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## CHAPTER I. JURISDICTION AND ACTIVITIES

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### G. Harmonization of working methods of the treaty bodies

19. Ms. Chanet chaired the eighteenth meeting of persons chairing the human rights treaty bodies (22 and 23 June 2006) and at the same time represented the Committee. At that meeting, participants accepted the revised harmonized guidelines and recommended that the committees should begin to apply them immediately, in a flexible manner, review their existing reporting guidelines for initial and periodic reports, and compile indications of any difficulties experienced in the implementation of the guidelines. At its ninetieth session, the Committee decided to revise its reporting guidelines and requested Mr. O'Flaherty to review the existing guidelines and to prepare a working paper identifying in particular any difficulties that might arise with the implementation of harmonized guidelines. The Committee began a discussion on the basis of Mr. O'Flaherty's document at its ninety-second and ninety-third sessions and decided to begin work on the preparation of new guidelines. At its ninety-fifth session, the Committee designated Ms. Keller as rapporteur for the preparation of new guidelines.

20. This issue was also discussed at the eighth and ninth inter-committee meetings (3-5 December and 29 June to 1 July 2009) and the twenty-first meeting of chairpersons of the human rights treaty bodies (2-3 July 2009). Mr. Amor and Mr. O'Flaherty represented the Committee at the eighth inter-committee meeting, and Mr. Iwasawa, Ms. Motoc and Mr. Rivas Posada represented the Committee at the ninth inter-committee meeting. Mr. Iwasawa attended the twenty-first meeting of chairpersons.

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### N. Publicity for the work of the Committee

44. At its eighty-third session, the Committee agreed that press conferences should be prepared sufficiently in advance and that in-session press conferences could be organized when relevant. That arrangement was followed during the ninety-fourth, ninety-fifth and ninety-sixth sessions.

45. The Committee notes with satisfaction that press releases summarizing the most important final decisions under the Optional Protocol were issued after the ninety-fourth, ninety-fifth and ninety-sixth sessions. This practice helps to publicize the Committee's decisions under the Optional Protocol. The Committee further welcomes the creation and

continued development of an electronic mailing list, through which its concluding observations on reports considered under article 40 of the Covenant and final decisions adopted under the Optional Protocol are disseminated electronically to an ever-increasing number of individuals and institutions.

46. The regular updating of the OHCHR web page on the Human Rights Committee also contributes to better public awareness of the Committee's activities. Obviously, publicity for the work of the Committee must be enhanced to reinforce the protection mechanisms under the Covenant. In that context, the forthcoming production by OHCHR of an updated version of the DVD containing both a film and extensive documentation on the work of the treaty bodies is a positive development.

47. At its ninetieth session, the Committee discussed the need to develop a media strategy. It continued the discussion during the ninety-first, ninety-second and ninety-third sessions on the basis of a working paper prepared by Mr. Shearer, which was adopted by the Committee and made public at its ninety-fourth session (see CCPR/C/94/3).

48. At its ninety-sixth session, the Committee requested the Secretariat to ensure that access of the public be facilitated, in particular for public meetings during sessions held at the United Nations Headquarters in New York.

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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**

53. 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**

54. 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 advised 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 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.

55. In October 1999, the Committee adopted new consolidated guidelines on the form 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 and 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).<sup>1</sup>

56. 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.<sup>2</sup> 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).<sup>3</sup> 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.<sup>4</sup>

57. 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

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<sup>1</sup> Ibid., *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. A.

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

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

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

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 on 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.<sup>5</sup>

58. 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 procedure<sup>6</sup> 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. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant.

59. 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.

60. 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 both of 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

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<sup>5</sup> Except for the eighty-third session, when a new Special Rapporteur was appointed.

<sup>6</sup> Rule 70 of the rules of procedure.

final and public, the State party having failed to submit its initial report. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant. 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.

61. 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.

62. 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. 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. Nicaragua submitted its third periodic report on 20 June 2007.

63. 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 pledged to submit its report within a month. The State party having failed to submit its second periodic report, the Committee decided to make the provisional concluding observations on the situation in Saint Vincent and the Grenadines final and public at the end its ninety-second session (March 2008).

64. 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, and the Committee considered it at its ninety-third session.

65. 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 superseding the planned consideration of the situation of civil and political rights in the absence of a report. Rwanda submitted its periodic report on 23 July 2007 and the Committee considered it at its ninety-fifth session.

66. 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. At its ninetieth session (July 2007), the Committee undertook this review in the absence of a report or a delegation but on the basis of written replies from Grenada. Provisional concluding observations were sent to the State party, which was requested to submit its initial report by 31 December 2008. At the end of its ninety-sixth session (July 2009), the Committee decided to convert the provisional concluding observations into final and public observations.

67. At its seventy-fourth session, the Committee adopted decisions spelling out the modalities for following up on concluding observations.<sup>7</sup> At its seventy-fifth session, the Committee appointed Mr. Yalden as its Special Rapporteur for follow-up on concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden. At the ninetieth session, Sir Nigel Rodley was appointed Special Rapporteur for follow-up on concluding observations. At the ninety-sixth session, Mr. Abdelfattah Amor succeeded Sir Nigel Rodley.

68. 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.<sup>8</sup> 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 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.

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

<sup>8</sup> *Ibid.*, vol. I, annex III, sect. B.

## **B. Follow-up to concluding observations**

69. Since its forty-fourth session in March 1992,<sup>9</sup> 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.

70. At its ninety-fourth session, the Committee requested the Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, to present proposals to the Committee on ways to strengthen its follow-up procedure. On the basis of a paper submitted by the Special rapporteur for follow-up on concluding observations (CCPR/C/95/5), the Committee discussed and adopted several proposals to strengthen its follow-up procedure at its ninety-fifth decision (see annex VI).

71. During the period under review, such comments were received from Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America, as well as the United Nations Interim Administration Mission in Kosovo (UNMIK). This information has been published and can be consulted on the Office of the United Nations High Commissioner for Human Rights website (<http://www2.ohchr.org/english/bodies/hrc/followup-procedure.htm>). 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**

72. The Committee views the annual meeting of chairpersons of the 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,<sup>10</sup> 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.

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

<sup>10</sup> Ibid., *Sixty-second Session, Supplement No. 40 (A/62/40)*, vol. I, annex V.

73. The twenty-first meeting of chairpersons of treaty bodies was held in Geneva on 2 and 3 July 2009; Mr. Yuji Iwasawa participated. The eighth and ninth inter-committee meetings were held in Geneva respectively from 1 to 3 December 2008 and from 29 June to 1 July 2009. Representatives from each of the human rights treaty bodies participated. The Committee was represented by Mr. Abdelfattah Amor and Mr. Michael O’Flaherty at the eighth inter-committee meeting and by Ms. Iulia Motoc and Mr. Rafael Rivas Posada (see chapter I, section G).

#### **D. Cooperation with other United Nations bodies**

74. At its ninety-sixth session, Mr. Mohammed Ayat took over from Mr. Edwin Johnson Lopez as Rapporteur mandated to liaise with the Office of the Special Adviser to the Secretary-General for the Prevention of Genocide and Mass Atrocities.

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#### **Annex VI**

### **DECISION ADOPTED AT THE NINETY-FIFTH SESSION ON WAYS TO STRENGTHEN THE PROCEDURE FOR FOLLOW-UP ON CONCLUDING OBSERVATIONS**

At its ninety-fourth session, the Committee requested the Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, to present proposals to the Committee on ways to strengthen its follow-up procedure. At the ninety-fifth session, the Committee discussed and took the following decisions to strengthen its follow-up procedure:

1. The Special Rapporteur will consider ways to engage with field presences of the Office of the United Nations High Commissioner for Human Rights on issues regarding follow-up to the concluding observations of the Human Rights Committee (“the Committee”).
2. The Special Rapporteur will consider the linkages between the follow-up procedure of the Committee and the universal periodic review.
3. If the State party fails to submit follow-up information, the Special Rapporteur should send a reminder to the State party concerned two months after the deadline for sending the information has elapsed. If no reply is received, another reminder should be sent after two months. In cases where a reply is overdue by more than six months, the Special Rapporteur will request and hold consultations with delegates from the State party to obtain the information sought or to arrange for a date by which the information will be sent by the State party delegation.



4. The task of the Special Rapporteur for follow-up on concluding observations ends as soon as the next periodic report is due, including in cases where the State party concerned has not yet sent any information on follow-up. A note verbale should be sent to the States parties concerned reminding them that their periodic report is due.

5. In order to facilitate and enhance the assessment of the follow-up reports received, information provided by States parties on each recommendation mentioned in the concluding observations and regarding which the State has been requested to provide follow-up information within one year could be classified according to the following categories:

(a) “Largely satisfactory” would denote follow-up information indicating that the State party has been responsive to the specific recommendations considered and that it has substantially implemented the recommendations made by the Committee;

(b) “Cooperative but incomplete” would denote follow-up information that provides some indication that the recommendations of the Committee have been partly implemented by the State party but also reveals that the State party has failed to address some issues raised by the Committee in its recommendations and expressions of concern;

(c) “Recommendation(s) not implemented” would denote the provision of follow-up information in which the State party has clearly stated that it is not prepared to implement the recommendation(s);

(d) “Receipt acknowledged” would denote that a follow-up report was sent by the State party but that it did not provide any substantive information on the status of implementation of the relevant recommendations;

(e) “No response”.

6. Progress made by States parties in the implementation of the recommendations included in the previous concluding observations of the Committee as well as the level of cooperation with the Committee under its follow-up procedure should be noted in the next concluding observations adopted by the Committee.

### **Publication of letters to individual States parties on the website of the Office of the High Commissioner for Human Rights**

7. The Committee decided to request the publication on the website of the Office of the High Commissioner for Human Rights of the individual reminders and letters sent to States parties.

### **Follow-up visits**

8. The Committee encourages the further development of the practice of follow-up visits, which would enable it to assess more thoroughly the implementation of its recommendations at the national level.