

Communications before the Committee on the Rights of Persons with Disabilities

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Abstract:

For decades, the United Nations has worked to protect the rights of persons with disabilities, thanks to its unremitting efforts; where the Convention on the Rights of Persons with Disabilities was concluded in 2006. The Convention guarantees many rights of this vulnerable group. The main purpose of concluding the Convention is to promote, protect and ensure that all persons with disabilities fully and equally enjoy all human rights and fundamental freedoms, and promote respect for their dignity. The Convention provides for the establishment of a Committee on the Rights of Persons with Disabilities, to which individuals can submit communications against countries that have violated their rights under the provisions of the Convention as a guarantee to ensure respect for their rights.

The Optional Protocol to the Convention and the Committee's rules of procedure has established certain mechanisms for considering communications before the Committee. There are certain conditions for accepting communications before the Committee, including those relating to the author of the communication, and others conditions relating to the State against which the communication is directed, some conditions relate to the communication itself. In addition, there is a specific mechanism for dealing with communications before the Committee, such as the procedures for examining the communications, the committee's decisions related to the

subject of communications, and follow up on implementing the committee's decisions.

The committee's decisions are final and not subject to appeal, they are non-binding recommendations to states, but they enjoy great moral and political value among states. States rarely refrain from implementing the committee's decisions. This is due to the states concern for their International Reputation in the field of Human Rights. It is noted that there is no specific period for the state to complete the implementation of the recommendations of the committee, but within six months of the Committee's transmittal of its views on a communication, the state party concerned shall submit to the Committee a written response, including any information on any action taken in the light of the views and recommendation of the Committee. The committee may include in its report submitted periodically every two years to the General Assembly of the United Nations regarding information related to the follow-up activities of countries, a complaint against the state that does not comply with its decision. The Assembly, in turn, has the right to issue decisions requiring the state to implement the decisions of the committee.

Introduction:

Persons with disabilities are one of the most vulnerable groups in the world, and they are in great need of attention and care; therefore, the United Nations has worked diligently for decades to protect this group, until it successfully concluded the Convention on the Rights of Persons with Disabilities⁽¹⁾.

1 - The drafters of the Convention on the Rights of Persons with Disabilities recognized that the vast majority of countries do not have comprehensive disability legislation; moreover, they found that existing legislation was often very limited in extent, and reflecting medical and charitable models rather than an approach based on the rights of persons with disabilities. Therefore, the drafters of the convention ensured that the Convention could provide

The Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol were adopted on 13, December, 2006 at the United Nations Headquarters in New York, and they entered into force at the same time on 3 May 2008⁽²⁾.

The Convention has adopted a broad classification of persons with disabilities, and it stipulates in its first article that the term “persons with disabilities” include those who have long- term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an

technical assistance to States in developing new legislation and in improving and enforcing existing legislation in line with the Convention on the Rights of Persons with Disabilities.

The Convention is based on a number of principles that contribute to the interpretation of the substantive provisions of the Convention, as stated in article 3 of the Convention: “(A) Respecting the inherent dignity and individual autonomy and independence, including the freedom to make their own choices (b) Non-Discrimination, (C) Ensure the full and effective participation and involvement of persons with disabilities in society (D) Respect differences and acceptance of persons with disabilities as part of human diversity and human nature, (E) equality of opportunity, (F) accessibility, (G) equality between men and women, (H) Respect for the evolving capacities of children with disabilities and respect for the right of with disabilities to preserve their identities”.

2 - The Convention on the Rights of Persons with Disabilities consists of 50 articles, and the Optional Protocol to the Convention consists of 18 articles. By the end of 2022, the number of states parties to the Convention reached 185. As for the Additional Protocol to the Convention, it did not receive such a large number of ratifications and accessions. The ratifying parties reached about 100 countries. The Convention on the Rights of Persons with Disabilities is the first international human rights agreement to be concluded in the twenty-first century. The Convention was drafted in accordance with the United Nations human rights conventions. It is the first international human rights convention ratified by a regional integration organization such as the European Union.

See: Michael Ashley Stein & Janet E. Lord, Jacobus tenBroek, Participatory Justice, and the UN Convention on the Rights of Persons with Disabilities, Texas Journal on Civil Liberties & Civil Rights, Vol. 13:2, 2008, P. 174.

equal basis with others. The Convention affirms that its purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity⁽³⁾. The Convention also clarifies and describes how rights of all its categories apply to persons with disabilities, and it identifies the areas which persons with disabilities must be adapted so that they can effectively exercise their rights, and areas in which their rights have been violated and where the protection of their rights must be enhanced. Statistics issued by the United Nations indicate that the number of persons with disabilities in the world has exceeded one billion, i.e. they have become about 15% of the world's population⁽⁴⁾, and 80% of these persons live in developing countries⁽⁵⁾.

3 - Article 1 Convention on the Rights of Persons with Disabilities.

The importance of the Convention lies in:

- Clarifies the rights of persons with disabilities.
- Sets out responsibility to respect these rights.
- Requires a rights-based approach to disability
- Promoting inclusive and accessible development
- Ensures monitoring of rights at the national and international levels

4 -) Introduction to the Committee on the Rights of Persons with Disabilities, Office of the High Commissioner, Human Rights:

<https://www.ohchr.org/en/treaty-bodies/crpd/introduction-committee>

Accessed in 15 August 2022.

You may notice to the drafters of the Convention that most countries do not have accurate statistics and data on persons with disabilities living in their territories, undoubtedly, statistical information is essential to support the implementation of the Convention. The lack of Experimentally Data inspired the idea of establishing a monitoring mechanism to contribute to the establishment of accurate databases inside the state, which in turn can enhance the ability of states to formulate public policies responsive to the Convention, this is drafted in Articles(31) and (33) of the Convention, where Article(31) of the Convention stipulates that : States Parties undertake to collect appropriate information including statistical and research data, to enable them to formulate and implement policies to give effect to the present convention. The process of collecting and maintaining this information shall

In view of the importance of protecting this vulnerable group, the Convention stipulated the establishment of the Committee on the Rights of Persons with Disabilities, and the Optional Protocol included the mechanism of the committee's work. The Committee on the Rights of Persons with Disabilities is considered among treaty bodies or the so-called

Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities; and comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others. Regarding to Article (33) stipulated that: States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

Michael Ashley Stein & Janet E. Lord, Monitoring the Convention on the Rights of Persons with Disabilities: Innovations, Lost Opportunities, and Future Potential, Human Rights Quarterly Vol. 32, January 2010, P. 703.

See also: Gauthier de Beco, Disability in International Human Rights Law, oxford university press, United Kingdom, 2021, P. 178.

5 - Disability Inclusion Strategy, United Nations:

<https://www.un.org/en/content/disabilitystrategy/>

Accessed in 17 August 2022.

convention committees because it was established under international conventions on human rights⁽⁶⁾. Whereas the Committee on the Rights of Persons with Disabilities monitors the implementation of the Convention on the Rights of Persons with Disabilities to ensure its effective implementation⁽⁷⁾.

The Committee is responsible for receiving and considering individual communications or complaints against countries that are alleged to have violated the Convention on the Rights of Persons with Disabilities. The committee is responsible for conducting investigations in event of existing reliable evidence of gross and systematic violations. The Committee also publishes its interpretation of the content of human rights provisions, known as General Comments on Substantive Issues. It is noted that the committee is not competent to consider the exchange of communications among states, like some other treaty committees that have extended the work of their committees, so that it allows it to receive communications from any state party regarding violations of human rights protected by the Convention against another state party⁽⁸⁾.

6 - The independent expert committee established to monitor the implementation of the UN human rights treaties are referred to as “UN human rights treaty bodies.” These committees are composed of independent experts and they are responsible for monitoring the implementation of the core international human rights treaties. Each state party to any of these treaties shall take the necessary steps to ensure that every person in the state can enjoy the rights set forth in the treaty.

7 - sessions of the Committee are usually held at the United Nations Office in Geneva, The Committee may, in consultation with the Secretary-General, determine another place to hold one of its sessions.

Rule 3 Rules of Procedure for Committee on the Rights of Persons with Disabilities

8- Some human rights treaties contain provisions that allow states parties to submit Communications to the relevant treaty committee about violations of the treaty allegedly committed by another state party.

The competence of the Committee on the Rights of Persons with Disabilities is to consider communications submitted by people with disabilities, or whoever represents them in submitting the communication is an optional jurisdiction for the states parties to the Convention on the Rights of Persons with Disabilities. The Committee may not consider any communication that the State against which the communication is submitted is not a party to the Convention or the Optional Protocol. The Committee constitutes a guarantee for activating the protection of the rights of persons with disabilities, but the effectiveness of this guarantee depends on the countries' accession to the protocol.

The Committee on the Rights of Persons with Disabilities, through the Secretary-General of the United Nations, shall receive a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, and the States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests. The States may include in the reports indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations

shall be included in the report of the Committee together with comments, if any⁽⁹⁾.

It is worth noting that the Committee on the Rights of Persons with Disabilities is not the only committee that people with disabilities are allowed to submit communications to it. Rather, they may also submit communications before the rest of the committees in accordance with the conditions governing the work of each committee. For example, persons with disabilities may submit communications before the Child Rights Committee, which monitors the implementation of the Convention on the Rights of the Child of 1989 and its annexed protocols of 2000, the Human Rights Committee, which monitors the implementation of the International Covenant on Civil and Political Rights of 1966, the Committee on Economic, Social and Cultural Rights, which monitors the implementation of the International Covenant on Economic, Social and Cultural Rights of 1966, the Committee on the Elimination of Discrimination against Women, which monitors the implementation of 1979 Convention on the Elimination of All Forms of Discrimination against Women, the Committee against Torture, which monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or punishment of 1984, and the Committee on the Elimination of Racial Discrimination, which monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination of 1965, and the Committee on Enforced Disappearances that monitor the implementation of the International Convention to protect all persons from enforced disappearance of 2010.

9 - Articles 35, 36(1), 39 Convention on the Rights of Persons with Disabilities

The main objective of this study is to describe and analyze the legal framework for communications before the Committee on the Rights of Persons with Disabilities in the light of the provisions and rules contained in the Convention on the Rights of Persons with Disabilities and its annexed protocol and its rules of procedures, as well as, the decisions and recommendations issued by the Committee on the Rights of Persons with Disabilities and what is to be applicable, the problem study can be drafted in the following question: What is the nature and extent of the effectiveness of communications submitted to the Committee on the Rights of Persons with Disabilities, as a guarantee of respect for the rights of persons with disabilities?

This study uses the descriptive analytical approach, where the mechanisms for considering communications before the Committee on the Rights of Persons with Disabilities are identified using the descriptive approach, and with regard to the analytical approach. It has been used to determine the effectiveness of the committee's communications and practical applications, and to identify its effects on the rights of persons with disabilities. This will help to find more effective safeguards to protect this vulnerable group.

We will divide this research as follows:

Chapter 1: The conditions for accepting communications before the Committee on the Rights of Persons with Disabilities

Chapter 2: Mechanisms for considering communications before the Committee on the Rights of Persons with Disabilities

Chapter 1

The conditions for accepting communications before the Committee on the Rights of Persons with Disabilities

The Committee on the Rights of Persons with Disabilities has the right to receive individual and collective communications regarding alleged violations of the Convention on the Rights of Persons with Disabilities against states parties to the Optional Protocol. In order for any claim contained in a communication to be accepted for consideration, the Committee shall decide whether or not it is admissible under the Optional Protocol. This is always confirmed by the committee⁽¹⁰⁾.

The Additional Protocol to the Convention on the Rights of Persons with Disabilities came with a specific set of conditions that must be met in order to admit communications before the Committee on the Rights of Persons with Disabilities, including, some of which are related to the state against which the communication is submitted, while the others are related to the author of the communication, and others are related to the communication itself.

First Requirement: the conditions related to the state against which the complaint was submitted

First: The State against which the communication is addressed shall be a party to the Optional Protocol to the Convention on the Rights of Persons with Disabilities

In order for the Committee to receive any communication, the state against which the communication is

10 - See what the Committee stated in its decision on the admissibility of the communication filed on 6 December 2010 by the plaintiff (HM) v. Sweden regarding the refusal to grant a building permit for the construction of a hydrotherapy pool for the rehabilitation of a person with a physical disability due to the incompatibility of the aforementioned extension with a development plan City, See: CRPD/C/7/D/3/2011.

submitted shall be a party to the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the Committee may not accept communications against a State that is not party to the Protocol⁽¹¹⁾.

According to Article (13) of the protocol "Article 13 of the Protocol specified the date of entry into force of the Protocol on the thirtieth day from the deposit of the tenth instrument of ratification or accession. The Protocol entered into force in May 2008, the date on which the Committee on the Rights of Persons with Disabilities became entitled to receive communications against States parties⁽¹²⁾.

Second: The state against which the communication is submitted shall be a party to the Convention on the Rights of Persons with Disabilities

The Committee may exercise its competence to receive communications only from states parties to the Convention on the Rights of Persons with Disabilities; Where, the Optional Protocol required countries to ratify or accede to the protocol that the state be a party to the Convention on the Rights of Persons with Disabilities, It is noteworthy that the Protocol allows regional integration organizations to ratify or accede to the Protocol⁽¹³⁾.

The Committee may not receive communications against a State party to the Convention and the Protocol, but the

11- Article 1(2) Optional Protocol to the Convention on the Rights of Persons with Disabilities.

12 - Article (13) of the Protocol stated that "...this Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession. For each State or regional integration organization that ratifies, formally approves or accedes to this Protocol after The deposit of the tenth instrument of those instruments, on the thirtieth day from the date of depositing its instrument".

13 - Articles 10, 11 Optional Protocol to the Convention on the Rights of Persons with Disabilities

author claims that the State has violated the rights of persons with disabilities stipulated in other agreements.

We can find that a person with a disability can be protected under several international agreements, which have established committees to monitor the implementation of their provisions and allowed them to receive individual communications. If the country against which the person wants to submit a communication is a party to the additional protocols of these conventions, then the person may choose the committee to which he submits his communication. A person may choose the committee to which he submits his report, but he must choose one committee from them, so the communication may not be considered before more than one committee.

Second Requirement: the conditions related to the author of the communication

First: The author must be a person with a disability

Originally, the person submitting the communication shall be person with a disability, according to Rule (69) of the committee's rules of procedure, any person may submit a communication on behalf of the victim. The author of the communication must provide evidence of the victim's consent or specify the reasons why he was prevented from providing such evidence. For example, if one of the parents submits a complaint in the name of their minor son or in the name of a person who deprived of his freedom and cannot file the complaint by himself. This has occurred several times before the Committee, and communications can also be submitted on behalf of affected individuals through organizations of persons with disabilities, non-governmental organizations and other advocates in filing claims⁽¹⁴⁾.

14 - Michael Ashley Stein & Janet E. Lord, Monitoring the Convention on the Rights of Persons with Disabilities: Innovations, Lost Opportunities, and Future Potential, op.cit, P. 699.

for example, we find the communication submitted to the Committee on March 18, 2015 against Sweden by Mr. (O.O.J), a Nigerian, who submitted the communication in his name and on behalf of his minor son (E.O.J), his wife (F.I.J), and his daughter (E.J), the author's son was diagnosed with autism and mental disabilities in 2013. The Swedish authorities rejected Mr. (O.O.J.)'s application for a residence permit and ordered him and his family to be deported. He applied for asylum in Sweden, and in April 2014 the state rejected the asylum application submitted by him and his family, the author claimed to the Committee that the removal of the family from Sweden to Nigeria would constitute a violation of the Convention⁽¹⁵⁾.

15 - CRPD/C/18/D/28/2015.

The author's wife held a temporary residence permit for studies in the State party from 1 August 2008 to 2 October 2010. The author held a temporary residence permit in the State party on the grounds of family ties from 21 January 2010 to 2 October 2010. He applied for a residence permit as self-employed, in September 2010. E.O.J. was born in December 2010, in Sweden. On 25 January 2012, the author's and his wife's application for residence permits was rejected by the Swedish Migration Agency and a deportation order was issued. Subsequent appeals to the Migration Court and the Migration Court of Appeal were rejected and the decision became final on 13 November 2012. Owing to the insecurity in Nigeria, the family feared returning there. They therefore filed an application for asylum in the State party on 10 January 2013. In autumn 2013, E.O.J. was diagnosed with autism and other unspecified psychosocial disabilities. An underlying suspicion of attention deficit hyperactivity disorder (ADHD) was also detected. The author submitted this information to the Migration Agency together with a medical report from a psychologist and a report from a welfare officer, in support of the family's asylum application. The author was informed that his son's health case would be handled separately, independent of the asylum application. The author requested information from the Migration Agency as to the reasons why E.O.J.'s health case had been separated from the asylum application case, but he received no information in that regard. On 30 April 2014, the family's application for asylum was rejected. The author submitted his complaint to the Committee on March 2015, where the author considers that his son's rights have been violated under article 15 (2) of the Convention which stated that " States Parties shall take all effective legislative,

Second: The Author of the communication is a victim of a violation by a State party of the provisions of the Convention

The Committee may receive communications from individuals or groups of individuals or on behalf of individuals or groups of individuals within its competence who claim to be victims of a violation by a State Party of the provisions of the Convention, considering those communications, and this is what is stated in Article 1 (1) of

administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment. While the communication was being considered by the Committee and pursuant to rule 64 of the Committee's rules of procedure, Where the Committee or the Special Rapporteur on communications under the Optional Protocol, acting on behalf of the Committee, requests interim measures under the present rule, under article 4 of the Optional Protocol, dated 19 March 2015, where He considers that his son's rights have been violated under Article 15(2), which states that "States Parties shall take all effective legislative, administrative, judicial and other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman, or degrading treatment, or punishment". The author considers that his son's rights have been violated insofar as a deportation to Nigeria would amount to inhuman and degrading treatment, considering the nature of E.O.J.'s disability and circumstances. While the communication was being considered by the Committee and pursuant to rule 64 of the Committee's rules of procedure The Special Rapporteur on New Communications and Interim Measures, acting on behalf of the Committee, requests interim measures under the present rule, dated 19 March 2015, appealing to the State party not to deport the child and his family to Nigeria, pending consideration of the communication by the Committee. Finally, the Committee issued its decision of inadmissible the communication because the internal means of grievance in accordance with Article 2(d) of the Protocol, with the possibility of reviewing this decision under Article 71(2) of the Committee's rules of procedure. In the event that it receives from the victims or their representative a written request containing information indicating that the reasons for inadmissibility no longer exist. The Committee stated that the authors' expulsion orders had expired and were no longer at risk of expulsion from the State party, and could submit new asylum applications that would be subject to full scrutiny by the immigration authorities.

the Protocol, According to that article, the author must be a victim of an actual violation of the provisions of the Convention.

A communication was submitted to the Committee on 18 April 2013, by the author, who is an Australian citizen and claims (A.M.) Communication against Australia, called (A.M) claiming that Australia violated his rights under the Convention on the Rights of Persons with Disabilities, as he is a deaf person, he needs to interpret into Australian Sign Language to communicate with others. He claims that the local authorities refused to translate the court sessions the jury's deliberations into Australian Sign Language, in order to enable him to perform his duties as a jury, if he was chosen to do so, he considers that it violates many of his rights, including his right to legal capacity on an equal basis with others given by the Convention. In response, Australia stated that the author's allegations did not prove that he was a victim of a violation of the provisions of the Convention, and it also considered that article 1 (1) of the Optional Protocol required a person to be a victim of a violation. It is not sufficient that this person be theoretically or presumptively subject to a measure, since the author did not prove that he is a victim of any violation of the Convention. In examining the admissibility of the communication, The Committee therefore considers that the author's submission that he may be imminently selected from the Electoral Roll to perform jury duties, which in turn would give rise to the assessment of his ability to perform those duties, as well as the outcome of this assessment, is hypothetical and insufficient for the author to claim victim status within the meaning of article 1 (1) of the Optional Protocol. Therefore, after extensive consideration of the arguments and the material submitted before it, the Committee concluded on 27 March 2015 that the author could not claim to be a victim within the terms of Article 1 (1) of the

Optional Protocol. Accordingly, the Committee decided that the communication was inadmissible under Article 1 (1) of the Optional Protocol, on the grounds that she did not have the status of victim⁽¹⁶⁾.

Third: The Author of the Communication must be known:

The communication will not be admissible unless the identity of the author of the communication is known, and this is what the protocol stated in Article 2, paragraph 1- where the article stipulated that "the Committee shall consider a communication inadmissible when the communication is anonymous ..."⁽¹⁷⁾.

the communication must include the main personal information about the author of the communication, such as name, nationality, date of birth, mailing address, e-mail, and identification of the relevant state party. The Author of the Communication shall inform with any subsequent change in address or other contact information should be notified as soon as possible⁽¹⁸⁾.

in turn, the committee shall take the necessary measures and procedures to ensure the protection of the person from being harmed or persecuted because of his communication against the state, According to article (4) paragraph (1) of the Additional Protocol request that the State Party shall take interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.

16-(CRPD/C/13/D/12/2013).

17- The purpose of this condition is to ensure the seriousness of the complaint and that the person does not abuse the right, and so that the Committee can communicate with the author of the communication to complete and clarify the information and data.

18 - Haut Commissariat, Procédures d'examen des Requetes Soumises par des Particuliers en vertu des instruments des Nations Unies Relatifs aux Droit de l'homme, Fiche d' information N. 7, Rev.2, New York, 2013, P. 5.

In the event that the person has reasons to fear that his name will be revealed, in this case he can submit a request not to reveal his name when the final decision on his case is published⁽¹⁹⁾. The Committee may decide not to disclose the names and identity data of the author or authors of the communication or the person alleged to be a victim of violations of the provisions of the Convention on its decisions declaring the inadmissibility of the communication or its decisions on the merits or regarding the suspension of consideration of the communication, the Committee takes such a decision on its own initiative or at the request of the author, the alleged victim or the State party⁽²⁰⁾.

Fourth: The Author of Communication have exhausted all available domestic remedies

The complainant must have exhausted all relevant domestic remedies that are available in the State party before bringing a claim to a Committee⁽²¹⁾, and when the final judgment is issued and the complainant is not satisfied with its content, he can submit his complaint to the committee. There are, however, exceptions to this rule, when proceedings at the national level have been unreasonably prolonged, or the

19 - Office of the United Nations High Commissioner for Human Rights (OHCHR), 23 Frequently Asked Questions about Treaty Body Complaints Procedures, P.3.

20 - Rule 76 (6) Rules of procedure for Committee on the Rights of Persons with Disabilities

21 - Exhaustion of domestic remedies usually the first step in seeking redress for human rights violations. This step requires that the person try to use available national legal protections to seek accountability or redress for the violation, and if appropriate to appeal. If a person has not received adequate redress From a national body, he may submit a communication or complaint alleging a violation of human rights for consideration by a court or an international human rights mechanism.

Rosemary Kayess and Phillip French, Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities, Human Rights Law Review 8:1, January 2008, P. 31.

remedies are unavailable or would plainly be ineffective⁽²²⁾. The requirement to exhaust domestic remedies is based on the principle that international bodies should complement state institutions and only intervene if a human rights violation cannot be resolved at the national level⁽²³⁾.

Logically, the Commission shall not protect who did not attempt to protect themselves through litigation and remedies under the domestic law of the state whose damage is alleged to him, and also respecting the sovereignty of the state and giving the state a way to fix the matter in its own ways. There is also no need to internationalize the issue in order to avoid many problems at the international level and reduce the burden on international bodies if it can be settled through internal remedies⁽²⁴⁾.

For example: the communication submitted against Greece to the Committee on the Rights of Persons with Disabilities on March 21, 2017 by Ms. (T.M), a Greek citizen represented by her husband (G.S.), who claims to be a victim of state violations of her rights under the Convention on the Rights of Persons with Disabilities. Greece submitted that the communication should be held inadmissible under article 2(d) of the Optional Protocol due to non-exhaustion of domestic remedies. After the Committee considered the communication, the Committee decided in April 2019, the

22 - (Articles 2(d) Optional Protocol to the Convention on the Rights of Persons with Disabilities

The Optional Protocol did not provide for the competent authority to decide on the availability of these two exceptions, but the Committee on the Rights of Persons with Disabilities is competent in this matter. Since it is the competent authority to consider the admissibility of the communication or not.

23 - Exhaustion of Domestic Remedies in the United Nations System, International Justice Resource Center, 2017, P.1.

24- See: Guide to Good Practice in Respect of Domestic Remedies, Directorate General

Human Rights and Rule of Law Council of Europe, 2013, PP. 7-8.

communication should be held inadmissible under article 2(d) of the Optional Protocol due to non-exhaustion of domestic remedies, because the author had not complied with the administrative procedures in force in the State⁽²⁵⁾.

The same applies to the communication filed against Brazil on November 2, 2012, by Ms. (S.C.), a Brazilian citizen, who submitted the communication because of her employer's policy of demotion after extended medical leave, and the state complained that it had violated her rights under the Convention on the Rights of Persons with Disabilities, whereas the measures taken by its employer (the state-run Bank of Brazil) and supported by the local courts are aimed at limiting the opportunities of persons with disabilities, therefore it is discriminatory, On 2 October 2014, the Committee decided that the communication was inadmissible under Article 2, paragraph (d), of the Optional Protocol⁽²⁶⁾.

Third requirement: Conditions related to the Communication

There are several conditions that must be met in the communication submitted to the Committee on the Rights of Persons with Disabilities, and in the event that one of them is absent, the communication is considered inadmissible. These conditions are:

First: Methods of submitting the communication

Originally, the communication shall be submitted in writing, but rule 55 (3) of the Committee's rules of procedure stipulates that the Committee may receive communications in alternative forms. The methods of communication used by the Committee, as stated in rule 24 of the same system, "Languages, display of text, Braille, tactile communication, large print, and accessible multimedia, as well as written,

25 - CRPD/C/21/D/42/2017.

26- CRPD/C/12/D/10/2013

audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology; Language". includes spoken and other forms of non-spoken languages; such as sign language used by the Committee⁽²⁷⁾.

Second: The communication doesn't constitute abuse of the right:

The Convention grants persons with disabilities many rights, but if the communication constitutes an abuse of these rights, then the communication is considered inadmissible⁽²⁸⁾. This principle was expressly set out in Article 2 (b) of the Protocol, but the Protocol did not determine the cases in which a communication could be considered inadmissible on the grounds of arbitrariness or abuse of the right to submit a communication.

Third: The communication is incompatible with the provisions on the convention Rights of Persons with Disabilities

The Committee does not consider any communication that is incompatible with the provisions of the Convention on the Rights of Persons with Disabilities or that this right is not provided for in the Convention, and this is what is stated in Article 2 (b) of the Protocol.

27- Rules 25(1) Rules of procedure for Committee on the Rights of Persons with Disabilities.

28 - Principle of the Prohibition of Abuse of Rights is one of the general principles recognized by different legal systems in various countries, which complements and is closely related to the principle implementing the obligations in good faith.

Annekatrien Lenaerts, The General Principle of the Prohibition of Abuse of Rights: A Critical Position on Its Role in a Codified European Contract Law, European Review of Private Law, Volume. 18, Issue 6, 2010, P. 1121.

See also: Michael Byers, Abuse of Rights: An Old Principle, A New Age, McGill Law Journal, Vol. 47, 2002, P. 389.

If a person with a disability files a complaint against a state and this right is not provided for in the Convention on the Rights of Persons with Disabilities, but the state is obliged to it under another convention, The Committee may not consider this communication; in the absence of a legal basis, the Committee is obliged only to examine the communication in accordance with the legal provisions of the Convention on the Rights of Persons with Disabilities. The author of the communication must base his communication on the State's violation of specific articles of the Convention. We find that the Committee always, during its consideration of the communication and when issuing its reports, there is a fixed clause in which the Committee describes the information and data provided by the author of the communication, in which he claims that the state has violated or breached certain articles in the Convention on the Rights of Persons with Disabilities, and in its final recommendations it determines whether the State has actually violated those articles or not⁽²⁹⁾.

Fourth: The Same Matter hasn't been previously examined by the committee or has been or is being examined under another procedure of international investigation or settlement

The Communication may be admissible before the Committee on the Rights of Persons with Disabilities, only if the committee hasn't been previously examined by the

29 - See, for example, the communication submitted to the Committee on 29 April 2013 by the Australian citizen (Gemma Beasley) v. Australia, where the Committee stated in its report that the articles on which the author based her communication are Articles 4, 5, 9, 12, 13, 21 and 29 of the Convention on the Rights of Persons with Disabilities, and it has The committee based its decision and recommendations on that the State party has failed to fulfil its obligations under articles 5 (1) and (3); 9 (1); 13 (1) read alone and in conjunction with articles 3, 5 (1) and 29 (b); and 21 (b) read alone and in conjunction with articles 2, 4 and 5 (1) and (3) of the Convention.see: CRPD/C/15/D/11/2013.

committee or has been or is being examined under another procedure of international investigation or settlement⁽³⁰⁾.

We find that the Committee has always verified this, as required by article 2, paragraph (C), of the Optional Protocol, that the matter has not been or is not being examined under any other procedure of international investigation or settlement, and refers to this in its examination of the admissibility of the communication.

For example: the communication submitted on April 12, 2012 by (Marlon James Noble) v. Australia, and related to the right to enjoy legal capacity on an equal basis with others, when considering the admissibility of the communication, the Committee stated that the matter had not been previously examined, or is being examined under another procedure of international investigation or settlement⁽³¹⁾.

The Committee cannot examine a communication that it has previously considered or is still under consideration before one of the convention committees, or before another regional mechanism that individuals are allowed to litigate, such as the European Court of Human Rights, the American Commission on Human Rights or the African Commission on Human and Peoples' Rights⁽³²⁾. However, there is nothing to prevent the communication from being resubmitted again before the Committee on the Rights of Persons with Disabilities, as long as good and impressive evidence and facts are exist. This is to respect the competence of these international institutions and prevent conflict in the decisions issued by them⁽³³⁾.

30 -Articles 2(C) Optional Protocol to the Convention on the Rights of Persons with Disabilities.

31- CRPD/C/16/D/7/2012

32 - Exhaustion of Domestic Remedies in the United Nations System, op.cit, P.16.

33- We find that Article 38 of the Convention on of the Rights of Persons with Disabilities stated that hat the committee should consult – when necessary - with other treaties established under an international human rights treaty, in

Fifth: The communication is well-founded and support sufficient evidence:

In order for the committee to consider a specific communication, it must be based on a clear and supportive basis with proofs and sufficient evidence⁽³⁴⁾. The practical precedents of the Committee of Persons with Disabilities indicate that the committee refused to accept a number of reports submitted to it, whether it was completely reject or in some aspects of it.

For example, a citizen from the United Kingdom submitted to Great Britain and Northern Ireland called (L.M.L.) to the committee on 12 February 2015 against her country. The author has been subjected to several complex health problems in the wake of her spine surgery, as during the operation the spinal cord membrane of the author, which resulted in rare surgical complications, was the loss of a huge amount of cerebral pile fluid that caused her to hinder and led to her feeling of pain Permanent and talented without the possibility of obtaining specialized medical care. It is urging that the state has violated several rights guaranteed to the convention of the rights of persons with disabilities, as the introduction to the communication stated that it was forbidden to obtain subsequent care for surgery and for a specialized medical treatment in the wake of its exposure to complications After the surgery, and not all reasonable steps needed to

order to ensure the consistency of what each of them sets guidelines for reporting, suggestions and general recommendations and avoiding duplication and overlap in performing its functions. The committee may also invite specialized agencies and other United Nations devices to submit reports on the implementation of the agreement in the areas that fall within the scope of its activities. This is with the aim of supporting the implementation of the convention on effective nako and encouraging international cooperation in the field covered by the convention.

34 -Articles 2(e) Optional Protocol to the Convention on the Rights of Persons with Disabilities.

protect her physical and mental safety, and these circumstances have resulted in the injury of the author with complex nervous symptoms that were not treated, and the author also argued that she was discriminated with to compel her to seek medical care abroad while she suffers from severe illness and no She possesses the costs of treatment, and that the state authorities did not guarantee their right to exercise legal Al -Ahila, as it requested a judicial review before the Supreme Court in Cardiff, and that this court did not acknowledge that she is a person with a disability suffered by secondary disabilities that developed into multiple rare illnesses. On 24 March 2017 the committee concluded that the communication was not accepted under Article 2 (E), as it is based on false, unclear, or not supported by sufficient evidence, because the author of the communication did not provide any evidence that she was forbidden to obtain health care or legal equality with others. The committee considers that the author did not prove evidence - for acceptable purposes - which the state authorities 'behavior raised to abuse to right or denial of justice; and accordingly, the committee refused these allegations⁽³⁵⁾.

Sixth: The facts that are subject of the communication shall not occurred prior to the entry into force of the present protocol

The Committee shall not be entitled to consider communications against a State unless they relate to facts arising after the entry into force of the Protocol, where the temporal jurisdiction of the Committee to consider the facts arising after the entry into force of the Protocol ⁽³⁶⁾ has been

35 - CRPD/C/17/D/27/2015.

36 - This condition is based on the principle of non-retrospectivity The Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of accession and ratification.

determined. However, there is one exception that these facts continue until the date of entry into force of the Protocol⁽³⁷⁾.

In the communication submitted to the Committee for Persons with Disabilities on 25 May 2011 from a British citizen named (Kenneth Mcalpine) against the United Kingdom of Great Britain and Northern Ireland, regarding the procedure of the authorization of the author as an employee suffering from diabetes, and he claimed Britain's violation of his rights guaranteed to the agreement as it is He works in a company and was demobilized from work, and that Britain did not protect his rights devoted to the Convention on the Rights of Persons with Disabilities and the author claims that although the state has laws that provide protection from discrimination against persons with disabilities, it has not taken any immediate and effective measures or measures It is appropriate to combat stereotypes, prejudices, and harmful practices by employers, legal system and judges who are stereotyped that all people with diabetes take long leave due to their illness, and that this is not based on reality as it only takes two days as a satisfactory leave during the previous two years to lay off. He also claimed that he did not obtain a fair and fair trial, as his former employer manipulated the evidence to which the courts relied. The state has pushed that it considers the communication unacceptable, as the facts occurred before the entry of the protocol into force, and the committee had indeed the committee issued its decision on 28 September 2012, that the communication is unacceptable in terms of temporal jurisdiction, according to Article 2 (f) of the

Yarik Kryvoi and Shaun Matos, Non-Retroactivity as a General Principle of Law, *Utrecht Law Review*, Volume 17(1), 2021, PP. 46, 50, 51.

37 - In this case, the committee has the right to consider the facts in place since the time of its occurrence

Articles 2(f) Optional Protocol to the Convention on the Rights of Persons with Disabilities

optional protocol. The committee said that the main incident of the discourse of the author had occurred on 10 July 2006, and that all lawsuits to consider the facts of his demobilization took place before the protocol entered into force for Britain, as the protocol became effective for them on 6 September 2009⁽³⁸⁾.

Chapter 2

Mechanisms for considering communications before the Committee on the Rights of Persons with Disabilities

The procedures for considering communications pass before the Committee for the Rights of Persons with Disabilities in several stages, and the optional protocol of the Convention on the Rights of Persons with Disabilities and the internal system of the committee clearly and accurately describes the procedures and stages of considering communications before the Committee on the Rights of Persons with Disabilities.

First Requirement: Procedures for considering communications

First: Registration of the communication

The Secretary-General transmits the communications submitted for consideration by the Committee, and the Committee may receive communications through the methods stipulated in rule 24 of the rules of procedure of the Committee, The Secretary-General shall maintain a permanent record of all communications submitted for consideration by the Committee. It is available to any member of the committee - if requested- The Full text of any communication brought to the attention of the committee that fulfill all preliminary criteria for its registration shall be made available in the language of submission⁽³⁹⁾.

38 -CRPD/C/8/D/6/2011.

39 - Rules 55, 56 Rules of Procedure for Committee on the Rights of Persons with Disabilities

According to rule (57) of the Committee's rules of procedure stated that the Secretary –General may request clarification from the author of communication concerning the applicability of the optional protocol to the communication and the Secretary –General shall indicate to author and authors of communication a time limit within which such information should be submitted. The Committee may approve a questionnaire to facilitate requests for clarification or information from the alleged victim and/or the authors of the communication.

Communications shall be dealt with in the order in which they are received by the Secretariat, unless the Secretary-General, a Committee or a working group decides otherwise. Two or more communications may be dealt with jointly if deemed appropriate by the committee, the special Rapporteur or a working group established⁽⁴⁰⁾.

Second: Inform the state against which the communication is submitted

In accordance with rule 70 of the Committee's rules of procedure, the Special Rapporteur on communications acting on behalf of the committee, as soon as possible after the communication has been registered, and provided that the individual or group of individuals consent to the disclosure of her/ his/ their identity or other forms of identifying details/

The data that can be requested:

- The Victim's / author's identity such as: name, address, date of birth, occupation, or other forms of identifying details/data thereof.
- The name of the State party against which the communication is directed.
- The object of communication.
- The provision or provisions of the convention alleged to have been violated.
- The facts of the Claim.
- Steps taken by the author or alleged victim to exhaust domestic remedies.
- The extent to which the same matter is being examined under another procedure of international investigation or amicable settlement.

40 - Rules 66-67 Rules of Procedure for Committee on the Rights of Persons with Disabilities.

data to the state party concerned, which is a prerequisite for registration, shall bring the communication confidentiality to the attention of the state party and shall request that the state party submit a written reply to the communication. Within six months after receipt of the committee's request under the present rule, the state party concerned shall submit to the committee a written explanation or statements that shall relate both to admissibility of the communication and its merits, and to any remedy that may have been provided in the matter. The Committee may, because of the exceptional nature of communication, request written explanations or statements that shall relate both to admissibility of the communication. A State Party that has been requested to submit a written reply that relates only the question of admissibility of that communication. A State Party that has been requested to submit a written reply that relates only to the question of admissibility is not precluded thereby from submitting, within six months of the request, a written reply that relates to both the communication's admissibility and its merits. A State Party that has received a request for a written reply may submit a request in writing that the communication be rejected as inadmissible, setting out the grounds for such inadmissibility, and requesting that the admissibility of the communication be considered separately from the merits. Such request should be submitted to the Committee within two months of this request. Submission by the state party of a request shall not extend the period of six months, given to the State party to submit its written explanation or statements on the merits, unless the committee, a working group, or the special Rapporteur on Communications, acting on behalf of the Committee, decides to extend the time for submission for such period as the committee considers appropriate. The Committee, a working group or the special Rapporteur, acting on behalf of the committee, shall transmit to each party the

submission made by the other party pursuant to present rule, and shall afford each party an opportunity to comment on submissions within fixed times limits.

Third: The committee may request the state to take interim measures:

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 it take such interim measures, as the committee considers necessary to avoid irreparable damage to the victim or victims of the alleged violations⁽⁴¹⁾. On the basis of the explanations and statements submitted by the State Party, the Committee or the Special Rapporteur on Communications may withdraw the request for interim measures⁽⁴²⁾.

the communications that were presented to the Committee and in which the Committee requested interim measures from the State is the communication submitted on 6 January 2017 against Denmark where two spouses: the wife is a citizen of Ukraine called Iuliia Domina, and the husband is a citizen of Denmark called Max Bendtsen and they reside in Denmark and they have a child born in 2015. Mr. Bendtsen has brain damage resulting from a car accident in 2009. On this basis, he received social benefits, as he could not support himself through employment. The authors applied for family

41 - Noting that, when the Committee or the Special Rapporteur on Communications makes a request for provisional measures, the request must make it clear that this does not imply a decision on the admissibility or merits of the communication.

42 - Rule 64 Rules of Procedure for Committee on the Rights of Persons with Disabilities & Article 4 Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Noting that, when the Committee exercises its discretion to request interim measures, this does not imply a decision on the admissibility or merits of a communication.

reunification and a residence permit for Ms. Domina in the State party based on their marriage, which they had celebrated on 13 April 2013. The authors' application was rejected on 29 August 2013 by the Danish Immigration Service on the basis that Mr. Bendtsen had received social benefits within a period of three years prior to the date on which family reunification could be granted. Reference was made by the authorities to section 9 (5) of the Aliens (Consolidation) Act according to which a residence permit based on family reunification cannot be granted if the applicant's spouse has received social benefits within a period of three years prior to the application. The decision was upheld by the Immigration Appeals Board on 3 December 2014. The authors claim that the refusal of their application for family reunification amounts to a violation of their rights under articles 5 and 23 of the Convention on the Rights of Persons with Disabilities. The authors further note that their young child is fully dependent on Ms. Domina, because Mr. Bendtsen, on account of his disability, was unable to take care of him without assistance. The deportation of Ms. Domina to Ukraine would therefore irreparably harm the family life of the authors and their child, and this policy constitutes a violation of their rights under the Convention on the Rights of Persons with Disabilities. On 9 January 2017, the Special Rapporteur on new communications and interim measures, acting on behalf of the Committee, issued a request for interim measures under article 4 of the Optional Protocol, requesting the State party not to deport Ms. Domina to Ukraine while the authors' case was under consideration by the Committee. On 11 January 2017, the Immigration Appeals Board suspended the time limit for Ms. Domina's departure from the State party until further notice⁽⁴³⁾.

43 - CRPD/C/20/D/39/2017.

Fourth: Ensuring the Admissibility of the communication

The additional protocol of the Committee on the Rights of Persons with Disabilities sets out the conditions for admissibility of communications before the committee, and the committee must ensure the admissibility of the communication. The Committee's decision on inadmissibility may be partial or complete, and it may be a part of the communication or totally inadmissible.

The Committee decides, by a simple majority, whether or not a communication is admissible under the rules of the Optional Protocol. The Working Group has the right to declare a communication admissible or inadmissible, provided

After the committee considered the communication, it became clear to her that the state violated the provisions of the agreement, as the committee believes that the refusal of the relevant local authorities requested the owners of the communication to collect the family, based on the criteria that are indirectly distinguished against persons with disabilities that may have an impact of weakening or nullifying the recognition of the right of the author In the enjoyment of their family life and its practice of equality with others, she said that the state did not fulfill its obligations according to Article 5 (1) and (2) read on its own and in conjunction with Article 23 (1) of the Convention, Article 5 (1) states that " The states parties recognize that all persons are equal before and under the law and are entitled without any discrimination and on an equal protection and equal benefit of law". The same article in paragraph 2 states that "the states parties prohibit all discrimination on the basis of disability and guarantees to persons with disabilities equal and effective legal protection against discrimination on any grounds Article 23, paragraph (1), stated that States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parents and relationships, and on an equal footing with others "I also asked Denmark to refrain from deporting Mrs. Domina to Ukraine and ensuring respect for the right of the owners of the communication to family life in the state, and stated that it is happening. The state must adhere to measures to prevent similar violations in the future. In this regard, the committee asked the state to ensure the removal of obstacles that prevent persons with disabilities to enjoy the right to family life equally with other people under domestic legislation.

that all its members decide to do so. The decision will be transmitted to the Committee, which may confirm the decision without formal discussion. If a member of the Committee requests a general discussion, the plenary meeting of the Committee will consider the communication and make a decision⁽⁴⁴⁾.

According to Rule 71 of the rules of procedure of the Committee on the Rights of Persons with Disabilities states that: where the committee decides that a communication is inadmissible, it shall as soon as possible communicate its decision and the reasons for that decision, through the Secretary- General to the author or authors of the communication and to the state party concerned.

For example, the findings of the Committee on the Rights of Persons with Disabilities in communications submitted by Swedish citizens (D.L.) on 8 July 2015 v. Sweden, where the Committee decided that the communication was inadmissible on 24 March 2017 based on Article 2 (d) related to the exhaustion of internal remedies, and decided Communicate this decision to the State party and to the author⁽⁴⁵⁾.

Fifth: Consideration of the subject matter of the communication:

The Committee shall not decide on the merits of the communication without having considered the applicability of all the admissibility grounds of the communication. When the Committee determines the admissibility of the communication, it begins to consider the merits of the communication in order to determine whether there has been a violation of the provisions of the Convention on the Rights of

44 - Rule 65 Rules of Procedure for Committee on the Rights of Persons with Disabilities

45 - CRPD/C/17/D/31/2015.

Persons with Disabilities or not⁽⁴⁶⁾. Noting that, the members of the Committee may not participate in certain communications under rule 60 of the rules of procedure of the Committee, provided that, the Committee must decide on a communication without the participation of the member concerned in such cases:

- The Member has any personal interest in the case
- The Member has participated in the making of any decision on the case covered by the communication in any capacity other than under the procedure established under the optional protocol.
- The member is a national of the State Party against which the communication is directed.

The Committee's rules of procedure stated also in rule (61) that if for any reason, a member considers that she/ he should not take part or continue to take part in the examination of communication, the member shall inform the Chair of her or his withdrawal. Any member of the committee or a participant in a public session of the committee may address the committee or the public meeting by any of the means and

46 - in the communication submitted to the committee on 4 June 2011 against Italy from the author of the communication, called (A.F.), it was claimed to be a victim of Italy's violation of Article 27 of the agreement and appointed (work and employment) The author has been suffering from Gooch's disease since childhood, with a physical disability of 50% , and is receiving continuous treatment, and he claimed that he was discriminated to the application of national legislation related to the right of persons with disabilities to employment. When the committee considered the acceptance of the communication, it said, "Because there is no other obstacle to the acceptance of the communication, the committee considers it acceptable". When the committee considered the communication objectively, it saw that the author did not submit any element that enables the committee to conclude that the provisions of national legislation and its application were promoted to a violation of his individual rights under the agreement. On 27 March 2014, the committee concluded that the facts presented to them do not constitute a violation of Article 27 of the agreement.

CRPD/C/13/D/9/2012.

methods specified in rule (24) of the Committee's rules of procedure⁽⁴⁷⁾.

The Committee may establish one or more working groups and may designate one or more Rapporteurs to make recommendations to the committee and to assist it in any manner in which the committee may decide⁽⁴⁸⁾. The Committee shall hold closed meeting when examining the submitted communications under the optional protocol. As for the meetings that the Committee considers general issues such as the procedure for the application of the Optional Protocol, may be held in public if the Committee decides. The Committee may, through the Secretary General, make statements on its activities in closed meetings to be used by the mass media⁽⁴⁹⁾.

If the committee receives reliable information indicating grave or systematic violations of by a state party of rights set forth in the convention, the committee shall invite that state party, through the Secretary –General, to cooperate in examination of the information and this end submit observations with regard to information concerned within a specific period of time. The committee shall take 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 request through the Secretary -General any relevant information or documents from United Nations⁽⁵⁰⁾.

47 - Rules 25(2) Rules of Procedure for Committee on the Rights of Persons with Disabilities.

48 - Rule 63 Rules of Procedure for Committee on the Rights of Persons with Disabilities

49 - Rule 59 (2) Rules of Procedure for Committee on the Rights of Persons with Disabilities.

50 - Rule 83 Rules of Procedure for Committee on the Rights of Persons with Disabilities

The committee may one or more of its members to conduct an inquiry and prepare a report on a specific period of time, taking into account any observations that the State Party concerned may have submitted, as well as any other reliable information or data. Such an inquiry shall be conducted confidentially according to the methods determined by the committee. Members designated by the Committee to conduct investigations, shall determine their own methods and working methods, considering to the Convention and the Optional Protocol and the Committee's rules of procedure⁽⁵¹⁾.

The committee may seek the cooperation of the state party at all stages of proceedings. The Committee may request the State to appoint a representative to meet with one or more members designated by the Committee. The Committee may request it to provide to one or more members designated by the Committee any information and data that that member or State may consider relevant to the investigation⁽⁵²⁾.

According to Rule (86) of the Committee's rules of procedure stated that" where the committee deems it warranted, the inquiry may include a visit to the territory of the state party concerned if the Committee considers that the

The Committee may request additional information from the following sources: representatives of the State party concerned, regional integration organizations, governmental organizations, national human rights institutions, non-governmental organizations, and individuals, including experts.

51 - Rule 84 Rules of Procedure for Committee on the Rights of Persons with Disabilities

the committee may postpone, during investigation, the consideration of any report that the state may be the party concerned submitted to the committee regarding the measures it has taken to implement its obligations under the agreement and the progress it made in this regard, according to Article 35 of the Convention, States Parties to the Convention submit their reports to the Committee once every At least four years, and whenever the Committee requests it.

52 - Rule 85 Rules of Procedure for Committee on the Rights of Persons with Disabilities

visit is justified. Where the committee decides, as a part of its inquiry, that there should be a visit to the state party concerned, it shall, through the Secretary –General, request the consent of the State- Party to such visit. The Committee shall inform the State Party concerned of its wishes regarding the timing of the visit and facilities required to allow those members designated by the committee to conduct the inquiry to carry out their task.

Further to rule (87) the Committee's rules of procedure stated that visits may include hearings to enable the designated members of the committee to determine facts or issues relevant to the inquiry. The conditions and guarantees concerning any hearings held in accordance with the present rule shall be established by the designated members of the committee visiting the State Party in connection with an inquiry and the State Party concerned. Any person appearing before the designated members of the committee for the purpose of giving testimony shall make a solemn declaration as to the veracity of her or his testimony and confidentiality of the procedure. The committee shall inform the State Party that it shall take all appropriate steps to ensure, that individuals under its jurisdiction are not subjected to ill- treatment or intimidation as a consequence of participating in any hearings in connection with an inquiry or with meeting the designated members of the committee conducting the inquiry.

In addition to the staff and facilities, including assistants that shall be provided by the Secretary –General to the designated members of the committee in connection with an inquiry, including during a visit to the State Party concerned, the designated members of the committee ,may, through the Secretary –General, invite interpreters and/or such persons with special competence in the fields covered by the

convention as are deemed necessary by the committee to provide assistance at all stages of the inquiry⁽⁵³⁾.

Second Requirement: Decisions of the committee related to the merits of the communication

First: Adoption of Decisions

The committee consists of eighteen members⁽⁵⁴⁾, and twelve members constitute a quorum⁽⁵⁵⁾. The committee shall

53 - Rule 88 Rules of Procedure for Committee on the Rights of Persons with Disabilities

If these interpreters or other persons with special abilities do not swear to the United Nations to give birth, they must solemnly promise that they will perform their duties honestly, faithfully and impartially, and respect confidentiality of the procedures.

54 - The Members of the committee shall be elected by states Parties, consideration being given to equitable geographical distribution, representation of different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts and disabilities. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting. The Secretary-General of the United Nations shall address a letter to the States Parties at least four months prior to inviting them to submit the nominations. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the state parties which have nominated them, and shall submit it to the States Parties to the convention on the Rights of Persons with Disabilities. The Members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nation as laid down in the applicable rules of the Convention on the Privileges and Immunities of the United Nations, and shall receive their emoluments from United Nations resources with the approval of the United Nations, The Secretary-General shall provide the necessary staff and facilities for the effective performance of the functions of the Committee. See article (34) Convention on the Rights of Persons with Disabilities.

55 - Rule 32 Rules of Procedure for Committee on the Rights of Persons with Disabilities.

attempt to reach its decisions by consensus. If consensus cannot be reached, decisions shall be put to a vote. The committee takes its decisions by a simple majority of the members present and voting. If a vote is equally divided on matters others than elections, the proposal shall be regarded as rejected⁽⁵⁶⁾.

After examination the findings submitted by the designated members, the committee shall transmit the findings of the inquiry through the Secretary –General, to the State Party concerned together with any comments and recommendations. The State Party concerned shall submit its observations on the findings, comments and recommendations to the committee, through the Secretary –General within six months of their receipt⁽⁵⁷⁾.

The members of the committee shall be elected for a term of Four Years; they shall be eligible for re-election once. If a member of the Committee dies or resigns or declares that for any other cause she/ he can no longer performs her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of the convention, to serve for the remainder of the term.

See: Rules 12(2), 13 Rules of Procedure for Committee on the Rights of Persons with Disabilities.

56 -Rules (34, 35, 36) Rules of Procedure for Committee on the Rights of Persons with Disabilities.

In the event that the decision was not issued unanimously, in this case the member who participated in making the decision may issue a statement of his individual opinion. On the question of voting on election in the committee a decision may be made when the votes are equal, that is, the party of the Chair wins.

57- Rule 89 Rules of Procedure for Committee on the Rights of Persons with Disabilities, & Articles 5 Optional Protocol to the Convention on the Rights of Persons with Disabilities.

The Committee on the Rights of Persons with Disabilities referred to this in its recommendation, which stipulates that States parties must submit their reports to the Committee within six months. a written response including any information on any action taken in response to the Committee's comments and recommendations, This is in the recommendation issued by the

Rule (62) of the Committee's rules of procedure provides that members participating in making decisions must sign the attendance list to confirm their participation or indicate their inability to participate or to indicate their inability to participate or their withdrawal during the examination of a communication, and the information contained in the attendance sheet should be included in the decision

Any member of the Committee who participated in making a decision may request an appendix of his or her personal views on the matter to be appended to the Committee's views. The member concerned shall provide their individual opinion within two weeks of receiving the final text of the decision or opinions⁽⁵⁸⁾.

For example, the individual opinion contrary to the committee's decision expressed by the committee member (Damjan Tatić) on the communication submitted vs. Austria on 8 February 2014 by Ms. (Viktorija Bacher), the twin sister and legal guardian of Mr. (Simon Bacher), The author claims that Austria has violated Simon Bacher's rights under the

Committee on September 9, 2013 regarding the communication submitted on September 14, 2011 by: (Zsolt Bujdosó, Jánosné Ildikó Márkus, Viktória Márton, Sándor Mészáros, Gergely Polk and János Szabó) v. Hungary, related to the failure of States to eliminate discrimination on the basis of disability and to respect their obligation to ensure the enjoyment of political rights by persons with disabilities including the right to vote, on an equal basis with other nationals. See: (CRPD/C/10/D/4/2011).

he same applies to the communication submitted on 27 November 2013 by (Fiona Given) represented by her lawyer and the Australian Center for Disability Law v. Australia, regarding her right to vote by secret ballot, Whereas, the Committee said at the end of its recommendations on 16 February 2018 that "In accordance with Article 5 of the Optional Protocol and Rule 75 of the Committee's rules of procedure, the State shall submit to the Committee, within six months, a written response containing information on actions taken in the light of the Committee's views and recommendations". See: CRPD/C/19/D/19/2014

58 - Rule 73(6) Rules of Procedure for Committee on the Rights of Persons with Disabilities

Committee on the Rights of Persons with Disabilities. The subject matter of the communication concerned the responsibility of the State authorities for violating the right of a person with disabilities to safe passage to his home in the event of personal disputes between his neighbors. The Committee issued its decision that the State violated the provisions of Article (9) of the Convention read alone and in conjunction with Article (3) of the Convention. The Committee member stated in his individual opinion that he is not persuaded by the Committee's treatment of admissibility rationae temporis of the author's allegations of violations of the Convention. Accordingly, he considers that the view that the author's allegations of violations of the Convention are inadmissible in terms of rationae temporis⁽⁵⁹⁾.

Second: the content of decisions:

If the Committee on the Rights of Persons with Disabilities concludes that the State against which the communication is addressed has not violated its obligations under the Convention on the Rights of Persons with Disabilities, it must declare that there has been no violation of the Convention. The procedures end that the author and the State concerned will be informed of the decision.

However, if the Committee concludes that the State against which the communication is submitted has already violated its obligations arising from the Convention on the Rights of Persons with Disabilities, it must issue recommendations on ways and mechanisms to remedy the damage suffered by the petitioner. These mechanisms differ from case to case according to the nature and extent of the damage suffered by the author. One of the most important methods to repair damage is to require the State to take necessary measures to ensure that violations do not occur

59 -CRPD/C/19/D/26/2014.

again and to prosecute the perpetrators of the damage, and to provide compensation appropriate to extent of the damage, and the committee may recommend taking legislative or institutional measures or any kind of measures to avoid the recurrence of these violations. The Committee has consistently emphasized that States parties must ensure the participation of persons with disabilities and their organizations in all initiatives and decision-making processes relating to persons with disabilities⁽⁶⁰⁾. The Committee may

60- In some of the recommendations issued by the Committee, we find that the Committee requested the State to adopt the necessary amendments to laws, regulations, policies and programs, in close consultation with persons with disabilities and their representative organizations, this was in the communication filed on 12 February 2016 by Australian author (J.H.) v. Australia, The author was born deaf and she alleged that her rights have been violated because of her hearing impairment. The facts as presented by the author that the author is an Australian citizen who was born deaf and uses Australian Sign Language (Auslan) as her mother tongue In April 2014, the Perth Public Prosecution Service called the author for jury duty at the Western Australian District Court, the author informed the Public Prosecution Service of her circumstances and that she needed an interpreter to enable her to perform her duty as a juror, The jury was also informed that the services of an Australian sign language interpreter could be booked through the Western Australian Sign Language Communication Service of the Western Australian Deaf Association. the Manager informed the author that she will be excused from her requirement to serve as a juror under section 34G the Juries Act 1957 (WA). It stated that given the requirements of the Juries Act and the overriding necessity of affording a fair trial to the accused, the court was unable to provide the author with the necessary means enabling her to serve effectively as a juror. the author wrote to the Attorney General who replied on 15 May 2015 stating that in some circumstances, an individual may be unable to properly discharge the duties of a juror and that the decision of the Manager was correct. After exhausting domestic remedies to no avail, the plaintiff submitted a communication to the Committee on the Rights of Persons with Disabilities, arguing that the state had violated the Convention on the Rights of Persons with Disabilities, particularly in Articles 5 and 21. It claimed that the State violated Article (5), paragraph (2) and (3) which states that "States Parties shall prohibit all discrimination on the basis of disability and guarantee persons with disabilities equal and effective legal protection against discrimination on all grounds" The third paragraph of the same article

also recommend that the State publish its views and recommendations in its official language and disseminate them widely within the state's territory. The purpose of this measure is to consider it as part of the victim's moral compensation and to help prevent such acts from occurring in the future⁽⁶¹⁾.

stipulates that "in order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided persons with disabilities", As the state did not provide her with reasonable accommodation to prevent discrimination against her because of her hearing impairment. Regarding the violation of Article 21, the plaintiff argued that the state violated paragraphs (b) and (e), where article (b) states that "accepting and facilitating the use of sign language, Braille, augmentative and alternative communications and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions", Paragraph (e) stated that "Recognizing and promoting the use of sign languages, In view thereof, the Committee considers that the refusal to provide the author with the format of communication she needs to enable her to perform jury duty".

After consideration the communication, the Committee found that Australia had not fulfilled its obligations under Article 5(2) and (3) and Article 21(b) and (e) of the Convention. In addition to the aforementioned recommendation, the Committee also recommended several other recommendations, including providing her with an effective remedy , including reimbursement of any legal costs incurred by her, together with compensation to enable her participation in jury duty, providing her with reasonable accommodation in the form of Auslan interpretation in a manner that respects the confidentiality of proceedings at all stages of jury selection and court proceedings and to provide adequate and regular training on the scope of the Convention and its Optional Protocol. See: CRPD/C/20/D/35/2016.

61- We find that some convention committees recommend that the defendant state publish the committee's recommendations in its official language and distribute them widely as a form of moral compensation to redress the harm suffered by the author of the communication, and also to introduce the work of the committee and its role in protecting human rights. In addition, such publication would help to avoid repeating the facts of the communication in the future. All formal decisions of the Committee shall be issue in its official languages and in accessible format. The official languages of the Committee

There are several communications that were considered before the Committee and in which it issued multiple and various recommendations, including, for example, the communication submitted against Tanzania on 23 June 2014, from a person who requested anonymity (Y), a citizen of the United Republic of Tanzania born in 1999 suffers from albinism, the author claimed to be a victim of a violation by the State of his rights under the Convention.

According to the author, the fact is that he and his brother suffered from albinism, so their family ignored and abandoned them. Since then they have been sponsored by a local NGO called "Under the Same Sun". In 2008, due to the escalation in killings and violence against persons with albinism in Tanzania, the author and his brother feared being killed. Therefore, they stopped going to primary school, which was miles away from their home. To get there, they had to travel long distances in dense bushes, where they were vulnerable to attack. On 14 October 2011, when the author was 12 years old, the author was attacked by a man with a machete in Geita, who tore three fingers from his right palm. The author lost consciousness and the man hacked off half of his left arm from below the elbow and left him behind, alone. The State did not provide the author with any medical assistance or rehabilitation service. Later in 2012, the organization "Under the Same Sun" sent the author back to school. However, after two years without formal education, the author suffered great difficulties in reading and writing and is still unable to do so properly.

Tanzania conducted an investigation in the crime to which the author was subjected, and on 15 October 2011, based on the testimony of the author and some of his

are English, French, Arabic, Spanish, Russian, and Chinese. See: Refer to Article 26 of the Committee's rules of procedure.

neighbors, where three people were detained and taken to court, on June 2012, the Attorney General dropped the charges against the defendant on the grounds of insufficient evidence. The State Prosecutor informed the court that more time was needed to complete the investigation, but nothing was done to that end. The author waited two years before submitting his communication to the Committee without any possibility to take remedy from the domestic authorities.

The author informed the Committee that he had been attacked because of the deep-rooted belief in Tanzania that the body parts of people with albinism provide wealth and prosperity, this belief is widespread in the United Republic of Tanzania and this has led to an increase in the persecution of people with albinism to supply the black market of body parts for these people. Children are increasingly targeted because people believe that they have innocent lives and that the magic of their body organs will provide more wealth.

Accordingly, he filed his complaint against Tanzania, the most prominent of which was: that Tanzania violated many of his rights guaranteed in the Convention, including that it did not provide him with the protection he needed as a child with albinism; therefore, he is always at risk of being abused. The state knows these practices, but it has not taken any measures to protect children and young people with albinism, who are in a very vulnerable situation, it didn't take any reasonable steps to ensure that persons with albinism are not discriminated against on the basis of their disability. The author argues that children with albinism living in Tanzania suffer humiliation, degradation and marginalization, the State's failure to effectively investigate and prosecute his case and similar cases is a violation of his right to equality and non-discrimination, which constitutes a violation of the Convention. The author stated that the State did not provide him and persons with albinism with a safe and secure environment, nor did it ensure

that persons with albinism were protected from attacks, violence, threats and any other forms of intimidation. The state left people with albinism at the mercy of anyone who wanted to hunt them down for their body parts. The author argues that the State has not taken appropriate measures to raise awareness in the whole society. In addition, it did not provide the author with any form of medical assistance or rehabilitation. He added that the permanent danger he faces without the state taking any measure forced him to stop going to school and thus prevented him from enjoying his right to education. He considers that his state did not provide him with protection against violence and torture, and that his right to maintain his physical and mental integrity was not respected. He also stated that he made great efforts to exhaust all available domestic remedies, but the State had not effectively investigated the attacks he had suffered.

After considering the admissibility and merits of the communication, the Committee concluded in August 2018 that Tanzania had not fulfilled its obligations under Articles 5, 7, 8, 15, 16 and 17 read alone and together with Articles 4 and 24 of the Convention⁽⁶²⁾. Accordingly, the Committee submits the following recommendations to Tanzania:

62 -The Committee noted that:

- The author was a victim of direct discrimination based on his disability, which constitutes a violation of article 5 of the Convention.
- According to article (7) (A) of the Convention, stated that: " States Parties shall take all appropriate measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children. The Committee notes that the failure to provide protection to the author, a 12-year-old boy despite his complaint, and the failure to provide him with the medical assistance and rehabilitation he needs after the attack being attacked in 2011, which would cause the State to violate its obligations under article 7 of the convention.
- The state has not taken appropriate and sufficient measures to raise awareness in society, which has led to discrimination and insecurity with regard to persons with albinism, and that the state has not taken any initiative

(A) concerning the author: the State party is under an obligation:

1. To provide him with an effective remedy, including compensation, redress

to end this situation. The Committee stated that the state's inaction and ineffectiveness amounted to acquiescence in the commission of heinous crimes against persons with albinism within its jurisdiction which considered as a violation of article 8 of the Convention.

- The Committee also considers that the suffering experienced by the author owing to the lack of action by the State party that would allow the effective prosecution of the suspected authors of the crime, becomes a cause of re-victimization, and amounts to psychological torture and/or ill-treatment, which constitutes a violation of article 15 of the Convention.
- and that the State did not provide the author with any kind of medical care and rehabilitation assistance despite the fact that he was a 12-year-old child and abandoned by his family, which constitutes a violation of article 16 of the Convention.
- The Committee stated that Article 17 of the Convention stated that " every person with disabilities has the right to respect for his/ her physical and mental integrity on an equal basis with others." According article (4) of the Convention, States parties have a general obligation to take all necessary measures to ensure and promote the full realization of all human rights in this case, the State has not taken any measures to prevent the acts to which the author was subjected, nor has it prosecuted the perpetrators nor has it taken any measures to enable the author to be rehabilitated or to support his reintegration into society. The author also did not receive any support from the State authorities to enable him to live independently again after losing his left arm and right hand and that the State did not adopt any measures to prevent and protect against this form of violence against persons with albinism. Accordingly, it considers that this constitutes a violation of the author's rights under article 17, read in conjunction with article 4 of the Convention.
- The State has also violated the author's right under Article 24 (b) and (c) as the State has an obligation to enable persons with disabilities to obtain free, quality and inclusive primary and secondary education, on an equal basis with others in the communities in which they live, as well as Reasonably consider individual needs. In this case, the State did not provide the author with any assistance or make any form of reasonable accommodation to allow him to go to school, and as a result he was denied his right to education until a private NGO provided him with the support he needed.

for the abuses suffered, and the support that is necessary to enable the author to live independently again.

2. To conduct an impartial, speedy and effective investigation into the attack suffered by the author, and to prosecute the perpetrators.

3. To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

(B) General measures: the State party is under an obligation to take measures to prevent similar violations in the future. In this regard, the Committee refers to the recommendations of the Independent Expert on the Enjoyment of Human Rights by persons with albinism as contained in her report to the Human Rights Council and requires Tanzania to:

1. To review and adapt legal frameworks as needed to ensure that they encompass all aspects of attacks against persons with albinism, including with regard to trafficking of body parts.

2. To ensure prompt investigation and prosecution of cases of attacks against persons with albinism as well as trafficking of body parts.

3. To ensure that the practice of using body parts for witchcraft-related practices is adequately and unambiguously criminalized in domestic legislation.

4. To develop and implement long-lasting awareness-raising campaigns based on the human rights model of disability and in compliance with State party's obligations under article 8 of the Convention, and trainings to address harmful practices and rampant myths affecting the enjoyment of human rights by persons with albinism, as well as on the scope of the Convention and its Optional Protocol⁽⁶³⁾.

63 - CRPD/C/20/D/23/2014.

Third: The legal nature of the committee's decisions:

1- Non-binding decisions of the committee:

The Convention on the Rights of Persons with Disabilities and its protocols or the Committee's rules of procedure does not have an explicit and clear provision of the legal value of the Committee's communications decisions related to communications, and the committee, like other convention committees, what it issues regarding communications is merely non-binding suggestions and recommendations.

Although the decisions of the Committee are not obligatory, the states are working to implement the decisions of the Committee, and are keen to inform the Committee of the measures it has taken in this regard. Some countries are trying to find legal justifications in the event that they do not want to implement the recommendations issued by the committee, due to their keenness on their international reputation in the field of human rights⁽⁶⁴⁾, this is reflected in many matters that have become subject to the extent of progress made by the state in the field of human rights⁽⁶⁵⁾.

There are also some states, during considering the communication submitted against them, they settled the problem with the authors of the communications, which eventually led the Committee to announce the suspension of considering such communications⁽⁶⁶⁾.

64 - Frédérique Sabourin et Pierre Mérette, *Le Mécanisme de Plaints Individuelles au Comité des Droits de L'homme de l'ONU*, Conférence des Juristes de l'état, Québec, 2009, P. 528

65 - For example: receiving financial and technical assistance from countries and international organizations, foreign investment flows, accession to some international organizations, and tourism Promotion.

66 - The communication submitted on 15 July 2015 by (Mario Jesús Rodríguez Arias) against Spain regarding his request for social housing. The Committee on the Rights of Persons with Disabilities decided, in its meeting held on 24 March 2017, to discontinue the consideration of No. 33/2015, since, by its

2- The decisions of the committee are final and not subject to appeal:

The decisions of the Committee on the Rights of Persons with Disabilities are final and are not subject to appeal in any way, as other convention committees⁽⁶⁷⁾. This is what is implicitly understood from article 6(3) of the Protocol and rule 89 of the Committee's rules of procedure, which obligate the Committee, upon completion of the study and examination of the communication, to transmit its comments and recommendations to the State Party concerned, Within Six months, the receiving state shall submit to the committee a written explanation or statements, clarifying the matter and the remedy, if any, that may have been taken by the state, without

decision of January 2017, the State party regularized the author's housing situation, in accordance with his initial petition. Consequently, the author is no longer at risk of eviction, and he and the State party have reached an agreement on the substantive issue raised in the communication. See: CRPD/C/17/D/33/2015.

The same applies to the communication submitted by (M.R.) on 14 August 2013 v. Australia, where the Committee on the Rights of Persons with Disabilities decided, in its meeting held on 18 August 2017, to discontinue the consideration of No. 16/2013 The case concerned an Australian resident who was institutionalized and sought to live independently in the community. The Committee on the Rights of Persons with Disabilities decided to discontinue the consideration of this communication because in December 2014, Australia informed that the author has been housed in the community when the adapted social housing and funding for support services became available. accordingly, the Committee decided to permanently discontinue consideration of Communication. See: CRPD/C/18/D/16/2013.

Likewise, the communication submitted on 14 August 2013 by (Steven Kendall) v. Australia, and in the session held on 15 March 2015 the Committee decided to permanently discontinue consideration of Communication No. 15/2013 after it was informed that the author had obtained housing and disability support services. see: CRPD/C/21/D/15/2013.

67 - Haut Commissariat, Procédures d'examen des Requetes Soumises par des Particuliers en vertu des instruments des Nations Unies Relatifs aux Droit de l'homme, op.cit, P.11.

giving it the right to appeal the committee's recommendations, noting that the secretariat is responsible for distributing the committee's final decisions.

Third Requirement: Follow up implementing the committee's decisions

The Convention or the Optional Protocol did not specify a specific period for the state to complete the implementation of the committee's recommendations, but within six months of the Committee's transmittal of its views on a communication the state party concerned shall submit to the Committee a written response, including any information on any action taken in the light of the views and recommendation of the Committee ⁽⁶⁸⁾. Subsequently, the Committee may invite the State Party concerned to submit further information about any measures the State Party has taken in response to its views or recommendations. The Committee shall designate for follow – up on view, a special Rapporteur or working group to ascertain the measures to be taken by States Parties to give effect to the Committee's views. The Special Rapporteur or working group may take such contacts and take such action as is appropriate for the due performance of their assigned functions and shall make such recommendation for further action by the committee in this regard. The Special Rapporteur or working group in charge of the follow- up

68 - For example, the communication submitted to the Committee on the Rights of Persons with Disabilities on 16 October 2015 from (V.F.C.) v. Spain, related to Right to non-discrimination in the maintenance or continuance of employment or moving to another work After the Committee concluded its consideration of the communication and issued its recommendations to the State, it stated, at the end of the decision that "in accordance with article 5 of the Optional Protocol and rule 75 of the Committee's rules of procedure, that within six months of the committee's transmittal of its views on a communication the State concerned shall submit to a committee a written response, including any information on any action taken in the light of the views and recommendations of the committee" . see: CRPD/C/21/D/34/2015.

mandate may, with the approval of the Committee and the State Party itself, make any necessary visits to the State Party concerned. The Special Rapporteur or working group shall regularly report to the Committee a follow – up activities. The Committee shall report every two years to the General Assembly and to the Economic and Social Council on the information relating to follow-up activities⁽⁶⁹⁾.

The Committee can complain to the United Nations General Assembly of the state that does not abide by the decisions issued by the Committee, and the General Assembly, in turn, has the right to issue decisions requesting the State against which the communication is submitted to implement the decisions of the Committee, which are also non-binding decisions, but they have great moral and political value.

Conclusion

Considering that, the United Nations is firmly convinced that all human rights are universal, indivisible, interdependent and interrelated, and that the international community must deal human rights comprehensively in a fair and equal manner, on the same basis, and with the same significance and concentration. Over the years, the United Nations has been working to change the internal and international Society's view of persons with disabilities from purely charitable and medical issues to treating them as people enjoying rights, and capable of demanding their rights and decide their own lives on the basis of their free and informed consent. Further to being active members of society, the Convention on the Rights of Persons with Disabilities and its Optional Protocol

69 - Rule 75 Rules of Procedure for Committee on the Rights of Persons with Disabilities, & Article 39 Convention on the Rights of Persons with Disabilities.

of 2006 have successfully protected those persons⁽⁷⁰⁾. The Committee on the Rights of Persons with Disabilities was established under the Convention and its Optional Protocol to allow individuals to submit communications to it against States that have violated or breached the provisions of the Convention. Then, The Committee issues recommendations to states to support implementing the provisions stated in the Convention. In order for the Committee to have the right to receive communications, the State party concerned must recognize the competence of the Committee by ratifying the Convention and its Optional Protocol, while fulfilling all the requirements contained therein to accept the complaint in merits and form.

By studying the Convention, its Optional Protocol and the Committee's rules of procedure, and relating it with the practical applications of the Committee on the Rights of Persons with Disabilities, here is some conclusions and recommendations were drawn.

Results:

- The number of countries acceding to the Convention on the Rights of Persons with Disabilities is relatively large compared to the number of countries acceding to the Optional Protocol as their number reached nearly half of the number of countries acceding to the Convention, the effectiveness of the

70 - Committee on Social Affairs, Health and Sustainable Development Deinstitutionalization of Persons with Disabilities, Parliamentary Assembly, Council of Europe, 2021, P. 2.

The Convention on the Rights of Persons with Disabilities and its Optional Protocol are a milestone not only in the field of the rights of persons with disabilities, but also in the development of international human rights law concepts and implementation measures. The Convention on the Rights of Persons with Disabilities and its Optional Protocol are a milestone not only in the field of the rights of persons with disabilities, but also in the development of international human rights law concepts and implementation measures in general.

Committee depends on the number of countries ratifying or acceding to the Protocol.

- The competence of the Committee is optional for the states that have ratified the Convention on the Rights of Persons with Disabilities, as the State must ratify the Optional Protocol to the Convention in order for the Committee to be competent to accept communications from individuals against the State.

- There are several conditions set by the Optional Protocol to the Committee on the Rights of Persons with Disabilities that must be met in order for the Committee to accept the communication, whether these conditions are related to the state against which the communication is submitted, the person submitting the communication, or the communication itself. The protocol and rules of procedure of the committee also accurately defined the stages of consideration of the communication before the committee.

- The Committee on the Convention on the Rights of Persons with Disabilities has played an important and effective role in implementing the provisions of the Convention on the Rights of Persons with Disabilities, within its existing powers and mandates; it has worked to establish good practices that can guide human rights reform efforts within the United Nations.

- Like other convention committees, the decisions of the Committee on the Rights of Persons with Disabilities are non-binding recommendations for States.

- Although the committee's decisions are not binding on states, states rarely abstain from implementing the committee's decisions, due to the states' keenness on their international reputation in the field of human rights. In addition, the communications mechanism was approved under the Optional Protocol, and states' accession to it is optional and non-binding. Thus, states' accession to the protocol means that the

state is ready to implement the decisions and recommendations issued by the committee.

- The committee's decisions are final and cannot be appealed to any party.

- There is no fixed time limit for the recommendations of the National Executive Committee. The time limit stipulated in the Protocol and the Committee's rules of procedure is six months, which is only used to respond to and explain the measures taken by the State in response to the Committee's recommendations.

Recommendations:

- States need to accede to the Additional Protocol to the Convention on the Rights of Persons with Disabilities so that the Committee can receive individual communications or complaints in order to ensure and ensure respect for the rights of persons with disabilities.

- A provision shall be added to the protocol requiring the Committee to make proposals to the parties concerned to resolve the issue through friendly diplomatic means, such as providing good offices to the parties concerned, the Committee shall exercise its good offices during the period from the date of receiving the communication and before deciding on the subject of the communication. Good offices procedures must be confidential. In the event that the Committee finds that it is not possible to reach a settlement through good offices, the Committee shall, in this case, continue to consider the communication in accordance with the procedures stipulated in the Protocol.

- Establishing a department within the committee to quickly consider communications, upon the request of the concerned parties or when necessary.

- Amending the Additional Protocol to the Convention on the Rights of Persons with Disabilities to ensure the obligatory implementation of the Committee's decisions.

- Setting a period for the state to complete the implementation of the decisions and recommendations of the Committee on the Rights of Persons with Disabilities.

- The necessity for exist an international body to coordinate between the convention committees.

- Establishing a supreme international body to appeal the decisions of the Committee on the Rights of Persons with Disabilities.

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