



## Complaint

For Communications under :

- **Optional Protocol to the International Covenant on Civil and Political Rights**

Date :

### I - Information on the complainant:

**Name :** Yasser M. A. Al-Amoudi      **Gender:**      **Nationality :** Jordanian-temporary  
**Date of Birth :**      **Place of Birth :** Kuwait  
**Address :**  
**Tel:**

**Complaint presented on my own behalf**

### II – Complaint against / Articles violated

**Complaint against :** UN High Commissioner for Refugees - UNHCR

**The articles from the International Covenant on Civil and Political Rights that have been violated:**

#### Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognised in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognised are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

#### Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognised herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognised or existing in any State Party to the present Covenant pursuant to law, conventions,

regulations or custom on the pretext that the present Covenant does not recognise such rights or that it recognises them to a lesser extent.

## Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

### III- Complaint :

On the 4<sup>th</sup> of February 2003 I applied for refugee status to the Commission for Refugees office in Cairo ,explaining in my introductory letter "...” the reasons for seeking asylum. However, my application was denied due to the following reason : “Manifestly unfounded “ .

According to this rejection and the reasons behind it : “any explanation of the article (1-d) from the Convention relating to the Status of Refugees Committee will therefore deny my application”.

Taking into regard the appointment mentioned within the article (1-d ) ( **When such protection or assistance has ceased...**).From the beginning I gave explanations and evidence proving that my position as a refugee has never been ceased or resolved ;therefore the only logical explanation for rejecting my application is either deniability of the Covenant and/or rejection from the duties appointed by the abiding laws of the convention , or derogating and creating conditional restrictions in processing the rights recognised by the Convention. According to this .

*the Commission has committed a violation of article (5) -2 mentioned in the International Covenant on Civil and Political Rights.*

Without any doubt ; my rights as a refugee are not restricted to aid or assistance or restricted within UNRWA rules ( note that the UNRWA was commissioned as an assistance provider only) .

This is confirmed by the related international resolutions and principles ( the related General Assembly resolution **no.194**) and according to the recommendations issued by this resolution, the **“UN Conciliation Commission for Palestine UNCCP”**, was appointed to resolve and protect the refugee situation and rights.

However This commission ceased its’ operations and failed in its’ duties .Whatever reasons caused it to end its’ operations , the continuity of the protection has been halted ,and there has not been any alternative system that maintains this protection to refugees like myself. The Convention has conditionally specified (part 2 of article 1-d ) : **“without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.”**

According to the UN related resolution no. 194 ; my status as a refugee has not been resolved and there is no longer an alternative system that ensures my protection as a refugee **“that its’ duties have been commissioned to the Conciliation commission”** ; therefore my status as a refugee lies under the definition mentioned in section 2 of article 1-d. Therefore removing the exception described in section 7 of the Statute of the Office of the United Nations High Commissioner for Refugees "Provided that the competence of the High Commissioner .... shall not extend to a person:

(c) Who continues to receive from other organs or agencies of the United Nations protection or assistance...."

Please note the occurrence of the word 'OR' in section 2 of article 1-d "**When such protection or assistance has ceased..**". The section also emphasizes "**without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly** "

Therefore proving my status as a refugee and the continuance of this status and hence my right to continue benefiting from assistance and International protection since my final status has not been resolved according to UN related resolutions.

In restricting my rights within aid and UNRWA rules only , a major related-resolution has been ignored and hence the Committee is considering Palestinian refugees like myself excluded from protection procedures and guarantees granted to other refugees .

For more emphasis I hereby include the following articles from the **Universal Declaration of Human Rights**:

#### **Article 2**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, **without distinction of any kind**, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, **no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs**, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

#### **Article 7**

All are equal before the law and are entitled without any discrimination to **equal protection** of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

#### **Article 28**

Everyone is entitled to a social and **international order in which the rights and freedoms set forth in this Declaration can be fully realized.**

In restraining my rights to UNRWA laws only (providing food ,clothing and shelter only) and according to those interpretations ;the protection program granted by the international order to Palestinian refugees is naturally lesser than other protection programs granted to other refugees and therefore a clear violation of related-resolutions and principals that were mentioned in the Declaration of Human Rights. And according to those interpretations ,Palestinians in general do not benefit from the rights protections procedure and guarantees within the International law order and they do not have any rights to protection coverage like other refugees , regardless of the fact that the protection system guaranteed by International law for Palestinian refugees has actually appointed two commissions with official duties in regards to Palestinian refugees. UNRAW ,which is concerned with providing aid and the **Conciliation Commission** which is concerned with providing protection. Article 1-d ensures that in case of failure of any of the two commissions in the continuation of its' duties prior to any final resolution ; that the **UN High Commissioner for Refugees** should take over immediately all duties appointed and to fully execute the special refugees convention without any conditions or derogation on the refugee.

By appointing the High Commission for Refugees – in accordance to the refugee convention- the assistance program should grant full protection to refugees that were described in the Refugees convention . This program ensures that all rights acknowledged by international laws are kept maintained. By appointing that Commission ,the UN recommends the representation of those refugees to guarantee the necessary protection they need. And since the High Commission for Refugees is a subsidiary of the UN therefore it should comply to UN

resolutions . However the High Commission for Refugees ( and according to the explanations it utilises ) is implementing a selective and discriminating policy against Palestinian refugees.

By derogating and restricting the rights that were mentioned within the context of the convention that specifically describes the conditions on which to be granted ( in accordance to the definition mentioned in the convention), I am no longer equal under the law ( according to the Committee's explanations) in gaining protection in comparison to protection granted to other non-Palestinian refugees. By this behaviour the committee is clearly adopting a discriminating and selective policy when granting its' protection to individuals whom are in compliance with protection and assistance rules (in accordance to the definition mentioned in the convention).

As a Palestinian refugee , my rights are being restricted and conditioned ,they have been reduced to a lower level in comparison to the rights granted to other refugees.

According to all reasons mentioned above ,it is clear that article 26 of the International Covenant on Civil and Political Rights has been violated.

The committee personnel acting on their official representations and responsible for their actions ( or those who have instigated their behaviour ) have granted themselves certain rights and freedoms to directly influence the procedure of handling refugee operations and have illegally violated the articles of the International Covenant on Civil and Political Rights.

*Violation of article (5) -1 of the International Covenant on Civil and Political Rights.*

Those personnel have also violated the principal duty of the UNHCR ; by transforming the social and humanitarian work into a political work where acceptance of individuals is being controlled and conditioned according to a political agenda.

According to all the violations of articles 26 and 5 of the International Covenant on Civil and Political Rights ,the Commission to which this complaint is lodged, no longer respects the articles of the International Covenant on Civil and Political Rights and is no longer in compliance to International treaties and resolutions since it implements certain measurements and procedures according to its' own interpretations – of international treaties – which does not guarantee the execution of the acknowledged rights stated in this covenant , therefore it discriminates against a certain group of refugees residing within its' territories and subject to its' jurisdiction. This Commission continues its' discriminating policy.

*Violation of article (2) -1-2 of the International Covenant on Civil and Political Rights.*

In denying my application , conditions have been implemented for granting my rights for protection and assistance , my rights have been reduced to a lower level in comparison to other refugees and General Assembly resolutions have been neglected. By this behaviour ,the UNHCR Commission is no longer in compliance to international related-resolutions . Not only has it discarded and degraded my rights as a refugee but in process it has also discarded related UN resolutions and is deliberately neglecting International Covenants.

The applicant of this complaint has been treated with discrimination and has been rejected with explanations and pretences that violate International Covenants which led to nullifying and impairing the recognition of the rights and fundamental freedoms mentioned in the Convention that eventually resulted in the obstruction of achieving the aforementioned rights.

Therefore I forward my complaint demanding justice and compensation for the harm caused by the violations breached by the commissions to which this complaint is presented against.

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REFERENCE: OSU 21571 *EG/10/27*

*18/8/05*

Dear Sir/Madam,

After careful consideration of the contents of your petition (communication/complaint), We sincerely regret having to inform you that the United Nations Office of the High Commissioner for Human Rights is not in a position to assist you in the matter you raise, for the reasons indicated on the back of this letter. Accordingly, your petition is being returned to you.

Please accept our apologies for not replying in a more personal manner. You may understand that, while we appreciate your reasons for writing to us, the existing procedures require that it is ascertained whether certain preliminary criteria are satisfied before proceeding with the examination of a petition.

For information about the procedures for the examination of individual petitions on human rights violations, please consult our website: [www.ohchr.org](http://www.ohchr.org), first click on *Human Rights Bodies*, then on *Treaty Monitoring Bodies*, and then on *communications/complaints*. If you have difficulty accessing our website, please write to the UNHCHR, Information Office (PW-RS-01), 1211 Geneva 10, and ask for Human Rights Fact Sheet Nos. 7, 12, 15 and 17.

Yours sincerely,

Secretariat of the Human Rights Committee

1.  The Human Rights Committee cannot examine petitions alleging violations of the International Covenant on Civil and Political Rights (ICCPR) unless the State is also a party to the Optional Protocol (OP). \_\_\_\_\_ is not a State party to the Optional Protocol.
2.  The Committee against Torture cannot examine petitions alleging violations of the Convention against Torture (CAT) unless the State has made the declaration under article 22 recognizing the Committee's competence to receive and consider petitions. \_\_\_\_\_ has not made the declaration.
3.  The Committee on the Elimination of Racial Discrimination cannot examine petitions alleging violations of the Convention on the Elimination of Racial Discrimination (CERD) unless the State has made the declaration under article 14 recognizing the Committee's competence to receive and consider petitions. \_\_\_\_\_ has not made the declaration.

Considering your petition under ICCPR :

4.  The State party concerned has entered a reservation to the relevant treaty as a result of which your petition cannot be examined.
5.  Your complaint is being examined or has been examined by the European Court of Human Rights, by the Inter-American Commission on Human Rights or by the African Commission on Human and Peoples' Rights.
6.  The object of your petition falls outside the scope of the relevant treaty.
7.  The events complained of occurred prior to the entry into force of the Optional Protocol to the ICCPR, of article 22 CAT or of article 14 CERD for the State concerned.
8.  Domestic judicial/administrative remedies do not appear to have been exhausted, and it has not been substantiated that the application of domestic remedies would be unreasonably prolonged or that the remedies would be otherwise unavailable or ineffective.
9.  The Human Rights Committee is not generally in a position to review the evaluation of facts and evidence by the national courts and authorities, nor can it review the interpretation of domestic legislation.
10.  The Human Rights Committee is not generally in a position to review a sentence imposed by national courts, nor can it review the question of innocence or guilt.
11.  The Committees cannot generally examine disputes between private individuals or alleged violations of human rights that have been committed by non-state actors. (UNHCR)
12.  The Committees can only examine individual petitions presented by the alleged victims themselves or by duly authorised representatives. Anonymous petitions cannot be considered.
13.  Your petition does not provide sufficient details as to the facts of your case, and/or as to how your rights under the relevant treaty have been violated.

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REFERENCE: G/SO 215/51 EGY Gen

Geneva, 25 October 2005

Dear Mr. Al-Amoudi,

The Petitions Unit (Office of the High Commissioner for Human Rights) has received and carefully examined the content of your letter received on 25 October 2005.

Please note that the UNHCR is not a State party to the Optional Protocol to the International Covenant on Civil and Political Rights, and therefore your communication cannot be examined by the Human Rights Committee.

Please accept our best regards,

The Petitions Unit

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