

**CRC Complaints Mechanism
Toolkit
Annex I: Annotated Optional
Protocol**

Acknowledgment

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Annex 1: Annotated Optional Protocol

Introduction

This version of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure offers plain English explanations of the text. It covers each section of the Optional Protocol in order, giving a step-by-step run through of what the official language means to say. To show how things might work in practice, examples from other similar communications procedures at the UN have also been provided wherever possible. It is hoped that these explanations and examples provide a more complete understanding of the CRC complaints mechanism.

Optional Protocol to the Convention on the Rights of the Child on a communications procedure

Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/66/138 of 19 December 2011

Explanation

This treaty is about a “complaints procedure”, also known as a “communications procedure” or a “complaints mechanism”, for the Convention on the Rights of the Child. Complaints procedures are a way for people whose rights have been violated to challenge whoever is responsible for those violations. In this case, the complaints procedure is for children whose rights have been violated by their country's Government to have the UN look at the situation. The Committee on the Rights of the Child, a group of experts on children's rights, will be in charge of reading through and responding to complaints that children file against Governments.

Preamble

The States parties to the present Protocol,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Noting that the States parties to the Convention on the Rights of the Child (hereinafter referred to as “the Convention”) recognize the rights set forth in it to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status,¹

Reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights

1 Children's right to non-discrimination is enshrined in [Article 2](#) of the Convention.

and fundamental freedoms,

Reaffirming also the status of the child as a subject of rights and as a human being with dignity and with evolving capacities,²

Recognizing that children's special and dependent status may create real difficulties for them in pursuing remedies for violations of their rights,

Considering that the present Protocol will reinforce and complement national and regional mechanisms allowing children to submit complaints for violations of their rights,

Recognizing that the best interests of the child should be a primary consideration to be respected in pursuing remedies for violations of the rights of the child,³ and that such remedies should take into account the need for child-sensitive procedures at all levels,⁴

Encouraging States parties to develop appropriate national mechanisms to enable a child whose rights have been violated to have access to effective remedies at the domestic level,

Recalling the important role that national human rights institutions and other relevant specialized institutions, mandated to promote and protect the rights of the child, can play in this regard,⁵

Considering that, in order to reinforce and complement such national mechanisms and to further enhance the implementation of the Convention and, where applicable, the Optional Protocols thereto on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, it would be appropriate to enable the Committee on the Rights of the Child (hereinafter referred to as "the Committee") to carry out the functions provided for in the present Protocol,

Have agreed as follows:

Explanation

The Preamble does not require Governments or the Committee to do anything, but it does set the tone for the complaints procedure by recognising the importance of children's rights, interests and special status. It also places the complaints procedure in context. There are many other ways for children to submit complaints within their countries and regions, and the Convention on the Rights of the Child complaints procedure should add to and improve these ways. The Preamble also talks about the role of "national human rights institutions", which are special independent organisations in some countries that help to make sure Governments are respecting children's rights.

2 [Article 5](#) of the Convention first presents the notion of children's evolving capacities.

3 [Article 3](#) of the Convention establishes the best interests of the child as a primary consideration in all actions concerning children.

4 The Committee has discussed child-sensitive procedures in the context of national legal proceedings to some extent in its General Comments on the [right of the child to be heard](#), [children's rights in juvenile justice](#), and [general measures of implementation](#).

5 The [Committee on the Rights of the Child](#) has issued a [General Comment on the role of independent human rights institutions](#) and welcomed the establishment of national human rights institutions, children's ombudspersons/commissioners and similar bodies. [Article 4](#) of the Convention further obligates States parties to "undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention," and the Committee considers that national human rights institutions are "an important mechanism to promote and ensure the implementation of the Convention."

Part I

General provisions

Article 1

Competence of the Committee on the Rights of the Child

1. A State party to the present Protocol recognizes the competence of the Committee as provided for by the present Protocol.
2. The Committee shall not exercise its competence regarding a State party to the present Protocol on matters concerning violations of rights set forth in an instrument to which that State is not a party.
3. No communication shall be received by the Committee if it concerns a State that is not a party to the present Protocol.

Explanation

Just because a Government has accepted a UN treaty on child rights does not mean that children can automatically complain about violations of their rights to the Committee. The complaints procedure is optional, which means complaints can only be filed against Governments that have also accepted the complaints procedure. The three treaties covered by the complaints procedure include the [Convention on the Rights of the Child](#), the [Optional Protocol on the sale of children, child prostitution and child pornography](#) and the [Optional Protocol on the involvement of children in armed conflict](#). Not every Government has accepted all three of these, and complaints can only relate to the treaties that a Government has “ratified”, which is another way to say that the Government has formally agreed to follow what the treaty says.

Article 2

General principles guiding the functions of the Committee

In fulfilling the functions conferred on it by the present Protocol, the Committee shall be guided by the principle of the best interests of the child.⁶ It shall also have regard for the rights and views of the child, the views of the child being given due weight in accordance with the age and maturity of the child.⁷

Explanation

When reviewing complaints, the Committee always has to keep children's best interests in mind and remember that children have the right to express themselves. The Committee should and will listen to what any child has to say, but it doesn't always have to do what a child wants or suggests. But the older and more mature a child is, the more the Committee will pay attention to what he or she thinks.

⁶ [Article 3](#) of the Convention reinforces that in all actions concerning children, including legal proceedings such as those set out in this communications procedure, the best interests of the child must be a primary consideration.

⁷ Under [Article 12](#) of the Convention, children have the rights both to express their opinions freely in all matters that concern them and to have their views taken into consideration in light of their age and maturity.

Article 3

Rules of procedure

1. The Committee shall adopt rules of procedure to be followed when exercising the functions conferred on it by the present Protocol. In doing so, it shall have regard, in particular, for article 2 of the present Protocol in order to guarantee child-sensitive procedures.⁸
2. The Committee shall include in its rules of procedure safeguards to prevent the manipulation of the child by those acting on his or her behalf and may decline to examine any communication that it considers not to be in the child's best interests.⁹

Explanation

The Committee's Rules of Procedure set out the details of how Committee members meet to review complaints. From when they first receive a complaint to when they decide whether a child's rights have been violated and what could be done to fix the situation, the Rules of Procedure describe a process that the Committee must follow. Because it's especially important that children be able to file complaints, the Committee has to write rules that make it easier for children to do this. If it looks like reviewing a complaint could cause serious problems for the child involved, though, the Committee might decide not to look at it. If someone else is filing a complaint for a child, the Committee also has to make sure that the complaint was submitted for the right reasons.

Article 4

Protection measures

1. A State party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to any human rights violation, ill-treatment or intimidation as a consequence of communications or cooperation with the Committee pursuant to the present Protocol.¹⁰
2. The identity of any individual or group of individuals concerned shall not be revealed publicly without their express consent.¹¹

Explanation

Governments must do whatever they can to make sure that people can safely reach out to and work

- 8 As above, the Committee has discussed child-sensitive procedures in the context of national legal proceedings to some extent in its General Comments on the [right of the child to be heard](#), [children's rights in juvenile justice](#), and [general measures of implementation](#).
- 9 While there are no specific guidelines for what constitutes a child's best interests, [Article 3](#) of the Convention establishes the importance of the concept as a general principle.
- 10 [Article 19](#) of the Convention obligates States to protect children from violence. The Committee has also elaborated on children's [right to freedom from all forms of violence](#) in a General Comment.
- 11 [Article 16](#) of the Convention guarantees children's right to privacy.

with the Committee. They should especially make sure that people who submit complaints do not face backlash or retaliation, and that their rights are not affected by submitting a complaint. So that this doesn't happen, Governments also aren't allowed to say who filed a complaint or who a complaint is about unless those people specifically say it's okay to release their names.

Part II

Communications procedure

Article 5

Individual communications

1. Communications may be submitted by or on behalf of an individual or group of individuals, within the jurisdiction of a State party, claiming to be victims of a violation by that State party of any of the rights set forth in any of the following instruments to which that State is a party:

(a) The Convention;

(b) The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;

(c) The Optional Protocol to the Convention on the involvement of children in armed conflict.

2. Where a communication is submitted on behalf of an individual or group of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.¹²

Explanation

Children are allowed to submit either single or group complaints, and can do this by themselves or with the help of a person or people of their choosing. Every complaint has to show how a child's rights have been violated, and must also explain why the Government is responsible. If someone other than a child writes the complaint, that person usually has to ask the child the complaint is about for their permission to submit it. When there's a good reason why it isn't possible to get the child's permission, though, someone else can still file a complaint for the child. For example, the child might be too young to give consent or unreachable because he or she is being held in detention.

Once a Government accepts the complaints procedure, children can complain about violations of any of their rights under the [Convention on the Rights of the Child](#), the [Optional Protocol on the sale of children, child prostitution and child pornography](#) or the [Optional Protocol on the involvement of children in armed conflict](#) as long as the Government has ratified that treaty.

Examples

[A.B. v. Italy](#) (Human Rights Committee)

Mr. A.B. alleged that the State had violated the rights of Mr. and Mrs. H and their four children by requiring that the children be subject to compulsory vaccinations. The Human Rights Committee

¹² [Article 12](#) of the Convention grants children the right to participate in all matters that affect them.

would not consider the case on its merits, as Mr. A.B. could not provide documentary evidence that he had been given permission to act on behalf of the couple and their children.

[E.B. and ors. v. New Zealand](#) (Human Rights Committee)

E.B. separated from his wife, who denied him access to his three children and later made complaints to the police that he had sexually abused the children. E.B. was never convicted of any offence in relation to his children, but the Family Court considered that he posed "an unacceptable risk" to the safety of the children. The complaint largely turned on the rights of E.B. to see his children and the delay involved in resolving the custody case, but the Committee also made rulings with respect to the rights of the children themselves. The Committee considered that E.B. could not make a complaint on behalf of the children as he had not sought their authorisation to do so, they had expressed no desire for him to do so, and had in fact expressed their desire not to have contact with him.

[L.P. v. The Czech Republic](#) (Human Rights Committee)

Mr. L.P. separated from his wife, who was awarded custody of their child. A national court ruled on provisional access rights prior to the finalisation of the divorce and Mr. L.P. was allowed access to his son at specified times. Ms. R.P. refused him this access, and a series of bitter legal disputes arose during which Ms. R.P. was fined several times for her refusal to allow Mr. L.P. to see his son. Proceedings in the Czech Republic continued for nine years before this complaint was made to the Committee. Mr. L.P. initially made his complaint based on his rights and the rights of his son. The Committee would not consider a complaint relating to violations of the child's rights, however, unless Mr. L.P. was acting on behalf of his son, and he did not claim to do so.

[Mohammed Sahid and ors. v. New Zealand](#) (Human Rights Committee)

Mr. Sahid entered New Zealand on a temporary permit to visit his daughter and grandson, and remained in the country until he was deported ten years later. He argued that the interests of the child lay in maintaining the family unit, including himself, and that since he was the primary caregiver of his grandson, to deport him would discriminate against his grandson. The Committee considered all applications on behalf of the child inadmissible on the grounds that Mr. Sahid had not obtained his grandson's authorisation to represent him in this communication.

Article 6

Interim measures

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State party concerned for its urgent consideration a request that the State party take such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged violations.¹³
2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.

¹³ Under [Article 19](#) of the Convention as interpreted in the Committee's [General Comment on violence against children](#), States must protect children from all forms of violence in all settings.

Explanation

If the Committee feels that a child is in serious danger after reading a complaint, it may ask a Government to take special steps to protect that child before it finishes reviewing the complaint. This doesn't necessarily mean that the Government violated the child's rights, but it makes sure the child remains safe while the Committee has a chance to look at the complaint.

Article 7

Admissibility

The Committee shall consider a communication inadmissible when:

- (a) The communication is anonymous;
- (b) The communication is not in writing;
- (c) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention and/or the Optional Protocols thereto;
- (d) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (e) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;¹⁴
- (f) The communication is manifestly ill founded or not sufficiently substantiated;
- (g) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State party concerned, unless those facts continued after that date;
- (h) The communication is not submitted within one year after the exhaustion of domestic remedies, except in cases where the author can demonstrate that it had not been possible to submit the communication within that time limit.

Explanation

While the Committee will read through every complaint, it can only review and decide on complaints that meet certain requirements. For instance, complaints have to be written. They need to list the name of the person who wrote the complaint and, if they are different, the names of the people the complaint is about. Complaints also have to describe how a child or children's rights have been violated in a way that makes sense. The Committee won't look at complaints that aren't genuine or about children's rights, and it can't accept complaints that have already been filed with another part of the UN.

Before submitting a complaint to the Committee, children have to “exhaust domestic remedies”, which means they have to do their best to get things resolved in their own country. There might be

¹⁴ The Committee's [General Comment on general measures of implementation](#) addresses the importance of effective national remedies to redress violations of children's rights.

many official ways to challenge the Government, but this usually means filing a complaint with a local court and taking things as far as they will go, maybe even up to the most important court in the country. If a child has been through this and still hasn't resolved things, he or she can then file a complaint with the Committee. This has to be done within one year, though, unless there's a very good reason why this isn't possible. There are also times when it's okay for people to file complaints directly with the Committee and skip trying to solve things in their own country. For example, it might take too long to get a decision from a court, judges might be untrustworthy, or the Government might refuse to do what the court tells them.

Examples

C.P and ors. v. Denmark (Committee on the Elimination of Racial Discrimination)

A 15 year-old boy was attacked and racially abused by a group of young men. The four assailants were later tried and three of them were convicted of offences relating to the attack. Two of them were fined, and the third was sentenced to a 60 day suspended prison term. The public prosecutor appealed the suspended sentence and it was increased to a 40 day unconditional prison term. C argued, on his son's behalf, that the trial was carried out with bias against his son on the grounds of his race and because the mother of one of the accused was a clerk at the District Court. The Committee found the complaint inadmissible on the grounds that there was insufficient evidence of a violation of M's rights. The police investigated and prosecuted the attack, and when the Public Prosecutor considered the sentence too lenient, he appealed and secured a less lenient sentence. A replacement judge was also brought in from another venue to take account of the accused's mother's position within the court. Upon a review of the documentation, the Committee found no evidence that the police or judicial proceedings were tainted by racially discriminatory considerations.

Coronel and ors. v. Colombia (Human Rights Committee)

The complaint was brought by the family members of seven people who were tortured and killed by Colombian military forces including a 16-year old boy. The Colombian State did not deny that the military had been responsible for the illegal detention and deaths of the seven people. Several administrative and disciplinary investigations were ongoing at the time the complaint was submitted, but no criminal case had been opened. The Committee found that there had been violations of the right to life, right to liberty and right to a private life with respect to all of the victims, and that the legal proceedings had not been sufficiently expeditious to constitute an effective remedy. The Committee also noted that where serious violations of Covenant rights are alleged, disciplinary and administrative remedies will not be sufficient.

Irschik and ors. v. Austria (Human Rights Committee)

Mr. Irschik complained on his and his two sons' behalf that their right to non-discrimination had been violated. The complaint arose out of a decision of the Austrian Constitutional Court, which had found a tax law to be unconstitutional. Mr. Irschik had already submitted his case to the European Court of Human Rights, which had considered his complaint "manifestly ill-founded". It was not until the complaint to the Committee that the rights of Mr. Irschik's sons were raised. The Committee considered the complaint inadmissible on two grounds. First, the fact that the European Court had considered the case meant that the Committee would not do so. Second, and of particular importance to the rights of the two children, the Committee would not consider a complaint arising in relation to persons that had not been raised in the previous domestic case.

[P.S. and ors. v. Denmark](#) (Human Rights Committee)

P.S. and the mother of his child divorced. Custody was awarded to his ex-wife, and under Danish law, the parent granted custody has responsibility for making decisions related to the child's religious education. P.S., a devout Jehovah's Witness, made several appeals against this and submitted a complaint to the Parliamentary Ombudsman, but did not apply for judicial review. The Committee found this complaint inadmissible on the grounds that P.S. had not exhausted domestic remedies. P.S.'s reasons for not applying for judicial review, namely that the expense and his belief that it would not provide an adequate remedy, were not considered sufficient.

Article 8

Transmission of the communication

1. Unless the Committee considers a communication inadmissible without reference to the State party concerned, the Committee shall bring any communication submitted to it under the present Protocol confidentially to the attention of the State party concerned as soon as possible.
2. The State party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that it may have provided. The State party shall submit its response as soon as possible and within six months.¹⁵

Explanation

As soon as the Committee knows that it is going to review and decide on a complaint, it has to give a copy to the Government that the complaint is about. It's important that that nobody else know about the complaint to protect the privacy and safety of everyone involved in filing it, so the Committee has to be sure to send it just to the Government involved at first. Once the Government has received the complaint, it has to put together a response. This means the Government will write down its thoughts and views on the complaint, put together any extra information it has about the things the complaint describes, and talk about any things it has done to try to resolve the situation. The Government has six months to give its response to the Committee, but should try to do this faster if it can.

Article 9

Friendly settlement

1. The Committee shall make available its good offices to the parties concerned with a view to reaching a friendly settlement of the matter on the basis of respect for the obligations set forth in the Convention and/or the Optional Protocols thereto.

¹⁵ [Article 40](#) of the Convention and the Committee's [General Comment on children's rights in juvenile justice](#) clarify children's right to have juvenile justice matters determined without delay, and Article 8 of the Optional Protocol on the sale of children, child prostitution and child pornography mandates that States parties avoid unnecessary delay in compensating child victims. While these technically only apply to children in conflict with the law and child victims of exploitation, the idea that cases involving children should be addressed as quickly as possible is well-established.

2. An agreement on a friendly settlement reached under the auspices of the Committee closes consideration of the communication under the present Protocol.

Explanation

Like sometimes happens in court cases, the person or people filing the complaint and the Government accused of violating children's rights might want to meet and see whether they can resolve things before the Committee has a chance to decide on the complaint. If this sounds like something that everyone wants to do, the Committee will try to make this possible and set up a time and place for people to get together. If both sides find a happy compromise, the Committee will stop looking at the complaint and accept that everything has been resolved.

Article 10

Consideration of communications

1. The Committee shall consider communications received under the present Protocol as quickly as possible, in the light of all documentation submitted to it, provided that this documentation is transmitted to the parties concerned.
2. The Committee shall hold closed meetings when examining communications received under the present Protocol.
3. Where the Committee has requested interim measures, it shall expedite the consideration of the communication.
4. When examining communications alleging violations of economic, social or cultural rights, the Committee shall consider the reasonableness of the steps taken by the State party in accordance with article 4 of the Convention. In doing so, the Committee shall bear in mind that the State party may adopt a range of possible policy measures for the implementation of the economic, social and cultural rights in the Convention.¹⁶
5. After examining a communication, the Committee shall, without delay, transmit its views on the communication, together with its recommendations, if any, to the parties concerned.

Explanation

Once the Committee has all the information it needs about a complaint, it will meet in private and make a decision on what to do as soon as it can. The Committee will try even harder to make a fast decision when, after it first read the complaint, it asked a Government to take special steps to protect a child. When the Committee has finally agreed on what to do, it will very quickly send out its thoughts on the complaint and recommendations on how to resolve the situation to both the person who complained and the Government that person complained against.

Not all of the complaints will be looked at the same way, though. Complaints that involve rights that

¹⁶ As referenced here, [Article 4](#) of the Convention provides that States parties implement children's economic, social and cultural rights "to the maximum extent of their available resources."

talk about public services, like education and health, are treated differently. If a complaint is related to one of these rights, the Committee will also think about what kinds of services the Government offers and whether these are good enough. Because there are lots of different ways to run school systems or deliver health care, for instance, the Committee also understands that there isn't just one simple solution every Government has to follow.

Article 11

Follow-up

1. The State party shall give due consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee a written response, including information on any action taken and envisaged in the light of the views and recommendations of the Committee. The State party shall submit its response as soon as possible and within six months.
2. The Committee may invite the State party to submit further information about any measures the State party has taken in response to its views or recommendations or implementation of a friendly settlement agreement, if any, including as deemed appropriate by the Committee, in the State party's subsequent reports under article 44 of the Convention, article 12 of the Optional Protocol on the sale of children, child prostitution and child pornography or article 8 of the Optional Protocol on the involvement of children in armed conflict, where applicable.¹⁷

Explanation

If the Committee decides that a complaint is right and that a Government is responsible for violating children's rights, it will send the Government its views and recommendations on what to do next. The Government should take these seriously, and has to tell the Committee what it has done and what it plans to do to resolve the situation. The Government has six months to do this, but should try to report back to the Committee as soon as it can.

Since Governments and the Committee already meet on a regular basis at the UN to talk about children's rights, the Committee can ask questions before and during these meetings about how the Government ended up responding to the Committee's recommendations. If the Government was able to reach a compromise with a person who filed a complaint before the Committee sent out recommendations, the Committee can also ask questions about how the compromise worked out.

Article 12

¹⁷ [Article 44](#) of the Convention lays out the framework for the state reporting procedure, under which States parties are required to file initial reports on their implementation of the Convention 2 years after ratification and then every 5 years thereafter.

Inter-State communications

1. A State party to the present Protocol may, at any time, declare that it recognizes the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under any of the following instruments to which the State is a party:

(a) The Convention;

(b) The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;

(c) The Optional Protocol to the Convention on the involvement of children in armed conflict.

2. The Committee shall not receive communications concerning a State party that has not made such a declaration or communications from a State party that has not made such a declaration.

3. The Committee shall make available its good offices to the States parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the Convention and the Optional Protocols thereto.

4. A declaration under paragraph 1 of the present article shall be deposited by the States parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communications by any State party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State party concerned has made a new declaration.

Explanation

When a Government accepts the complaints procedure, it can also decide that it wants to allow other Governments to file complaints about violations of children's rights against it. If a Government doesn't specifically say that this is okay, though, the Committee can't look at complaints that are filed against it by other Governments. If a Government wants to allow complaints from other Governments, the UN will tell all of the other Governments about this. Governments can still change their mind about this later and tell the UN they don't want to deal with complaints from other Governments, but they still have to respond to complaints that have already been filed. Just like when a person files a complaint, when a Government files a complaint against another Government, the Committee can also set up meetings for the Governments to discuss the complaint and try to reach a happy compromise before it makes its own decision.

Part III

Inquiry procedure

Article 13

Inquiry procedure for grave or systematic violations

1. If the Committee receives reliable information indicating grave or systematic violations by a State party of rights set forth in the Convention or in the Optional Protocols thereto on the sale of children, child prostitution and child pornography or on the involvement of children in armed conflict, the Committee shall invite the State party to cooperate in the examination of the information and, to this end, to submit observations without delay with regard to the information concerned.
2. Taking into account any observations that may have been submitted by the State party concerned, as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State party, the inquiry may include a visit to its territory.
3. Such an inquiry shall be conducted confidentially, and the cooperation of the State party shall be sought at all stages of the proceedings.
4. After examining the findings of such an inquiry, the Committee shall transmit without delay these findings to the State party concerned, together with any comments and recommendations.
5. The State party concerned shall, as soon as possible and within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
6. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2 of the present article, the Committee may, after consultation with the State party concerned, decide to include a summary account of the results of the proceedings in its report provided for in article 16 of the present Protocol.
7. Each State party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in the present article in respect of the rights set forth in some or all of the instruments listed in paragraph 1.
8. Any State party having made a declaration in accordance with paragraph 7 of the present article may, at any time, withdraw this declaration by notification to the Secretary-General of the United Nations.

Explanation

Anyone can send information to the Committee about violations of children's rights happening in a country that has accepted the complaints procedure. If it seems to the Committee like these violations are very serious or affect lots of children, the Committee can start an “inquiry”, which means it will ask the country's Government to look through the information together and share its thoughts on the situation. If the Committee feels like it needs to do something about the violations, it can also ask some of its members to look into things and report back with more information. If the Government agrees, this might even involve visiting the country in person to see how things are.

If the Committee decides to investigate, it has to work with the Government to make sure everything runs smoothly and agree to keep things private. As soon as it has finished gathering information, the Committee will put together a report with comments and recommendations and send it to the Government. The Government then has to respond with its own thoughts within six months, but should try to do this sooner. When all is said and done, the Committee can also speak with the

Government about sharing some of the main points of its investigation with the UN.

Not every Government has to agree to work with the Committee in these kinds of investigations, though. When Governments accept the complaints procedure, they can specifically say that they don't want to let the Committee investigate children's rights violations in their countries. If a Government says this and later changes its mind, it can also tell the UN that it's okay with Committee investigations after all.

Article 14

Follow-up to the inquiry procedure

1. The Committee may, if necessary, after the end of the period of six months referred to in article 13 (5), invite the State party concerned to inform it of the measures taken and envisaged in response to an inquiry conducted under article 13 of the present Protocol.
2. The Committee may invite the State party to submit further information about any measures that the State party has taken in response to an inquiry conducted under article 13, including as deemed appropriate by the Committee, in the State party's subsequent reports under article 44 of the Convention, article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography or article 8 of the Optional Protocol to the Convention on the involvement of children in armed conflict, where applicable.

Explanation

Six months after the Committee sends the results of a children's rights investigation to a Government, the Committee can ask that Government to explain what it has done and plans to do to address the situation. Since Governments and Committees already meet on a regular basis at the UN to talk about children's rights, the Committee can also ask the Government questions before and during these meetings about how it decided to respond to the investigation.

Part IV

Final provisions

Article 15

International assistance and cooperation

1. The Committee may transmit, with the consent of the State party concerned, to United Nations specialized agencies, funds and programmes and other competent bodies its views or recommendations concerning communications and inquiries that indicate a need for technical advice or assistance, together with the State party's observations and suggestions, if any, on these views or recommendations.¹⁸

¹⁸ [Article 45](#) of the Convention provides that the Committee can submit requests for technical assistance to the United Nations Children's Fund and other competent bodies as part of the state reporting procedure, although the Committee

2. The Committee may also bring to the attention of such bodies, with the consent of the State party concerned, any matter arising out of communications considered under the present Protocol that may assist them in deciding, each within its field of competence, on the advisability of international measures likely to contribute to assisting States parties in achieving progress in the implementation of the rights recognized in the Convention and/or the Optional Protocols thereto.¹⁹

Explanation

If a complaint or investigation is especially complicated, the Committee might want to reach out to other parts of the UN to figure out how to handle the situation. There are many different kinds of experts in the UN, and some of them might be able to give the Committee good advice or useful information. The complaint or investigation might also raise interesting issues, and the Committee might want to share it with other people at the UN to help them in their work on those issues. Before the Committee can speak with any of these experts, though, it has to make sure that the Government is okay with it talking to other people about the complaint or investigation.

Article 16

Report to the General Assembly

The Committee shall include in its report submitted every two years to the General Assembly in accordance with article 44 (5) of the Convention a summary of its activities under the present Protocol.²⁰

Explanation

Every other year, the Committee tells the whole UN about what it has been doing. When it gives these reports, the Committee has to be sure to talk briefly about how many and what kinds of complaints and investigations it has been looking into.

Article 17

Dissemination of and information on the Optional Protocol

Each State party undertakes to make widely known and to disseminate the present Protocol and to facilitate access to information about the views and recommendations of the Committee, in particular with regard to matters involving the State party, by appropriate and active means and in accessible formats to adults and children alike, including those with disabilities.²¹

need not explicitly ask for permission from a State party to do so.

19 [Article 45](#) of the Convention similarly provides a means for specialised agencies, the United Nations Children's Fund and other UN organs to be involved in the state reporting procedure within their areas of expertise.

20 As stated here, [Article 45](#) of the Convention requires that the Committee report on its activities to the General Assembly every other year.

21 Under [Article 17](#) of the Convention, States parties are obligated to ensure that children have access to appropriate

Explanation

Governments that accept the complaints procedure also have to promise that they will share information about filing complaints with people who live in their country. It is not enough for Governments to just collect and hold onto information about the complaints procedure. They also have to reach out to people to tell them about it, and should take special steps to make sure that children and people who have disabilities know about and understand how the complaints procedure works.

Not only should Governments tell people about what the procedure is and how to use it, but they should also make sure that people can find and read the Committee's decisions and recommendations. It is even more important that Governments give people this kind of information when it is about things that happened in their country.

Article 18

Signature, ratification and accession

1. The present Protocol is open for signature to any State that has signed, ratified or acceded to the Convention or either of the first two Optional Protocols thereto.²²
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention or either of the first two Optional Protocols thereto. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.²³
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention or either of the first two Optional Protocols thereto.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.²⁴

Explanation

Any Government that has accepted the [Convention on the Rights of the Child](#), the [Optional Protocol on the sale of children, child prostitution and child pornography](#) or the [Optional Protocol on the involvement of children in armed conflict](#) can also accept the complaints procedure. Usually, this involves a Government signing the complaints procedure treaty and then letting the UN know that it has formally accepted the treaty.

Article 19

Entry into force

information, particularly where this information could enhance a child's well-being.

22 [Article 46](#) of the Convention opened it for signature to all States.

23 [Article 47](#) of the Convention provides for similar ratification procedures.

24 [Article 48](#) of the Convention provides for similar accession procedures.

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.²⁵
2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.²⁶

Explanation

The complaints procedure can't be used until ten Governments have said that they accept the procedure. Once this has happened, people can start filing complaints three months later. If a new Government agrees to accept the complaints procedure once it is already up and running, there is also a three-month waiting period before people can file complaints against that Government.

Article 20

Violations occurring after the entry into force

1. The Committee shall have competence solely in respect of violations by the State party of any of the rights set forth in the Convention and/or the first two Optional Protocols thereto occurring after the entry into force of the present Protocol.
2. If a State becomes a party to the present Protocol after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to violations of the rights set forth in the Convention and/or the first two Optional Protocols thereto occurring after the entry into force of the present Protocol for the State concerned.

Explanation

Complaints can only be filed against Governments about things that happened after the Committee started being able to receive complaints. If a Government has just accepted the complaints procedure, the Committee can't look at ways that Government might have violated children's rights in the past.

Article 21

Amendments²⁷

1. Any State party may propose an amendment to the present Protocol and submit it to the Secretary-

25 [Article 49](#) of the Convention provided for it to enter into force 30 days after the 20th State party's ratification or accession.

26 [Article 49](#) of the Convention provides that for each State that ratifies it or accedes to it after the 20th State, the Convention will enter into force 30 days after ratification or accession.

27 [Article 50](#) of the Convention sets out similar procedures for amendments.

General of the United Nations. The Secretary-General shall communicate any proposed amendments to States parties with a request to be notified whether they favour a meeting of States parties for the purpose of considering and deciding upon the proposals. In the event that, within four months of the date of such communication, at least one third of the States parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and, thereafter, to all States parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of the present article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States parties that have accepted it.

Governments can suggest changes they want to make to the complaints procedure to the UN. The UN will share these suggestions with all the Governments that have accepted the procedure and ask them whether they want to schedule a meeting to talk about making changes. If one-third of the Governments think that having a meeting would be a good idea, the UN will schedule a time for all of the Governments who have accepted the procedure to get together. If two-thirds of the Governments at that meeting think that a change should be made, the UN will share the proposed changes with every Government and ask for their acceptance.

Even when most Governments think something about the complaints procedure should be changed, it won't happen right away. First two-thirds of the Governments who have accepted the complaints procedure have to tell the UN they want to make the same changes, and then everyone has to wait 30 days before the changes become official. Also, the changes only apply to Governments that accept them. If a Government decides that it does not like the way things have been changed, it can stick with the way things were before.

Article 22

Denunciation

1. Any State party may denounce the present Protocol at any time by written notification to the Secretary General of the United Nations. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.²⁸

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under articles 5 or 12 or any inquiry initiated under article 13 before the effective date of denunciation.

Explanation

28 [Article 52](#) of the Convention provides for similar denunciation procedures.

Governments can change their minds about whether or not they want to accept the complaints procedure. If a Government has accepted the complaints procedure but later decides it doesn't want to be part of it anymore, it can tell this to the UN. The Committee will still be able to finish reviewing complaints it has already received against that Government, though. It will also look at new complaints that are filed within the next year, but after that it will stop accepting them.

Article 23

Depositary and notification by the Secretary-General

1. The Secretary-General of the United Nations shall be the depositary of the present Protocol.²⁹
2. The Secretary-General shall inform all States of:
 - (a) Signatures, ratifications and accessions under the present Protocol;
 - (b) The date of entry into force of the present Protocol and of any amendment thereto under article 21;
 - (c) Any denunciation under article 22.

Explanation

The UN will let everyone know when any Government signs onto or accepts the complaints procedure, or when a Government that accepted the complaints procedure decides it no longer wants to be a part of things. It will also announce when the Committee can first start hearing complaints, which is three months after ten Governments have accepted the procedure.

Article 24

Languages

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.³⁰
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

Explanation

The UN publishes treaties and other important documents in six languages. The complaints procedure can be translated into many other languages, but only the Arabic, Chinese, English, French, Russian and Spanish versions are official. When the final draft of this treaty was accepted, the UN sent out

29 [Article 53](#) of the Convention similarly delegates the Secretary-General as its depositary.

30 [Article 54](#) of the Convention sets out the same six official versions of the text.

copies of all of these versions to every Government.