

**CHAPTER II. METHODS OF WORK OF THE COMMITTEE
UNDER ARTICLE 40 OF THE COVENANT:
NEW DEVELOPMENTS**

49. The present chapter summarizes and explains the modifications introduced by the Committee to its working methods under article 40 of the Covenant, as well as decisions adopted by the Committee on follow-up to its concluding observations on State party reports.

A. Recent developments and decisions on procedures

50. In March 1999, the Committee decided that the lists of issues for the examination of States parties reports should henceforth be adopted at the session prior to the examination of the report, thereby allowing a period of at least two months for States parties to prepare for the discussion with the Committee. Central to the consideration of States parties reports is the oral hearing, where the delegations of States parties have the opportunity to answer specific questions from Committee members. Thus, States parties are encouraged to use the list of issues to better prepare for a constructive discussion, but are not required to submit written answers. This practice was put into effect in the summer of 1999. There has been progress with the implementation of the practice; the Committee, however, notes that if States parties do submit written answers to lists of issues, they should do so well in advance of the examination of their reports, to ensure that the translation of the replies into the Committee's working languages is produced in time. Experience has shown that if detailed replies to lists of issues are submitted shortly before the examination of the report and are available in one working language only, Committee members not proficient in that language are seriously disadvantaged.

51. In October 1999, the Committee adopted new consolidated guidelines on State reports, which replaced all previous guidelines and which are designed to facilitate the preparation of initial and periodic reports by States parties. The guidelines provide for comprehensive initial reports prepared on an article-by-article basis, and focused periodic reports geared primarily to the Committee's concluding observations on the previous report of the State party concerned. In their periodic reports, States parties need not report on every article of the Covenant, and should concentrate on those provisions identified by the Committee in its concluding observations and those articles in respect of which there have been significant developments since the submission of the previous report. The revised consolidated guidelines were issued as document CCPR/C/66/GUI/Rev.2 on 26 February 2001 (see the Committee's annual report for 2001, A/56/40, volume I, annex III.A).

52. For several years, the Committee has expressed concern about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant (see the Committee's annual report for 2001, A/56/40, volume I, chapter III.B, and chapter III.B of the present report). Two working groups of the Committee met during the sixty-eighth to seventy-first sessions of the Committee to discuss possible ways of improving, and making more effective, the Committee's reporting procedure under article 40. The working groups proposed amendments to

the rules of procedure, which are aimed at helping States parties to fulfil their reporting obligations and designed to simplify the procedure. The amendments were formally adopted during the seventy-first session, and the revised rules of procedure have been issued as document CCPR/C/3/Rev.6 and Corr.1 (see annex III.B to the annual report of 2001). All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee reiterates that General Comment 30 [75], adopted during the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.

53. The amendments introduce procedures for dealing with situations of States parties which have failed to honour their reporting obligations for a long time, or which have chosen to request a postponement of their scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the States concerned that it intends to examine, from material available to it, the measures adopted by that State party with a view to giving effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduce a follow-up procedure to the concluding observations of the Committee: rather than fixing a set time limit for its next report in the last paragraph of the concluding observations, the State party will be requested to report back to the Committee within a specified period with responses to the Committee's recommendations, indicating what steps, if any, it has taken to give effect to the recommendations. Such responses will thereafter be examined by the Special Rapporteur for Follow-up on Concluding Observations, and result in the determination of a definitive time limit for the presentation of the next report.

54. During its seventy-fifth session, the Committee first applied the new procedure to a non-reporting State. It examined the measures taken by the Gambia to give effect to the rights recognized in the Covenant without a report, and in the absence of a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. The Committee further decided to examine the situation of civil and political rights in Suriname, another non-reporting State party, during its seventy-sixth session in October 2002.

55. During the seventy-fourth session of the Committee, a working group convened by Mr. Klein discussed options for implementing the new procedure for following up on concluding observations. Its recommendations were discussed by the Committee during the seventy-fourth session; on 21 March 2002, the Committee adopted decisions which spell out the modalities for following up on concluding observations. They are reproduced as annex III.A to the present report. During the seventy-fifth session, the Committee designated Mr. Yalden as its new Special Rapporteur for Follow-Up on Concluding Observations.

56. Also during the seventy-fourth session, a working group consisting of Ms. Chanet, Messrs. Henkin, Khalil, Klein (Chairperson and convenor), Lallah, Medina Quiroga, Scheinin, Shearer, Yalden and Sir Nigel Rodley discussed proposals tabled in 2001 by Messrs. Henkin and Scheinin with a view to streamlining the procedure for the examination of reports under article 40. On 5 April 2002, the Committee adopted a number of decisions on working methods, which are reproduced in annex III.B to the present report. The principal innovation consists in the establishment of country report task

forces, consisting of no fewer than four and no more than six Committee members, who will have the main responsibility for the conduct of debates on a State report. The Committee hopes that the establishment of these country report task forces will enhance the quality of the dialogue with delegations during the examination of State reports. The first country report task forces were convened during the seventy-fifth session.

B. Concluding observations

57. Since its decision of 24 March 1992, taken at its 1123rd meeting, the Committee has been adopting concluding observations. The Committee takes the concluding observations as a starting point in the preparation of the list of issues for the examination of the subsequent State party report. In some cases, the Committee has received comments on its concluding observations and replies to the concerns identified by the Committee under rule 70, paragraph 5, of its rules of procedure from the States parties concerned, which are issued in document form. During the period under review such comments and replies were received from the Dominican Republic, from Mauritius (in respect of paragraph 38 of the concluding observations of the Human Rights Committee on the Overseas Territories of the United Kingdom, dealing with the British Indian Ocean Territory), from the Socialist Republic of Viet Nam and the Democratic People's Republic of Korea. These State party replies have been issued as documents and are available from the Committee's Secretariat, or may be consulted on the web site of the Office of the United Nations High Commissioner for Human Rights (www.unhchr.ch, Treaty Body Database, Documents, Category "concluding observations").

C. Links to other human rights treaties and treaty bodies

58. The Committee continues to find value in the meeting of persons chairing the human rights treaty bodies as a forum for the exchange of ideas and information on procedures and logistical problems, streamlining of working methods, improved cooperation among treaty bodies, and the necessity to obtain adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively.

59. The fourteenth meeting of treaty body chairpersons was convened in Geneva from 24 to 26 June 2002. In the absence of the chairperson or any other member of the Bureau, the Committee was represented by Mr. Rivas Posada. The chairpersons met, *inter alia*, with the Bureau of the Commission on Human Rights, with special rapporteurs, independent experts and chairpersons of working groups of the Commission on Human Rights, and representatives of States parties to the six main United Nations human rights instruments.

60. The first Inter-Committee meeting was held in Geneva from 26 to 28 June 2002. It brought together representatives from each of the human rights treaty bodies. As the chairperson could not attend the meeting, the Committee was represented by Messrs. Solari-Yrigoyen and Yalden. The discussions focused on possibilities of harmonizing the working methods of all treaty bodies, increased cooperation between them, the issue of format and content of concluding observations, follow-up to concluding observations, and relations with non-governmental organizations.

61. The first Inter-Committee meeting recommended that another meeting be convened in the course of 2004, which would deal with outstanding issues from the first Inter-Committee meeting and focus on a thematic issue, to be determined by the fifteenth meeting of chairpersons in 2003.

D. Cooperation with other United Nations bodies

62. In 1999, the Committee considered its participation in the initiative emerging from the Memorandum of Understanding signed by the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme (UNDP) on cooperation over a wide range of human rights issues and activities. The Committee welcomed the fact that, in its development programmes and in particular those relating to technical assistance, UNDP takes account of the Committee's conclusions arising from its consideration of State reports. While the indicators, i.e. quantitative and qualitative criteria for assessing compliance by States parties with the provisions of human rights treaties and for a State party's capacity for good governance, do not as yet include many rights guaranteed by the International Covenant on Civil and Political Rights, the Committee intends to play its part in refining and developing these indicators, so that United Nations resources may be more effectively targeted.

63. On 2 April 2001, the Chairperson of the Committee, Mr. Bhagwati, addressed a letter to the Administrator of UNDP, reiterating his request for continued UNDP contribution to the elaboration of list of issues on initial and/or periodic State reports. Since then, a contribution has been received in respect of only one periodic report.

Annex III

A. Follow-up to concluding observations: Decisions adopted by the Human Rights Committee on 21 March 2002

1. The following paragraphs set out the procedure for following up on concluding observations pursuant to rules 70, paragraph 5, and 70A of the Committee's rules of procedure.
2. It should first be noted that information pursuant to rule 70, paragraph 5, of the rules of procedure need not be requested in respect of all States parties whose reports are examined by the Committee. The Committee must be mindful of the substantial additional workload that the analysis of information submitted pursuant to rule 70, paragraph 5, will inevitably entail. It should focus in particular on the urgency of the concern addressed to the State party, as well as the State party's ability to take remedial action in a short time frame. Country rapporteurs should bear this in mind when preparing draft concluding observations.
3. A Special Rapporteur for follow-up on concluding observations will be designated by the Committee.
4. The Special Rapporteur will examine the follow-up information received from a given State party pursuant to the Committee's request, with the assistance of the Secretariat officer for follow-up. It would be helpful if the Special Rapporteur would submit his or her findings to the Committee, in the form of a succinct report.
5. The Committee should set aside sufficient time for discussion of the Special Rapporteur's findings and the adoption of formal recommendations, if any, including, where appropriate, reconsideration of the date on which the next periodic report of the State party is due.
6. The Committee establishes the following procedure for dealing with States parties that do not submit follow-up information before expiry of the one-year time limit:
 - (a) The Secretariat will contact the States parties concerned in an informal manner approximately two months prior to expiry of the deadline, with a view to ascertaining whether a submission can be expected;
 - (b) A written reminder will be sent to the States parties concerned within one month following the expiry of the deadline;
 - (c) If no follow-up submission pursuant to rule 70, paragraph 5, is received in spite of this reminder, this will be recorded in the Committee's subsequent annual report to the General Assembly.
7. The Committee will prepare, as of 2003, a chapter in the annual report that deals specifically with follow-up activities under article 40 of the Covenant.

B. Decisions on working methods adopted by the Human Rights Committee on 5 April 2002

The Committee discussed the Working Group on working methods' proposals and decided as follows:

I. The Committee endorses the recommendations of the Working Group:

- (a) For the establishment of Country Report Task Forces, the modalities of which are spelled out below;
- (b) Not to pursue, for the time being, the idea of establishing a Task Force on communications;
- (c) Not to pursue, for the time being, the idea of establishing a Task Force on General Comments;
- (d) For the discontinuation of the pre-sessional working group on article 40 of the Covenant.

II. Regarding the country report task forces (CRTFs):

1. All members of the Committee will normally be asked to serve on at least one country report task force per session.
2. Each country report task force will consist of no less than four and, where possible, five or six members. If possible two sessions in advance, each member of the Committee should indicate on which task force he or she is volunteering to serve. As soon as a report is ready to be scheduled for examination, the Secretariat should send a circular e-mail asking for volunteers to serve on the task force. At least one member from the region and the country rapporteur should be on the task force for the report of a given State party; both long-standing and new Committee members should be on each one. The Chair will select who will sit on each task force and designate the country rapporteur as soon as possible.
3. The Secretariat will be entrusted with the task of convening country report task forces during the sessions.
4. Meetings will take place only if interpretation (English/French/Spanish) is available. If necessary, time will be made available for task force meetings from meeting time allotted to the plenary.
5. The country rapporteur will prepare the list of issues on a State report in cooperation with the Secretariat; the list will be circulated to the members of the task force who may transmit comments, in writing, for proposed amendments and additions to the list to the country rapporteur.

6. The country rapporteur and the Secretariat will focus on the most relevant problems facing the State party whose report is under examination and keep the list of issues to those that are of the highest priority. Questions should be precise as far as possible. The Chair may, in consultation with the country rapporteur, discontinue the traditional division of the discussion into parts.
7. The members of the country report task force will have the main responsibility for the conduct of debates on a State report. It is understood that after the answers of the delegation to questions of members of the task force, other members of the Committee will have the opportunity to intervene.
8. The initial draft of concluding observations will be circulated to all members for written comments to the task force/country rapporteur, which will prepare the final draft.
9. The work of the task forces may mean that the pre-session working group would not normally have to prepare lists of issues in discharge of its mandate under article 40 of the Covenant. This will be taken into account in determining the agenda and the composition of the pre-session working group.
10. Whenever possible, State party delegations should have some time to reflect on, and prepare responses to, additional questions raised by members of the task forces. This would imply that the first meeting on the consideration of a report should take place in the afternoon, and the second meeting the next morning.
11. Scheduling of a State report will generally be avoided for the afternoon of the first day of the Committee plenary.
12. Before the country report task forces adopt a list of issues, non-governmental organizations and specialized agencies would be heard by the Committee during the first meeting of the Committee plenary, in a private meeting. The Committee reserves the right to determine, at a later stage, whether other briefings by non-governmental organizations should also become part of the Committee's official proceedings and hence require interpretation.
13. At least once if not twice per session, the back-to-back scheduling of country reports may be required.
14. Country report task forces will start operating during the seventy-fifth session of the Committee in July 2002.