforcement of legal reasoning among these bodies.

This expansion has been motivated by efforts to prevent arbitrary distinctions between similar circumstances. For instance, the “all-or-nothing” approach regarding territory aims to avoid situations where States could evade human rights responsibilities merely because certain actions occur outside their borders. The personal model of jurisdiction has evolved into a functional understanding, considering the capability of States to affect and protect human rights rather than solely focusing on factual control or legal authority over individuals.

Treaty bodies increasingly consider States’ commitments under other fields of international law to substantiate a “jurisdictional link,” drawing on areas such as the law of the sea or international environmental law. This approach broadens the scope of human rights considerations into traditionally interstate matters, emphasizing States’ obligations even in regulatory conduct abroad.

Lawyers play a crucial role in helping victims seek justice by navigating these complex legal frameworks, advocating for their rights, and potentially challenging arbitrary distinctions or limitations in jurisdictional interpretations.

2.6 Cases

Permanent Court of International Justice Case

The now-defunct Permanent Court of International Justice (PCIJ) played a significant role in affirming the principle of State responsibility for making reparations for its acts or omissions. In the *Case Concerning the Factory at Chorzów* 1928 PCIJ Series A No. 17, as discussed in chapter 1, the PCIJ emphasized this principle by stating that the breach of an engagement entails an obligation to provide reparations in an adequate form.²⁰⁰ This ruling underscored the idea that reparation is an essential component of addressing a failure to fulfill international obligations.

The PCIJ’s pronouncement in the *Chorzów Factory* case reaffirmed a fundamental principle of international law: that when a State violates its commitments under international agreements or customary law, it incurs an obligation to provide reparations. Importantly, the PCIJ clarified that this obligation exists independently of whether the obligation to provide reparations is explicitly stated in the relevant convention or treaty. By emphasizing the duty of States to provide reparations for their wrongful

²⁰⁰ *Case concerning the Factory at Chorzow (Germany v. Poland)*, Permanent Court of International Justice, Series A. No. 17, September 13, 1928. https://www.icj-cij.org/sites/default/files/permanent-court-of-international-justice/serie_A/A_17/54_Usine_de_Chorzow_Fond_Arret.pdf

acts or omissions, the PCIJ's decision in the *Chorzów Factory* case contributed to the development of international law governing State responsibility.

Inter-American Court of Human Rights Case

The jurisprudence of the Inter-American Court of Human Rights (IACtHR) has established significant obligations for States Parties regarding human rights violations. The court's landmark decision in *Case of Velásquez-Rodríguez v. Honduras* (the *Velasquez-Rodriguez* case) set the precedent that States must prevent, investigate, and punish violations of human rights recognized by the American Convention on Human Rights (ACHR).²⁰¹ This includes serious violations such as torture, extrajudicial executions, and forced disappearances, which must be investigated thoroughly, with those responsible brought to justice.

The court interpreted Article 1(1) of the ACHR in conjunction with other articles to imply that States have a legal duty to take reasonable steps to prevent human rights violations, conduct serious investigations, identify those responsible, impose appropriate punishment, and ensure adequate compensation for victims. This obligation persists regardless of changes in government and applies even to isolated violations.

However, the exact scope of the obligation to respect and ensure human rights is subject to debate, particularly concerning whether it entails a duty to conduct criminal proceedings. While the court's rulings emphasize the need for effective investigations and punishment, they do not always explicitly mandate criminal prosecutions. Instead, the obligation allows for various forms of disciplinary action or punishment if they fulfill the broader notion of "punishment" and meet the standards of due diligence.

Nevertheless, the court and the Inter-American Commission have established criteria regarding the permissibility of noncriminal responses, particularly concerning the right to a remedy and the right to a judicial process. For example, blanket amnesties have been deemed incompatible with the obligations under the convention, as evidenced by the jurisprudence regarding amnesty laws in several jurisdictions, such as El Salvador, Argentina, Uruguay, and Peru.

European Court of Human Rights Cases

In cases such as *Selmouni v. France* (Application. No. 25803/94), the ECtHR emphasized the need for effective investigations capable of identifying and punishing those responsible for human rights violations.²⁰²

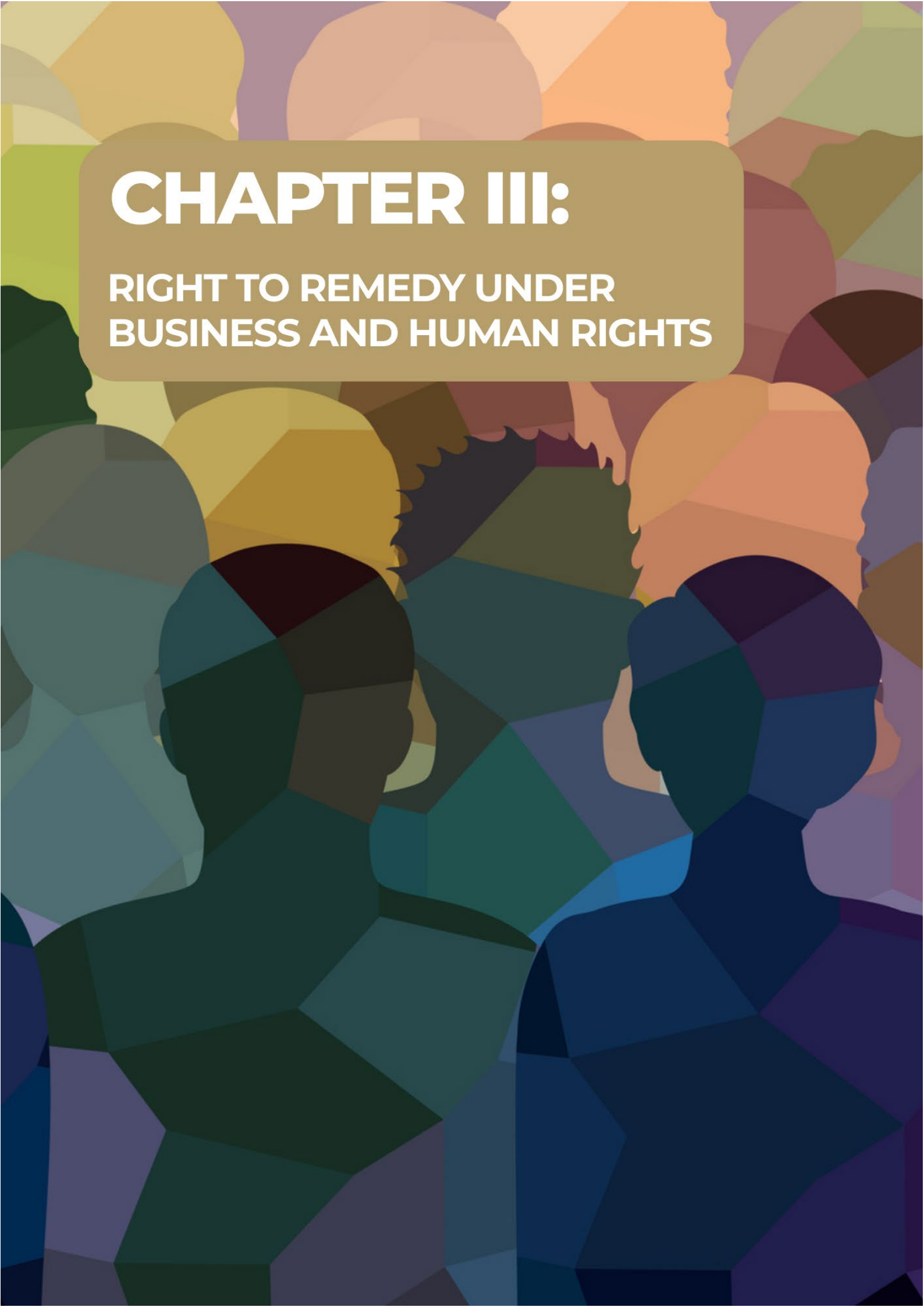
²⁰¹ *Velásquez-Rodríguez v. Honduras*, Inter-Am. Ct. H.R. (ser. C) No. 4, July 29, 1988.

<https://www.refworld.org/jurisprudence/caselaw/iacrthr/1988/en/39420>

²⁰² *Case of Selmouni v. France*, European Court of Human Rights, App. No. 25803/94, July 28, 1999. [https://hudoc.echr.coe.int/fre#{"%22itemid%22:\[%22001-58287%22\]}](https://hudoc.echr.coe.int/fre#{)

In *Al-Adsani v. United Kingdom* (Application No. 35763/97), the ECtHR reiterated the importance of effective remedies for victims of torture.²⁰³ However, it did not find the UK in breach of its obligations under the ECtHR for granting immunity to Kuwaiti authorities in a civil suit for damages related to acts of torture. The court distinguished between criminal and civil liability, indicating that State immunity from civil suits in another State's courts for acts of torture remains a matter of international law.

²⁰³ *Case of Al-Adsani v. United Kingdom*, European Court of Human Rights, Application No. 35763/97, November 21, 2001. <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-59885%22%5D%7D>

The background of the entire page is a complex, abstract composition. It features a dense arrangement of overlapping, low-poly geometric shapes in a variety of colors, including shades of yellow, orange, green, blue, and purple. In the foreground, there are several dark, stylized silhouettes of human figures, some facing forward and others in profile, creating a sense of a crowd or a group of people. The overall aesthetic is modern and graphic.

CHAPTER III:

RIGHT TO REMEDY UNDER BUSINESS AND HUMAN RIGHTS

CHAPTER 3: RIGHT TO REMEDY UNDER BUSINESS AND HUMAN RIGHTS

Contents

3.1 [International Frameworks governing business and human rights](#)

3.2 [Major instruments governing business and human rights](#)

3.3. [ILO Conventions](#)

3.4. [Forums](#)

3.1 International frameworks governing business and human rights

Business rights are a growing area of international law. There are multiple soft laws that have touched upon business and human rights. However, there are only a limited number of human rights frameworks relating to business rights. Most key issues related to business and human rights, such as employment and labor, gender, child labor, and forced labor, fall within the ambit of other international laws and covenants, such as the ICCPR, ICESCR, and conventions of the International Labour Organization (ILO.)

3.2 Major instruments governing business and human rights

(a) Table 3.2. International Instruments

Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, 2011 ²⁰⁴	OECD Guidelines for Multinational Enterprises, 1976 ²⁰⁵
Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), 1977 ²⁰⁶	

3.2.1 United Nations Guiding Principles on Business and Human Rights, 2011

Adopted by the United Nations Human Rights Council, the *United Nations Guiding Principles on Business and Human Rights* (UNGPs) provide a global standard for preventing and addressing the risk of adverse human rights impacts linked to business activities.²⁰⁷ The UNGPs consist of three pillars that comprise thirty-one principles and comments applicable to jurisdictions and corporations across the world.²⁰⁸

²⁰⁴ United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework* (New York: United Nations, 2011). Accessed April 16, 2025. https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

²⁰⁵ Organization for Economic Co-operation and Development (OECD), *OECD Guidelines for Multinational Enterprises* (Paris: OECD, 1976). Accessed April 16, 2025. https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/06/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_a0b49990/81f92357-en.pdf

²⁰⁶ International Labour Organization (ILO), *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration)* (Geneva: ILO, 1977). Accessed April 16, 2025. <https://www.ilo.org/publications/tripartite-declaration-principles-concerning-multinational-enterprises-and-3>

²⁰⁷ LAWASIA, *Toolkit on Business and Human Rights: A Guide for Lawyers in the Asia Pacific (LAWASIA Toolkit)* (LAWASIA, 2019). Accessed April 16, 2025. <https://lawasia.asn.au/sites/default/files/2019-11/LAWASIA%20Business%20and%20Human%20Rights%20Toolkit%2029-10-2019.pdf>

²⁰⁸ “Brochure on UN Guiding Principles on Business and Human Rights.” UNDP. Accessed April 16, 2025. <https://www.undp.org/sites/g/files/zskgke326/files/migration/in/UNGP-Brochure.pdf>.

Table 3.2.1. Three pillars of UNGP

THE STATE DUTY TO PROTECT HUMAN RIGHTS	THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS	ACCESS TO REMEDY
• Enact and enforce laws to prevent corporate abuse. • Monitor business activities and ensure access to remedies. • Promote human rights in trade, investment, and procurement policies.	• Adopt a human rights policy. • Conduct human rights due diligence to identify, prevent, mitigate, and account for impacts. • Remediate harm they cause or contribute to.	• States must ensure access to judicial and non-judicial remedies. • Companies should establish grievance mechanisms (e.g., complaint systems, mediation).

It may be noted that, though not technically enforceable, failure to comply with the UNGP may create an issue under chapter IV of the *OECD Guidelines for Multinational Enterprises* (OECD Guidelines) and could be raised as a grievance under the OECD National Contact Points (NCP.)²⁰⁹ The OECD Guidelines and the NCPs are discussed below.

3.2.2 OECD Guidelines for Multinational Enterprises

Updated in 2023, the OECD Guidelines “*aim to encourage positive contributions enterprises can make to economic, environmental and social progress, and to minimise adverse impacts on matters covered by the Guidelines that may be associated with an enterprise’s operations, products and service.*” To date, fifty-one States have adhered to the OECD Guidelines.

Chapter IV of the OECD Guidelines creates certain human rights obligations on multinational enterprises. The OECD Guidelines align with the UNGPs and the *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* (MNE Declaration.) The OECD Guidelines require multinational enterprises (MNEs) to:

Table 3.2.2. OECD Guidelines

1.	Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
2.	Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.

²⁰⁹ Organization for Economic Co-operation and Development, *National Contact Points for Responsible Business Conduct*, OECD website. Accessed April 16, 2025. <https://mneguidelines.oecd.org/ncps/>

3.	Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products, or services by a business relationship, even if they do not contribute to those impacts.
4.	Have a publicly available policy commitment to respect human rights.
5.	Carry out human rights due diligence as appropriate to their size, the nature and context of operations, and the severity of the risks of adverse human rights impacts
6.	Provide for or cooperate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

3.2.3 Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, 1977 (MNE Declaration)

The MNE Declaration provides direct guidance to MNEs on social policy and inclusive, responsible, and sustainable workplace practices. Amended in 2022, the MNE Declaration contains general policies and also addresses key areas such as employment creation and training; conditions of work and life (i.e., wages, social security, and occupational safety); freedom of association and collective bargaining; and non-discrimination and equal opportunity.

3.3 ILO Conventions

While the ILO conventions are binding on member states and not MNEs, it would be remiss not to mention the major conventions of the ILO that set the standard for major human rights issues concerning businesses, such as employment and labor, gender, child labor, forced labor, and equal remuneration. While the ILO has [191 Conventions, 9 Protocols and 208 Recommendations](#), the following are the fundamental instruments and governance (priority) conventions of the ILO.²¹⁰

Table 3.3.1 Key instruments of ILO

Forced Labour Convention (No. 29), 1930 ²¹¹ and the Protocol of 2014 to the Forced Labour Convention 1930, 2014 ²¹²	Labour Inspection Convention, 1947 (No. 81) ²¹³
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²¹⁰ "List of Instruments." International Labour Organization. Accessed April 20, 2025. https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12200:0::NO::

²¹¹ International Labour Organization (ILO). *Forced Labour Convention, 1930 (No. 29)*. Adopted June 28, 1930. Entered into force May 1, 1932. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C029:NO

²¹² International Labour Organization (ILO), *Protocol of 2014 to the Forced Labour Convention, 1930*, adopted June 11, 2014, entered into force November 9, 2016. Accessed April 20, 2025. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:P029:NO

²¹³ International Labour Organization (ILO), *Labour Inspection Convention, 1947 (No. 81)*, adopted July 11, 1947, entered into force April 7, 1950. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C081:NO

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) ²¹⁴	Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ²¹⁵
Equal Remuneration Convention, 1951 (No. 100) ²¹⁶	Abolition of Forced Labour Convention, 1957 (No. 105) ²¹⁷
Discrimination (Employment and Occupation) Convention (No. 111), 1958 ²¹⁸	Employment Policy Convention, 1964 (No. 122) ²¹⁹
Labour Inspection Convention, 1947 (No. 81) ²²⁰	Minimum Age Convention (No. 138), 1973 ²²¹
Occupational Safety and Health Convention, 1981 (No. 155) ²²²	Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) ²²³
Worst Forms of Child Labour Convention, 1999 (No. 182) ²²⁴	Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) ²²⁵

3.4 Forums

3.4.1 OECD National Contact Points for Responsible Business Conduct

²¹⁴ International Labour Organization, *Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*, adopted July 9, 1948, entered into force July 4, 1950. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C087:NO

²¹⁵ International Labour Organization, *Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*, adopted July 1, 1949, entered into force July 18, 1951. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C098:NO

²¹⁶ International Labour Organization, *Equal Remuneration Convention, 1951 (No. 100)*, adopted June 29, 1951, entered into force May 23, 1953. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C100:NO

²¹⁷ International Labour Organization, *Abolition of Forced Labour Convention, 1957 (No. 105)*, adopted June 25, 1957, entered into force January 17, 1959. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C105:NO

²¹⁸ International Labour Organization, *Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*, adopted June 25, 1958, entered into force June 15, 1960. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C111:NO

²¹⁹ International Labour Organization, *Employment Policy Convention, 1964 (No. 122)*, adopted July 9, 1964, entered into force July 15, 1966. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C122:NO

²²⁰ International Labour Organization, *Labour Inspection Convention, 1947 (No. 81)*, adopted July 11, 1947, entered into force April 7, 1950. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C129:NO

²²¹ International Labour Organization, *Minimum Age Convention, 1973 (No. 138)*, adopted June 26, 1973, entered into force June 19, 1976. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C138:NO

²²² International Labour Organization, *Occupational Safety and Health Convention, 1981 (No. 155)*, adopted June 22, 1981, entered into force August 11, 1983. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C155:NO

²²³ International Labour Organization, *Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)*, adopted June 21, 1976, entered into force May 16, 1978. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C144:NO

²²⁴ International Labour Organization, *Worst Forms of Child Labour Convention, 1999 (No. 182)*, adopted June 17, 1999, entered into force November 19, 2000. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C182:NO

²²⁵ International Labour Organization, *Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)*, adopted June 15, 2006, entered into force February 20, 2009. Accessed April 20, 2025. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C187:NO

National Contact Points for Responsible Business Conduct (NCP) are agencies set up by governments, first, to promote the OECD Guidelines and, second, to handle cases (“specific instances”) as a non-judicial grievance mechanism.

All States that adhere to the OECD Guidelines are required to set up NCPs in their jurisdiction. Any individual or organization with a legitimate interest in the matter can submit a case to an NCP regarding a company, operating in or from the State of the NCP, that has not observed the NCP [website](#).²²⁶

3.4.2 ILO Conventions

Each ILO convention creates a legal obligation only on the jurisdictions that have ratified it. Unfortunately, this means that complaints can be brought only against member states and not MNEs. The ILO website sets out information about whether or not a convention has been ratified by a specific jurisdiction.²²⁷ The ILO also has two types of mechanisms: supervisory mechanisms and special procedures.

a) The **Supervisory Mechanism** comprises of two committees:

- i) The **Committee of Experts on the Application of Conventions and Recommendations (CEACR)** is an independent body composed of twenty high-level national and international legal experts who are charged with examining the application of ILO conventions, protocols, and recommendations by ILO member states.²²⁸
- ii) The **International Labour Conference’s Tripartite Committee on the Application of Conventions and Recommendations** examines the report of the Committee of Experts. A standing committee of the conference, the Conference Committee comprises government, employer, and worker delegates. It examines the report of the Committee of Experts in a tripartite setting and selects from it a number of observations for discussion. The governments referred to in these comments are invited to respond to the Conference Committee and to provide information on the situation in question. The Conference Committee then drafts conclusions recommending that governments take specific steps to remedy a problem or to invite ILO missions or technical assistance. The discussions and conclusions of the situations examined by the

²²⁶ “FAQs on the NCP Grievance Mechanism.” Organization of Economic Co-operation and Development. Accessed April 23, 2025. <https://mneguidelines.oecd.org/ncps/how-do-ncps-handle-cases.htm>.

²²⁷ “Ratification by Convention.” ILO. Accessed June 15, 2025. https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000%3A12001%3A%3A%3A%3A%3A.

²²⁸ “Committee of Experts on the Application of Conventions and Recommendations (CEACR).” International Labour Organization, April 11, 2025. <https://www.ilo.org/international-labour-standards/ilo-supervisory-system-regular-supervision/committee-experts-application-conventions-and-recommendations-ceacr>.

Conference Committee are published in its report. Situations of special concern are highlighted in special paragraphs of its general report.²²⁹

b) Special Procedures:

There is a [procedure for representations](#) on the application of ratified conventions sets out how representations can be made by employers' or workers' organizations against any member state alleging ineffective observance of a ratified convention.²³⁰

There is a procedure for complaints over the application of ratified conventions. The complaint procedure is governed by Articles 26 to 34 of the ILO constitution, under which a complaint may be filed against a member state for not complying with a ratified convention by another member state that has ratified the same convention.

There is a [special procedure for complaints](#) regarding freedom of association was set up in 1951, when the ILO established the Committee on Freedom of Association (CFA) for the purpose of examining complaints of violations of freedom of association, whether or not the country concerned had ratified the relevant conventions.²³¹ Complaints may be brought against a member state by employers' and workers' organizations.

3.4.3. Special Rapporteurs²³²

Special Rapporteurs are independent human rights experts appointed by the UN Human Rights Council to monitor, investigate, and report on specific human rights issues or country situations. Working independently and supported by the OHCHR, they engage with governments and civil society, conduct country visits, prepare annual thematic reports, and address individual cases through formal communications.

The complaint procedure, called "communications," involves sending formal letters to governments, intergovernmental organizations, businesses, or other entities regarding allegations of human rights violations. These may concern past, ongoing, or potential violations, as well as laws or policies that conflict with international human rights standards. The aim is to alert authorities, request prevention and remedies, and raise awareness through reporting to the UN Human Rights Council.²³³

²²⁹ "Conference Committee on the Application of Standards." International Labour Organization, May 5, 2025. <https://www.ilo.org/international-labour-standards/ilo-supervisory-system-regular-supervision/conference-committee-application-standards>.

²³⁰ "Representation Procedure (Art.24)." International Labour Organization, June 27, 2025. <https://www.ilo.org/international-labour-standards/ilo-supervisory-system-special-procedures/representation-procedure-art24>.

²³¹ "Committee on Freedom of Association (CFA)." International Labour Organization, June 16, 2025. <https://www.ilo.org/international-labour-standards/ilo-supervisory-system-special-procedures/committee-freedom-association-cfa>.

²³² "Special Procedures of the Human Rights Council." OHCHR. Accessed July 15, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/special-procedures-human-rights-council>.

²³³ "What Are Communications?" OHCHR. Accessed July 15, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications>.

Who can submit a complaint and how?

Any individual, group, civil-society organization, inter-governmental entity or national human rights bodies can submit a complaint to the special rapporteur through an [online form](#).

What is the criteria they apply to act on a submission?

Special Rapporteurs determine their course of action based on their Code of Conduct and the following general criteria:

- (a) The complaint must not be manifestly unfounded or politically motivated.
- (b) It must contain a factual, credible, and detailed description of the alleged human rights violations.
- (c) Abusive language should be avoided.
- (d) The complaint should not rely solely on mass media reports.²³⁴

Please note that this complaint procedure does not require:

- (c) The concerned State to have ratified an international or regional human rights treaty.
- (d) The alleged victim to have exhausted domestic remedies before submitting a communication.²³⁵

Relevant Special Rapporteurs to note:²³⁶

1. [Special Rapporteur on trafficking in persons, especially women and children](#)
2. [Special Rapporteur on contemporary forms of slavery, including its causes and its consequences](#)

Country mandates for the Asia-Pacific:²³⁷

1. [Special Rapporteur on the situation of human rights in Afghanistan](#)
2. [Special Rapporteur on the situation of human rights in Cambodia](#)
3. [Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea](#)
4. [Special Rapporteur on the situation of human rights in the Islamic Republic of Iran](#)
5. [Special Rapporteur on the situation of human rights in Myanmar](#)
6. [Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967](#)
7. [Special Rapporteur on the situation of human rights in the Russian Federation](#)

3.4.4 National Human Rights Institution (NHRI) / National Human Rights Commission (NHRC) (regional)

NHRIs and NHRCs are independent state bodies mandated to monitor, promote, and protect human rights at the national level. While their structures and powers vary, they commonly handle complaints, conduct investigations, issue advisory opinions, and publish reports. As accessible, non-judicial forums,

²³⁴ United Nations Human Rights Council, *Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council*, A/HRC/5/L.3/Rev.1, adopted 18 June 2007. Accessed June 20, 2025. <https://docs.un.org/en/A/HRC/5/L.3/REV.1>

²³⁵ <https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications>

²³⁶ "Current and Former Mandate Holders (Existing Mandates)." OHCHR. Accessed July 15, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/current-and-former-mandate-holders-existing-mandates>.

²³⁷ OHCHR, "Current and Former Mandate Holders (Existing Mandates)."

they play a vital role in providing redress where judicial remedies are unavailable or delayed. Many have the power to recommend remedies, facilitate mediation, or refer cases to competent authorities. Their effectiveness is assessed against the [Paris Principles](#).²³⁸ Increasingly, NHRIs also address extraterritorial human rights concerns — particularly in the areas of business, the environment, and migration — thereby, helping to bridge the gap between victims and State accountability.

LAWASIA's Toolkit on Business and Human Rights, which can be accessed [here](#) provides further information on business and human rights.²³⁹

²³⁸ United Nations General Assembly, *Principles Relating to the Status of National Institutions (The Paris Principles)*, GA Res. 48/134, adopted December 20, 1993. Accessed June 20, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris>.

²³⁹ LAWASIA, *Toolkit on Business and Human Rights*, 2019.

CHAPTER IV:

RIGHT TO REMEDY UNDER ENVIRONMENTAL RIGHTS



CHAPTER 4: RIGHT TO REMEDY UNDER ENVIRONMENTAL RIGHTS

Contents

- 4.1 [Sources of the Right to Remedy](#)
- 4.2 [Major instruments governing environmental rights and human rights](#)
- 4.3 [Types of remedies](#)
- 4.4. [Forums](#)
- 4.5 [Key questions and issues](#)
- 4.6 [Extra-territorial application](#)
- 4.7 [Cases](#)

4.1 Sources of the right to remedy

Remedies for environmental rights within the human rights framework draw on a range of legal, institutional, and normative sources. They include as follows:

Table 4.1

International Covenant on Civil and Political Rights, 1966	Article 2(3)(a) and article 2(3)(b) state that any person “shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity” and their right would be determined by “competent judicial, administrative or legislative authorities.”
Universal Declaration of Human Rights, 1948	Article 8 states that “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.”
Indigenous and Tribal Peoples Convention 1989 (No. 169)	Under Articles 12 and 13 of ILO Convention No. 169, indigenous peoples have the right to seek legal remedies for the protection of their rights (Article 12), and their unique cultural and spiritual connection to lands and territories (which includes the total environment) must be respected (Article 13).

4.2 Major instruments governing environmental rights and human rights

Table 4.2 Treaties, Conventions, Protocols, and Agreements

International Convention for the	The convention established the International Whaling Commission and sets binding catch limits for commercial and aboriginal subsistence whaling.
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<u>Regulation of Whaling, 1946</u> ²⁴⁰	
<u>The Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), 1950</u> ²⁴¹	The right to life (Article 2) and the right to private and family life (Article 8) have been interpreted by the European Court of Human Rights to include protection from serious environmental harm. ²⁴² The right to an effective remedy (Article 13) ensures access to justice when these rights are violated.
<u>American Convention on Human Rights “Pact of San Jose, Costa Rica,” 1969</u> ²⁴³	Article 4 sets out the right to life, and Article 25 sets out the right to judicial protection.
<u>Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973</u> ²⁴⁴	Article XIII on international measures recognizes that when a State receives communication about a species affected by trade, it should, to the extent permitted by its laws, inform the secretariat and propose appropriate remedial action.
<u>International Convention for the Prevention of Pollution from Ships (MARPOL), 1973</u> ²⁴⁵	The MARPOL Convention is the primary international treaty aimed at preventing marine pollution from ships, whether caused by operational practices or accidents.
<u>African Charter on Human and Peoples’ Rights, 1981</u> ²⁴⁶	Article 24 of the charter expressly states that “All peoples shall have the right to a general satisfactory environment.” Article 21 ensures peoples’ rights to natural resources, and Article 7 provides the right to an effective remedy.

²⁴⁰ International Whaling Commission, *International Convention for the Regulation of Whaling*, adopted December 02, 1946, entered into force November 10, 1948. Accessed August 18, 2025. <https://archive.iwc.int/pages/view.php?ref=3607&k=>

²⁴¹ Council of Europe, *European Convention on Human Rights*, adopted November 4, 1950, entered into force September 03, 1953. Accessed August 18, 2025. https://www.echr.coe.int/documents/d/echr/convention_ENG

242 *Case of Cannavacciuolo and Ors. v. Italy* (European Court of Human Rights January 30, 2025). Accessed August 17, 2025. [https://hudoc.echr.coe.int/eng#?{%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22,%22itemid%22:\[%22001-241395%22\]}](https://hudoc.echr.coe.int/eng#?{%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22,%22itemid%22:[%22001-241395%22]})

²⁴³Organization of American States, *American Convention on Human Rights “Pact of San Jose”*, Costa Rica, adopted November 22, 1969, entered into force July 18, 1978. Accessed August 18, 2025. <https://treaties.un.org/doc/publication/unts/volume%201144/volume-1144-i-17955-english.pdf>

²⁴⁴ International Union for Conservation of Nature, *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, adopted March 03, 1973, entered into force July 01, 1975. Accessed August 18, 2025. <https://cites.org/sites/default/files/eng/disc/CITES-Convention-EN.pdf> Amended twice in 1979 ([Bonn amendment](#)) and 1983 ([Gaborone amendment](#))

²⁴⁵ International Maritime Convention *International Convention for the Prevention of Pollution from Ships*, adopted November 02, 1973, entered into force October 02, 1983. Accessed August 18, 2025. [https://www.imo.org/en/about/conventions/pages/international-convention-for-the-prevention-of-pollution-from-ships-\(marpol\).aspx](https://www.imo.org/en/about/conventions/pages/international-convention-for-the-prevention-of-pollution-from-ships-(marpol).aspx)

²⁴⁶ Organization of African Unity, *African Charter on Human and Peoples' Rights*, adopted June 01, 1981, entered into force October 21, 1986. Accessed August 18, 2025 <https://au.int/en/treaties/african-charter-human-and-peoples-rights>

United Nation Convention on the Law of the Sea, 1982 ²⁴⁷	The convention sets out a comprehensive legal framework governing all uses of the world's oceans, combining traditional maritime rules with new legal regimes and addressing emerging concerns.
Convention on Long-range Transboundary Air Pollution, 1979 ²⁴⁸	This convention is the first multilateral treaty to tackle cross-border air pollution, establishing a regional framework that has significantly reduced emissions, particularly sulfur, across Europe, North America, and parts of the former Eastern Bloc.
The Vienna Convention for the Protection of the Ozone Layer, 1985 ²⁴⁹	The convention provides a framework for international cooperation through research, monitoring, and information exchange to protect the ozone layer, forming the foundation of the global ozone protection regime.
Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 ²⁵⁰	The protocol was the first global agreement to protect the ozone layer by phasing out ozone-depleting substances. It has since been strengthened through amendments, adjustments, and annual decisions to control more chemicals, accelerate phaseouts, and support developing States in meeting their obligations.
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989 ²⁵¹	The convention established a global agreement on standards for the trade and disposal of hazardous and toxic waste. Article 12 of the Basel Convention calls on parties to cooperate in adopting, as soon as practicable, a protocol establishing appropriate rules and procedures for liability and compensation for damage resulting from the transboundary movement and disposal of hazardous and

²⁴⁷ United Nations, *United Nations Convention on the Law of the Sea*, adopted December 10, 1982, entered into force, November 16, 1994. Accessed August 18, 2025. https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

²⁴⁸ United Nations Economic Commission for Europe, *Convention on Long-Range Transboundary Air Pollution*, adopted November 13, 1979, entered into force March 16, 1983. Accessed August 18, 2025. https://treaties.un.org/doc/Treaties/1979/11/19791113%2004-16%20PM/Ch_XXVII_01p.pdf

²⁴⁹ *Vienna Convention for the Protection of the Ozone Layer*, adopted on March 22, 1985, entered into force September 22, 1988. Accessed August 18, 2025. <https://ozone.unep.org/treaties/vienna-convention/vienna-convention-protection-ozone-layer>

²⁵⁰ *Montreal Protocol on Substances that Deplete the Ozone Layer*, adopted September 16, 1987, entered into force January 01, 1989. Accessed August 18, 2025 <https://ozone.unep.org/treaties/montreal-protocol-substances-deplete-ozone-layer/text>. Amended in 1990 ([The London Amendment](#)), 1992 ([Copenhagen Amendment](#)), 1997 ([Montreal Amendment](#)), 1999 ([Beijing Amendment](#)), and 2016 [Kigali Amendment](#).

²⁵¹ United Nations, *Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal*, adopted March 22, 1989, entered into force May 05, 1992. Accessed August 18, 2025. <https://www.basel.int/portals/4/basel%20convention/docs/text/baselconventiontext-e.pdf> Amended in [1995](#), [2019](#), and [2022](#).

	other wastes.
Convention on the Law of the Non-navigational Uses of International Watercourses, 1997 ²⁵²	This convention promotes the sustainable and equitable use of international watercourses, requiring States to prevent significant harm (Article 7) and to cooperate in good faith, including through joint mechanisms (Article 8).
Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998 (Aarhus Convention) ²⁵³	Article 9 of the convention, “Access to Justice,” ensures access to justice by requiring fair, affordable, and effective legal or administrative review procedures for denied information requests, decisions made without proper public participation, and general breaches of environmental law, thereby empowering the public and NGOs to enforce environmental rights.
North American Agreement on Environmental Cooperation, 1993 ²⁵⁴	This agreement promotes environmental conservation and cooperation between the US, Canada, and Mexico and establishes the Commission for Environmental Cooperation to implement its objectives.
Convention on Biological Diversity, 1992 ²⁵⁵	This convention sought to conserve biological diversity, promoting sustainable use of its components and ensuring fair and equitable sharing of benefits arising from genetic resources. The CBD advised member States to draft and plan national strategies for the conservation and sustainable use of biological diversity. It emphasized the rights of indigenous and local communities, placing special focus on recognizing traditional knowledge and practice related to conservation. It promoted the participation of all stakeholders, including the public, in the environmental decision-making process.
Stockholm Convention on Persistent	This convention is a global treaty aimed at safeguarding

²⁵² United Nations, *Convention on Law of the Non-navigational Uses of International Watercourses*, adopted May 21, 1997, entered into force August 17, 2014. Accessed on August 18, 2025. https://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf

²⁵³ United Nations, *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998 (Aarhus Convention)*, adopted June, 25, 1998, entered into force October 30, 2001. Accessed August 18, 2025. https://treaties.un.org/doc/treaties/1998/06/19980625_08-35_am/ch_xxvii_13p.pdf

²⁵⁴ Secretariat of the Commission for Environmental Cooperation. *North American Agreement on Environmental Cooperation*, adopted and entered into force January 01, 1994. Accessed August 18, 2025. <https://ustr.gov/sites/default/files/naaec.pdf>

²⁵⁵ United Nations, *Convention on Biological Diversity*, adopted May 22, 1992, entered into force December 29, 1993. Accessed on August 18, 2025. <https://www.cbd.int/doc/legal/cbd-en.pdf>

Organic Pollutants, 2004 ²⁵⁶	human health and the environment from harmful persistent organic pollutants (POPs).
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 1998 ²⁵⁷	This convention is a global treaty that promotes informed decision-making in the trade of hazardous chemicals by requiring exporters to obtain prior consent from importing jurisdictions before shipment.
Kyoto Protocol to the United Nations Framework Convention on Climate Change, 1997 ²⁵⁸	This protocol, adopted in 1997 and in force since 2005, commits developed States to reduce greenhouse gas emissions under the principle of “common but differentiated responsibilities,” operationalizing the UN Framework Convention on Climate Change by setting binding targets based on each jurisdiction’s capacities and contributions to global emissions.
The Paris Agreement, 2015 ²⁵⁹	The goal in this agreement is for States to limit global warming to well below 2°C, or ideally to 1.5°C, through progressively stronger climate action plans known as nationally determined contributions (NDCs).
Cartagena Protocol on Biosafety to the Convention on Biological Diversity, 2000 , ²⁶⁰ and the Nagoya–Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, 2010 ²⁶¹	These are protocols to the Convention on Biological Diversity. The Cartagena Protocol is an international agreement ensuring the safe handling, transport, and use of living modified organisms (LMOs) from modern biotechnology to protect biodiversity and human health. The Supplementary Protocol supports the conservation and sustainable use of biodiversity by establishing international rules on civil liability and redress relating to

²⁵⁶ United Nations, *Stockholm Convention on persistent Organic Pollutants*, adopted May 22, 2001, entered into force May 17, 2004. Accessed August 18, 2025 https://chm.pops.int/portals/0/repository/convention_text/unep-pops-cop-convtext-full.english.pdf. Amended in 2009, 2011, 2013, 2015, 2017, 2019, 2022

²⁵⁷ United Nations, *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*, adopted September 10, 1998, entered into force February 24, 2004. Accessed August 19, 2025. <https://www.pic.int/TheConvention/Overview/TextoftheConvention/tabid/1048/language/en-US/Default.aspx> Amended in 2008, 2011, 2013, 2015, 2017, 2019, 2022, and 2023

²⁵⁸ United Nations, *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, adopted December 11, 1997, entered into force February 16, 2005. Accessed August 19, 2025. <https://unfccc.int/resource/docs/convkp/kpeng.pdf>

²⁵⁹ United Nations, *The Paris Agreement*, adopted December 12, 2015, entered into force November 4, 2016. Accessed August 19, 2025. https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

²⁶⁰ United Nations, *Cartagena Protocol on Biosafety to the Convention on Biological Diversity*, adopted January 29, 2000, entered into force September 11, 2003. Accessed August 19, 2025. <https://www.cbd.int/doc/legal/cartagena-protocol-en.pdf>

²⁶¹ United Nations, *Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety*, adopted October 29, 2010, entered into force October 12, 2014. Accessed August 19, 2025. https://treaties.un.org/doc/Treaties/2010/12/20101215%2005-26%20PM/Ch_27_8_c.pdf

	LMOs.
Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, 2018 (Escazú Agreement) ²⁶²	This agreement is the first binding environmental treaty in Latin America and the Caribbean and, globally, the first to protect environmental defenders, guaranteeing access to environmental information, public participation, and justice in environmental matters, and the right to a healthy and sustainable environment for present and future generations.

Table 4.2.2 Soft Law Instruments (Declarations, Action Plans, Frameworks, Comments)²⁶³

Declaration of the United Nations Conference on the Human Environment, 1972 (Stockholm Declaration) ²⁶⁴	This declaration established twenty-six principles that brought environmental issues to the forefront of international dialogue, highlighting the different causes of environmental problems in developing and industrialized jurisdictions, while encouraging cooperation on sustainable development and, Principle 22, calls for States to develop international law on liability and compensation for pollution and environmental damage beyond their jurisdictions, making it a pioneering framework for environmental governance.
Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, [1996], International Court of Justice, ICJ Rep 1996, p. 226 ²⁶⁵	In this advisory opinion, the ICJ recognized that “the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn.” The ICJ also recognized that “the existence of the general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control is now part of the corpus of international law relating to the environment.”
Agenda 21, 1992 ²⁶⁶	Agenda 21 is a comprehensive program of action at global,

²⁶² Economic Commission for Latin America and the Caribbean, *Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean*, adopted March 4, 2018, entered into force April 22, 2021. Accessed August 19, 2025. <https://repositorio.cepal.org/server/api/core/bitstreams/7e888972-80c1-48ba-9d92-7712d6e6f1ab/content>

²⁶³ Note- General Comments by the UN Human Rights Committee and the Committee on Economic, Social and Cultural Rights are not binding in themselves. However, they are authoritative interpretations of the ICCPR and ICESCR respectively which are binding on States that have ratified them.

²⁶⁴ United Nations, *Declaration of the United Nations Conference on the Human Environment*, adopted June 16, 1972. Accessed August 19, 2025. <https://docs.un.org/en/A/CONF.48/14/Rev.1>

²⁶⁵ *Legality of the Threat or Use of Nuclear Weapons* Advisory Opinion [1996] (International Court of Justice, General List No. 95 July 08, 1996). Accessed August 18, 2025 - <https://www.icj-cij.org/sites/default/files/case-related/95/095-19960708-ADV-01-00-EN.pdf>

²⁶⁶ United Nations, *Agenda 21*, adopted June 1992. Accessed August 19, 2025. <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>

	national, and local levels by United Nations organizations, governments, and major groups in all areas where human activities impact the environment.
The Rio Declaration on Environment and Development, 1992 ²⁶⁷	Principle 10 states that effective access to judicial and administrative proceedings, including redress and remedy, must be available, while Principle 13 requires States to establish legal liability and compensation for victims of pollution and other environmental harm.
United Nations Framework Convention on Climate Change, 1992 ²⁶⁸	This framework aims to prevent dangerous human interference with the climate system by stabilizing greenhouse gas concentrations, placing primary responsibility on developed States, supporting developing nations through funding and technology transfer, and establishing ongoing mechanisms for mitigation, adaptation, and transparent reporting.
CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), 2000 ²⁶⁹	The general comment explains the right to the highest attainable standard of health.
CESCR General Comment No. 15: The Right to Water (Arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), 2003 ²⁷⁰	The general comment explains the right to sufficient, safe, acceptable, physically accessible, and affordable water
United Nations Declaration on the Rights of Indigenous Peoples, 2007 ²⁷¹	Articles 25 – 29 recognize indigenous peoples' rights to maintain their traditional lands, territories, and resources. Article 28 affirms their right to redress, including restitution or fair compensation, for lands and resources taken or damaged without free, prior, and informed consent.

²⁶⁷ United Nations, *Rio Declaration on Environment and Development*, adopted June 14, 1992. Accessed August 19, 2025. https://www.iau-hesd.net/sites/default/files/documents/rio_e.pdf

²⁶⁸ United Nations, *United Nations Framework Convention on Climate Change*, adopted May 9, 1992, entry into force March 21, 1994. Accessed August 19, 2025. https://unfccc.int/files/essential_background/convention/background/application/pdf/convention_text_with_annexes_english_for_posting.pdf

²⁶⁹ United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 14 on the highest attainable standard of health*, E.C.12/2000/4, adopted August 11, 2000. Accessed August 19, 2025. <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/Health/GC14.pdf>

²⁷⁰ United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 15: The Right to Water (arts. 11 and 12 of the International Covenant on Economic Social and Cultural Rights)* E/C.12/2002/11, adopted January 20, 2003. Accessed August 19, 2025. https://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf

²⁷¹ United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, A/RES/61/295, adopted September 13, 2007. Accessed August 19, 2025. https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

United Nations Forest Instrument, 2016 ²⁷²	This instrument offers a global framework to promote sustainable forest management through agreed policies that enhance governance, capacity, legal frameworks, investment, and participation.
Advisory Opinion OC-23/17 [2017], Inter-American Court of Human Rights ²⁷³	In this advisory opinion, the Inter-American Court of Human Rights affirmed that the right to a healthy environment is a fundamental human right, clarified the link between environmental degradation and human rights violations, and emphasized States' obligations to prevent harm both within and beyond their borders.
CCPR General Comment No. 36 on the Right to Life (Art. 6), 2019 ²⁷⁴	This general comment states that Article 6 of the ICCPR should not be interpreted narrowly but viewed as a foundation for the right to life and the right to effective remedies in case of violation, defining deprivation of life as "intentional or otherwise foreseeable and preventable life-terminating harm or injury caused by an act or omission."
United Nations General Assembly Resolution on Right to a Healthy Environment (A/HRC/RES/48/13), 2021 ²⁷⁵ and Obligations of States in Respect of Climate Change, Advisory Opinion, [2025] International Court of Justice, General List No. 187 ²⁷⁶	In 2023, the United Nations General Assembly (UNGA) put in a request for an advisory opinion from the ICJ on the obligation of States with respect to climate change. On 23 July 2025, the ICJ delivered its advisory opinion wherein it found that States have a duty to prevent significant harm to the climate system by exercising due diligence and using all means at their disposal to prevent activities carried out within their jurisdiction or control from causing said harm. ²⁷⁷

4.2.3. Other sources

Customary international law is an integral source of international legal norms and obligations. The recognition of its authority is codified in the Statute of the International Court of Justice. Customary international law arises from unwritten rules that are considered general practice. However, under

²⁷² United Nations, *United Nations Forest Instrument*, A/RES/70/199, adopted December 22, 2015. Accessed August 19, 2025. https://www.un.org/esa/forests/wp-content/uploads/2018/08/UN_Forest_Instrument.pdf

²⁷³ *The Environment and Human Rights (State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and Personal Integrity: Interpretation and Scope of Articles 4(1) and 5(1) in Relation to Articles 1(1) and 2 of the American Convention on Human Rights* Advisory Opinion OC-23/17 (Inter-American Court of Human Rights, November 15, 2017). Accessed August 19, 2025. <https://elaw.org/wp-content/uploads/archive/attachments/publicresource/English%20of%20AdvOp%20OC-23.pdf>

²⁷⁴ Human Rights Committee, *General Comment No. 36 - Article 6 (Right to Life)* CCPR/C/GC/35, adopted September 3, 2019. Accessed August 19, 2025. <https://www.refworld.org/legal/general/hrc/2019/en/123145>

²⁷⁵ Human Rights Council, *The human right to a clean, healthy and sustainable environment* A/HRC/RES/48/13, adopted October 18, 2021. Accessed August 19, 2025. <https://docs.un.org/en/A/HRC/RES/48/13>

²⁷⁶ Advisory Opinion GL No. 187, July 23, 2025

²⁷⁷ *Obligations of States in Respect of Climate Change* (Advisory Opinion [2025] International Court of Justice, General List No. 187 July 23, 2025). Accessed August 18, 2025 - <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

Article 38(1) of the Statute, these rules are considered legally binding in their acceptance as a law, or *opinio juris*.²⁷⁸ This distinction separates practices that are obligatory from those followed merely as policy decisions.

For example, the *Pulp Mills on the River Uruguay (Argentina v. Uruguay)* [2006] ICJ Rep 113 concerned obligations arising out of a bilateral treaty between the states party to the dispute. The judgement carried guidance for the duty to conduct environmental impact assessment where there is a risk of transboundary environmental harm by states or private entities.²⁷⁹ The judgment states that,

“...204. It is the opinion of the Court that in order for the Parties properly to comply with their obligations under Article 41 (a) and (b) of the 1975 Statute, they must, for the purposes of protecting and preserving the aquatic environment with respect to activities which may be liable to cause transboundary harm, carry out an environmental impact assessment. As the Court has observed in the case concerning the *Dispute Regarding Navigational and Related Rights*,

“there are situations in which the parties’ intent upon conclusion of the treaty was, or may be presumed to have been, to give the terms used — or some of them — a meaning or content capable of evolving, not one fixed once and for all, so as to make allowance for, among other things, developments in international law” (*Dispute Regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, Judgment, I.C.J. Reports 2009, p. 242, para. 64).

In this sense, the obligation to protect and preserve, under Article 41 (a) of the Statute, has to be interpreted in accordance with a practice, which in recent years has gained so much acceptance among States that it may now be considered a requirement under general international law to undertake an environmental impact assessment where there is a risk that the proposed industrial activity may have a significant adverse impact in a transboundary context, in particular, on a shared resource. Moreover, due diligence, and the duty of vigilance and prevention which it implies, would not be considered to have been exercised, if a party planning works liable to affect the régime of the river or the quality of its waters did not undertake an environmental impact assessment on the potential effects of such works.”²⁸⁰

4.3 Types of Remedies

The 2019 Environmental Rule of Law Report contains a table of remedies required for environmental adjudication and enforcement. The remedies comprise as follows:

- (a) Preventive and injunctive relief — maintain the status quo and stop harmful behavior;
- (b) Declaratory relief — provide clarity as to what the law says and means;
- (c) Fines and money penalties — remove economic incentive and punish noncompliance;
- (d) Compensation — make harmed parties whole;

²⁷⁸ *Case of Cannavacciuolo and Ors. v. Italy* ECHR, 2025

²⁷⁹ Herbert Smith Freehills Kramer, ICJ makes ruling on environmental protection - Pulp Mills on the River Uruguay (Argentina v Uruguay), (7 May 2010). Accessed July 11, 2025. <https://www.hsfkramer.com/notes/arbitration/2010-05/icj-makes-ruling-on-environmental-protection-pulp-mills-on-the-river-uruguay-argentina-v-uruguay>

²⁸⁰ *Pulp Mills on the River Uruguay (Argentina v. Uruguay)* ICGJ 2 (ICJ 2006) (International Court of Justice July 13, 2006) Accessed July 11, 2025 <https://www.icj-cij.org/sites/default/files/case-related/135/135-20100420-JUD-01-00-EN.pdf>

- (e) Corrective orders — require parties to act to correct harm;
- (f) Imprisonment and other criminal sanctions — punish noncompliance and deter future violations;
- (g) Administrative penalties — punish noncompliance for minor violations; and
- (h) Supplemental environmental projects — provide environmental benefits.²⁸¹

4.3.1 What constitutes an effective remedy?

The 2019 Environmental Rule of Law Report emphasizes that effective enforcement of environmental laws hinges on courts and tribunals having a broad and powerful set of remedial tools tailored to the unique challenges of environmental harm.²⁸² The report argues that traditional legal remedies, such as fines, imprisonment, or basic injunctions, are often insufficient to fully address the complexity, scale, and persistence of environmental violations.

The report states that to be truly effective, judicial bodies must be empowered not only to impose sufficiently high financial penalties that deter future infractions but also to order specific corrective actions, including restoration of damaged ecosystems and compensation for affected parties.

The report additionally suggests that courts and tribunals require a comprehensive toolkit that includes preventive orders, enforcement monitoring, and innovative remedies to effectively resolve disputes, uphold environmental laws, and incentivize responsible behavior. This integrated approach is essential to both redress past damages and prevent ongoing or future violations, ensuring that environmental governance is meaningful, credible, and capable of protecting ecosystems and human health.

Former Special Rapporteur on Human Rights and the Environment David R. Boyd asserted that to ensure effective remedies for rights holders harmed by human rights and environmental abuses by business actors, States must:

- (a) guarantee accessible, affordable, timely, and victim-centered judicial and non-judicial mechanisms — including a full range of civil, criminal, and administrative remedies;
- (b) eliminate legal and practical barriers;
- (c) shift evidentiary burdens;
- (d) support transnational claims through appropriate jurisdiction and legal frameworks;
- (e) establish operational-level grievance mechanisms; and
- (f) establish international support structures such as funds.²⁸³

4.4 Forums

4.4.1 Judicial grievance mechanisms

4.4.1(a) International Court of Justice

²⁸¹ Boyd, David. Environmental Rule of Law: First Global Report (UNEP July 6, 2019). Accessed March 5, 2025. <https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report>.

²⁸² Boyd, David R., and Stephanie Keene. Policy Brief No. 3 (OHCHR - June 2022). Accessed March 5, 2025. <https://www.ohchr.org/sites/default/files/documents/issues/environment/srenvironment/activities/2022-07-01/20220701-sr-environment-policybriefing3.pdf>

²⁸³ Policy Brief 3, 2022.

The International Court of Justice (ICJ) serves as the principal judicial organ of the United Nations and acts as a world court. Its jurisdiction is twofold: (1) it settles legal disputes between States in accordance with international law (contentious jurisdiction), and (2) it provides advisory opinions on legal questions referred to it by UN organs, specialized agencies, or other authorized entities (advisory jurisdiction).

Who can approach the court?

The court is open to all States that are parties to its statute.

What is the jurisdiction of the court?

The ICJ's jurisdiction covers all cases referred to it by the State Parties and any matters specifically provided for in the UN Charter or in treaties and conventions in force. States Parties to the statute may, at any time, declare that they recognize the court's jurisdiction as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, for legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation; and
- (d) the nature or extent of reparation for the breach of an international obligation.

As per its Statute the ICJ applies international conventions, international customs, general principles, and judicial decisions in its practice.²⁸⁴

4.4.1(b) International Tribunal for the Law of the Sea (ITLOS)

The International Tribunal for the Law of the Sea (ITLOS), established under the *United Nations Convention on the Law of the Sea* (UNCLOS) of 1982, is one of four dispute resolution mechanisms under Article 287 of UNCLOS. ITLOS is not a UN agency; however, it maintains a formal cooperation agreement with the United Nations and plays a key role in adjudicating disputes concerning the use and protection of ocean space and resources.

Who can approach the tribunal?

The tribunal is open to States party to the convention.

What is the jurisdiction of the tribunal?

ITLOS has jurisdiction over disputes concerning the interpretation or application of UNCLOS, as well as matters assigned to it under other agreements that confer such authority. These disputes may involve issues such as maritime boundary delimitation, navigation rights, conservation and management of marine living resources, protection of the marine environment, and marine scientific research.

²⁸⁴ *Statute of the International Court of Justice* 1946 [Adopted on June 26, 1945]. Accessed August 18, 2025 <https://www.icj-cij.org/statute>

Recently, in an advisory opinion on request submitted by the Commission of Small Island States on climate change and international law (Case No. 31/2022), ITLOS stated that 'States Parties have the specific obligation to protect and preserve the marine environment from climate change impacts and ocean acidification. Where the marine environment has been degraded, this obligation may call for measures to restore marine habitats and ecosystems.'²⁸⁵

4.4.1(c) European Court of Human Rights (ECtHR)²⁸⁶

The European Court of Human Rights (ECtHR) is a supranational judicial body established by the Council of Europe to ensure the enforcement of the rights and freedoms enshrined in the *European Convention on Human Rights 1950* (ECHR). It oversees the compliance of States Parties with their human rights obligations under the convention.

What is the jurisdiction of the court?

The court does not initiate cases on its own. It exercises jurisdiction over alleged violations of the European Convention on Human Rights based on applications submitted either by individuals or by States. Its jurisdiction extends only to the Council of Europe member states that have ratified the convention.

How can the ECtHR be approached?

The ECHR allows for two types of applications:

- (a) **Individual applications** submitted by any person, group, company, or NGO claiming a violation of their rights under the convention.
- (b) **Interstate applications** brought by one State against another concerning alleged breaches of the convention.

In practice, the vast majority of cases before the court are individual applications.

What are the admissibility criteria?

For an application to be admissible, the following, several conditions must be met:

- (a) **Exhaustion of domestic remedies:** Applicants must first pursue all available legal avenues in their own country, up to the highest court.
- (b) **Relevant rights:** The complaint must relate to one or more rights protected by the convention.
- (c) **Time:** The application must be lodged within four months of the final decision from the highest national court.
- (d) **Victim:** The applicant must be personally and directly affected by the alleged violation and must have suffered a significant disadvantage.
- (e) **Against a State Party:** Applications may be brought only against one or more States Parties to the convention—not against individuals or non-member states.

²⁸⁵ Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (International Tribunal for Law of the Sea May 21, 2024). Accessed August 18, 2025. <https://climatecasechart.com/non-us-case/18416/>

²⁸⁶ The ECHR in 50 questions |ECHR| Accessed August 18, 2025. https://www.echr.coe.int/documents/d/echr/50Questions_ENG.

4.4.1(d) African Court on Human and Peoples' Rights

The court's mandate is to complement and strengthen the work of the African Commission on Human and Peoples' Rights (ACHPR) in promoting and protecting human and peoples' rights, freedoms, and duties across African Union member states. While the commission is a quasi-judicial body that issues recommendations, the court has the authority to issue binding decisions.

What is the court's jurisdiction?

Advisory Jurisdiction: The court may issue legal opinions at the request of African Union (AU) member states, AU organs, or recognized African organizations, as long as the matter is not already under consideration by the commission.

Contentious Jurisdiction: The court hears cases and disputes between parties concerning the interpretation and application of human rights instruments.

Amicable Settlements: The court may facilitate amicable settlements in ongoing cases, in line with the African Charter on Human and Peoples' Rights 1981.

Who can approach the court?

According to the FAQs on the court's official website, the following parties can approach the court with an application:

- (a) the African Commission on Human and Peoples' Rights;
- (b) a State Party to the court's protocol against which the complaint has been lodged at the commission;
- (c) a State Party to the court's protocol whose citizen is a victim of a human rights violation;
- (d) African intergovernmental organizations;
- (e) States Parties to the court's protocol with an interest in a case may be permitted by the court to join the proceedings; and
- (f) relevant non-governmental organizations (NGOs) with observer status before the commission, and individuals can institute cases directly before the court if the State Party from which they come has made a declaration allowing such direct applications.²⁸⁷

4.4.1(e) Inter-American Court of Human Rights

The Inter-American Court of Human Rights is an international court established by the American Convention on Human Rights. It works alongside the Inter-American Commission on Human Rights and serves the member states of the Organization of American States (OAS) that have ratified the convention.

What is its function?

²⁸⁷ "FAQs." African Court on Human and Peoples' Rights. Accessed August 18, 2025. <https://www.african-court.org/wpafc/faqs/-1587290821799-bee84233-8266>.

The court's adjudicatory role involves ruling on cases where a State Party to the convention — having accepted the court's jurisdiction — is accused of human rights violations. For the court to hear a case, the State must not only have ratified the convention but also voluntarily recognize the court's jurisdiction.

Who can approach the court?

Under the convention, cases may be referred to the court by either the Inter-American Commission on Human Rights or a State Party. Individuals cannot approach the court directly.

What are the admissibility criteria?

A case will be referred to the court if a State fails to abide by the recommendations offered by the court in response to a complaint or if the commission decides that the case is of particular importance or legal interest.

4.4.1(f) African Commission on Human and Peoples' Rights (*quasi-judicial body*)

The African Charter on Human and Peoples' Rights 1981 established the African Commission on Human and Peoples' Rights (ACHPR.) The commission has three major functions: the protection of human and peoples' rights, the promotion of human and peoples' rights, and the interpretation of the African Charter on Human and Peoples' Rights.

Who can approach the commission?

Anyone can submit a complaint (called a "communication") to the commission including:

- (a) an individual on their own behalf;
- (b) an individual on behalf of someone else;
- (c) groups of individuals;
- (d) non-governmental organizations (NGOs); or
- (e) States Parties to the African Charter.

There is no requirement for the complainant to be directly related to the victim, but the victim must be identified in the complaint.

What kind of complaints does the commission handle?

A complaint can allege violations of any human rights protected under the African Charter. The complaint may be between States (Articles 48 – 49) or a communication from individuals, NGOs, or others (Article 5).

What are the admissibility criteria of a complaint?

Under Article 56 of the African Charter, a complaint must:

- (a) must include the author's name (even if anonymity is requested);
- (b) must be compatible with the African Charter and the Charter of the Organization of the African Unity (OAU Charter);
- (c) must not use insulting language against the State or OAU;
- (d) must not be based solely on media reports;
- (e) must exhaust all available domestic legal remedies;

- (f) must be submitted within a reasonable time after domestic remedies are exhausted; and
- (g) must not concern a matter already settled by another international human rights body.

Can the complaint be taken to court?

A complaint may escalate to the African Court on Human and Peoples' Rights on the condition that:

- (a) the State involved has ratified the protocol establishing the court;
- (b) the State has made a declaration allowing individuals or NGOs to bring cases directly; and
- (c) the commission refers the case to the court due to serious or unresolved violations.

4.4.1(g) Inter-American Commission on Human Rights (*quasi-judicial body*)

The Inter-American Commission on Human Rights (IACHR) is an autonomous organ of the Organization of American States (OAS) tasked with promoting and protecting human rights across the Americas. Its jurisdiction applies to all OAS member states, though the applicable legal standards vary depending on whether a State has ratified the American Convention on Human Rights or adheres only to the American Declaration of the Rights and Duties of Man.

What jurisdiction does the commission have?

It applies to all OAS member states. For States that have ratified the American Convention on Human Rights, it is the primary legal reference. For others, the 1948 American Declaration is used. Other inter-American human rights treaties ratified by a State may also apply. The commission considers alleged violations of human rights protected by the American Convention, the American Declaration, or other applicable inter-American instruments.

Who can approach the commission?

Any individual, group, or legally recognized NGO in an OAS member state can approach the commission. They can file on their own behalf or on behalf of others. No legal representation is required (although it is permitted).

4.4.1(h) Court of Justice of the European Union

The Court of Justice of the European Union (CJEU)²⁸⁸ is the highest judicial authority within the European Union. Its primary role is to ensure the uniform interpretation and application of EU law across all member states and to resolve legal disputes involving EU institutions, member states, and, in certain cases, private individuals and companies. The court is divided into the Court of Justice and the General Court.

Who can approach the court?

²⁸⁸ Court of Justice of the European Union. Accessed August 18, 2025. https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/court-justice-european-union-cjeu_en.

EU institutions (such as the Commission, Parliament, and Council), EU member states, national courts (via preliminary rulings), individuals and/ or companies (indirectly via national courts or directly before the General Court) can approach the court.

What jurisdiction does the court have?

The jurisdiction of the CJEU is both direct and indirect and includes proceedings against member states for failure to fulfill an obligation; against EU institutions for failure to act or for annulment; and referrals by national courts on a preliminary ruling on the interpretation or validity of an EU law. Certain direct actions, such as those brought by or against EU institutions or concerning Commission-imposed fines, are reserved for the Court of Justice under Article 51 of its statute. The court also hears appeals from the decisions of the General Court.

4.4.1(i) International Human Rights Treaty Bodies

Human rights treaty bodies are committees of independent experts responsible for monitoring the implementation of core international human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Convention on the Rights of the Child (CRC); among others. There are ten such treaty bodies, each composed of experts of recognized competence in human rights. These experts are nominated and elected by States Parties for fixed, renewable terms of four years. The following treaty bodies (or “committees”) allow for one or more of the individual, state-to-state, and inquiries complaint procedures:

Human Rights Committee (CCPR) (*individual and state-to-state; quasi-judicial body*)

The Human Rights Committee (CCPR) examines compliance by States Parties that have accepted the committee’s competence to consider individual complaints, typically through ratification or accession to the relevant optional protocol. The procedures also provide for a more detailed mechanism to resolve interstate disputes concerning the fulfillment of obligations under the covenant, including the establishment of an ad hoc conciliation commission.

Committee on Economic, Social and Cultural Rights (CESCR) (*individual, state-to-state, and inquiries*)

The Committee on Economic, Social and Cultural Rights (CESCR), which monitors the ICESCR, may examine individual complaints from States Parties that have accepted its competence by ratifying or acceding to the optional protocol. The protocol also establishes a procedure allowing the committee to consider complaints submitted by one State Party against another, provided both have made declarations recognizing the committee’s authority in this regard. Additionally, the committee may, on its own initiative, conduct inquiries if it receives reliable information indicating serious or systematic violations of the covenant by a State Party.

4.4.2 Non-judicial grievance mechanisms

4.4.2(a) Human Rights Council

The Human Rights Council was established by the General Assembly in 2006. It serves as the UN's primary intergovernmental body for promoting and protecting human rights globally. This multinational platform addresses human rights violations, responds to human rights emergencies, and recommends measures for implementation. It contributes to setting international human rights standards and fosters accountability through its mechanisms.

What is the complaint procedure for the council?

The complaint procedure of the Human Rights Council addresses “gross and reliably attested violations occurring in any part of the world and under any circumstances.” It is a universal complaint procedure that addresses all human rights and fundamental freedoms in its member states.

Who can make a complaint and against whom?

Any individual, group of individuals, or non-governmental organization (NGO) can make a complaint. A complaint can be submitted against any of the 193 member states, regardless of whether they have signed a treaty or have reservations under a certain instrument.

What legislation applies?

Both international human rights law and humanitarian law. “Violations” for the HRC refers to “civil and political and economic, social and cultural rights, occurring in any part of the world and under any circumstances, including in situations of armed conflict, and breaches of international humanitarian law or threat to peace.”

What is the jurisdiction of the Human Rights Council?

The Human Rights Council comprises forty-seven member states elected directly and individually by a majority of the 193 states of the UN General Assembly. While the redress mechanisms offered by the Human Rights Council are not legally enforceable, the council functions by adding pressure on member states to comply with international human rights standards and, where appropriate, treaties and conventions to which the State is a party.

4.4.2(b) United Nations Special Procedures

These are independent human rights experts or groups appointed by the UN Human Rights Council to address specific human rights issues or country situations. They conduct country visits, respond to reports of violations, contribute to the development of international human rights standards, and engage in advocacy. Any individual, group, civil society organization, intergovernmental entity, or national human rights body can submit “communications” or a complaint to Special Procedures. The Human Rights Council’s complaint procedure addresses consistent patterns of gross and reliably attested human rights violations worldwide.²⁸⁹ The Working Group on Communications and the Working Group on Situations handle written complaints and bring patterns of violations to the council’s attention.

²⁸⁹ Resolution 5/1 (2007), A/HRC/5/21(UN Human Rights Council June 18, 2007). Accessed August 18, 2025. <https://docs.un.org/en/A/HRC/5/21>

Who are the independent human rights experts?

The experts, known as special rapporteurs, conduct country visits, prepare thematic reports, submit communications on alleged violations, offer recommendations, and engage with civil society. On digital rights, special rapporteurs focus on issues such as:

- (a) Freedom of Opinion and Expression.²⁹⁰
- (b) Right to Privacy.²⁹¹
- (c) Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance.²⁹²
- (d) Violence against Women and Girls.²⁹³
- (e) Rights of Persons with Disabilities.²⁹⁴

What is the communications procedure under UN Special Procedures?

Communications are letters sent by the Special Procedures to governments, intergovernmental organizations, businesses, or military or security companies. These letters report on allegations of human rights violations received by them and pertaining to past human rights violations; ongoing or potential human rights violations; and concerns regarding legislation, bills, policies, or practices that do not comply with international human rights law and standards. The letter requests clarifications from them and, where necessary, request that the concerned authorities take action or investigate, stop the violation, bring justice, and ensure remedies are available to the victim(s) and their families. These letters would also specify applicable human rights provisions.²⁹⁵

Who can submit information to the Special Procedures and how?

Any individual, group, civil society organization, intergovernmental entity, or national human rights body can submit information to the Special Procedures. The [Special Procedures Submission online form](#) is recommended, as it includes categories of information required by experts to examine a case and, if needed, proceed.²⁹⁶ The form also enables the tracking of submissions.

The criteria applied to act on a submission align with the Special Procedures Code of Conduct. The Code states that the communication should not be politically motivated, must not be abusive, should contain a factual description of the alleged human rights abuses, should not rely exclusively on media reports, and should be submitted on the basis of credible and detailed information.

²⁹⁰ You can find their latest reports - Special Rapporteur on freedom of opinion and expression | OHCHR. Accessed August 18, 2025. <https://www.ohchr.org/en/special-procedures/sr-freedom-of-opinion-and-expression>.

²⁹¹ You can find their latest reports - Special Rapporteur on the right to privacy | OHCHR. Accessed August 18, 2025. <https://www.ohchr.org/en/special-procedures/sr-privacy>.

²⁹² You can find their latest reports - Special Rapporteur on contemporary forms of racism | OHCHR. Accessed August 18, 2025. <https://www.ohchr.org/en/special-procedures/sr-racism>.

²⁹³ You can find their latest reports - Special Rapporteur on violence against women and girls | OHCHR. Accessed August 18, 2025. <https://www.ohchr.org/en/special-procedures/sr-violence-against-women>.

²⁹⁴ You can find their latest reports - Special Rapporteur on the rights of persons with disabilities | OHCHR. Accessed August 18, 2025. <https://www.ohchr.org/en/special-procedures/sr-disability>.

²⁹⁵ What are Communications? | OHCHR. Accessed July 12, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications>.

²⁹⁶ The form can be found at the bottom of the page. "Submission of Information to the Special Procedures." Office of the High Commissioner for Human Rights - Submission of information to Special Procedures. Accessed August 18, 2025. <https://spsubmission.ohchr.org/>.

What legislation applies?

The Special Procedures focuses on international human rights law wherever applicable for the submission.

4.4.2.(c) Special Rapporteurs²⁹⁷

Special Rapporteurs are independent human rights experts appointed by the UN Human Rights Council to monitor, investigate, and report on specific human rights issues or country situations. Working independently and supported by the OHCHR, they engage with governments and civil society, conduct country visits, prepare annual thematic reports, and address individual cases through formal communications.

The complaint procedure, called “communications,” involves sending formal letters to governments, intergovernmental organizations, businesses, or other entities regarding allegations of human rights violations. These may concern past, ongoing, or potential violations, as well as laws or policies that conflict with international human rights standards. The aim is to alert authorities, request prevention and remedies, and raise awareness through reporting to the UN Human Rights Council.²⁹⁸

Who can submit a complaint and how?

Any individual, group, civil-society organization, inter-governmental entity or national human rights bodies can submit a complaint to the special rapporteur through an [online form](#).

What is the criteria they apply to act on a submission?

Special Rapporteurs determine their course of action based on their Code of Conduct and the following general criteria:

- (e) The complaint must not be manifestly unfounded or politically motivated.
- (f) It must contain a factual, credible, and detailed description of the alleged human rights violations.
- (g) Abusive language should be avoided.
- (h) The complaint should not rely solely on mass media reports.²⁹⁹

Please note that this complaint procedure does not require:

- (e) The concerned State to have ratified an international or regional human rights treaty.
- (f) The alleged victim to have exhausted domestic remedies before submitting a communication.³⁰⁰

Relevant Special Rapporteurs to note:³⁰¹

²⁹⁷ Special Procedures of the Human Rights Council | OHCHR. Accessed July 12, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/special-procedures-human-rights-council>.

²⁹⁸ Communications | Special Procedures, OCHR

²⁹⁹ *Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council*, A/HRC/5/L.3/Rev.1, adopted 18 June 2007. United Nations Human Rights Council. Accessed July 12, 2025 <https://docs.un.org/en/A/HRC/5/L.3/REV.1>

³⁰⁰ Communications | Special Procedures, OCHR

³⁰¹ Current and former mandate holders (existing mandates) | OHCHR. Accessed August 18, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/current-and-former-mandate-holders-existing-mandates>.

1. [Special Rapporteur on the promotion and protection of human rights in the context of climate change](#)
2. [Special Rapporteur on the human right to a clean, healthy and sustainable environment](#)
3. [Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes](#)
4. [Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health](#)
5. [Special Rapporteur on the rights of Indigenous Peoples](#)
6. [Special Rapporteur on the human rights of internally displaced persons](#)
7. [Special Rapporteur on the human rights to safe drinking water and sanitation](#)

Country mandates for the Asia-Pacific:³⁰²

1. [Special Rapporteur on the situation of human rights in Afghanistan](#)
2. [Special Rapporteur on the situation of human rights in Cambodia](#)
3. [Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea](#)
4. [Special Rapporteur on the situation of human rights in the Islamic Republic of Iran](#)
5. [Special Rapporteur on the situation of human rights in Myanmar](#)
6. [Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967](#)
7. [Special Rapporteur on the situation of human rights in the Russian Federation](#)

4.4.2(d) Multilateral Agreement Compliance Mechanisms and Independent Complaint Mechanisms

UNEP and UNDP have independent complaint mechanisms, allowing affected parties to raise concerns and seek remedies transparently.³⁰³ ³⁰⁴Likewise, most multilateral agreements include compliance mechanisms to monitor adherence, address violations, and ensure effective implementation.³⁰⁵

4.4.2(e) National Human Rights Institution (NHRI) / National Human Rights Commission (NHRC) (regional)

NHRIs and NHRCs are independent state bodies mandated to monitor, promote, and protect human rights at the national level. While their structures and powers vary, they commonly handle complaints, conduct investigations, issue advisory opinions, and publish reports. As accessible, non-judicial forums, they play a vital role in providing redress where judicial remedies are unavailable or delayed. Many have the power to recommend remedies, facilitate mediation, or refer cases to competent authorities. Their effectiveness is assessed against the *Paris Principles*. Increasingly, NHRIs also address

³⁰² Current and former mandate holders, OHCHR.

³⁰³ Example: SSOP Grievance Redress Mechanism (GRM). Accessed August 18, 2025. <https://www.undp.org/media/1005791/download?inline=>.

³⁰⁴ Example: Access Independent Complaint Mechanism | UNEP - UN environment programme. Accessed August 18, 2025. <https://www.unep.org/topics/transport/digitalization-and-integration/access/access-independent-complaint-mechanism>

³⁰⁵ Example - "Committee to Support Implementation and Compliance of the Escazú Agreement: CEPAL." Economic Commission for Latin America and the Caribbean. Accessed August 18, 2025. <https://www.cepal.org/en/escazuagreement/committee-support-implementation-and-compliance-escazu-agreement>

extraterritorial human rights concerns — particularly in the areas of business, the environment, and migration — thereby helping to bridge the gap between victims and State accountability.

4.4.3 Other mechanisms

4.4.3(a) World Bank Inspection Panel³⁰⁶

The World Bank's Inspection Panel is an independent complaints mechanism that allows people adversely affected by bank-funded projects to seek redress and accountability. In 2021, the panel joined World Bank Accountability Mechanism, which also includes a Dispute Resolution Service, offering affected communities both compliance review and dispute resolution pathways.

4.4.3(b) Asian Development Bank Accountability Mechanism³⁰⁷

The Accountability Mechanism of the Asian Development Bank (ADB) offers an independent forum for people adversely affected by ADB-assisted projects to raise concerns. It aims to ensure the ADB's operations comply with its policies while promoting fairness, transparency, and accountability. The mechanism addresses issues on climate change, the environment, health, sustainable development, and water.

4.4.3(c) Compliance Advisor Ombudsman³⁰⁸

The Compliance Advisor Ombudsman (CAO) serves as an independent accountability mechanism for the International Finance Corporation and the Multilateral Investment Guarantee Agency, aiming to ensure that affected communities have access to remedy. Its mission is to enhance the environmental and social performance of these institutions while promoting fairness and trust in their operations.

4.5 Key Questions and Issues

4.5.1 Should environmental destruction during armed conflict be considered a standalone international crime under the Rome Statute or other instruments?

Professor Steven Freeland's article states that enforcement of environmental crimes under the existing framework of the Rome Statute is difficult and that a formal recognition of "crimes against the environment" would enable international mechanisms to hold actors accountable for harming the environment during conflict.³⁰⁹

Matthew Gillett argues that as the ICC begins addressing environmental crimes, it must effectively integrate international environmental law into its legal framework. Gillett states that this may prove difficult because the guidance is unclear beyond Article 21(1)(b) of the Rome Statute. To address this gap, he proposes a new approach called "framework integration," which systematically and

³⁰⁶ Home | Inspection Panel. Accessed July 15, 2025. <https://www.inspectionpanel.org/>.

³⁰⁷ Guido. "Accountability Mechanism of ADB." Asian Development Bank, August 5, 2025. Accessed July 15, 2025. <https://www.adb.org/who-we-are/accountability-mechanism>.

³⁰⁸ "Home: Compliance Advisor Ombudsman (CAO)." Office of the Compliance Advisor/Ombudsman, August 5, 2025. Accessed July 15, 2025. <https://www.cao-ombudsman.org/>

³⁰⁹ Freeland, Steven. "Crimes against the Environment and International Criminal Law." International Bar Association. Accessed July 15, 2025. <https://www.ibanet.org/article/6d983066-bcdb-481a-8c79-bd47362bdb49>

transparently incorporates external legal sources, such as environmental law, international humanitarian law, and human rights law, into ICC proceedings. This approach ensures coherent, principled application of these laws, enhancing the court's ability to prosecute environmental harm and related crimes while respecting its core legal principles and mitigating risks of overreach.³¹⁰

4.5.2 Are international bodies doing enough for environmental defenders?

The International Union for Conservation of Nature (IUCN), in its 2021 report on environmental defenders, highlighted that while international bodies have started recognizing the crucial role of environmental defenders, efforts remain insufficient and uneven. The report emphasizes the need for stronger legal protections, greater funding, and concrete programs that support and empower defenders, especially at the community level, to prevent environmental crimes and human rights abuses. The report highlights the need for international cooperation to enhance the safety of environmental defenders, promote their work as legitimate and vital, and consider new legal tools, such as recognizing “ecocide” under international law, to offer environmental defenders stronger legal backing.³¹¹

4.5.3 How should international law address climate-induced displacement, including statelessness risks for populations of sinking island nations?

Mark Nevitt’s paper “*Climate Change and the Specter of Statelessness*,” considers the possibility of climate change “extinguishing” nations. Nevitt highlights the small island developing states (SIDS) in the Pacific and argues that if they become uninhabitable or submerged, their populations may lose not only their homes but also legal nationality and statehood, which are foundational to international rights and protections. Nevitt states that these concerns need to be addressed in the following ways:

- (a) recognizing climate change as a security threat;
- (a) strengthening the UN Security Council’s role in addressing climate-related risks; and
- (b) operationalizing loss and damage finance, especially tailored to the needs of SIDs.³¹²

4.5.4 How can youth-led climate litigation effectively utilize international human rights forums?

In Elizabeth Donger’s paper “*Children and Youth in Strategic Climate Litigation: Advancing Rights through Legal Argument and Legal Mobilization*,” Donger highlights that youth-led climate litigation is on the rise. While intergenerational justice is a compelling argument, Donger highlights a significant gap: the underuse of children’s rights instruments. Donger contends that well-designed litigation at international, regional, and national levels can place children at the center of climate responses — both

³¹⁰ Gillett, Matthew. “Ecocide, Environmental Harm and Framework Integration at the International Criminal Court.” *The International Journal of Human Rights* 29, no. 6 (December 26, 2025): 1009–45. Accessed July 15, 2025. <https://doi.org/10.1080/13642987.2024.2433660>

³¹¹ Wijdekop, Femke. “Environmental Defenders and Their Recognition under International and Regional Law – An Introduction.” IUCN NL, 2021. Accessed July 15, 2025. https://www.iucn.nl/app/uploads/2021/03/environmental_defenders_and_their_recognition_under_international_and_regional_law.pdf

³¹² Nevitt, Mark. “Climate Change and the Specter of Statelessness.” *The Georgetown Environmental Law Review* 35, no. 2 (2023). Accessed July 15, 2025. <https://doi.org/10.2139/ssrn.4223806>.

as victims requiring protection and as advocates demanding change. Framing climate harms as violations of specific children's rights provides a stronger legal foundation within human rights law.³¹³

4.5.5 What is the emerging discourse within the legal field around recognising ecocide as an international crime?

In February 2024, ICC prosecutor Karim Khan launched an initiative to advance accountability for environmental harm by prosecuting acts already within the court's jurisdiction (such as war crimes or crimes against humanity) when committed through or resulting in environmental damage. Instead of amending the Rome Statute, the policy initiative seeks to clarify legal strategies and investigative approaches and invites public input on how to effectively incorporate environmental considerations into existing legal frameworks. A second public consultation was launched on 18 December 2024.^{314 315}

Professor Steven Freeland's article for the International Bar Association, contends that the current Rome Statute fails to effectively address the deliberate targeting of the environment in armed conflict and the effect this has on victims. Freeland argues that practical enforcement under the existing framework is unfeasible and therefore advocates for the creation of a new crime, i.e., "crimes against the environment," within the Rome Statute to hold perpetrators accountable for intentionally harming the environment during conflict.³¹⁶

4.6 Extraterritorial application

Under point 22, section III ("Duty to Protect Life") of General Comment No. 36 by the Human Rights Committee, States are obligated to protect the right to life not only from threats posed by actors within their own territory but also from foreign actors. The general comment clarifies that States have an obligation to regulate activities – including those of corporations – when such activities have a direct and foreseeable harm the rights of individuals in other jurisdictions.³¹⁷

4.7 Cases

***Chevron Corporation and Texaco Petroleum Corporation v. The Republic of Ecuador (II)*, PCA Case No. 2009-23³¹⁸**

³¹³ Donger, Elizabeth. Children and youth in strategic climate litigation, June 14, 2022. Accessed August 18, 2025 https://www.cambridge.org/core/services/aop-cambridge-core/content/view/7B3C59B37A7708495D16687073C95B25/S2047102522000218a.pdf/children_and_youth_in_strategic_climate_litigation_advancing_rights_through_legal_argument_and_legal_mobilization.pdf

³¹⁴ "The Office of the Prosecutor Launches Public Consultation on a New Policy Initiative to Advance Accountability for Environmental Crimes under the Rome Statute," February 16, 2024. International Criminal Court. Accessed August 18, 2025 <https://www.icc-cpi.int/news/office-prosecutor-launches-public-consultation-new-policy-initiative-advance-accountability-0>

³¹⁵ "ICC Office of the Prosecutor Launches Second Public Consultation on a Policy Initiative to Advance Accountability for Environmental Crimes under the Rome Statute," December 18, 2024. International Criminal Court. Accessed August 18, 2025 <https://www.icc-cpi.int/news/icc-office-prosecutor-launches-second-public-consultation-policy-initiative-advance>

³¹⁶ Freeland, Steven. "Crimes against the Environment and International Criminal Law"

³¹⁷ General Comment No. 6 (ICCPR September 03, 2019) – Accessed July 15, 2025 <https://docs.un.org/en/CCPR/C/GC/36>

³¹⁸ *Chevron Corporation and Texaco Petroleum Corporation v. The Republic of Ecuador (II)*, PCA Case No. 2009-23, Final Award (Aug. 30, 2018). Accessed August 18, 2025 - <https://www.italaw.com/cases/257>

This lawsuit is an example of the challenges embedded in holding multinational companies accountable for environmental damage. In this case, around 30,000 indigenous people of Ecuador sued the New York oil company alleging damage to public health. The litigation commenced in 1993 and continued for almost two decades. The United States court refused to admit the case initially so the lawsuit was adjudicated in the provincial court of Ecuador, which held that the oil company was liable for polluting the inhabitants' lands. The lawsuit proceeded through several forums, including in the USA and Canada, discussing the judicialization of environmental policy.

Cannavacciuolo and Others v. Italy – Applications No. 51567 of 2024 and Ors.³¹⁹

On January 31, 2025, the European Court of Human Rights ruled that Italy violated its obligations under Article 2 of the ECHR by allowing large-scale environmental pollution from illegal toxic waste dumping and burning, marking the first use of the precautionary approach to ease causation burdens in such cases. This landmark decision broadens the right to life's scope by enabling claims based on serious but remote environmental risks, illustrating a growing trend toward a more expansive interpretation of this fundamental right.

Advisory Opinion on the Obligation of States in Respect of Climate Change dated 23 July 2025³²⁰

The United Nations General Assembly asked the International Court of Justice (ICJ) for an advisory opinion on the legal obligations of States to protect the climate and the consequences of harming it. Led by Vanuatu and other nations, the request underscores the urgent need to address climate change for current and future generations.

Do-Hyun Kim et al. v. South Korea 2020 HunMa389³²¹

In August 2024, South Korea's Constitutional Court ruled that Article 8(1) of the Carbon Neutrality Framework Act violated the right to a healthy environment. The court held that States must determine their fair share of contributions to global reduction targets; however, it stopped short of imposing concrete consequences, citing the lack of international consensus on how to assess individual States' commitments, and thus declined to evaluate the lawfulness of South Korea's 40 percent emissions reduction target by 2030 compared to 2018 levels.

Verein KlimaSeniorinnen Schweiz v. Switzerland - Application No. 53600 of 2020³²²

In April 2024, the ECHR ruled that Switzerland is violating the human rights of older women by failing to take necessary action against global warming. Specifically, the court found a breach of Article 8 (right

³¹⁹ *Case of Cannavacciuolo and Ors. v. Italy* ECHR, 2025

³²⁰ *Obligations of States in Respect of Climate Change*, ICJ, 2025

³²¹ *Do Hyun Kim et al v. South Korea* (The Constitutional Court of Korea August 29, 2024). Accessed August 18 2025 - https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2024/20240829_NA_decision-1.pdf

³²² *Verein KlimaSeniorinnen Schweiz v. Switzerland* (European Court of Human Rights April 9, 2024). Accessed August 18 2025 - [https://hudoc.echr.coe.int/eng#{%22display%22:\[%220%22\],%22languageisocode%22:\[%22ENG%22\],%22appno%22:\[%2253600/20%22\],%22documentcollectionid%22:\[%22CLIN%22\],%22itemid%22:\[%22002-14304%22\]}](https://hudoc.echr.coe.int/eng#{%22display%22:[%220%22],%22languageisocode%22:[%22ENG%22],%22appno%22:[%2253600/20%22],%22documentcollectionid%22:[%22CLIN%22],%22itemid%22:[%22002-14304%22]})

to private and family life) and recognized the association representing over 2,500 women aged sixty-four and older as having victim status.

CHAPTER V:

RIGHT TO REMEDY AND DIGITAL RIGHTS



CHAPTER 5: RIGHT TO REMEDY AND DIGITAL RIGHTS

Contents

- 5.1 [Sources of the right to remedy](#)
- 5.2 [Other instruments addressing digital rights](#)
- 5.3 [Types of remedies](#)
- 5.4 [Forums](#)
- 5.5. [Key questions and issues](#)
- 5.6 [Extraterritorial application](#)
- 5.7 [Cases](#)

5.1 Sources of the right to remedy

The right to remedy and the concept of “harm” in the context of digital rights are not as extensively developed as the topics discussed earlier. However, in an increasingly digital world, identifying solutions to strengthen the recognition and enforcement of these rights is essential. Currently, the resources addressing the right to remedy in the digital sphere stem from the following.

5.1.1 Instruments that govern the International Bill of Human Rights applicable in the context of digital rights

Table 5.1.1

Universal Declaration of Human Rights, 1948 ³²³	Non-Binding Framework Article 8 recognizes the right to an effective remedy for fundamental rights violations, and Article 28 calls for an international order that ensures these rights.
International Covenant on Civil and Political Rights, 1966 ³²⁴	Binding State Obligations Article 2(3) requires States to ensure effective remedies for rights violations through legislative and judicial measures.
First Optional Protocol to the International Covenant on Civil and Political Rights, 1966 ³²⁵	Individual Complaints Mechanism Articles 1 and 2 of the <i>First Optional Protocol to the International Covenant on Civil and Political Rights</i> allow individuals under a State Party's jurisdiction to submit complaints to the Human Rights Committee for covenant rights violations, provided all domestic remedies have been exhausted.

³²³ UDHR, 1948.

³²⁴ ICCPR, 1966.

³²⁵ United Nations General Assembly, *Optional Protocol to the International Covenant on Civil and Political Rights*, GA Res. 2200A (XXI), adopted December 16, 1966, entered into force March 23, 1976. Accessed May 20, 2025. <https://www.ohchr.org/sites/default/files/ccpr-one.pdf>.

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 1989 ³²⁶	Individual Complaints Mechanism Article 5 extends the right to remedy to cases on the abolition of the death penalty, provided the State has ratified both protocols, unless it objects upon ratification.
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, 2008 ³²⁷	Individual or Group Complaint Mechanism Articles 1–3 of the <i>Optional Protocol to the International Covenant on Economic Social and Cultural Rights</i> empower the Human Rights Committee to (i) hear complaints on economic, social, and cultural rights if the State has ratified the protocol; (ii) allow individuals or groups to file complaints with the consent of those affected or, in exceptional circumstances, without consent if adequately justified; and (iii) require exhaustion of domestic remedies unless unduly delayed, with adherence to admissibility criteria.

5.1.2 Soft law instruments that govern digital rights and human rights

Table 5.1.2

CRC General Comment No. 25 on children's rights in relation to the digital environment, 2021 ³²⁸	General Comment No. 25 (2021) affirms that children's rights under the CRC fully apply in the digital environment, emphasizing protection, access, participation, and remedies for rights violations online.
Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, 2011 ³²⁹	The <i>Guiding Principles on Business and Human Rights</i> emphasize that States must ensure access to effective remedies for business-related human rights abuses, including in the digital sphere, while industry and multi-stakeholder initiatives should provide grievance mechanisms based on human rights standards.
The Charter of Human Rights and Principles for the Internet, 2011 ³³⁰	The IRPC Charter reaffirms that human rights apply online as they do offline. The charter outlines State obligations to protect digital

³²⁶ United Nations General Assembly, *Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty*, GA Res. 44/128, adopted December 15, 1989, entered into force July 11, 1991. Accessed May 20, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/second-optional-protocol-international-covenant-civil-and-political-rights>.

³²⁷ United Nations General Assembly, *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, GA Res. 63/117, adopted December 10, 2008, entered into force May 5, 2013. Accessed May 20, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-international-covenant-economic-social-and-cultural-rights>.

³²⁸ Committee on the Rights of the Child, *General Comment No. 25 on children's rights in relation to the digital environment*, UN Doc. CRC/C/GC/25 (March 2, 2021). Accessed June 5, 2025. <https://www.unicef.org/bulgaria/en/media/10596/file>.

³²⁹ *Guiding Principles on Business and Human Rights*, 2011.

³³⁰ Internet Rights and Principles Coalition (IRPC), *Charter of Human Rights and Principles for the Internet*, 2011. Accessed June 5, 2025.

	rights and provide guidance for governments and companies to uphold human rights in the internet environment.
Declaration of Principles Building the Information Society: a global challenge in the new millennium, 2003 ³³¹	The WSIS Declaration of Principles emphasizes that the information society must be inclusive, people-centered, and development-oriented, ensuring universal access to ICTs. The declaration upholds human rights, digital inclusion, freedom of expression, and the right to information as fundamental to bridging the digital divide. Principle 10 on “ethical dimensions of the Information Society,” the declaration acknowledges that all actors in the information society must take appropriate actions, in accordance with the law, to address abusive uses of ICTs.
United Nations General Assembly Resolution on the Promotion, Protection and Enjoyment of Human Rights on the Internet (A/HRC/47/L.22), 2021 ³³²	This resolution reaffirms that the same rights people have offline must also be protected online, emphasizing the importance of bridging digital divides and applying a comprehensive human rights-based approach to expanding internet access. This resolution also calls upon States to (i) ensure accountability and provide an effective remedy with regard to human rights violations, both offline and online, and (ii) adhere to international human rights obligations with regard to freedom of opinion and expression and of association and peaceful assembly online.
OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, 1980 ³³³	The OECD Guidelines aim to promote an international framework and standard for the protection of privacy and cross-border data flows, seeking to minimize legal conflicts — particularly among member states — while also encouraging non-member States to adopt similar practices. It was last updated in 2013. For national application, the guidelines contains eight core principles, which include the collection limitation principle, data quality principle, purpose specification principle, use limitation principle, security safeguards principle, openness principle, individual participation principle, and accountability principle. For international

<https://www.ohchr.org/sites/default/files/Documents/Issues/Opinion/Communications/InternetPrinciplesAndRightsCoalition.pdf>.

³³¹ World Summit on the Information Society (WSIS), *Declaration of Principles: Building the Information Society – A Global Challenge in the New Millennium*, WSIS-03/GENEVA/DOC/4, December 2003. Accessed June 5, 2025. <https://digitallibrary.un.org/record/533621?ln=en&v=pdf>.

³³² United Nations Human Rights Council, *Promotion, Protection and Enjoyment of Human Rights on the Internet*, UN Doc. A/HRC/47/L.22 (July 13, 2021). Accessed June 5, 2025. <https://docs.un.org/en/A/HRC/47/L.22>.

³³³ Organization for Economic Co-operation and Development, *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data*, September 23, 1980. Accessed June 5, 2025. https://www.oecd.org/content/dam/oecd/en/publications/reports/2002/02/oecd-guidelines-on-the-protection-of-privacy-and-transborder-flows-of-personal-data_g1gh255f/9789264196391-en.pdf.

	application, the guidelines recommends “free flow and legitimate restrictions.” The OECD guidelines, in 19(f), call for the implementation of adequate sanctions and remedies within member jurisdictions in the event of noncompliance with privacy laws.
African Declaration on Internet Rights and Freedoms, 2014³³⁴	The declaration is a pan-African initiative which is aimed at “promot[ing] human rights standards and principles of openness in Internet policy formulation and implementation on the continent.” Its key principles include openness, internet access and affordability, freedom of expression, right to information, right of assembly and association and the internet, cultural and linguistic diversity, right to development and access to knowledge, privacy and personal data protection, security, stability and resilience of the internet, marginalized groups and groups at risk, right to due process, democratic multi-stakeholder internet governance, and gender equality. The declaration notes that in the event of a violation of these rights, “sufficient safeguards” and “effective remedies” must be available.
UN Secretary-General’s Report (A/74/821) on road map for digital cooperation, 2020³³⁵	Recommendations 3A and 3B stipulates that efforts must be made to ensure that effective due diligence is maintained for technology products, services, policies, practices, and terms of service and that greater efforts are required to see how international human rights standards apply to digital rights.
The Highest Aspiration: A Call to Action on Human Rights, 2020³³⁶	This call to action by the UN secretary-general states that digital rights are the “new frontiers” of human rights and, in advocating for a comprehensive human rights framework applicable to the digital sphere. The call to action states that 2011 <i>UN Guiding Principles on Business and Human Rights</i> should be enforced and work with social media companies to understand and respond effectively to potential human rights violations online

³³⁴ *African Declaration on Internet Rights and Freedoms*, September 2014. Accessed June 5, 2025. <https://africaninternetrights.org/sites/default/files/African-Declaration-English-FINAL.pdf>.

³³⁵ United Nations, *Road Map for Digital Cooperation*, Report of the Secretary-General, UN Doc. A/74/821 (June 11, 2020). Accessed June 5, 2025. <https://docs.un.org/en/A/74/821>.

³³⁶ António Guterres, *The Highest Aspiration: A Call to Action for Human Rights*, United Nations Secretary-General, February 2020. Accessed June 5, 2025. https://www.un.org/peacebuilding/sites/www.un.org/peacebuilding/files/documents/2020_sg_call_to_action_for_the_highest_aspiration.pdf.

Recommendation CM/Rec(2014)6 of the Committee of Ministers to member States on a Guide to human rights for Internet users ³³⁷	According to the recommendation, individuals have the right to an effective remedy if their human rights or freedoms are violated. Importantly, an effective remedy is not limited to legal action. It should first be sought through appropriate channels, such as internet service providers, public authorities, or national human rights institutions. The avenues for effective remedies must be “available, known, accessible, affordable, and capable of providing appropriate redress.”
APC Internet Rights Charter, 2006 ³³⁸	Under theme 7, “Awareness, Protection and Realisation of Rights,” the charter advocates for the right to recourse and public access to “effective and accountable” remedies and the need for protection of these rights through international frameworks and policies.
European Declaration on Digital Rights and Principles for the Digital Decade (2023/ C 23/ 01) ³³⁹	The declaration on Digital Rights and Principles for the Digital Decade sets out fundamental rights and principles to guide Europe’s digital transformation. It emphasizes privacy, data protection, digital inclusion, access to digital services, fairness, transparency, and accountability to ensure that digital technologies “put people at the centre of the digital transformation” and uphold human rights across the EU.

5.2 Other instruments addressing digital rights

Table 5.2.

The Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), 1950 ³⁴⁰	Within its jurisdiction, the ECHR offers several provisions that support the protection of digital rights. According to Recommendation CM/Rec(2014)6, the human rights and freedoms enshrined in the ECHR apply equally to internet use. Notably, Article 6 guarantees the right to a fair trial, Article 8 protects the right to privacy, Article 10 upholds the right to freedom of expression, Article 11 ensures the right to freedom of assembly
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³³⁷ Committee of Ministers of the Council of Europe, *Recommendation CM/Rec(2014)6 to Member States on a Guide to Human Rights for Internet Users*, adopted April 16, 2014. Accessed June 5, 2025. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804d5b31>.

³³⁸ Association for Progressive Communications (APC), *APC Internet Rights Charter*, 2006. Accessed June 5, 2025. https://www.apc.org/sites/default/files/APC_charter_EN_1.pdf.

³³⁹ European Union, *European Declaration on Digital Rights and Principles for the Digital Decade*, PUB/2023/89, Official Journal of the European Union C 23, January 23, 2023, pp. 1 – 7. Accessed June 5, 2025. [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32023C0123\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32023C0123(01)).

³⁴⁰ *ECHR*, 1950.

	and association, and Article 13 affirms the right to an effective remedy. Under Article 34 of the Convention, the European Court of Human Rights may accept applications from individuals, NGOs, and groups of individuals claiming to be victims of a violation. ³⁴¹
African Charter on Human and Peoples' Rights, 1981 ³⁴²	The African Charter enriches human rights standards across the continent and provides a foundational framework for applying these rights in digital contexts. Article 9 affirms the right to receive information and freedom of expression; Article 10 guarantees freedom of association; Article 11 upholds the right to peaceful assembly; and Article 26 outlines the State's duty to ensure the protection and promotion of these rights.
Convention on the Elimination of All Forms of Discrimination Against Women, 1979 ³⁴³	While CEDAW does not explicitly reference digital rights, its core principles are highly relevant in the digital context. Articles 1 – 3 address gender-based non-discrimination; Article 5 is key to preventing gender-based violence online; and Article 10 supports equitable access to digital education for women and girls
Convention on the Rights of Persons with Disabilities, 2006 ³⁴⁴	Similar to CEDAW, digital rights should be considered alongside conventions for marginalized groups. The CRPD's Article 9 emphasizes accessibility to information and communications, particularly regarding electronic services; Article 12 affirms equal recognition before the law; Article 14 protects liberty and security of the person; and Article 21 guarantees freedom of expression, opinion, and access to information, specifically calling on mass media to ensure accessibility for persons with disabilities.
Convention on Cybercrime, 2001 (No. 185) ³⁴⁵	The Budapest Convention, which came into force in 2004, is the first international treaty to address cybercrime and is legally binding for its parties. Articles 2 to 8 cover offenses against the confidentiality, integrity, and availability of computer data and systems. Article 9 addresses content-related offenses, particularly child pornography. Article 10 deals with copyright and related

³⁴¹ You can only lodge a complaint or application on behalf of someone as an official representative. *The Convention for the Protection of Human Rights and Fundamental Freedoms*, art. 34, 4 November 1950, in European Convention on Human Rights, 21. https://www.echr.coe.int/documents/d/echr/convention_ENG

³⁴² ACHPR, 1981.

³⁴³ CEDAW, 1979.

³⁴⁴ CRPD, 2006.

³⁴⁵ Council of Europe, *Convention on Cybercrime (Budapest Convention)*, CETS No. 185, adopted on November 8, 2001, entered into force July 1, 2004. Accessed June 5, 2025. <https://rm.coe.int/1680081561>.

	issues, while Article 12 covers corporate liability. Article 13 outlines sanctions as appropriate responses for violations.
Draft United Nations Convention against Cybercrime 2024 ³⁴⁶	The United Nations Convention against Cybercrime is the first legally binding treaty on cybercrime. It was adopted on 24 December 2024, and will be open for signature in Hanoi, Vietnam 2025. The convention will come into force 90 days after being ratified by the 40 th signatory. The convention facilitates coordinated efforts to address cybercrime issues, specifically, illegal system access, data interference, while outlining procedural measures and frameworks for mutual legal assistance and extradition. Article 34 provides assistance to and the protection of victims by obligating the State Party to take appropriate measures for the protection of victims for offences listed in Article 14 and 16 and ensure access to compensation and restitution.

5.3 Types of Remedies

5.3.1 What constitutes an effective remedy?

UN Basic Principles and Guidelines 2005

Given that digital rights frameworks remain underdeveloped and often rely on existing instruments underpinning the International Bill of Rights, it is valuable to consider the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, as referenced in chapter 2 of this manual. The UN Basic Principles and Guidelines 2005 outline that full and effective reparation may take the following forms:

- (a) restitution,
- (b) compensation,
- (c) rehabilitation,
- (d) satisfaction, and guarantees of non-repetition.

UN Guiding Principles on Business and Human Rights

Another essential reference for understanding effective remedies is the *UN Guiding Principles on Business and Human Rights*, which emphasize that remedies have both procedural and substantive dimensions. Remedies may include apologies, restitution, rehabilitation, financial or nonfinancial compensation, and punitive sanctions (criminal or administrative, such as fines), as well as prevention measures, including injunctions or guarantees of non-repetition. This is particularly relevant for identifying avenues of redress when rights are infringed in digital spaces, especially by private

³⁴⁶ United Nations, *Convention against Cybercrime*, UNGA Res. 79/243, adopted December 24, 2024. Accessed June 5, 2025. https://treaties.un.org/doc/Treaties/2024/12/20241224%2001-27%20PM/Ch_XVIII_16.pdf.

companies whose platforms or technologies impact those rights, highlighting their responsibility to cooperate in remedy mechanisms.³⁴⁷

Guide to Human Rights for Internet Users

According to a Council of Europe recommendation based on the human rights and freedoms enshrined in the ECHR, the process to obtain remedies should not require immediate legal action. Avenues for seeking remedies must be available, known, accessible, and affordable and must be capable of providing appropriate redress.³⁴⁸ Effective remedies may be obtained directly from internet service providers, public authorities, or NHRIs. Depending on the violation, these remedies can include inquiry, explanation, response, correction, apology, reinstatement, reconnection, and compensation.

5.4 Forums

5.4.1 Judicial grievance mechanisms

5.4.1(a) International Court of Justice

The International Court of Justice (ICJ) serves as the principal judicial organ of the United Nations and acts as a world court. Its jurisdiction is twofold: (1) it settles legal disputes between States in accordance with international law (contentious jurisdiction), and (2) it provides advisory opinions on legal questions referred to it by UN organs, specialized agencies, or other authorized entities (advisory jurisdiction).

Who can approach the court?

The court is open to all States that are parties to its statute.

What is the jurisdiction of the court?

The ICJ's jurisdiction covers all cases referred to it by the parties and any matters specifically provided for in the UN Charter or in treaties and conventions in force. States Parties to the statute may, at any time, declare that they recognize the court's jurisdiction as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, for legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation; and
- (d) the nature or extent of reparation for the breach of an international obligation.

As per its Statute the ICJ applies international conventions, international customs, general principles, and judicial decisions in its practice.³⁴⁹

5.4.1(b) International Criminal Court

³⁴⁷ *Guiding Principles on Business and Human Rights*, 2011. p. 4 Principle 22; p.33 Principle 31.

³⁴⁸ Council of Europe, *Recommendation CM/Rec(2014)6*, 2014, p. 6.

³⁴⁹ United Nations, *Statute of the International Court of Justice*, April 18, 1946. Accessed June 27, 2025. <https://www.icj-cij.org/statute>

As discussed in chapter 2, the International Criminal Court (ICC) may exercise jurisdiction over cases involving genocide, crimes against humanity, and war crimes. While digital rights are not traditionally included within this scope, there is increasing discussion around the inclusion of cyberattacks within this ambit. In 2024, ICC prosecutor Karim Khan acknowledged this possibility. An article published by the International Bar Association highlights some of the key challenges associated with such inclusion, including difficulties in attributing cybercrimes to specific individuals due to issues of traceability and the blurred distinction between civilians and combatants in the context of armed conflict.³⁵⁰

5.4.1(c) European Court of Human Rights (ECtHR) (*regional*)³⁵¹

The European Court of Human Rights (ECtHR) is a supranational judicial body established by the Council of Europe to ensure the enforcement of the rights and freedoms enshrined in the European Convention on Human Rights (1950). It oversees the compliance of States Parties with their human rights obligations under the convention.

What is the jurisdiction of the court?

The court does not initiate cases on its own. It exercises jurisdiction over alleged violations of the ECHR based on applications submitted either by individuals or by States. Its jurisdiction extends only to the Council of Europe member states that have ratified the convention.

How can the ECtHR be approached?

The ECHR allows for two types of applications:

- (a) **Individual applications** submitted by any person, group, company, or NGO claiming a violation of their rights under the convention.
- (b) **Interstate applications** brought by one State against another concerning alleged breaches of the convention.

In practice, the vast majority of cases before the court are individual applications.

What are the admissibility criteria?

For an application to be admissible, several conditions must be met:

- (a) **Exhaustion of domestic remedies:** Applicants must first pursue all available legal avenues in their own country, up to the highest court.
- (b) **Relevant rights:** The complaint must relate to one or more rights protected by the convention.
- (c) **Time:** The application must be lodged within four months of the final decision from the highest national court.
- (d) **Victim:** The applicant must be personally and directly affected by the alleged violation and must have suffered a significant disadvantage.
- (e) **Against a State Party:** Applications may be brought only against one or more States Parties to the convention — not against individuals or non-member states.

³⁵⁰ “Cyberattacks as War Crimes.” International Bar Association. Accessed July 29, 2025. <https://www.ibanet.org/Cyberattacks-as-war-crimes>.

³⁵¹ “The ECHR in 50 Questions.” European Court of Human Rights. Accessed July 11, 2025. https://www.echr.coe.int/documents/d/echr/50Questions_ENG.

5.4.1(d) African Court on Human and Peoples' Rights

The court's mandate is to complement and strengthen the work of the ACHPR in promoting and protecting human and peoples' rights, freedoms, and duties across African Union member states. While the commission is a quasi-judicial body that issues recommendations, the court has the authority to issue binding decisions.

What is the court's jurisdiction?

Advisory Jurisdiction: The court may issue legal opinions at the request of AU member states, AU organs, or recognized African organizations, as long as the matter is not already under consideration by the commission.

Contentious Jurisdiction: The court hears cases and disputes between parties concerning the interpretation and application of human rights instruments.

Amicable Settlements: The court may facilitate amicable settlements in ongoing cases, in line with the African Charter on Human and Peoples' Rights 1981.

Who can approach the court?

According to the FAQs on the court's official website, the following parties can approach the court with an application:

- (a) the African Commission on Human and Peoples' Rights;
- (b) a State Party to the court's protocol against which the complaint has been lodged at the commission;
- (c) a State Party to the court's protocol whose citizen is a victim of a human rights violation;
- (d) African intergovernmental organizations;
- (e) States Parties to the court's protocol with an interest in a case may be permitted by the court to join the proceedings; and
- (f) relevant non-governmental organizations (NGOs) with observer status before the commission, and individuals can institute cases directly before the court if the State Party from which they come has made a declaration allowing such direct applications.³⁵²

5.4.1(e) Inter-American Court of Human Rights

The Inter-American Court of Human Rights is an international court established by the American Convention on Human Rights. It works alongside the Inter-American Commission on Human Rights and serves the member states of the Organization of American States (OAS) that have ratified the convention.

What is its function?

The court's adjudicatory role involves ruling on cases where a State Party to the convention — having accepted the court's jurisdiction—is accused of human rights violations. For the court to hear a case, the State must not only have ratified the convention but also voluntarily recognize the court's jurisdiction.

³⁵² "FAQs - African Court on Human and Peoples' Rights." African Court on Human and Peoples' Rights. Accessed July 9, 2025. <https://www.african-court.org/wpafc/faqs/>.

Who can approach the court?

Under the convention, cases may be referred to the court by either the Inter-American Commission on Human Rights or a State Party. Individuals cannot approach the court directly.

What are the admissibility criteria?

The case will be referred to the court if a State fails to abide by the recommendations offered by the court in response to a complaint or if the commission decides that the case is of particular importance or legal interest.

5.4.1(f) International Human Rights Treaty Bodies

Human rights treaty bodies are committees of independent experts responsible for monitoring the implementation of core international human rights treaties, such as the *International Covenant on Civil and Political Rights* (ICCPR), the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), and the *Convention on the Rights of the Child* (CRC), among others. There are ten such treaty bodies, each composed of experts of recognized competence in human rights. These experts are nominated and elected by States Parties for fixed, renewable terms of four years.

The following treaty bodies (or “committees”) allow for one or more of the individual, state-to-state, and inquiries complaint procedures:

a) **Human Rights Committee (CCPR) (*individual and state-to-state; quasi-judicial body*)**

The Human Rights Committee (CCPR) examines compliance by States Parties that have accepted the committee’s competence to consider individual complaints, typically through ratification or accession to the relevant optional protocol. The procedures also provide for a more detailed mechanism to resolve interstate disputes concerning the fulfillment of obligations under the covenant, including the establishment of an ad hoc conciliation commission.

b) **Committee on Economic, Social and Cultural Rights (CESCR) (*individual, state-to-state, and inquiries*)**

The Committee on Economic, Social and Cultural Rights (CESCR), which monitors the ICESCR, may examine individual complaints from States Parties that have accepted its competence by ratifying or acceding to the optional protocol. The protocol also establishes a procedure allowing the committee to consider complaints submitted by one State Party against another, provided both have made declarations recognizing the committee’s authority in this regard. Additionally, the committee may, on its own initiative, conduct inquiries if it receives reliable information indicating serious or systematic violations of the covenant by a State Party.

c) **Committee on the Rights of Persons with Disabilities (CRPD) (*individual and inquiries*)**

The Committee on the Rights of Persons with Disabilities (CRPD) may examine individual complaints against a State Party that has accepted the committee's competence by ratifying or acceding to the optional protocol. The committee may, on its own initiative, launch inquiries if it receives credible information indicating serious or systematic violations of the convention by a State Party.

d) Committee on the Elimination of Discrimination Against Women (CEDAW) (*individual, state-to-state, and inquiries*)

The Committee on the Elimination of Discrimination against Women (CEDAW) may examine individual complaints against States Parties that have accepted its competence by ratifying or acceding to the optional protocol. The convention also provides for the resolution of disputes between States Parties regarding the interpretation or application of its provisions. Such disputes should first be resolved through negotiation and, if unsuccessful, through arbitration. If the parties cannot agree on arbitration terms within six months, either party may refer the matter to the International Court of Justice. The committee may initiate inquiries on its own initiative if it receives reliable information indicating serious or systematic violations of the convention by a State Party.

e) Committee on the Rights of the Child (CRC) (*individual, state-to-state, and inquiries*)

The Committee on the Rights of the Child (CRC) may consider individual complaints against a State Party that has accepted its competence by ratifying or acceding to the Optional Protocol on a Communications Procedure. The protocol also allows the committee to consider complaints submitted by one State Party against another, provided both have made declarations recognizing the committee's authority to do so. In cases of unresolved interstate disputes concerning the fulfillment of obligations under the convention, a more detailed procedure is available, which includes the establishment of an ad hoc conciliation commission. The committee may, on its own initiative, conduct inquiries if it receives reliable information indicating serious or systematic violations of the convention by a State Party.

5.4.1(g) African Commission on Human and Peoples' Rights (*quasi-judicial body*)

The African Charter established the African Commission on Human and Peoples' Rights. The commission has three major functions: the protection of human and peoples' rights, the promotion of human and peoples' rights, and the interpretation of the African Charter on Human and Peoples' Rights.

Who can approach the commission?

The following can submit a complaint (called a "communication") to the commission:

- (a) an individual on their own behalf;
- (b) an individual on behalf of someone else;
- (c) groups of individuals;
- (d) non-governmental organizations (NGOs); or
- (e) States Parties to the African Charter.

There is no requirement for the complainant to be directly related to the victim, however the victim must be identified in the complaint.

What kind of complaints does the commission handle?

A complaint can allege violations of any human rights protected under the African Charter. The complaint may be between States (Articles 48 – 49) or a communication from individuals, NGOs, or others (Article 5).

What are the admissibility criteria of a complaint?

Under Article 56 of the African Charter, a complaint must:

- (a) include the author's name (even if anonymity is requested);
- (b) be compatible with the African Charter and the Charter of the Organization of the African Unity (OAU Charter);
- (c) not use insulting language against the State or OAU;
- (d) not be based solely on media reports;
- (e) exhaust all available domestic legal remedies;
- (f) be submitted within a reasonable time after domestic remedies are exhausted; and
- (g) not concern a matter already settled by another international human rights body.

Can the complaint be taken to court?

A complaint may escalate to the African Court on Human and Peoples' Rights on the condition that:

- (a) the State involved has ratified the protocol establishing the court.
- (b) the State has made a declaration allowing individuals or NGOs to bring cases directly; and
- (c) the commission refers the case to the court due to serious or unresolved violations.

5.4.1(h) Inter-American Commission on Human Rights (*quasi-judicial body*)

The Inter-American Commission on Human Rights (IACHR) is an autonomous organ of the Organization of American States (OAS) tasked with promoting and protecting human rights across the Americas. Its jurisdiction applies to all OAS member states, though the applicable legal standards vary depending on whether a State has ratified the American Convention on Human Rights or adheres only to the American Declaration of the Rights and Duties of Man.

What jurisdiction does the commission have?

It applies to all OAS member states. For States that have ratified the American Convention on Human Rights, it is the primary legal reference. For others, the 1948 American Declaration is used. Other inter-American human rights treaties ratified by a State may also apply. The commission considers alleged violations of human rights protected by the American Convention, the American Declaration, or other applicable inter-American instruments.

Who can approach the commission?

Any individual, group, or legally recognized NGO in an OAS member state can approach the commission. They can file on their own behalf or on behalf of others. No legal representation is required (although it is permitted).

5.4.1(i) Court of Justice of the European Union (CJEU)

The CJEU is the highest judicial authority within the European Union. Its primary role is to ensure the uniform interpretation and application of EU law across all member states and to resolve legal disputes involving EU institutions, member states, and, in certain cases, private individuals and companies.³⁵³

The court is divided into the Court of Justice and the General Court.

Who can approach the court?

EU institutions (such as the Commission, Parliament, and Council), EU member states, national courts (via preliminary rulings), and individuals or companies (indirectly via national courts or directly before the General Court) can approach the court.

What jurisdiction does the court have?

The jurisdiction of the CJEU is both direct and indirect and includes proceedings against member states for failure to fulfill an obligation; against EU institutions for failure to act or for annulment; and referrals by national courts on a preliminary ruling on the interpretation or validity of an EU law. Certain direct actions, such as those brought by or against EU institutions or concerning Commission-imposed fines, are reserved for the Court of Justice under Article 51 of its statute. The court also hears appeals from the decisions of the General Court.

5.4.2 Non-judicial grievance mechanisms

5.4.2(a) United Nations Special Procedures

These are independent human rights experts or groups appointed by the UN Human Rights Council to address specific human rights issues or country situations. They conduct country visits, respond to reports of violations, contribute to the development of international human rights standards, and engage in advocacy. Any individual, group, civil society organization, intergovernmental entity, or national human rights body can submit “communications” or a complaint to Special Procedures. The Human Rights Council’s complaint procedure addresses consistent patterns of gross and reliably attested human rights violations worldwide.³⁵⁴ The Working Group on Communications and the Working Group on Situations handle written complaints and bring patterns of violations to the council’s attention.

Who are the independent human rights experts?

The experts, known as special rapporteurs, conduct country visits, prepare thematic reports, submit communications on alleged violations, offer recommendations, and engage with civil society. On digital rights, special rapporteurs focus on issues such as:

- (a) Freedom of Opinion and Expression;³⁵⁵

³⁵³ “Court of Justice of the European Union.” European Union. Accessed July 5, 2025. https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/court-justice-european-union-cjeu_en.

³⁵⁴ United Nations Human Rights Council, *Resolution 5/1 on Institution-building of the Human Rights Council*, UN Doc. A/HRC/RES/5/1, adopted June 18, 2007. Accessed May 4, 2025. <https://www.refworld.org/legal/resolution/unhrc/2007/en/70503>.

³⁵⁵ You can find their latest reports [here](https://www.ohchr.org/en/special-procedures/sr-freedom-of-opinion-and-expression). “Special Rapporteur on Freedom of Opinion and Expression.” OHCHR. Accessed August 8, 2025. <https://www.ohchr.org/en/special-procedures/sr-freedom-of-opinion-and-expression>.

- (b) Right to Privacy;³⁵⁶
- (c) Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance;³⁵⁷
- (d) Violence against Women and Girls; and³⁵⁸
- (e) Rights of Persons with Disabilities.³⁵⁹

What is the communications procedure under UN Special Procedures?

Communications are letters sent by the Special Procedures to governments, intergovernmental organizations, businesses, or military or security companies. These letters report on allegations of human rights violations received by them and pertaining to past human rights violations; ongoing or potential human rights violations; and concerns regarding legislation, bills, policies, or practices that do not comply with international human rights law and standards. The letters request clarifications from them and, where necessary, request that the concerned authorities take action or investigate, stop the violation, bring justice, and ensure remedies are available to the victim(s) and their families. These letters also specify applicable human rights provisions.

Who can submit information to the Special Procedures and how?

Any individual, group, civil society organization, intergovernmental entity, or national human rights body can submit information to the Special Procedures. The [Special Procedures Submission online form](#) is recommended, as it includes categories of information required by experts to examine a case and, if needed, take it forward.³⁶⁰ The form additionally allows for the tracking of submissions.

The criteria applied to act on a submission align with the Special Procedures Code of Conduct, which stipulate that the communication should not be politically motivated, must not be abusive, should contain a factual description of the alleged human rights abuses, should not rely exclusively on media reports, and should be submitted on the basis of credible and detailed information.

What legislation applies?

The Special Procedures considers international human rights law wherever applicable for the submission.

5.4.2.(b) Special Rapporteurs³⁶¹

Special Rapporteurs are independent human rights experts appointed by the UN Human Rights Council to monitor, investigate, and report on specific human rights issues or country situations. Working independently and supported by the OHCHR, they engage with governments and civil society, conduct

³⁵⁶ You can find their latest reports [here](#). "Special Rapporteur on the Right to Privacy." OHCHR. Accessed August 8, 2025. <https://www.ohchr.org/en/special-procedures/sr-privacy>.

³⁵⁷ You can find their latest reports [here](#). "Special Rapporteur on Contemporary Forms of Racism." OHCHR. Accessed August 8, 2025. <https://www.ohchr.org/en/special-procedures/sr-racism>.

³⁵⁸ You can find their latest reports [here](#). "Special Rapporteur on Violence against Women and Girls." OHCHR. Accessed August 8, 2025. <https://www.ohchr.org/en/special-procedures/sr-violence-against-women>.

³⁵⁹ You can find their latest reports [here](#). "Special Rapporteur on the Rights of Persons with Disabilities." OHCHR. Accessed August 8, 2025. <https://www.ohchr.org/en/special-procedures/sr-disability>.

³⁶⁰ The form can be found at the bottom of the page.

³⁶¹ "Special Procedures of the Human Rights Council." OHCHR. Accessed July 15, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/special-procedures-human-rights-council>.

country visits, prepare annual thematic reports, and address individual cases through formal communications.

The complaint procedure, called “communications,” involves sending formal letters to governments, intergovernmental organizations, businesses, or other entities regarding allegations of human rights violations. These may concern past, ongoing, or potential violations, as well as laws or policies that conflict with international human rights standards. The aim is to alert authorities, request prevention and remedies, and raise awareness through reporting to the UN Human Rights Council.³⁶²

Who can submit a complaint and how?

Any individual, group, civil-society organization, inter-governmental entity or national human rights bodies can submit a complaint to the special rapporteur through an [online form](#).

What is the criteria they apply to act on a submission?

Special Rapporteurs determine their course of action based on their Code of Conduct and the following general criteria:

- (i) The complaint must not be manifestly unfounded or politically motivated.
- (j) It must contain a factual, credible, and detailed description of the alleged human rights violations.
- (k) Abusive language should be avoided.
- (l) The complaint should not rely solely on mass media reports.³⁶³

Please note that this complaint procedure does not require:

- (g) The concerned State to have ratified an international or regional human rights treaty.
- (h) The alleged victim to have exhausted domestic remedies before submitting a communication.³⁶⁴

Relevant Special Rapporteurs to note:³⁶⁵

1. [Special Rapporteur on the right to privacy](#)

Country mandates for the Asia-Pacific:³⁶⁶

1. [Special Rapporteur on the situation of human rights in Afghanistan](#)
2. [Special Rapporteur on the situation of human rights in Cambodia](#)
3. [Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea](#)
4. [Special Rapporteur on the situation of human rights in the Islamic Republic of Iran](#)
5. [Special Rapporteur on the situation of human rights in Myanmar](#)
6. [Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967](#)

³⁶² “What Are Communications?” OHCHR. Accessed July 15, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications>.

³⁶³ United Nations Human Rights Council, *Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council*, A/HRC/5/L.3/Rev.1, adopted 18 June 2007. <https://docs.un.org/en/A/HRC/5/L.3/REV.1>

³⁶⁴ OHCHR, “What Are Communications?”

³⁶⁵ “Current and Former Mandate Holders (Existing Mandates).” OHCHR. Accessed July 15, 2025. <https://www.ohchr.org/en/special-procedures-human-rights-council/current-and-former-mandate-holders-existing-mandates>.

³⁶⁶ OHCHR, “Current and Former Mandate Holders (Existing Mandates).”

7. [Special Rapporteur on the situation of human rights in the Russian Federation](#)

5.4.2(c) WIPO Arbitration and Mediation Center

The WIPO Arbitration and Mediation Center (WIPO AMC) provides alternative dispute resolution (ADR) services for copyright and digital content disputes. It offers mediation, expedited arbitration, and expert determination, including a specialized mechanism for digital copyright and trademark infringement (WIPO DCTI). These services assist in resolving issues such as licensing terms, remuneration from online platforms, unpaid royalties, ownership of software improvements, and disputes over online content use, including exceptions and limitations under copyright law.

5.4.2(d) National Human Rights Institution (NHRI) / National Human Rights Commission (NHRC) (regional)

NHRIs and NHRCs are independent state bodies mandated to monitor, promote, and protect human rights at the national level. While their structures and powers vary, they commonly handle complaints, conduct investigations, issue advisory opinions, and publish reports. As accessible, non-judicial forums, they play a vital role in providing redress where judicial remedies are unavailable or delayed. Many have the power to recommend remedies, facilitate mediation, or refer cases to competent authorities. Their effectiveness is assessed against the [Paris Principles](#).³⁶⁷ Increasingly, NHRIs also address extraterritorial human rights concerns—particularly in the areas of business, the environment, and migration—thereby helping to bridge the gap between victims and State accountability.

5.4.3 Other mechanisms

5.4.3(a) Data Protection Authorities

Data protection authorities (DPAs) are independent authorized bodies established under data protection laws to oversee the implementation and enforcement of privacy and data protection regulations. In some regions, specific legislation provides for the establishment of data protection authorities, to which individuals may file complaints to seek remedies for violations of their data protection rights.

5.4.3(b) UN Internet Governance Forum³⁶⁸

The United Nations Internet Governance Forum (IGF) brings together stakeholders to discuss digital public policy. Although the forum does not produce binding outcomes, it does inform policymakers across sectors through ongoing dialogue, capacity-building, and annual meetings that generate shared understanding, good practices, and policy recommendations for global and national use.

5.4.3(c) Asian Development Bank Accountability Mechanism³⁶⁹

³⁶⁷ *The Paris Principles*, 1993.

³⁶⁸ "Internet Governance Forum – Homepage." Internet Governance Forum. Accessed June 20, 2025. <https://www.intgovforum.org/en>.

³⁶⁹ "Accountability Mechanism." Asian Development Bank. Accessed August 5, 2025. <https://www.adb.org/who-we-are/accountability-mechanism>.

The Accountability Mechanism of the Asian Development Bank (ADB) offers an independent forum for people adversely affected by ADB-assisted projects to raise concerns. The mechanism aims to ensure the ADB's operations comply with its policies while promoting fairness, transparency, and accountability. The mechanism addresses issues on climate change, the environment, health, sustainable development, and water.

5.5 Key Questions and Issues

5.5.1 What ought to be qualified as digital rights under international human rights law and principles that have guided international affairs?

The [IRPC Charter](#) of Human Rights and Principles for the Internet outlines key digital rights that should be recognized as part of the broader framework of human rights. While much of its content aligns with the guarantees provided in the UDHR, ICCPR, and ICESCR, the charter also expands on these instruments. It offers a reflective and aspirational perspective on what should be included in a comprehensive international framework for human and digital rights.³⁷⁰

Right to Access to the Internet	Ensures universal access, quality of service, freedom of choice, digital inclusion, and net neutrality for all. (Drawn from Article 19 of the UDHR)
Right to Non-Discrimination in Internet Access, Use, and Governance	Guarantees equality of access, inclusion of marginalized groups, and gender equality in digital spaces. (Drawn from Article 2 of the UDHR, ICCPR, and ICESCR)
Right to Liberty and Security on the Internet	Protects users from cybercrime and ensures internet security for safe online interactions.
Right to Development through the Internet	Promotes poverty reduction, human development, and environmental sustainability through digital access.
Freedom of Expression and Information on the Internet	Safeguards freedom of protest, freedom from censorship, access to information, media freedom, and protection from hate speech. (Drawn from Article 19 of the UDHR and ICCPR)
Freedom of Religion and Belief on the Internet	Ensures the right to freedom of religion and belief expression in digital spaces.
Freedom of Online Assembly and Association	Protects the right to participate in online assemblies and associations without restrictions. (Drawn from Article 20 of the UDHR and Article 21 of the ICCPR)
Right to Privacy on the Internet	Upholds privacy laws, confidentiality, anonymity, encryption,

³⁷⁰ You may refer to the [UDHR, 1948](#), [ICCPR, 1966](#) and the [ICESCR, 1966](#) while browsing through this section.

	freedom from surveillance, and freedom from defamation. (Drawn from Article 12 of the UDHR and Article 17 of the ICCPR)
Right to Digital Data Protection	Ensures personal data protection, accountability of data collectors, minimum usage standards, and independent oversight.
Right to Education on and about the Internet	Supports education through digital means and awareness of digital rights. (Drawn from Article 26 of the UDHR and article 13 of the ICESCR)
Right to Culture and Access to Knowledge on the Internet	Protects cultural participation, language diversity, copyright limitations, and open-source knowledge.
Rights of Children and the Internet	Ensures children benefit from the internet, protection from exploitation, the right to be heard, and the best interests of the child. (Drawn from <i>Convention on the Rights of the Child</i> and <i>General Comment No. 25</i>)
Rights of People with Disabilities and the Internet	Promotes internet accessibility, availability, and affordability for people with disabilities.
Right to Work and the Internet	Ensures workers' rights, fair use of the internet at work, and equitable work opportunities online. (Drawn from Article 23 of the UDHR and article 6 of the ICESCR)
Right to Online Participation in Public Affairs	Guarantees equal access to e-governance and participation in digital democracy
Rights to Consumer Protection on the Internet	Advocates for consumer rights, fair online transactions, and digital marketplace protections.
Rights to Health and Social Services on the Internet	Ensures access to online health services and digital healthcare resources
Right to Legal Remedy and Fair Trial for Actions Involving the Internet	Guarantees legal recourse, fair trials, and due process for internet-related violations. (Drawn from Article 8 of the UDHR and Article 2 and 14 of the ICCPR)
Right to an Appropriate Social and International Order for the Internet	Advocates for human rights – based internet governance, multilingualism, and inclusive participation.

Duties and Responsibilities on the Internet	Calls for respecting digital rights, the responsibility of power holders, and ethical online conduct.
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5.5.2 Are there limitations to simply expanding existing international human rights frameworks to cover digital rights, or is there a need for a dedicated framework specifically for digital rights?

Yuval Shany argues that adapting offline rights to the online environment may necessitate “new theoretical justifications” for the rights in question. Shany observes that the gap between traditional human rights frameworks and the evolving needs and interests of digital users highlights the limitations of relying solely on existing rights to address digital challenges. This gap has given rise to discussions around emerging rights, such as the “right to be forgotten” and the right not to be subject to algorithmic decisions. Given the unique speed, scale, and frequency of digital rights violations, Shany emphasizes the importance of reevaluating and potentially expanding the scope and content of established human rights norms through a dedicated framework. This reflection is critical when considering the application of human rights instruments to the digital domain.³⁷¹

5.5.3 What legal or regulatory measures are being introduced in response to the rise of artificial intelligence (AI)?

The *Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law* (which opened for signature in September 2024), is the first international legally binding agreement on AI.³⁷² It sets out foundational principles such as human dignity and individual autonomy, equality and non-discrimination, respect for privacy and personal data protection, transparency and oversight, accountability and responsibility, and reliability and safe innovation. The convention also obliges States to ensure remedies, procedural rights, and safeguards and to implement risk and impact management measures to guide the responsible use of AI systems.

5.6 Extraterritorial application

Given the inherently cross-border nature of digital rights, which affect individuals globally and are deeply interconnected, extraterritorial application of laws is expected. One example is the European Union’s General Data Protection Regulation (GDPR). Article 3 of the GDPR explicitly extends its scope to any data controller, whether inside or outside the EU, who processes the personal data of EU residents.³⁷³ Similarly, Article 17 of the ICCPR provides that “no one shall be subjected to arbitrary or unlawful interference with his privacy” and “everyone has the right to the protection of the law against such interference.”³⁷⁴

³⁷¹ Yuval Shany. “Digital Rights and the Outer Limits of International Human Rights Law.” *German Law Journal* 24, no. 3 (2023): 461– 472. doi:10.1017/glj.2023.35.

³⁷² Council of Europe. *Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law*, CETS No. 225, Adopted May 17, 2024, opened for signature September 5, 2024. Strasbourg: Council of Europe. <https://rm.coe.int/1680afae3c>.

³⁷³ “Art. 3 GDPR – Territorial Scope.” General Data Protection Regulation (GDPR), August 30, 2016. <https://gdpr-info.eu/art-3-gdpr/>.

³⁷⁴ ICCPR, 1966.

In its General Comment No. 16, the Human Rights Committee clarified that any interference must be based on law and that “arbitrary” interference can include actions that, while lawful, are unreasonable or unjustifiable in accordance with the Covenant.³⁷⁵ There are discussions that the drafters of the ICCPR may not have intended for States to evade their obligations by limiting application strictly within borders. The Facebook-Cambridge Analytica scandal involved cross-border data misuse, highlighting jurisdictional challenges. The UK Information Commissioner’s Office (ICO) investigated the matter, emphasizing the need for international cooperation and data protection frameworks like the EU-US Privacy Shield (which was later invalidated) to address such transnational data breaches.³⁷⁶

5.7 Cases

Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos, Mario Costeja González - Case C-131/12, 13 May 2014³⁷⁷

In this case, the Court of Justice of the European Union established the “right to be forgotten” under EU law, allowing individuals to request the removal of personal data from search engines.

Maximilian Schrems v. Data Protection Commissioner (Schrems I) - Case C-362/14, 6 October 2015³⁷⁸

The European Court of Justice invalidated the US-EU Safe Harbor agreement, which had allowed companies to transfer personal data from Europe to the United States based on self-certification of compliance with EU data protection standards. The court held that the agreement did not provide adequate protection for European data in the United States, rendering the underlying decision invalid.

Carpenter v. United States 585 US 296 (2018)³⁷⁹

The United States Supreme Court ruled that accessing historical cell phone records requires a warrant, thus protecting digital privacy under the Fourth Amendment.

Digital Rights Ireland Ltd v. Minister for Communications, Marine and Natural Resources - Cases C-293/12 and C-594/12.³⁸⁰

³⁷⁵ CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation. Accessed July 15, 2025. <https://www.refworld.org/legal/general/hrc/1988/en/27539>.

³⁷⁶ “Revealed: 50 Million Facebook Profiles Harvested for Cambridge Analytica in Major Data Breach.” The Guardian, March 17, 2018. <https://www.theguardian.com/news/2018/mar/17/cambridge-analytica-facebook-influence-us-election>.

³⁷⁷ *Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos, Mario Costeja González*, Case C-131/12, Court of Justice of the European Union, May 13, 2014. Accessed April 13, 2025. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62012CJ0131>

³⁷⁸ *Maximilian Schrems v. Data Protection Commissioner* (Schrems I), Case C-362/14, Court of Justice of the European Union, October 6, 2015. Accessed April 13, 2025. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62014CJ0362>.

³⁷⁹ *Carpenter v. United States*, 585 U.S. 296 (2018). Accessed April 13, 2025. https://www.supremecourt.gov/opinions/17pdf/16-402_h315.pdf.

³⁸⁰ *Digital Rights Ireland Ltd v. Minister for Communications, Marine and Natural Resources and Others and Kärntner Landesregierung and Others*, Cases C-293/12 and C-594/12, Court of Justice of the European Union, April 8, 2014. Accessed April 13, 2025. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62012CJ0293>.

The European Court of Justice found the directive's aim of combating serious crime legitimate but ruled that it failed the proportionality test, as the measures taken were not appropriate or necessary in relation to that objective.

Getty Images v. Stability AI - Case No.: IL-2023-000007³⁸¹

Getty Images filed a lawsuit against Stability AI. Stability AI, a UK based Artificial Intelligence company, used around 12 million images from Getty Images to train a text-to-image AI model that is used to generate detailed synthetic images in response to text commands and image prompts entered by users, known as Stable Diffusion without permission. It alleged copyright and database infringement, trademark misuse due to retained watermarks, and secondary infringement by introducing the model into the UK. The case was initially heard before the High Court of Justice, Business and Property Courts of England and Wales which concluded by refusing to grant Getty Images' representative claim but indicated that the case could proceed if the procedural and case management issues were properly addressed. An appeal was filed, and the Court of Appeal upheld the High Court's previous order.³⁸²

WhatsApp Inc. v. NSO Group Technologies Limited - Case No. 19-cv-07123-PJH³⁸³

The United States District Court for the Northern District of California held that the NSO Group, a private company, could not claim sovereign immunity, even if acting on behalf of a foreign government. The court found that NSO used its Pegasus spyware to exploit vulnerabilities in WhatsApp, unlawfully accessing the platform to monitor over 1,400 individuals without consent. This conduct violated the Computer Fraud and Abuse Act (CFAA), the California Comprehensive Computer Data Access and Fraud Act (CDAFA), and WhatsApp's terms of service. The court granted summary judgment on the CFAA, CDAFA, and breach of contract claims and imposed evidentiary sanctions against NSO for failing to comply with discovery obligations.

³⁸¹ *Getty Images (US) Inc. v. Stability AI Ltd.*, Case No. IL-2023-000007, [2025] EWHC 38 (Ch), High Court of Justice, Business and Property Courts, England and Wales, January 14, 2025. Accessed April 13, 2025. <https://www.judiciary.uk/wp-content/uploads/2025/01/Getty-Images-and-others-v-Stability-AI-14.01.25.pdf>

³⁸² *Getty Images (US), Inc. & Ors v Stability AI Ltd.*, [2025] EWCA Civ 749, Court of Appeal, June 16, 2025. Accessed August 4, 2025. <https://www.bailii.org/ew/cases/EWCA/Civ/2025/749.pdf>

³⁸³ *WhatsApp Inc., et al., v. NSO Group Technologies Limited, et al.*, Case No. 19-cv-07123-PJH, United States District Court, Northern District of California, December 20, 2024. Accessed April 13, 2025. https://www.govinfo.gov/content/pkg/USCOURTS-cand-4_19-cv-07123/pdf/USCOURTS-cand-4_19-cv-07123-24.pdf

CHAPTER VI:

PROTECTION OF LAWYERS AND THE LEGAL PROFESSION UNDER INTERNATIONAL LAW



CHAPTER 6: PROTECTION OF LAWYERS AND THE LEGAL PROFESSION UNDER INTERNATIONAL LAW

Contents

- 6.1 [International frameworks governing the independence of lawyers and the legal profession](#)
- 6.2 [Major instruments governing the independence of lawyers and the legal profession](#)
- 6.3 [Grievance mechanisms](#)

6.1 International frameworks governing the independence of lawyers and the legal profession

At present, international laws aimed at protecting lawyers and the legal profession are limited to international standards and soft law as opposed to binding treaties. There is a growing need for the latter, given the increasing instances of harassment, intimidation, threats, arbitrary detention, and even violence.

6.2 Major instruments governing the independence of lawyers and the legal profession

(a) Table 6.1. International Instruments

Basic Principles on the Role of Lawyers, 1990 ³⁸⁴	International Bar Association Standards for the Independence of the Legal Profession, 1990 ³⁸⁵
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(b) Table 6.2. Regional Instruments

Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003 ³⁸⁶	Recommendation No.R (2000)21 of the Committee of Ministers to the member States on the freedom of exercise of the profession of lawyer, 2000 ³⁸⁷
Council of Europe Convention for the Protection of the Profession of Lawyer, 2025 ³⁸⁸	

Table 6.2.1 Principles safeguarding the rights of lawyers

³⁸⁴ United Nations, *Basic Principles on the Role of Lawyers*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 7 September 1990. Accessed June 28, 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>.

³⁸⁵ International Bar Association, *Standards for the Independence of the Legal Profession*, adopted 1990. Accessed June 28, 2025. <https://www.ibanet.org/MediaHandler?id=F68BBBA5-FD1F-426F-9AA5-48D26B5E72E7>.

³⁸⁶ African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, May 29, 2003. Accessed June 28, 2025. https://hrlibrary.umn.edu/research/ZIMPrinciples_And_G.pdf.

³⁸⁷ Committee of Ministers of the Council of Europe, *Recommendation No. R (2000)21 to Member States on the Freedom of Exercise of the Profession of Lawyer*, October 25, 2000. Accessed June 28, 2025. <https://www.icj.org/wp-content/uploads/2014/10/CoE-rec200021-freedom-exercise-profession-lawyer.pdf>.

³⁸⁸ Committee of Ministers of Council of Europe, *Convention for the Protection of the Profession of Lawyer*, March 12, 2025. Accessed June 28, 2025. <https://www.refworld.org/legal/agreements/coeministers/2025/en/149665>.

The *Basic Principles on the Role of Lawyers* contain the following principles aimed at protecting the rights of lawyers in their professional and personal capacity.

Principles 16 – 22	Guarantee the functioning of lawyers, including but not limited to ensuring that lawyers are able to perform their duties while ensuring confidentiality, without intimidation, hindrance, harassment, or improper interference and, in such events, are safeguarded by authorities.
Principle 23	Grants the freedom of expression, belief, association, and assembly, while conducting themselves in accordance with law and recognized professional capacity and ethics.
Principles 24 – 25	Entitle lawyers to form and join self-governing professional associations to represent their interests, promote their continuing education and training, and protect their professional integrity.
Principles 26 – 29	Ensure that all disciplinary proceedings against lawyers are conducted impartially, independently, expeditiously, and fairly.

Table 6.2.2 International Bar Association Standards for the Independence of the Legal Profession, 1990

The IBA established these standards to assist in the task of promoting and ensuring the proper role of lawyers.

Standard 6	Requires that lawyers perform their duties without any inhibition or pressure from the authorities or the public.
Standard 8	Requires that no lawyer shall suffer or be threatened with penal, civil, administrative, economic, or other sanctions or harassment by reason of his or her having legitimately advised or represented any client.
Standard 12	Requires that the independence of lawyers in dealing with persons deprived of their liberty shall be guaranteed so as to ensure that they have free, fair, and confidential legal assistance, including the lawyer's right of access to such persons.
Standard 13	Requires that lawyers shall have all such other facilities and privileges as are necessary to fulfill their professional responsibilities effectively.
Standard 14	Requires that lawyers shall not by reason of exercising their profession be denied freedom of belief, expression, association, and assembly.

6.2.3 Regional Instruments

Recommendation No. R (2000) 21 of the Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer, 2000³⁸⁹

Adopted by the Committee of Ministers on October 25, 2000, the recommendation was drafted because of a perception that a system was required which guarantees the independence of lawyers in the discharge of their professional duties without any improper restriction, influence, inducement, pressure, threats, or interference, direct or indirect. These recommendations stipulates six principles, which include:

- a. Principle I — General principles on the freedom of exercise of the profession of lawyer;
- b. Principle II — Legal education, training, and entry into the legal profession;
- c. Principle III — Role and duty of lawyers;
- d. Principle IV — Access for all persons to lawyers;
- e. Principle V — Associations; and
- f. Principle VI — Disciplinary proceedings.

Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003³⁹⁰

While these principles cover the broader subject of the right to a fair trial and legal assistance, principles F and G are specifically aimed at protecting lawyers. They include guidelines on the rules of prosecutors, the independence of lawyers, and cross-border collaboration among legal professionals.

Council of Europe Convention on the Profession of Lawyer, 2025³⁹¹

The first of its kind, the convention has been developed as a binding international treaty for the protection of the legal profession. Though the convention has yet to be ratified, it was opened for signature on May 13 – 14, 2025. As at the date of writing this manual, at least seventeen European States have signed the treaty.

The convention includes extensive protections for professional associations, entitlement to practice, professional rights of lawyers, freedom of expression, discipline, and protective measures. The convention also mandates a group of experts be appointed to monitor the implementation of the convention by parties and make recommendations on the basis of information it receives.

6.3 Grievance Mechanisms

At present, there are no grievance mechanisms specific to lawyers, although they may seek remedies through existing mechanisms to assert the violation of their civil and political rights. However, this may change given the introduction of the Council of Europe Convention on the Profession of Lawyer 2025. Additionally, the [UN special rapporteur on the independence of judges and lawyers](#) is mandated to monitor threats to the legal profession and intervene in cases of violations through communications with States.³⁹²

³⁸⁹ Council of Europe, *Recommendation No. R (2000) 21*, 2000.

³⁹⁰ African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, 2003.

³⁹¹ Committee of Ministers of Council of Europe, *Convention for the Protection of the Profession of Lawyer*, 2025.

³⁹² "Special Rapporteur on the Independence of Judges and Lawyers." OHCHR. Accessed July 5, 2025. <https://www.ohchr.org/en/special-procedures/sr-independence-of-judges-and-lawyers>.

PART II: **TOOLS & REFERENCE**



CHAPTER VII:

ENCOUNTERS WITH INTERNATIONAL LAW IN THE ESCAP REGION: A CASE INDEX



CHAPTER 7: ENCOUNTERS WITH INTERNATIONAL LAW IN THE ESCAP REGION: A CASE INDEX

Contents

7.1 [Overview](#)

7.2 [Case index for the ESCAP region](#)

7.1 Overview

This chapter sets out a list of cases related to the ESCAP region that engage international law — through proceedings before international or domestic courts that reference international legal obligations³⁹³ The aim of this chapter is to map the presence — or invocation — of international legal principles within both national and international legal forums connected to the region.

The selection is not based on the legal significance or outcome of the cases. Rather, it reflects a practical effort to gather and organize accessible examples, serving as a starting point for further research. The chapter also aims to illustrate how international legal obligations can seep into domestic legal discourse — at times as guiding norms and at other times as points of contention or strategic claims.

This chapter is intended as a reference resource to support inquiry and highlight the evolving intersections between domestic and international legal spheres.

7.2 Case Index for the ESCAP region

Table 7.2.1

S.NO.	CASE	YEAR
ICJ CASES		
1.	Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory ICJ GL No. 196	Pending
2.	Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar) ICJ GL No. 178	Filed in 2019; pending

³⁹³ ESCAP is the Economic and Social Commission for Asia and the Pacific, which is a regional commission of the United Nations and an intergovernmental platform that promotes cooperation between its member states and associate members. It evolved from ECAFE – Economic Commission for Asia and the Far East – which was established after World War II during a period when many post-colonial jurisdictions within the Asia and Pacific region were emerging as sovereign and intended to establish a forum for regional collaboration. For further information see - About Escap | Escap. Accessed August 18, 2025. <https://www.unescap.org/our-work>.

3.	<i>Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan v. Armenia) ICJ GL No. 181</i>	Filed in 2021; pending
4.	<i>Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation) ICJ GL No. 182</i>	Filed in 2022; pending
5.	<i>Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel) ICJ GL No. 192</i>	Filed in 2023; pending
6.	<i>Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia) ICGJ 472 (ICJ 2014)</i>	Concluded in 2015
7.	<i>Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. United Kingdom) ICGJ 500 (ICJ 2016)</i>	Concluded in 2016
8.	<i>Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. Pakistan) ICGJ 501 (ICJ 2016)</i>	Concluded in 2016
9.	<i>Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India) ICJ 502 (ICJ 2016)</i>	Concluded in 2016
12.	<i>Jadhav (India v. Pakistan) ICGJ 538 (ICJ 2019)</i>	Concluded in 2019
13.	<i>Immunities and Criminal Proceedings (Equatorial Guinea v. France) ICGJ 5511 (ICJ 2020)</i>	Concluded in 2020
14.	<i>Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem ICJ GL No. 186</i>	Concluded in 2024
15.	<i>Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation) ICJ GL No. 166</i>	Concluded in 2024
16.	<i>Obligations of States in Respect of Climate Change, Advisory Opinion, ICJ 23 July 2025, General List No. 187</i>	Concluded in 2025
ICC CASES		
4.	<i>The Prosecutor vs. Rodrigo Roa Duterte ICC-01/21-01/25</i>	Ongoing
5.	<i>Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar ICC-01/19</i>	Ongoing
6.	<i>The Prosecutor v. Iyad Ag Ghaly ICC-01/12-01/17</i>	Pre-trial stage

7.	<i>Situation in the Islamic Republic of Afghanistan</i> ICC-02/17	Ongoing
8.	<i>Situation in the State of Palestine</i> ICC-01/18	Ongoing
1.	<i>The Prosecutor v. Ahmad Al Faqi Al Mahdi</i> ICC-01/12-01/15	Concluded in 2016
2.	<i>Situation in Georgia</i> ICC-01/15	Concluded in 2022
3.	<i>The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud</i> ICC-01/12-01/18	Concluded in 2024
REGION-SPECIFIC CASES THAT MENTION INTERNATIONAL LAW		
1.	ARMENIA <i>Hrachya Harutyunyan v. Armenia</i>, Application no. 15028/16 <i>Minasyan and Others v. Armenia</i>, Application no. 59180/15	2024 2025
2.	AUSTRALIA <i>Bushfire Survivors for Climate Action Incorporated v. Environment Protection Authority</i> [2021] NSWLEC 92	2021
3.	AZERBAIJAN <i>Objective Television and Radio Broadcasting Company and Others v. Azerbaijan</i>, Application no. 257/12	2025
4.	BANGLADESH <i>Anika Ali v Rezwanul Ahsan</i> ILDC 3137 (BD 2011) <i>Md. Lutfor Rahman and Ors. v Government of Bangladesh</i> ILDC 3261 (BD 2021)	2011 2021
6.	FRANCE <i>S.A.S v. France</i>, Application no. 43835/11	2014
7.	GERMANY <i>Saure v. Germany (No. 2)</i>, Application no. 6091/16	2023
8.	HONG KONG SAR <i>C & Ors v. Director of Immigration and Anr.</i> Civil Appeal Nos. 132-137 of 2008 <i>FB and Others v. Director of Immigration and Secretary for Security</i> [2009] 1 HKC 133	2011 2008
9.	INDIA <i>Mohammad Salimullah v. Union of India</i> WP No. 793 of 2017 <i>Republic of Italy v. Union of India</i> 2013 4 SCR 595	Pending 2012
10.	INDONESIA <i>Alliance of Independent Journalists v. Minister of Communication</i>, 230/G/TF/2019/PTUN-JKT	2020
11.	ISRAEL <i>Malekar v. DECA</i> Administrative Appeal No. 28312-05-19	2020
12.	JAPAN <i>Judgment Concerning the relationship between a distinction in granting Japanese nationality caused by Article 3, para.1 of the Nationality Act</i> 2006 Gyo Tsu 135	2008

13.	KAZAKHSTAN Arkhangelskiy v. Kazakhstan CCPR/C/137/D/2549/2015-2550/2015	2023
14.	KYRGYZTAN Askar Kyzy v. Arziev and Duishenbaev ILDC 3202 (KG 2020)	2020
16.	NEPAL Maya Nepal v. Nepal, CCPR/C/132/D/2615/2015	2015
17.	PHILIPPINES China National Machinery & Equipment Corporation (Group) v Santamaria and ors. ILDC 3119 (PH 2012) In the Matter of the Urgent Petition for the Release of Prisoners on Humanitarian Grounds in the Midst of the COVID-19 Pandemic, Almonte and ors v People of the Philippines and ors. ILDC 3310 (PH 2020) Philippines v Karbasi ILDC 3133 (PH 2015)	2012 2020 2015
18.	REPUBLIC OF KOREA Do-Hyun Kim et al. v. South Korea, 2020Hun-Ma389 Claims for damages and wage payment claims against Mitsubishi Heavy Industries brought by victims of Japan's forced mobilization, Park and ors v Mitsubishi Heavy Industries Limited ILDC 1909 (KR 2012) Plaintiffs v. State of Japan 2021 Na 2017165 Compensation for Damage (Others)	2024 2012 2023
19.	RUSSIA Kobaliya and Others v. Russia Application nos. 39446/16 and 106 others	2024
20.	SINGAPORE Lim Meng Suang and anr v Attorney-General [2014] SGCA 53	2014
21.	SRI LANKA Pelaketiya v HM Gunasekera and Ors. SC/FR/No. 76/2012	2016
22.	TAIWAN Chiayi City Council and ors v Ministry of Health and Welfare and Executive Yuan ILDC 3450 (TW 2022)	2022
23.	TIMOR-LESTE Agustinho da Costa v Timor-Leste ILDC 1971 (TL 2003)	2003
24.	TURKEY Ekrem Can and Others v. Turkey, Application no. 10613/10	2022
25.	UNITED KINGDOM Samherji HF v. Oddur Fridriksson [2024] EWHC 2892 (Ch)	2024

CHAPTER VII:

DIRECTORY OF NHRIS/NHRCS IN THE ESCAP REGION



CHAPTER 8: DIRECTORY OF NHRIs/NHRCs IN THE ESCAP REGION³⁹⁴

Contents

[8.1 Overview](#)

[8.2 Directory](#)

8.1 Overview

Many international human rights remedy mechanisms primarily rely on domestic legal systems — either requiring that domestic remedies be exhausted before international action can be taken or obligating States to implement treaties and conventions through their own legal frameworks. While international mechanisms do exist, they are typically accessible only in exceptional circumstances. More often, international instruments serve to harmonize standards across jurisdictions, particularly in a globally connected, cross-border world.

This context underscores the importance of NHRIs and commissions, which often serve as the most immediate and accessible point of redress for individuals — especially when human rights violations extend beyond what can be easily classified as purely “domestic.” As extraterritoriality becomes increasingly relevant, the distinction between domestic and international remedies is no longer clear-cut. They inform each other, blur, but cannot solely be determined by jurisdictional lines. For this reason, the manual includes a directory of NHRIs and commissions within the ESCAP region.

A paper by the Asia Pacific Forum illustrates how NHRIs are increasingly addressing complaints with extraterritorial dimensions.³⁹⁵ In the region, several NHRIs have used their mandates to investigate and respond to grave cross-border human rights violations — such as those linked to military dictatorships, occupation, climate impacts, and migrant labor exploitation. Their activities span critical functions like case investigations, national inquiries, international collaboration, and public education, showing both their current contributions and untapped potential to advance human rights globally.

The Asia Pacific Forum maintains an information library on the region’s national human rights institutions and their activities.³⁹⁶

³⁹⁴ The table includes ESCAP member jurisdictions, others broadly considered part of the Asia-Pacific and select non-regional jurisdictions relevant to LAWASIA. For example, the German Federal Bar and the American Bar Association are members of LAWASIA.

³⁹⁵ “National Action on International Issues” - Asia Pacific Forum, March 05 2025. Accessed August 18 2025 <https://cdn.sanity.io/files/upt0oqh4/production/8dceae807548839e70136877cf80737c16b1471f.pdf>

³⁹⁶ “APF Library.” Home • APF Library. Accessed August 18, 2025. <https://library.asiapacificforum.net/>

Note that the library only lists those institutions accredited by GANHRI. See footnote 399 to know what GANHRI is.

In its document on national human rights institutions, the OHCHR provides a useful outline of the history, principles, roles, and responsibilities of these institutions.³⁹⁷

8.2 Directory³⁹⁸

Table 8.2.

S.NO.	REGION AND INSTITUTE/ COMMISSION	BRIEF DETAIL	CONTACT
1.	Afghanistan Afghanistan Independent Human Rights Commission	It was suspended in 2022.	NA
2.	Armenia Human Rights Defender of the Republic of Armenia	The Human Rights Defender's Office in Armenia, an independent National Human Rights Institution, monitors and protects human rights across public bodies and delegated organizations; handles individual and systemic complaints; engages in preventive legal reviews, including constitutional compliance; promotes legal reforms; raises public awareness; monitors implementation of key international conventions; and annually reports its activities to the National Assembly. Accredited by GANHRI as of April 2025. ³⁹⁹	E: ombuds@ombuds.am Social media handles: Facebook Twitter
3.	Australia Australian Human Rights Commission	The Australian Human Rights Commission, established under the <i>Australian Human Rights Commission Act 1986</i> , is an independent statutory body responsible for promoting human rights, resolving discrimination complaints, conducting education and awareness, and contributing to policy and legislative development under various federal anti-discrimination laws. Accredited by GANHRI as of April 2025.	E: communications@humanrights.gov.au Social media handles: Facebook Twitter Instagram
4.	Azerbaijan Commission for Human Rights of the Republic of	Commission for Human Rights of the Republic of Azerbaijan (Ombudsman) The Office of the Commissioner for Human Rights (Ombudsman) of the	E: ombudsman@ombudsman.az

³⁹⁷ "National Human Rights Institutions – History, Principles, Roles and Responsibilities" – OHCHR, April 2011. Accessed on August 10 2025. https://www.ohchr.org/sites/default/files/Documents/Publications/PTS-4Rev1-NHRI_en.pdf

³⁹⁸ This information is accurate as of the time of writing as on 18 August 2025 and may be subject to change; readers are encouraged to consult official sources for the most current details.

³⁹⁹ GANHRI is a global alliance representing over 110 National Human Rights Institutions, working to promote and strengthen independent human rights bodies worldwide in close partnership with the United Nations and regional networks. For further information see – "Home." GANHRI, July 25, 2025. <https://ganhri.org/>.

	Azerbaijan Ombudsman	Republic of Azerbaijan, established by the constitution and relevant laws, independently monitors and protects human rights by overseeing state bodies, municipalities, and public institutions; preventing torture through regular visits to detention facilities; ensuring compliance with international conventions; cooperating with local and international organizations; addressing complaints related to human rights violations; and making recommendations to government authorities while upholding principles of transparency, legality, and impartiality. Accredited by GANHRI as of April 2025.	Social media handles: Facebook Twitter Instagram Telegram
5.	Bangladesh National Human Rights Commission of Bangladesh	Following the en masse resignation of its commissioners in November 2024, the NHRC is currently vacant. Accredited by GANHRI as of April 2025.	NA
6.	Bhutan	No national human rights commission.	NA
7.	Brunei Darussalam	No national human rights commission.	NA
8.	Cambodia	No national human rights commission.	NA
9.	China	No national human rights commission.	NA
10.	Democratic People's Republic of Korea	No national human rights commission.	NA
11.	Fiji Fiji Human Rights and Anti-Discrimination Commission	Human Rights and Anti-Discrimination Commission The Fiji Human Rights and Anti-Discrimination Commission, reestablished under the constitution, has a broad mandate to promote and protect human rights through education, monitoring, investigation, policy recommendations, and ensuring State compliance with international human rights obligations. Accredited by GANHRI as of April 2025.	E: info@fhradc.org.fiji Social media handles: Facebook Instagram
12.	France French National Consultative Commission on Human Rights	The French National Consultative Commission on Human Rights (CNCDH), established in 1947 as France's oldest national human rights institution, is an independent, pluralistic body that advises the government and parliament on human rights and international humanitarian law; monitors the implementation of international human rights conventions;	E: Cncdh.info@cncdh.fr Social media handles: Facebook LinkedIn Bluesky

		contributes to UN human rights mechanisms; and serves as the national rapporteur on issues such as racism, antisemitism, xenophobia, human trafficking, gender equality, business and human rights, and the CRPD. Accredited by GANHRI as of April 2025.	
13.	Georgia The Public Defender of Georgia	The Public Defender of Georgia (Ombudsman) is an independent institution responsible for overseeing the observance of human rights and freedoms in Georgia, advising the government on human rights issues, and analysing laws, policies, and practices to ensure compliance with international standards through relevant recommendations. Accredited by GANHRI as of April 2025.	E: info@ombudsman.ge
14.	Germany Deutsches Institut für Menschenrechte	The German Institute for Human Rights (DIMR), established on March 8, 2001, as a registered association in Berlin, serves as Germany's national human rights institution and operates in accordance with the United Nations Paris Principles. Accredited by GANHRI as of April 2025.	E: info@institut-fuer-menschenrechte.de Social media handles: LinkedIn Mastodon Bluesky
15.	Hong Kong SAR Equal Opportunities Commission	The Equal Opportunities Commission (EOC) is an independent statutory body established in 1996 under the Sex Discrimination Ordinance to enforce Hong Kong's four anti-discrimination laws — covering sex, disability, family status, and race — and is committed to promoting equality and eliminating discrimination through complaint handling, legal assistance, research, policy advocacy, training, education, and public engagement.	https://www.eoc.org.hk/en/about-the-eoc/contact-us Social media handles: Instagram LinkedIn
16.	India National Human Rights Commission of India	The National Human Rights Commission of India, established under the <i>Protection of Human Rights Act 1993</i> , is an independent body with a broad mandate to promote and protect human rights as guaranteed by the Indian constitution and the ICCPR and ICESCR. Accredited by GANHRI as of April 2025	E: covdnhrc@nic.in Social media handles: Twitter
17.	Indonesia Indonesian National Commission on Human Rights	The Indonesian National Commission on Human Rights (Komnas HAM), reestablished under Law No. 39 of 1999, is mandated to promote and protect human rights through education, treaty monitoring, investigation, and	E: info@komnasham.go.id Social media handles: Facebook Twitter

		cooperation at national and international levels. Accredited by GANHRI as of April 2025	
18.	Iraq High Commission for Human Rights	The Iraqi High Commission for Human Rights, established under Article 102 of the constitution and Law No. 53 of 2008, has a broad mandate to investigate human rights violations, receive individual complaints, promote human rights education, and monitor Iraq's compliance with international human rights obligations. Accredited by GANHRI as of April 2025.	E: reports@ihchr.iq
19.	Japan	No national human rights commission.	NA
20.	Kazakhstan National Centre for Human Rights of Kazakhstan	The Human Rights Ombudsman of Kazakhstan operates in accordance with international commitments under UN conventions, aiming to protect human rights from State encroachments, promote legal development and education, and uphold the principles of publicity, objectivity, and impartiality while cooperating closely with NGOs, media, and international organizations. Accredited by GANHRI as of April 2025.	E: ombudsman-kz@mail.ru Social media handle: Instagram
21.	Kiribati	No national human rights commission.	NA
22.	Kyrgyzstan Ombudsman of the Kyrgyz Republic	The institution was established under Law No. 136 on the Ombudsman (Akyikatchy) of the Kyrgyz Republic, adopted by the Legislative Assembly of the Jogorku Kenesh and signed into law by the president on July 31, 2002. Accredited by GANHRI as of April 2025.	E: ombudsman@inbox.ru Social media handles: Facebook Instagram Telegram
23.	Lao People's Democratic Republic	No national human rights commission.	NA
24.	Malaysia Human Rights Commission of Malaysia	The Human Rights Commission of Malaysia (SUHAKAM), established by parliament under the <i>Human Rights Commission of Malaysia Act 1999</i> , promotes and protects human rights nationwide with offices in Kuala Lumpur, Sarawak, and Sabah and operates specialized working groups on education, law reform, social rights, and complaints. Accredited by GANHRI as of April 2025.	E: humanrights@suhakam.org.my Social media handles: Facebook Twitter Instagram
25.	Maldives	The Human Rights Commission of the Maldives, established as an independent statutory body on	E: info@hrcm.org.mv Social media handles:

	Human Rights Commission of the Maldives	December 10, 2003, under the Human Rights Commission Act, leads the promotion and protection of human rights based on the constitution, Islamic Shari'ah, and international conventions, while supporting NGOs in raising awareness and advancing human rights. Accredited by GANHRI as of April 2025.	Facebook Twitter Instagram
26.	Marshall Islands Human Rights Committee	Despite recommendations from the Human Rights Council, the Marshall Islands did not establish a national human rights institution. In 2015, the Marshall Islands enacted legislation establishing a Human Rights Committee and related procedures.	NA
27.	Micronesia (Federated States of)	No national human rights commission.	NA
28.	Mongolia National Human Rights Commission of Mongolia	National Human Rights Commission of Mongolia The National Human Rights Commission of Mongolia, established by the Law on the National Human Rights Commission adopted on December 7, 2000, is an independent institution mandated to protect, promote, and oversee the implementation of human rights and freedoms guaranteed by Mongolia's constitution, laws, and international treaties. Accredited by GANHRI as of April 2025	E: info@nhrcm.gov.mn Social media handles: Facebook
29.	Myanmar Myanmar National Human Rights Commission	The Myanmar National Human Rights Commission, established by the government in 2011, is mandated to promote human rights awareness and education, investigate and report on rights violations, monitor Myanmar's compliance with international human rights instruments, and engage with regional and international human rights organizations, with the authority to conduct inquiries, visit sites, summon individuals, and request documents. The commission has largely been perceived as ineffective in addressing the atrocities following the military coup in 2021.	E: dydirectormnhrc@gmail.com
30.	Nauru	No national human rights commission.	NA
31.	Nepal National Human Rights Commission	The National Human Rights Commission of Nepal, established as an independent statutory body in 2000 and elevated to a constitutional body	E: nhrc@nhrcnepal.org Social media handles: Facebook

		under the Interim Constitution of 2007 and the current Constitution of 2015, is mandated to promote, protect, and ensure respect for human rights; conduct inquiries and investigations into violations; recommend legal or departmental action; provide human rights education; support non-governmental institutions; and undertake any necessary activities to enforce and uphold human rights. Accredited by GANHRI as of April 2025.	Twitter
32.	Netherlands Netherlands Institute for Human Rights	The Netherlands Institute for Human Rights is the national human rights institution that explains, monitors, protects, and promotes human rights and equal treatment in Dutch law, policy, and practice, aiming to foster a society where human rights are upheld, respected, and actively embraced by all. Accredited by GANHRI as of April 2025.	E: info@mensenrechten.nl Social media handles: LinkedIn
33.	New Zealand New Zealand Human Rights Commission	The Te Kāhui Tika Tangata Human Rights Commission, established by the <i>Human Rights Commission Act 1977</i> and operating under the <i>Human Rights Act 1993</i> (with significant expansion through the 2001 Amendment Act), is an independent statutory body dedicated to advancing human rights in Aotearoa New Zealand by addressing discrimination and promoting continuous, meaningful improvements through its projects, campaigns, and publications. Accredited by GANHRI as of April 2025.	E: infoline@hrc.co.nz Social media handles: Facebook LinkedIn
34.	Pakistan National Commission for Human Rights	The National Commission for Human Rights of Pakistan, established by law in 2012, is mandated to promote and protect human rights under the 1973 constitution and international instruments, operating from its Islamabad head office and regional offices in Lahore, Peshawar, Quetta, and Karachi with provincial members knowledgeable in local human rights issues. Accredited by GANHRI as of April 2025.	E: info@nchr.org.pk Social media handles: Facebook LinkedIn Twitter Instagram
35.	Palau	No national human rights commission.	NA
36.	Papua New Guinea Ombudsman Commission of	The Ombudsman Commission of Papua New Guinea, established directly by the constitution as an independent institution and integral to the country's system of checks and	E: info@ombudsman.gov.pg

	Papua New Guinea	balances, was designed to provide a quick and flexible means of redress for citizens aggrieved by administrative injustice, guard against abuse of power in the public sector, assist public officials to act efficiently and fairly, and impose accountability.	
37.	Philippines Commission on Human Rights of the Philippines	The Commission on Human Rights of the Philippines, established under the 1987 constitution and Executive Order No. 163, is an independent institution mandated to investigate human rights violations against marginalized groups and committed to providing prompt, accessible, and principled protection and promotion of human rights. Accredited by GANHRI as of April 2025.	E: comsec@chr.gov.ph Social media handles: Facebook Twitter Instagram
38.	Republic of Korea National Human Rights Commission of Korea	The National Human Rights Commission of Korea, established under the <i>National Human Rights Commission Act 2001</i> and operational since November 25, 2001, is mandated to protect and promote human rights in Korea by investigating complaints, conducting research, advising on laws and policies, fostering cooperation with human rights organizations, and raising public awareness through education. Accredited by GANHRI as of April 202	E: nhrc@humanrights.go.kr
39.	Russian Federation Commissioner for Human Rights	The Commissioner for Human Rights (CHR) in Russia was established to guarantee state protection of the rights and freedoms of all individuals under its jurisdiction by ensuring that state bodies, local governments, and civil servants uphold legal rights, while also contributing to the restoration of violated rights, improving national legislation in line with international human rights standards, fostering international cooperation, providing legal education, and performing advisory, monitoring, investigative, reporting, and promotional functions to raise awareness and support human rights protection.	NA Social media handles: VK
40.	Samoa Ombudsman of Samoa	The Ombudsman of Samoa, established by the <i>Komesina o Sulufaiga (Ombudsman) Act of 1988</i> and amended in 2013 to include national human rights functions, is responsible for promoting and protecting human rights and freedoms in Samoa as the country's national human rights institution. Accredited by	E: info@ombudsman.gov.ws Social media handles: Facebook Twitter

		GANHRI as of April 2025.	
41.	Singapore	No national human rights commission.	NA
42.	Solomon Islands	No national human rights commission.	NA
43.	Sri Lanka Human Rights Commission of Sri Lanka	The Human Rights Commission of Sri Lanka, established under the <i>Human Rights Commission Act No. 21 of 1996</i> and operational since September 1997, has a broad mandate to address illegal detention, torture, disappearance, and murder, as well as to educate the public and armed forces and advise on measures to prevent human rights violations. Accredited by GANHRI as of April 2025	E: sechrcsl@gmail.com
44.	Taiwan The Control Yuan	The Control Yuan, Taiwan's highest ombudsman body with twenty-nine members appointed by the president for six-year terms, includes a National Human Rights Commission composed of ten members that carries out its human rights functions.	E: nhrc@cy.gov.tw
45.	Tajikistan The Human Rights Ombudsman	NA Accredited by GANHRI as of April 2025.	NA
46.	Thailand National Human Rights Commission of Thailand	The National Human Rights Commission of Thailand was originally established in 2001 and reestablished under the 2017 constitution, with a broad mandate to promote and protect human rights. Accredited by GANHRI as of April 2025.	E: info@nhrc.or.th Social media handles: Facebook
47.	Timor-Leste Provedor for Human Rights and Justice of Timor-Leste	The Office of the Provedor for Human Rights and Justice, established by Law No. 7/2004 and mandated under the 2002 constitution of Timor-Leste, is an independent national institution tasked with addressing human rights violations, handling complaints, promoting human rights education, monitoring, and integrating human rights into the country's laws and practices. Accredited by GANHRI as of April 2025.	E: provedoriatl@gmail.com info@pdhj.tl Social media handles: Facebook Instagram LinkedIn
48.	Tonga	No national human rights commission.	NA
49.	Turkey Human Rights and Equality Institution of Türkiye	The Human Rights and Equality Institution of Turkey, established under Law No. 6701 (2016), serves as the national human rights institution, equality body, and national preventive	E: baskanlik@tihek.gov.tr tihek@hs01.kep.tr Social media handles:

		mechanism, with an independent eleven-member board responsible for protecting and promoting human rights, preventing discrimination, combating torture, raising public awareness, cooperating with educational and international bodies, monitoring legislation and detention facilities, and reporting annually to the president and Turkish Grand National Assembly committees. Accredited by GANHRI as of April 2025.	Facebook Twitter Instagram
50.	Turkmenistan Authorized Representative for Human Rights in Turkmenistan - Ombudsman	Turkmenistan's ombudsperson is nominated by the president and confirmed by parliament. Accredited by GANHRI as of April 2025	NA
51.	Tuvalu	No national human rights commission.	NA
52.	United Kingdom (Great Britain) Equality and Human Rights Commission	The Equality and Human Rights Commission, established by parliament under the <i>Equality Act 2006</i> , is an independent UK statutory body that safeguards and enforces laws protecting fairness, dignity, and respect, acting as a catalyst for change, information provider, influencer, evaluator, and enforcer to promote equality and human rights across Britain, while collaborating nationally and internationally as a UN-accredited national human rights institution and national equality body. Accredited by GANHRI as of April 2025	E: correspondence@equalityhumanrights.com commencementofproceedings@equalityhumanrights.com legalrequestscotland@equalityhumanrights.com Social media handles: Facebook Twitter LinkedIn

53.	United Kingdom (Northern Ireland) Northern Ireland Human Rights Commission	The Northern Ireland Human Rights Commission, established under the Belfast (Good Friday) Agreement, is mandated by the <i>Northern Ireland Act 1998</i> to review and advise on human rights laws and practices, conduct investigations, provide legal assistance, promote awareness, monitor treaty implementation, collaborate with the Irish Human Rights and Equality Commission, and oversee UK commitments on rights protection post-Brexit, while actively engaging with UK and international human rights bodies and publishing an annual report on the state of human rights in Northern Ireland. Accredited by GANHRI as of April 2025.	E: info@nihrc.org Social media handles: Facebook Twitter LinkedIn Bluesky
54.	United Kingdom of (Scotland) Scottish Human Rights Commission	The Scottish Human Rights Commission is an independent public body, accountable to the Scottish Parliament, with a mandate to promote awareness, understanding, respect, and best practice for all human rights—economic, social, cultural, civil, and political—throughout Scotland. Accredited by GANHRI as of April 2025.	E: hello@scottishhumanrights.com Social media handles: Facebook Twitter Instagram
55.	United States of America	No national human rights commission.	NA
56.	Uzbekistan Ombudsman of Uzbekistan	The Institute of the Authorized Person of the Oliy Majlis for Human Rights (Ombudsman) was established in 1995 and formalized by the 1997 law, granting the authorized person independent powers accountable to the Oliy Majlis, with the officeholder elected by both chambers of the Oliy Majlis for a five-year term. Accredited by GANHRI as of April 2025	E: info@ombudsman.uz Social media handles: Facebook Twitter Instagram Telegram
57.	Vanuatu	No national human rights commission..	NA
58.	Vietnam	No national human rights commission.	NA

CHAPTER IX:

BROAD CHECKLIST



CHAPTER 9: BROAD CHECKLIST

The following checklist provides a broad framework to assist you in addressing possible human rights violations. While not exhaustive, it outlines a few steps and considerations to guide actions and decision-making when undertaking redress efforts.

Jurisdiction, Eligibility, and Scope
- Identify the correct forum (NHRI, regional court, UN body, non-judicial mechanism). Map out a list of forums in order of priority. - Confirm that the forum/mechanism has: material jurisdiction over the issue (e.g., privacy, torture, discrimination, business complicity); territorial/extraterritorial jurisdiction over the place of violation; and personal jurisdiction over the State or actor involved. - Some forums may require, in addition to a State being a party to the mechanism, a specific declaration recognizing the forum's jurisdiction or allowing individuals to submit complaints directly. Be sure to verify whether such a declaration has been made. - Confirm personal standing: <i>Are you the victim, a legal representative, or acting on someone's behalf with proper consent?</i> - Confirm whether you are representing the direct victim (with proof of identity) or a third party (with written consent or recognized authority, such as a guardian, NGO, or legal proxy). - For collective complaints, confirm the standing of the group or organization under the mechanism's rules. - Check the types of complaints that can be lodged — do they accept complaints from individuals, groups, or both? - Confirm the geographic jurisdiction: <i>Does the mechanism cover your country or allow for extraterritorial applications?</i> - If digital or transnational in nature, confirm whether extraterritorial obligations are recognized. - Verify whether interim/emergency measures can be requested.
Exhaustion of Domestic Remedies
- Have all domestic legal remedies been exhausted (e.g., up to the supreme court or equivalent)? Confirm all effective domestic legal remedies have been pursued and exhausted (up to the highest national court).⁴⁰⁰ - Are there exceptions allowed (e.g., where domestic remedies are ineffective or unavailable)? Assess whether exceptions to exhaustion apply (e.g., ineffectiveness, undue delay, risk of irreparable harm). - Is there proof of exhaustion (court decisions, legal filings, etc.)? Retain documentation of legal proceedings (court orders, dismissal notices, appeal records).
Admissibility Requirements
Time limits: Verify limitation periods for filing the complaint. - Determine whether the clock starts at the final domestic decision or another triggering event. - Check whether continuous violations or new evidence can reset the clock.

⁴⁰⁰ Note that this is not required for NHRIs or NHRCs.

• Double jeopardy rule: Ensure the same complaint is not being simultaneously reviewed elsewhere unless allowed. • Some forums require a certain level of harm to admit a case. Be sure to check what constitutes a violation or a harm by that mechanism. • Ensure compliance with any eligibility criteria.
Format and Documentation
• Follow the standard complaint format (online forms, PDFs, etc.)— check the accepted formats, length limits, and annex requirements. • Compile a clear dossier including a summary of facts, evidence of harm and supporting documentation, domestic legal history and decisions, and identity and authorization documents (for complainants and representatives). • If filing on behalf of another, include written authorization or power of attorney.
Language Requirements
• Adhere to the languages accepted by the forum (check if translations are needed). • Ensure all documents and submissions are in or accompanied by a translation into the acceptable language(s).
Remedies and Outcomes
• Familiarize oneself with the remedies available or offered. • Check if the mechanism provides binding decisions, recommendations, or soft law outcomes. • Check if it is possible to request follow-up monitoring of the situation.
Confidentiality and Security
• Confirm whether requests for anonymity or confidentiality can be made. • Assess risks of retaliation; consider submitting via secure channels or using protective measures (especially for digital rights, whistleblowers, and lawyers under threat).
Follow-up and Monitoring
• Keep a record of communications with the mechanism. • Prepare for follow-up queries or requests for clarification. • Monitor the progress of the complaint and understand your right to appeal if available.
Support Structures
• Identify: National Human Rights Institutions (NHRIs) with jurisdiction or referral roles; civil society partners or legal aid organizations; special rapporteurs or UN working groups with thematic relevance; and regional networks.

Considerations
• Consider an alternative course of action or a road map of actions. • Document the process (if possible) to support future proceedings and advocacy

TABLE OF INSTRUMENTS

DECLARATIONS

- [Universal Declaration of Human Rights, 1948](#)
- [Declaration of the United Nations Conference on the Human Environment 1972 \(Stockholm Declaration\)](#)
- [Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy \(MNE Declaration\), 1977](#)
- [Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985](#)
- [The Rio Declaration on Environment and Development, 1992](#)
- [American Declaration of the Rights and Duties of Man, 1992](#)
- [Vienna Declaration and Programme of Action 1993](#)
- [Declaration of Principles Building the Information Society: a global challenge in the new millennium, 2003](#)
- [United Nations Declaration on the Rights of Indigenous Peoples, 2007](#)
- [African Declaration on Internet Rights and Freedoms, 2014](#)
- [European Declaration on Digital Rights and Principles for the Digital Decade \(2023/ C 23/ 01\)](#)

CONVENTIONS, TREATIES, STATUTES

- [Convention \(IV\) respecting the Laws and Customs of War on Land, 1907](#) (*The Hague Convention; entered into force in 1910*)
- [Forced Labour Convention \(No. 29\), 1930](#) (*entered into force in 1932*)
- [Statute of the International Court of Justice, 1945](#) (*entered into force in 1945*)
- [International Convention for the Regulation of Whaling, 1946](#) (*entered into force in 1948*)
- [Labour Inspection Convention, 1947 \(No. 81\)](#) (*entered into force in 1950*)
- [Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#) (*entered into force in 1950*)
- [Convention on the Prevention and Punishment of the Crime of Genocide, 1948](#) (*entered into force in 1951*)
- [Geneva Conventions I – IV, 1949](#) (*entered into force in 1950*)
- [Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#) (*entered into force in 1951*)
- [The Convention for the Protection of Human Rights and Fundamental Freedoms \(European Convention on Human Rights\), 1950](#) (*entered into force in 1953*)
- [Convention relating to the Status of Refugees, 1951](#) (*entered into force in 1954*)
- [Equal Remuneration Convention, 1951 \(No. 100\)](#) (*entered into force in 1953*)
- [Abolition of Forced Labour Convention, 1957 \(No. 105\)](#) (*entered into force in 1959*)

- [Discrimination \(Employment and Occupation\) Convention \(No. 111\), 1958](#) *(entered into force in 1960)*
- [Employment Policy Convention, 1964 \(No. 122\)](#) *(entered into force in 1966)*
- [International Convention on the Elimination of All Forms of Racial Discrimination, 1965](#) *(entered into force in 1969)*
- [Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, 1968](#) *(entered into force in 1970)*
- [American Convention on Human Rights "Pact of San Jose, Costa Rica," 1969](#) *(entered into force in 1978)*
- [Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological \(Biological\) and Toxin Weapons and on their Destruction, 1972](#) *(Biological Weapons Convention; entered into force in 1975)*
- [Minimum Age Convention \(No. 138\), 1973](#) *(entered into force in 1976)*
- [International Convention for the Prevention of Pollution from Ships \(MARPOL\), 1973](#) *(entered into force in 1983)*
- [Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973](#) *(entered into force in 1975)*
- [Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques \(ENMOD\), 1976](#) *(entered into force in 1978)*
- [Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No. 144\)](#) *(entered into force in 1978)*
- [Convention on the Elimination of All Forms of Discrimination Against Women, 1979](#) *(entered into force in 1981)*
- [Convention on Long-range Transboundary Air Pollution, 1979](#) *entered into force in 1983)*
- [The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 1980](#) *(Convention on Certain Conventional Weapons, entered into force in 1983)*
- [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) *(entered into force in 1983)*
- [United Nation Convention on the Law of the Sea, 1982](#) *(entered into force in 1994)*
- [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984](#) *(entered into force in 1987)*
- [The Vienna Convention for the Protection of the Ozone Layer, 1985](#) *(entered into force in 1988)*
- [International Convention Against the Recruitment, Use, Financing and Training of Mercenaries, 1989](#) *(entered into force in 2001)*
- [Convention on the Rights of the Child, 1989](#) *(entered into force in 1990)*
- [Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989](#) *(entered into force in 1992)*
- [Indigenous and Tribal Peoples Convention 1989 \(No. 169\)](#) *(entered into force in 1991)*

- [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990](#) (entered into force in 2003)
- [Convention on Biological Diversity, 1992](#) (entered into force in 1993)
- [Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 1992](#) (Chemical Weapons Convention; entered into force in 1997)
- [United Nations Framework Convention on Climate Change, 1992](#) (entered into force in 1994)
- [North American Agreement on Environmental Cooperation, 1993](#) (entered into force in 1994)
- [Convention on the Law of the Non-navigational Uses of International Watercourses, 1997](#) (no entry into force date; provisional application since 2014)
- [Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997](#) (Anti-Personnel Mine Ban Convention; entered into force in 1999)
- [Rome Statute of the International Criminal Court, 1998](#) (entered into force in 2002)
- [Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 1998](#) (entered into force in 2004)
- [Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998](#) (Aarhus Convention; entered into force in 2001)
- [Worst Forms of Child Labour Convention, 1999 \(No.182\)](#) (entered into force in 2000)
- [Convention on Cybercrime, 2001 \(No. 185\)](#) (entered into force in 2004)
- [Stockholm Convention on Persistent Organic Pollutants, 2004](#) (entered into force in 2004)
- [Promotional Framework for Occupational Safety and Health Convention, 2006 \(No. 187\)](#) (entered into force in 2009)
- [Convention on the Rights of Persons with Disabilities, 2006](#) (entered into force in 2008)
- [International Convention for the Protection of All Persons from Enforced Disappearance, 2006](#) (entered into force in 2010)
- [Convention on Cluster Munitions, 2008](#) (entered into force in 2010)
- [The Arms Trade Treaty, 2013](#) (entered into force in 2014)
- [The Paris Agreement, 2015](#) (entered into force in 2016)
- [Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, 2018](#) (Escazú Agreement; entered into force in 2021)
- [Draft United Nations Convention against Cybercrime 2024](#) (no entry into force date yet)
- [Council of Europe Convention on the Profession of Lawyer, 2025](#) (no entry into force date yet)

COVENANTS

- [International Covenant on Civil and Political Rights, 1966](#) (entered into force in 1976)

- [International Covenant on Economic, Social and Cultural Rights, 1966](#) (*entered into force in 1976*)

PROTOCOLS

- [Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, 1925](#) (*entered into force in 1928*)
- [First Optional Protocol to International Covenant on Civil and Political Rights, 1966](#) (*entered into force in 1976*)
- [Protocol relating to the Status of Refugees, 1966](#) (*entered into force in 1967*)
- [Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts \(Protocol I\), 1977](#) (*entered into force in 1978*)
- [Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts \(Protocol II\), 1977](#) (*entered into force in 1978*)
- [Protocol on Non-Detectable Fragments \(Protocol I\), 1980](#) (*entered into force in 1983*)
- [Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons \(Protocol III\), 1980](#) (*entered into force in 1983*)
- [Montreal Protocol on Substances that Deplete the Ozone Layer, 1987](#) (*entered into force in 1989*)
- [Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 1989](#) (*entered into force in 1991*)
- [Protocol on Blinding Laser Weapons \(Protocol IV to the 1980 Convention\), 1995](#) (*entered into force in 1998*)
- [Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996](#) (*Protocol II to the 1980 CCW Convention; entered into force in 1998*)
- [Kyoto Protocol to the United Nations Framework Convention on Climate Change, 1997](#) (*entered into force in 2005*)
- [Protocol to the African Charter on Human And Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, 1998](#) (*entered into force in 2004*)
- [Optional Protocol to the Convention on the Rights of the Child on Armed Conflict, 2000](#) (*entered into force in 2002*)
- [Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2000](#) (*entered into force in 2002*)
- [Cartagena Protocol on Biosafety to the Convention on Biological Diversity, 2000](#) (*entered into force in 2003*)
- [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003](#) (*entered into force in 2005*)

- [Protocol on Explosive Remnants of War \(Protocol V to the 1980 CCW Convention\), 2003](#) *(entered into force in 2006)*
- [Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem \(Protocol III\), 2005](#) *(entered into force in 2007)*
- [Optional Protocol to the Convention on the Rights of Persons with Disabilities, 2006](#) *(entered into force in 2008)*
- [Optional Protocol to International Covenant on Economic, Social and Cultural Rights, 2008](#) *(entered into force in 2013)*
- [Nagoya–Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, 2010](#) *(entered into force in 2018)*
- [Protocol of 2014 to the Forced Labour Convention 1930, 2014](#) *(entered into force in 2016)*

CHARTERS

- [Charter of the United Nations, 1945](#) *(entered into force in 1945)*
- [African Charter on Human and Peoples' Rights, 1981](#) *(entered into force in 1986)*
- [Charter of Fundamental Rights of the European Union, 2000](#) *(entered into force in 2009)*
- [APC Internet Rights Charter, 2006](#)
- [The Charter of Human Rights and Principles for the Internet, 2011](#)

RESOLUTIONS

- [United Nations General Assembly Resolution on Right to a Healthy Environment \(A/HRC/RES/48/13\), 2021](#)
- [United Nations General Assembly Resolution on the Promotion, Protection and Enjoyment of Human Rights on the Internet \(A/HRC/47/L.22\), 2021](#)

COMMENTS, RECOMMENDATIONS

- [CCPR General Comment No. 16: Article 17 \(Right to Privacy\), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, 1988](#)
- [Recommendation No.R \(2000\)21 of the Committee of Ministers to the member States on the freedom of exercise of the profession of lawyer, 2000](#)
- [CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health \(Art. 12\), 2000](#)
- [CESCR General Comment No. 15: The Right to Water \(Arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights\), 2003](#)
- [General comment No. 3 \(2012\) on the implementation of article 14 by States parties, 2012](#)

- [Recommendation CM/Rec\(2014\)6 of the Committee of Ministers to member States on a Guide to human rights for Internet users, 2014](#)
- [CCPR General Comment No. 36 on the Right to Life \(Art. 6\), 2019](#)
- [CRC General Comment No. 25 on children's rights in relation to the digital environment, 2021](#)
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AGENDA/ CALL TO ACTION/ REPORTS/ OTHERS

- [International Bar Association Standards for the Independence of the Legal Profession, 1990](#)
- [Agenda 21, 1992](#)
- [Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001](#)
- [United Nations Forest Instrument, 2016](#)
- [The Highest Aspiration: A Call to Action on Human Rights, 2020](#)
- [UN Secretary-General's Report \(A/74/821\) on road map for digital cooperation, 2020](#)

ADVISORY OPINIONS

- [Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, \[1996\], International Court of Justice, ICJ Rep 1996, p. 226](#)
- [Advisory Opinion OC-23/17 \[2017\], Inter-American Court of Human Rights](#)
- [Obligations of States in Respect of Climate Change, Advisory Opinion, \[2025\] International Court of Justice, General List No. 187](#)

PRINCIPLES AND GUIDELINES

- [OECD Guidelines for Multinational Enterprises, 1976](#)
- [OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, 1980](#)
- [Basic Principles on the Role of Lawyers, 1990](#)
- [Principles relating to the Status of National Institutions \(The Paris Principles\), 1993](#)
- [Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003](#)
- [Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, 2011](#)

The LAWASIA Manual on the International Right to Remedy (2025), initiated by the LAWASIA Human Rights Committee in 2023, provides lawyers and bar associations across the Asia-Pacific with a resource referencing the evolving international right to remedy. It maps frameworks, forums and international instruments, and is an effort to advance SDG 16 which calls for the strengthening of justice, accountability, and access to effective redress.

