

Unequal Access to UN Human Rights Bodies

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Unequal Access to UN Human Rights Bodies

The United Nations Special Procedures operate a human rights complaint mechanism for individuals. Despite being open for all individuals in principle, complaints are frequently filed by socioeconomic elites from high-income countries.

By Christoph Valentin Steinert

Intergovernmental human rights institutions such as the UN Human Rights Council are widely considered to be politicized.¹ This means that accusations of human rights violations between states often reflect geopolitical relations rather than neutral assessments of human rights records. States tend to spare their allies from criticism, while rivals are accused of severe human rights violations. For instance, the United States and Cuba routinely blame each other for systematic human rights abuses in the UN Human Rights Council, as do India and Pakistan.

Given these shortcomings of interstate human rights institutions, the UN Special Procedures (see box below) operate a human rights complaint mechanism for individuals. This provides a direct channel that links individuals to international human rights institutions. Victims of human rights violations may either file complaints directly or be represented indirectly by others who file complaints on their behalf. In response to these complaints, the Special Procedures may send letters, so-called Communications, to governments, to urge the relevant government to prevent the violations and provide effective remedies to them.²

Communications are not legally enforceable. However, they serve as a publicly visible instrument of human rights shaming, which exerts political pressure on governments to address individual violations.

Key Points

- In response to individual complaints, the UN Special Procedures can send letters to governments and other entities such as companies urging them to address and prevent the highlighted human rights violations.
- Despite the Special Procedures being accessible to any individual, complaints from low-income countries are comparatively low. Socio-economic elites from high-income countries tend to be over-represented.
- The Special Procedures should make their complaint mechanism more accessible by raising awareness in low-income countries and by allowing complaints in languages other than English, French, or Spanish.
- Human rights lawyers should file the complaints of illiterate individuals from low-income countries who are unable to do this themselves.

UN Special Procedures

- / In the UN system, human rights complaint mechanisms for individuals are operated by the UN Special Procedures and the UN human rights treaty bodies. The former is open to all, while the latter is only open to citizens of states that have ratified international human rights treaties.
- / The UN Special Procedures are independent and unpaid human rights experts with mandates to report and advise on human rights issues from a thematic or country-specific perspective. Currently, there are 46 Special Procedures with thematic mandates and 14 with country mandates.
- / UN Special Procedures mandate holders are either individuals (called Special Rapporteurs or Independent Experts) or Working Groups of five members, one from each regional group of the UN. They are assisted in their work by the Geneva-based Office of the High Commissioner for Human Rights.
- / The UN Office of the High Commissioner for Human Rights provides a publicly accessible [portal](#) of all Communications issued since December 2010.

Human rights complaint mechanisms for individuals have several advantages. By bypassing state governments, these mechanisms empower individuals to bring their concerns directly to international human rights bodies. The Special Procedures, being composed of independent human rights experts, are at a lower risk of politicization than intergovernmental human rights institutions. In light of these advantages, the UN emphasizes that “[i]t is through individual complaints that human rights are given concrete meaning.”³ However, to what extent do these far-reaching expectations correspond with reality?

Socioeconomic Disparities

Human rights complaint mechanisms presuppose that individuals can recognize human rights violations and actively report them to international human rights authorities. However, this process is not straightforward and requires a certain set of capabilities. First, if they are to use such a mechanism, victims of human rights abuse must be aware of international human rights bodies and their right to file complaints. Many victims of human rights abuse simply do not know of such complaint mechanisms, which precludes their direct participation. In general, individuals with a higher socioeconomic status tend to be more aware of their rights and avenues for seeking remedy.

Second, individuals must be able to write complaints that are formally accepted by the complaints body. Fulfilling the formal requirements is not straightforward as language barriers can impede the submission process. The Special Procedures only accept complaints that are written in English, French, or Spanish, which makes the submission process much more difficult for individuals who do not speak these languages. It is also evident that illiterate persons are unlikely to participate. In contrast, wealthier individuals are generally more likely to have the literacy skills, both in terms of their own language and foreign languages, to fulfill the formal requirements of international human rights bodies.

Alternatively, individuals can be represented by human rights lawyers or civil society organizations that file complaints on their behalf. However, a key problem is that not all victims of human rights violations have equal access to external representation. On average, victims of human rights abuse with a higher socioeconomic status are more likely to gain such representation. Consider the cases of Chinese citizens Li Yuhan and Wang Shouguo, who are both considered

political prisoners by the US Congressional-Executive Commission on China.⁴ Li Yuhan is a lawyer, and a complaint filed on her behalf resulted in a Communication from the Special Procedures to the Chinese government.⁵ In contrast, no complaint was filed on behalf of farmer Wang Shouguo, and his case has therefore not reached the Special Procedures. Beyond these specific cases, empirical evidence also demonstrates that individuals from professions with a high socioeconomic status, such as lawyers, professors, and doctors, are over-represented in Communications of the Special Procedures.⁶

Special Procedure Communications

The importance of socioeconomic resources for filing complaints is also reflected in cross-country differences in the number of Special Procedure Communications. Research shows that the Special Procedures send more Communications to the governments of high-income countries than others. The number of Communications addressed to low-income countries remains low. For instance, countries in Sub-Saharan Africa are systematically under-represented in Communications from the Special Procedures, while high-income countries such as the United States are among the top recipients. This suggests that human rights violations are more likely to result in individual complaints filed to international human rights bodies when they occur



A UN security line at the United Nations European headquarters during the Human Rights Council in Geneva, Switzerland, September 11, 2023. *Denis Balibouse / Reuters*

in high-income countries. However, domestic remedies for human rights violations tend to be weak in low-income countries. Thus, it is particularly problematic if victims of human rights abuses in such countries are failing to reach international human rights bodies.

In sum, global openness is a necessary but not a sufficient condition for ensuring that all individuals can access international human rights institutions. Individuals require resources to file complaints, which are unequally distributed across victims of human rights abuse. Socioeconomic elites are over-represented, while those most vulnerable to human rights violations tend to be under-represented.

Required Improvements

Complaint mechanisms for individuals are an important complement to inter-governmental human rights institutions as they circumvent politicized relations between states. However, they are not being used to their full potential. There is a lack of participation by victims of human rights violations from low-income countries in these mechanisms. This means the mechanisms are failing to fulfill their objective of universal accountability for human rights violations.

The accessibility of the Special Procedures complaint mechanisms could be substantially improved through the following measures. First, the Special Procedures could accept complaints written in languages other than English, French,

or Spanish. At a minimum, the Special Procedures could accept complaints in the six official UN languages, which would mean adding Arabic, Chinese, and Russian to the list. It is also essential that the Special Procedures provide alternative means of access for illiterate individuals, who are unable to file complaints themselves. Human rights lawyers should make a special effort to represent illiterate persons that suffer from human rights violations, and the Special Procedures could also allow oral complaints.

Second, the complaint mechanism of the Special Procedures must be actively promoted, especially in low-income regions that are prone to human rights violations. This should include an awareness-raising campaign that involves both international non-governmental organizations (NGOs) and national civil society organizations to ensure a broad

reach across different regions and societal groups. To the extent that it is possible, the UN itself should more actively promote and explain its own mechanisms, ideally in collaboration with public relations experts. Since there is evidence that more complaints are filed from countries where the UN Human Rights Division has a country office, the UN should also seek to publicize its procedures in countries where the division is not present.

Further Reading

Aoife Nolan / Rosa Freedman / Thérèse Murphy (eds.), *The United Nations Special Procedures System* (Leiden/Boston: Brill, 2017).

This book provides a well-written introduction to the UN Special Procedures. It sheds light on various aspects of Special Procedures and the practical challenges of their day-to-day work.

Elvira Domínguez-Redondo, *In Defense of Politicization of Human Rights: The UN Special Procedures* (Oxford: Oxford University Press, 2020).

Domínguez-Redondo argues that politicization permeates the UN Special Procedures even though they are composed of independent experts, because their mandates are created and renewed by governments.

Rochelle Terman / Joshua Byun, "Punishment and Politicization in the International Human Rights Regime," *American Political Science Review* 116:2 (2022), pp. 385–402.

Terman and Byun show that politicization in intergovernmental human rights bodies varies across human rights issues.

Third, the Special Procedures should advance their safeguards against state reprisals in line with the Guidelines against Intimidation or Reprisals (“San José Guidelines”). These offer practical guidance on the protections UN human rights treaty bodies extend to those at risk of intimidation or reprisals due to their cooperation or attempts to cooperate with these bodies. Individuals are unlikely to file complaints if there is a high risk of state retaliation in response to filing a complaint to the UN. The risk of reprisals could be significantly reduced by encouraging anonymous complaints that do not reveal the identity of the complainant. Given that repressive states may intercept online information, it is important that the Special Procedures provide encryption for their online forms. Moreover, the Special Procedures should establish a focal point for the personal safety of complainants that enables a rapid and coordinated response if state reprisals occur. Such policies could substantially narrow the wide gap that exists between the far-reaching aspirations and the actual reach of the human rights complaint mechanism for individuals operated by the Special Procedures.

Beyond the specific case of the Special Procedures, both judicial and non-judicial accountability mechanisms for individuals generally tend to under-represent marginalized groups from low-income countries. The UN must step up its efforts to make accountability mechanisms ac-

cessible to everyone. Because just as granting suffrage is not sufficient to turn individuals into active democratic citizens, merely providing complaint mechanisms is not sufficient to enable remedy for victims of human rights abuse.

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