

...

CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT AND COOPERATION WITH OTHER UNITED NATIONS BODIES

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

A. Recent developments and decisions on procedures

49. 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 respond to the list of issues and answer supplementary questions from Committee members. States parties are directed to use the list of issues to prepare better for the constructive dialogue with the Committee. While they are not required to submit written answers to the list of issues, they are encouraged to do so. At its eighty-sixth session, the Committee decided that States parties submitting written replies be encouraged to limit them to a total of 30 pages, without preventing further oral replies by the States parties delegations, and to send written replies at least three weeks prior the examination of reports in order to enable their translation.

50. In October 1999, the Committee adopted new consolidated guidelines on State party 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 of 26 February 2001.ⁱ

51. 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.ⁱⁱ Two working groups of the Committee 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. These amendments were formally adopted during the seventy-first session in March 2001, and the revised rules of

procedure were issued (CCPR/C/3/Rev.6 and Corr.1).ⁱⁱⁱ 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 recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.^{iv}

52. The amendments introduce procedures for dealing with situations of States parties that have failed to honour their reporting obligations for a long time, or that 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 to concluding observations, and result in the determination of a definitive time limit for the presentation of the next report. Since the seventy-sixth session, the Committee has examined the progress reports submitted by the Special Rapporteur on a sessional basis.^v

53. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. On July 2002, 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. At the seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit a periodic report by 1 July 2004 that should specifically address the concerns identified in the Committee's provisional concluding observations. Failure to submit such a report within the deadline set by the Committee would result in the conversion of the provisional concluding observations into final ones, and their general dissemination. On 8 August 2003, the Committee amended rule 69A of its rules of procedure^{vi} to provide for the possibility of converting provisional concluding observations into final and public ones. At the end of the eighty-first session, the Committee decided to convert the provisional concluding observations of the Gambia into final and public ones since it had failed to submit its second periodic report.

54. At its seventy-sixth session (October 2002), the Committee considered the situation of civil and political rights in Suriname in the absence of a report, but in the presence of a delegation. On 31 October 2002, it adopted provisional concluding observations, which were transmitted to the State party. Pursuant to the provisional concluding observations, the Committee invited the State party to submit its second periodic report within six months. The State party submitted its report within the

deadline set by the Committee. The Committee considered the second periodic report of Suriname at its eightieth session (March 2004) and adopted concluding observations.

55. At its seventy-ninth (October 2003) and eighty-first (July 2004) sessions the Committee examined the situation of civil and political rights in, respectively, Equatorial Guinea and the Central African Republic, in the absence both of a report and a delegation in the first case, and in the absence of a report but with the presence of a delegation in the second case. Provisional concluding observations were transmitted to the States parties concerned. At the end of the eighty-first session, the Committee decided to convert the provisional concluding observations on the country situation of Equatorial Guinea into final and public ones since it had failed to submit its initial report. On 11 April 2005, in conformity with its assurances made to the Committee during the examination of the country situation at the eighty-first session, the Central African Republic submitted its second periodic report. The Committee considered the report at its eighty-seventh session (July 2006) and adopted concluding observations.

56. At its eightieth session (March 2004), the Committee decided to consider the situation of civil and political rights in Kenya at its eighty-second session (October 2004), as Kenya had not submitted its second periodic report, due on 11 April 1986. On 27 September 2004, Kenya submitted its second periodic report. The Committee considered the second periodic report of Kenya at its eighty-third session (March 2005) and adopted concluding observations.

57. At its eighty-third session, the Committee examined the situation of civil and political rights in Barbados, in the absence of a report but with the presence of a delegation, which pledged to submit a full report. Provisional concluding observations were sent to the State party. On 18 July 2006, Barbados submitted its third periodic report. As Nicaragua had not submitted its third periodic report, due on 11 June 1997, the Committee decided, at its eighty-third session, to consider the situation of civil and political rights in Nicaragua at its eighty-fifth session (October 2005). On 9 June 2005, Nicaragua made assurances to the Committee that it would submit its report by 31 December 2005. Then on 17 October 2005, Nicaragua informed the Committee that it would submit its report by 30 September 2006. At its eighty-fifth session (October 2006), the Committee requested Nicaragua to submit its report by 30 June 2006.

58. At its eighty-sixth session (March 2006), the Committee examined the situation of civil and political rights in Saint Vincent and the Grenadines, in the absence of a report but with the presence of a delegation. Provisional concluding observations were sent to the State party. Pursuant to the provisional concluding observations, the Committee invited the State party to submit its second periodic report by 1 April 2007. As San Marino had not submitted its second periodic report, due on 17 January 1992, the Committee decided, at its eighty-sixth session, to consider the situation of civil and political rights in San Marino at its eighty-eighth session (October 2006). On 25 May 2006, San Marino made assurances to the Committee that it would submit its report by 30 September 2006.

59. As Rwanda had not submitted its third periodic report and a special report, due respectively on 10 April 1992 and 31 January 1995, the Committee decided, at its eighty-seventh session, to consider the situation of civil and political rights in Rwanda at its eighty-ninth session (March 2007).

60. At its seventy-fourth session, the Committee adopted decisions which spell out the modalities for following up on concluding observations.^{vii} At the seventy-fifth session, the Committee designated Mr. Yalden as its Special Rapporteur for follow-up to concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden.

61. Also at the seventy-fourth session, the Committee adopted a number of decisions on working methods designed to streamline the procedure for the examination of reports under article 40.^{viii} 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 party report. The Committee notes that the establishment of these country report task forces has enhanced the quality of the dialogue with delegations during the examination of State party reports. The first country report task forces were convened during the seventy-fifth session.

B. Concluding observations

62. Since its forty-fourth session in March 1992^{ix} the Committee has adopted concluding observations. It takes 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 71, paragraph 5, of its revised rules of procedure from the States parties concerned, which are issued in document form. During the period under review such comments were received from Albania, Belgium, Benin, Colombia, El Salvador, Kenya, Mauritius, Philippines, Poland, Serbia and Montenegro, Sri Lanka, Tajikistan, Togo and Uganda. These State party replies have been issued as documents and are available from the Committee's secretariat, or may be consulted on the OHCHR website (www.unhchr.ch, treaty body database, documents, category "concluding observations"). Chapter VII of the present report summarizes activities relating to follow-up to concluding observations and States parties' replies.

C. Links to other human rights treaties and treaty bodies

63. The Committee views the annual 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 for stressing the necessity of obtaining adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively.

64. The eighteenth meeting of treaty body chairpersons was convened in Geneva on 22 and 23 June 2006 and was chaired by Ms. Christine Chanet.

65. The fifth inter-committee meeting was held in Geneva from 19 to 21 June 2006. It brought together representatives from each of the human rights treaty bodies. The Committee was represented by Mr. Rivas Posada and Mr. O’Flaherty. On behalf of Ms. Christine Chanet, Mr. Rivas Posada chaired the inter-committee meeting. Discussions focused in particular on the draft harmonized reporting guidelines (see chapter I, section F).

D. Cooperation with other United Nations bodies

66. At its eighty-sixth session (March 2006), the Committee established a mandate of Rapporteur to liaise with United Nations specialized agencies and programmes to facilitate more effective interaction on country specific as well as thematic issues and follow-up. Mr. O’Flaherty was designated Rapporteur.

ⁱ The *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex III, sect. A.

ⁱⁱ See *ibid.*, chap. III, sect. B and *ibid.*, *Fifty-seventh Session, Supplement No. 40* (A/57/40), chap. III, sect. B.

ⁱⁱⁱ See *ibid.*, *Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex III, sect. B.

^{iv} See *ibid.*, *Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, annex VI.

^v Except for the eighty-third session, when a new Special Rapporteur was designated.

^{vi} Rule 70 of the revised rules of procedure.

^{vii} See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, annex III, sect. A.

^{viii} See *ibid.*, vol. I, annex III, sect. B.

^{ix} See *ibid.*, *Forty-seventh Session, Supplement No. 40* (A/47/40), chap. I, sect. E, para. 18.

...