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Chapter II. Methods of work of the committee under article 40 of the covenant and cooperation with other United Nations bodies

50. 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

51. 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. The oral hearing, where the delegations of States parties respond to the list of issues and supplementary questions from Committee members, is central to the consideration of States parties' reports. States parties are invited to use the list of issues to prepare better for 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 wishing to submit written replies would be encouraged to limit them to a total of 30 pages, without prejudice to further oral replies by the States parties' delegations, and to send written replies at least three weeks prior to the examination of reports so that they could be translated.

52. In October 1999, the Committee adopted new consolidated guidelines on the format and content of 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 dealing primarily with the concluding observations adopted by the Committee following the consideration of the previous report of the State party concerned. In their periodic reports, States parties need not report on every article of the Covenant but should concentrate on the 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 (26 February 2001).¹

53. For several years, the Committee has been concerned about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant.² Two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and 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).³ 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.⁴

54. The amendments introduce a procedure to be followed when a State party has failed to honour its reporting obligations for a long time, or requests a postponement of its scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the State concerned that it intends to consider, from material available to it, the measures adopted by that State party to give 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 setting in the last paragraph of the concluding observations a date by which the State party's next report should be submitted, the Committee will invite the State party to report back to it within a specified period regarding its follow-up to the Committee's recommendations, indicating what steps, if any, it has taken. The responses received will thereafter be examined by the Committee's Special Rapporteur on follow-up to concluding observations, and a definitive deadline will then be set for the submission of the next report. Since the seventy-sixth session, the Committee has, as a rule, examined the progress reports submitted by the Special Rapporteur on a sessional basis.⁵

55. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. In July 2002, it considered the measures taken by the Gambia to give effect to the rights set out in the Covenant, in the absence of a report and 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 its seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit by 1 July 2004 a periodic report that should specifically address the concerns identified in the Committee's provisional concluding observations. If the State party failed to meet the deadline, the provisional concluding observations would become final and the Committee would make them public. On 8 August 2003, the Committee amended rule 69A of its rules of procedure⁶ to provide for the possibility of making provisional concluding observations final and public. At the end of its eighty-first session, the Committee decided to make the provisional concluding observations on the Gambia final and public, since the State party had failed to submit its second periodic report.

56. 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. In its provisional concluding observations, the Committee invited the State party to submit its second periodic report within six months. The State party submitted its report by the deadline. The Committee considered the report at its eightieth session (March 2004) and adopted concluding observations.

57. At its seventy-ninth and eighty-first sessions (October 2003 and July 2004), the Committee considered the situation of civil and political rights in Equatorial Guinea and the Central African Republic, respectively, in the absence of both a report and a delegation in the first case, and in the absence of a report but in 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 make the provisional concluding observations on the situation in Equatorial Guinea final and public, the State party having failed to submit its initial report. On 11 April 2005, in conformity with the assurances it had made to the Committee 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.

58. 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.

59. At its eighty-third session, the Committee considered the situation of civil and political rights in Barbados, in the absence of a report but in the presence of a delegation, which pledged to submit a full report. Provisional concluding observations were transmitted to the State party. On 18 July 2006, Barbados submitted its third periodic report. The Committee considered the report at its eighty-ninth session (March 2007) and adopted concluding observations (chap. IV). 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 gave assurances that it would submit its report by 31 December 2005 at the latest. 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. Following a reminder from the Committee dated 31 January 2007, Nicaragua again undertook, on 7 March 2007, to submit its report by 9 June 2007. The third periodic report of Nicaragua was submitted on 20 June 2007.

60. At its eighty-sixth session (March 2006), the Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines, in the absence of a report but in the presence of a delegation. Provisional concluding observations were transmitted to the State party. In accordance with the provisional concluding observations, the Committee invited the State party to submit its second periodic report by 1 April 2007 at the latest. On 12 April 2007, the Committee sent a reminder to the authorities of Saint Vincent and the Grenadines. In a letter dated 5 July 2007, Saint Vincent and the Grenadines undertook to submit its report within one month. 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 gave assurances to the Committee that it would submit its report by 30 September 2006. San Marino submitted its second periodic report in conformity with that commitment.

61. As Rwanda had not submitted its third periodic report or 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). On 23 February 2007, Rwanda undertook, in writing, to submit its third periodic

report by the end of April 2007, thereby obviating the planned consideration of the situation of civil and political rights in the absence of a report. The report was submitted on 23 July 2007.

62. At its eighty-eighth session (October 2006), the Committee decided to consider the situation of civil and political rights in Grenada at its ninetieth session (July 2007), as the State party had not submitted its initial report, due on 5 December 1992. The Committee proceeded to do so at its ninetieth session (July 2007), in the absence of a report and delegation but on the basis of written replies received from Grenada.

63. At its seventy-fourth session, the Committee adopted decisions spelling out the modalities for following up on concluding observations.⁷ At its seventy-fifth session, it designated Mr. Yalden as its Special Rapporteur on follow-up to concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden. At the ninetieth session, Sir Nigel Rodley was designated Special Rapporteur on follow-up to concluding observations.

64. Also at the seventy-fourth session, the Committee adopted a number of decisions on working methods designed to streamline the procedure for the consideration of reports under article 40.⁸ 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 consideration of State party reports. The first task forces were convened during the seventy-fifth session.

B. Concluding observations

65. Since its forty-fourth session in March 1992,⁹ the Committee has adopted concluding observations. It takes the concluding observations as a starting point in the preparation of the list of issues for the consideration of the subsequent State party report. In some cases, the Committee has received, in accordance with rule 71, paragraph 5, of its revised rules of procedure, comments on its concluding observations and replies to the concerns identified by it from the States parties concerned, which are issued in document form. During the period under review, such comments were received from Albania, Canada, Greece, Iceland, Israel, Italy, Slovenia, the Syrian Arab Republic, Thailand, Uganda, Uzbekistan and the Bolivarian Republic of Venezuela. These replies have been issued as documents and can be consulted in the files of the Committee's secretariat, or on the OHCHR website (www.unhchr.ch, human rights treaty bodies, 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

66. The Committee views the annual meeting of chairpersons of human rights treaty bodies as a forum for exchanging ideas and information on procedures and logistical problems, streamlining working methods, improving cooperation among treaty bodies, and stressing the need to obtain adequate secretariat services to enable all treaty bodies to fulfil their mandates

effectively. In its opinion on the idea of creating a single human rights treaty body (annex V), the Committee proposed that the meeting of chairpersons of treaty bodies and the inter-committee meeting should be replaced by a single coordinating body composed of representatives of the various treaty bodies, which would be responsible for the effective oversight of all questions relating to the harmonization of working methods.

67. The nineteenth meeting of chairpersons of treaty bodies was held in Geneva on 21 and 22 June 2007; Mr. Rivas Posada participated. The sixth inter-committee meeting was held in Geneva from 18 to 20 June 2007. Representatives from each of the human rights treaty bodies attended. The Committee was represented by Mr. Amor and Mr. Sanchez-Cerro (see chapter I, section F).

D. Cooperation with other United Nations bodies

68. At its eighty-sixth session (March 2006), the Committee established a mandate of Rapporteur to liaise with United Nations specialized agencies and programmes in order to promote more effective interaction on both country-specific and thematic issues and follow-up. Mr. O'Flaherty was designated Rapporteur.

69. At the ninetieth session, Mr. Edwin Johnson Lopez took over from Mr. Solari Yrigoyen as Rapporteur mandated to liaise with the Office of the Secretary-General's Special Adviser on the Prevention of Genocide.

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Annex V

Opinion of the Human Rights Committee concerning the idea of creating a single human rights treaty body

The Human Rights Committee welcomes with interest the concept paper prepared by the Office of the United Nations High Commissioner for Human Rights concerning the idea of creating a standing unified human rights treaty body, which would replace the seven existing treaty bodies. This document had the great merit of stimulating a serious and constructive debate on the reform of treaty bodies. Having examined all the documents relating to the proposal contained in the concept paper, and bearing in mind the discussions as well as the points of view expressed in various meetings and having considered the matter at its eighty-eighth session, the Human Rights Committee issues the following opinion:

The Committee:

1. Considers that the creation of a standing unified treaty body to replace the seven existing treaty bodies raises legal and political problems that cannot be solved in the short or

medium term, and deems that, for the time being, it is more appropriate to ensure, without delay, better coordination of the working methods of the treaty bodies without it being necessary to amend the treaties;

2. Is convinced of the need to strengthen harmonization of the working methods used by the various treaty bodies. It is of the opinion that questions relating to harmonization should be approached in a concrete and pragmatic manner in order to facilitate a practical and effective solution of the problems raised by the separate functioning of the treaty bodies;
3. Proposes, consequently, that the meeting of chairpersons of treaty bodies and the inter-committee meeting be replaced by a single coordinating body composed of representatives of the various treaty bodies, which would be responsible for the effective oversight of all questions relating to the harmonization of working methods, including the procedures for considering State party reports and individual communications;
4. Considers that the coordinating body should promote an exchange of information and points of view between the Human Rights Council and the treaty bodies;
5. Invites the various treaty bodies to amend, where necessary, their rules of procedure with a view to promoting the harmonization of their working methods;
6. Calls for a strengthening of the secretariat's material and professional capacities in order to enable it to provide more effective support for the treaty bodies and to ensure the widest possible dissemination of their work;
7. Is of the opinion that the treaty bodies should conduct an evaluation of the activities of the coordinating body four years after its establishment;
8. Shall remain in contact with the other treaty bodies with a view to continuing consideration of the question of harmonization of working methods, including the establishment, as soon as possible, of the coordinating body.

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NOTES

¹ *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. A.

² *Ibid.*, chap. III, sect. B, and *ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, chap. III, sect. B.

³ *Ibid.*, *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. B.

⁴ *Ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex VI.

⁵ Except for the eighty-third session, when a new Special Rapporteur was designated.

⁶ Rule 70 of the revised rules of procedure.

⁷ *Official Records of the General Assembly, Fifty-seventh session, Supplement No. 40 (A/57/40)*, vol. I, annex III, sect. A.

⁸ *Ibid.*, vol. I, annex III, sect. B.

⁹ *Ibid.*, *Forty-seventh Session, Supplement No. 40 (A/47/40)*, chap. I, sect. E, para. 18.