

CHAPTER II

Overview of the present working methods of the Committee

26. This chapter of the Committee's report aims at providing a concise and up-to-date overview and explanation of the ways in which the Committee carries out its various functions. It is designed to make the Committee's current practice more transparent and readily accessible so as to assist States parties and others interested in the implementation of the Covenant (see chap. VI below, sect. A and B).

27. Since its first session, in 1987, the Committee has made a concerted effort to devise appropriate working methods which adequately reflect the nature of the tasks with which it has been entrusted. In the course of its 27 sessions it has sought to modify and develop these methods in the light of its experience. These methods will continue to evolve.

A. General guidelines for reporting

28. The Committee attaches major importance to the need to structure the reporting process and the dialogue with each State party's representatives in such a way as to ensure that the issues of principal concern to it are dealt with in a methodical and informative manner. For this purpose, the Committee has adopted detailed reporting guidelines² with a view to assisting States in the reporting process and improving the effectiveness of the monitoring system as a whole. The Committee strongly urges all States parties to report to it in accordance with the guidelines to the greatest extent possible. The Committee keeps its guidelines under review and they are updated when appropriate.

B. Examination of States parties' reports

1. Work of the pre-sessional working group

29. A pre-sessional working group meets, for five days, prior to each of the Committee's sessions. It is composed of five members of the Committee nominated by the Chairperson, taking account of the desirability of a balanced geographical distribution and other relevant factors.

30. The principal purpose of the working group is to identify in advance the questions which will constitute the principal focus of the dialogue with the representatives of the reporting States. The

² *Official Records of the Economic and Social Council, 1991, Supplement No. 3 (E/1991/23-E/C.12/1990/8), annex IV.*

aim is to improve the efficiency of the system and to ease the task of States' representatives by facilitating more focused preparations for the discussion.³

31. It is generally accepted that the complex nature and diverse range of many of the issues raised in connection with the implementation of the Covenant constitute a strong argument in favour of providing States parties with the possibility of preparing in advance to answer some of the principal questions arising out of their reports. Such an arrangement also enhances the likelihood that the State party will be able to provide precise and detailed information.

32. With regard to its own working methods, the working group, in the interests of efficiency, allocates to each of its members initial responsibility for undertaking a detailed review of a specific number of reports and for putting before the working group a preliminary list of issues. The decision as to how the reports should be allocated for this purpose is based in part on the areas of expertise of the member concerned. Each draft by a country rapporteur is then revised and supplemented on the basis of observations by the other members of the working group and the final version of the list is adopted by the working group as a whole. This procedure applies equally to both initial and periodic reports.

33. In preparation for the pre-sessional working group, the Committee has asked the secretariat to place at the disposal of its members a country profile as well as all pertinent documents containing information relevant to each of the reports to be examined. For this purpose, the Committee invites all concerned individuals, bodies and non-governmental organizations to submit relevant and appropriate documentation to the secretariat. It has also asked the secretariat to ensure that certain types of information are regularly placed in the country files.

34. The lists of issues drawn up by the working group are given directly to a representative of the States concerned, along with a copy of the Committee's most recent report and with a note stating the following:

The list is not intended to be exhaustive and it should not be interpreted as limiting or in any other way prejudging the type and range of questions which members of the Committee might wish to ask. However, the Committee believes that the constructive dialogue which it wishes to have with the representatives of the State party is greatly facilitated by making the list available in advance of the Committee's session. In order to improve the dialogue that the Committee seeks, it strongly urges each State party to provide in writing its replies to the list of issues and to do so sufficiently in advance of the session at which its report will be considered to enable the replies to be translated and made available to all members of the Committee.

³ *Ibid.*, 1988, *Supplement No. 4* (E/1988/14-E/C.12/1988/4), chap. IV, para. 361.

35. In addition to the task of formulating the lists of issues, the pre-sessional working group is also entrusted with a variety of other tasks designed to facilitate the work of the Committee as a whole. These have included: discussing the most appropriate allocation of time for the consideration of each State report; considering the issue of how best to respond to supplementary reports containing additional information; examining draft general comments; considering how best to structure the day of general discussion; and other relevant matters.

2. Consideration of the report

36. In accordance with the established practice of each of the United Nations human rights treaty monitoring bodies, representatives of the reporting States are entitled to be present, and indeed their presence and participation are necessary at the meetings of the Committee when their reports are examined in order to ensure a constructive dialogue with the Committee. The following procedure is generally used: the representative of the State party is invited to introduce the report by making brief introductory comments and introducing any written replies to the list of issues drawn up by the pre-sessional working group. The Committee then considers the report by clusters of articles (usually 1-5, 6-9, 10-12, 13-15), taking particular account of the replies furnished in response to the list of issues. The Chairperson will normally invite questions or comments from Committee members in relation to each issue and then invite the representatives of the State party to reply immediately to questions that do not require further reflection or research. Other questions remaining to be answered are taken up at a subsequent meeting or, if necessary, may be the subject of additional information provided to the Committee in writing. Members of the Committee are free to pursue specific issues in the light of the replies thus provided, although the Committee has urged them not to (a) raise issues outside the scope of the Covenant; (b) repeat questions already posed or answered; (c) add unduly to an already long list on a particular issue; or (d) speak more than five minutes in any one intervention. Representatives of relevant specialized agencies and other international bodies may also be invited to contribute at any stage of the dialogue.

37. The final phase of the Committee's examination of the report consists of the drafting and adoption of its concluding observations. For this purpose, the Committee usually sets aside a brief period in closed session, the day after the conclusion of the dialogue, to enable its members to express their preliminary views. The country rapporteur then prepares, with the assistance of the secretariat, a draft set of concluding observations for consideration by the Committee. The agreed structure of the concluding observations is as follows: introduction; positive aspects; factors and difficulties impeding the implementation of the Covenant; principal subjects of concern; and suggestions and recommendations. At a later stage, the Committee then discusses the draft, again in private session, with a view to adopting it by consensus.

38. The concluding observations once formally adopted are usually not made public until the final day of the session. As soon as they are made public - at 6 p.m. of the closing day of the session - they are available to all interested parties. They are forwarded as soon as possible to the State party concerned and included in the Committee's report. If it so wishes, the State party may address any of the Committee's concluding observations in the context of any additional information which it provides to the Committee.

39. In general, the Committee devotes three meetings (of three hours each) to its public examination of initial report and two meetings to examination of periodic reports. In addition, it generally devotes between two and three hours towards the end of the session, in private, to its discussion of each set of concluding observations.

3. Deferrals of the consideration of reports

40. Last-minute requests by States to defer the consideration of a report which has been scheduled for examination at a particular session are extremely disruptive for all concerned and have caused major problems for the Committee in the past. Accordingly, the Committee's long-standing policy is not to grant such requests and to proceed with its consideration of all scheduled reports, even in the absence of a representative of the State party concerned.

C. Follow-up procedure in relation to the consideration of reports

41. At its twenty-first session,⁴ the Committee decided that:

(a) In all concluding observations, the Committee will request the State party to inform the Committee, in its next periodic report, about steps taken to implement the recommendations in the concluding observations;

(b) Where appropriate, the Committee may, in its concluding observations, make a specific request to a State party to provide more information or statistical data at a time prior to the date that the next periodic report is due to be submitted;

(c) Where appropriate, the Committee may, in its concluding observations, ask the State party to respond to any pressing specific issue identified in the concluding observations prior to the date that the next report is due to be submitted;

(d) Any information provided in accordance with (b) and (c) above will be considered by the next meeting of the Committee's pre-sessional working group;

(e) In general, the working group could recommend one or another of the following responses to the Committee:

(i) That it take note of such information;

(ii) That it adopt specific additional concluding observations in response to that information;

(iii) That the matter be pursued through a request for further information;
or

⁴ On 1 December 1999 (53rd meeting).

(iv) That the Committee's Chairperson be authorized to inform the State party, in advance of the next session, that the Committee will take up the issue at its next session and that, for that purpose, the participation of a representative of the State party in the work of the Committee would be welcome;

(f) If the information requested in accordance with (b) and (c) is not provided by the specified date, or is patently unsatisfactory, the Chairperson, in consultation with the members of the Bureau, could be authorized to follow up the matter with the State party.

42. In situations in which the Committee considers that it is unable to obtain the information it requires on the basis of the above-mentioned procedures, it may decide to adopt a different approach instead. In particular, the Committee may request that the State party concerned accept a mission consisting of one or two members of the Committee. Such a decision would be taken only after the Committee had satisfied itself that there was no adequate alternative approach available to it and that the information in its possession warranted such an approach. The purposes of such an on-site visit would be: (a) to collect the information necessary for the Committee to continue its constructive dialogue with the State party and to enable it to carry out its functions in relation to the Covenant; (b) to provide a more comprehensive basis upon which the Committee might exercise its functions in relation to articles 22 and 23 of the Covenant concerning technical assistance and advisory services. The Committee would state specifically the issue(s) with respect to which its representative(s) would seek to gather information from all available sources. The representative(s) would also have the task of considering whether the programme of advisory services administered by the Office of the United Nations High Commissioner for Human Rights could be of assistance in connection with the specific issue at hand.

43. At the conclusion of the visit, the representative(s) would report to the Committee. In the light of the report presented by its representative(s), the Committee would then formulate its own conclusions. Those conclusions would relate to the full range of functions carried out by the Committee, including those relating to technical assistance and advisory services.

44. This procedure has already been applied in relation to two States parties and the Committee considers the experience to have been a very positive one in both instances. In a case where the State party concerned did not accept the proposed mission, the Committee would consider making whatever recommendations might be appropriate to the Economic and Social Council.

D. Procedure in response to non-submitted and considerably overdue reports

45. The Committee believes that a situation of persistent non-reporting by States parties risks bringing the entire supervisory procedure into disrepute, thereby undermining one of the foundations of the Covenant.

46. Accordingly, the Committee resolved at its sixth session to begin in due course to consider

the situation concerning the implementation of the Covenant in respect of each State party whose reports are very significantly overdue. At its seventh session it resolved to begin scheduling consideration of such reports at its future sessions and to notify the States parties concerned. It began to apply this procedure at its ninth session.

47. The Committee has adopted the following procedure:

- (a) To select States parties whose reports are very much overdue on the basis of the length of time involved;
- (b) To notify each such State party that the Committee intends to consider the situation with respect to that country at a specified future session;
- (c) To move, in the absence of any report, to consider the status of economic, social and cultural rights in the light of all available information;
- (d) To authorize its Chairperson, in situations where the State party concerned indicates that a report will be provided to the Committee and upon a request from the State party, to defer consideration of the situation for one session.

E. Day of general discussion

48. At each session, the Committee devotes one day, usually the Monday of the third week, to a general discussion of a particular right or of a particular aspect of the Covenant. The purpose is twofold: the day assists the Committee in developing in greater depth its understanding of the relevant issues; and it enables the Committee to encourage inputs into its work from all interested parties. The issues which have been the focus of discussions held to date by the Committee may be found in annex XVI to the present report.

F. Other consultations

49. The Committee has sought to coordinate its activities with those of other bodies to the greatest extent possible and to draw as widely as it can on available expertise in the fields of its competence. For this purpose, it has consistently invited individuals such as special rapporteurs of the Sub-Commission on the Promotion and Protection of Human Rights, chairpersons of Commission on Human Rights working groups and others to address it and engage in discussions.

50. The Committee has also sought to draw on the expertise of the relevant specialized agencies and United Nations organs, both in its work as a whole and, more particularly, in the context of its general discussions.

51. In addition, the Committee has invited a variety of experts who have a particular interest in, and knowledge of, some of the issues under review to contribute to its discussions. These contributions have added considerably to its understanding of some aspects of the questions arising under the Covenant.

G. Participation of non-governmental organizations in the activities of the Committee

52. In order to ensure that the Committee is as well informed as possible, it provides opportunities for non-governmental organizations to submit relevant information to it.⁵ They may do this in writing at any time. The Committee's pre-session working group is also open to the submission of information in person or in writing from any non-governmental organizations, provided that it relates to matters on the agenda of the working group. In addition, the Committee sets aside part of the first afternoon at each of its sessions to enable representatives of non-governmental organizations to provide oral information. Such information should: (a) focus specifically on the provisions of the International Covenant on Economic, Social and Cultural Rights; (b) be of direct relevance to matters under consideration by the Committee; (c) be reliable; (d) not be abusive. The relevant meeting is open and provided with interpretation and press services, but is not covered by summary records.

53. The Committee has requested the secretariat to ensure that any written information formally submitted to it by individuals or non-governmental organizations in relation to the consideration of a specific State party report is made available as soon as possible to the representative of the State concerned. The Committee therefore assumes that if any of this information is referred to during the dialogue with the State party, the latter will already be aware of the information.

H. General comments*

54. In response to an invitation addressed to it by the Economic and Social Council, the Committee decided to begin, as from its third session, the preparation of general comments based on the various articles and provisions of the International Covenant on Economic, Social and Cultural Rights with a view to assisting the States parties in fulfilling their reporting obligations.

55. By the end of its twenty-seventh session, the Committee and the Sessional Working Group of Governmental Experts, which existed prior to the creation of the Committee had examined 153 initial reports, 71 second periodic reports concerning rights covered by articles 6 to 9, 10 to 12 and 13 to 15 of the Covenant, and 95 comprehensive reports. This work covered a significant number of the States parties to the Covenant, which totalled 145 at the end of the twenty-seventh session. They represented all regions of the world, with different political, legal, socio-economic and cultural systems. Their reports submitted so far have illustrated many of the problems which might arise in implementing the Covenant, although they had not yet provided any complete picture of the global situation with regard to the enjoyment of economic, social and cultural rights.

* For the list of general comments adopted to date by the Committee, see annex XIV below.

⁵ See *Official Records of the Economic and Social Council, Supplement No. 2* (E/2001/22-E/C.12/2000/21), annex V: "Non-governmental organizations participation in the activities of the Committee on Economic, Social and Cultural Rights".

56. The Committee endeavours, through its general comments, to make the experience gained so far through the examination of States' reports available for the benefit of all States parties in order to assist and promote their further implementation of the Covenant; to draw the attention of the States parties to insufficiencies disclosed by a large number of reports; to suggest improvements in the reporting procedures; and to stimulate the activities of the States parties, international organizations and the specialized agencies concerned in achieving progressively and effectively the full realization of the rights recognized in the Covenant. Whenever necessary, the Committee may, in the light of the experience of States parties and of the conclusions drawn therefrom, revise and update its general comments.

57. At its twenty-first session, the Committee adopted the outline for drafting general comments on specific rights of the Covenant.⁶ The Committee agreed that the subject matter of a particular general comment would influence the overall structure of that comment and observed that the outline was not intended to be strictly adhered to. However, the outline provided useful signposts, a checklist of issues, to be considered in the process of drafting a general comment. In this respect, the outline would assist in ensuring consistency in the content, format and ambit of general comments to be adopted by the Committee. The Committee emphasized the importance of ensuring that general comments are reader-friendly and readily understandable to a broad range of readers, primarily States parties to the Covenant. The outline will assist in ensuring consistency and clarity in the structure of the general comments, thus promoting their accessibility, and strengthening the authoritative interpretation of the Covenant provided by the Committee through its general comments.

I. Statements adopted by the Committee

58. With a view to assisting States parties to the Covenant, the Committee adopts statements to clarify and confirm its position with respect to major international developments and issues that bear upon the implementation of the Covenant. As at 30 November 2001, the Committee had adopted 13 statements, a list of which appears in annex XV to the present report.

⁶ *Official Records of the Economic and Social Council, 2000, Supplement No. 2 (E/2000/22-E/C.12/1999/11 and Corr.1), annex IX.*

CHAPTER VI

Decisions adopted and matters discussed by the Committee at its twenty-fifth, twenty-sixth and twenty-seventh sessions

1016. Sections A and B of this chapter describe the revised methods of work of the Committee as they had been agreed upon, on a provisional basis, at its twenty-fifth session and submitted for consideration by the Economic and Social Council in May 2001. At its twenty-seventh session, the Committee decided to continuously evaluate revised procedures in the light of the experience acquired and to make any adjustments it may consider necessary.

A. Follow-up to Economic and Social Council decision 1999/287

1017. By its decision 1999/287 of 30 July 1999, the Economic and Social Council, concerned that existing meeting arrangements for the Committee no longer permitted the Committee to fully discharge its responsibilities under the Covenant and Council resolution 1985/17 of 28 May 1985 in an efficient and timely manner, approved the holding of two additional three-week extraordinary sessions of the Committee, as well as two additional meetings of the pre-sessional working groups of one week's duration during 2000 and 2001, provided that additional funding was made available. The Council requested that those sessions be entirely used for the consideration of reports of the States parties in order to reduce the backlog of reports; and that the Committee consider ways and means to improve the efficiency of its working methods. The Council requested the Committee to report to it in 2001 on action taken in this regard.

1018. The General Assembly, in its resolution 54/251 (sect. IV) of 23 December 1999, endorsed the Economic and Social Council decision.

1019. Accordingly, the Committee held its twenty-third (extraordinary) session held from 14 August to 1 September 2000. Seven States parties had been invited to present their reports at this session, but only four were able to send delegates. One report was considered by the Committee in absence of the State party's delegation, thus bringing to five the number of reports actually considered at the twenty-third session. The extraordinary session thus helped to reduce the accumulated backlog of reports received and pending consideration by the Committee. The twenty-sixth (extraordinary) session was scheduled to take place from 13 to 31 August 2001. The Committee had scheduled seven reports for consideration and has decided that no request for postponement from the States parties concerned will be accepted. Should a State party be unable to comply with the Committee's programme of work for the session, the Committee will proceed with its consideration of the State party's report in the absence of its delegation.

1020. In response to the request by the Economic and Social Council, the Committee, at its twenty-fifth session, discussed a number of improvements in its working methods with a view to dealing more effectively with the consideration of State party's reports at its future sessions. As a result, the Committee has adopted revised methods of work (see sect. B below) on a provisional basis, pending evaluation of the new procedures scheduled for later in 2001, in time for the annual report to be submitted in December.

1021. As a result of the review of its methods of work, the Committee is of the opinion that, for an experimental period of two years, the Committee should, as in the past, hold only two sessions per year, one in April-May and one in November-December. Under the revised working methods, the Committee and its pre-sessional working group will try to consider up to seven instead of five State party reports, of which one will be on a non-reporting State, or on a State party whose report is long overdue. The increase in the number of reports considered will only be possible provided that three public meetings for initial reports and only two meetings for periodic reports are allocated, in line with the practice of some other treaty bodies.

1022. The Committee is conscious of the very wide scope of the Covenant, the complexity of the issues raised, the long intervals between the consideration of many reports and the limited secretariat assistance available to prepare for and to deepen the constructive dialogue with State parties. Nevertheless, for an experimental period of two years, the Committee is prepared to reduce the time allocated for considering the periodic reports of States parties to two meetings while maintaining the three-meeting approach for initial reports. Should it find, at the end of that period, that the quality of report analysis suffers unduly from the shortened dialogue with States parties, it may revert to the previous practice of three meetings and the Committee may also request the Economic and Social Council to authorize three regular sessions per year.

B. Revised methods of work

1. Periodicity of reporting

1023. The present reporting cycle was introduced in 1988 (see Economic and Social Council resolution 1988/4 of 24 May 1988), on the basis of which States parties are to submit an initial report, dealing with provisions of the entire Covenant, within two years of the Covenant's entry into force for the State concerned. Every five years thereafter, a single, comprehensive periodic report is required. Only a minority of States parties observe the reporting cycle. Often reports are either submitted considerably late or not at all, or only submitted after pressure is exerted by the Committee.

1024. At its twenty-fourth session, on 30 November 2000, the Committee resolved that, as a general rule, a State party's next periodic report should be submitted five years after the Committee's consideration of the State's preceding report, but that the Committee may reduce this five-year period on the basis of the following criteria, taking into account all relevant circumstances:

- (a) The timeliness of the State party's submission of its reports in relation to the implementation of the Covenant;
- (b) The quality of all the information, such as reports and replies to lists of issues submitted by the State party;
- (c) The quality of the constructive dialogue between the Committee and the State party;
- (d) The adequacy of the State party's response to the Committee's concluding observations;

(e) The State party's actual record, in practice, regarding implementation of the Covenant in relation to all individuals and groups within its jurisdiction.

2. Guidelines for preparing State party reports

Present practice

1025. The Committee requests that State party reports, both initial and periodic, conform to the revised general guidelines² regarding the form and contents of reports to be submitted by State parties. The guidelines contain specific questions that refer both to the general provisions (arts. 1-5) and to the substantive articles (arts. 6-15) of the Covenant. The Committee is currently reviewing these guidelines. One main proposal on which work has begun involves separate sets of guidelines, one for initial and one for periodic reports. This should streamline and focus the work of the Committee and of States parties in the preparation of their reports.

Problems with the present practice

1026. Whereas it is important that initial reports be comprehensive, providing a detailed account of the national legal, administrative and practical system of implementation of the Covenant as requested in the guidelines, it is questionable whether it is useful for the Committee to ask States parties to repeat such information in their periodic reports. Such non-differentiation between initial and periodic reports results in State parties submitting bulky reports that not only prolong the processing of the document (editing and translation), but also burden the State party and the Committee with unnecessarily long reports to produce and to study. Further, a global detailed periodic report risks diverting the Committee's focus from issues of prime importance, such as follow-up to previous concluding observations.

Suggestions and recommendations

1027. The Committee requests that periodic reports be limited to significant new legislative, judicial, administrative and policy developments, subject matters raised in the Committee's previous concluding observations and issues raised in the list of issues. The new approach will oblige State parties to focus on the measures taken to implement the Committee's previous recommendations and help the Committee to focus the dialogue and to draft focused concluding observations that will assist States, as well as national non-governmental organizations and other partners in terms of follow-up at the national level. Potentially, a focused approach to periodic reports may decrease duplication of information in reports submitted to other treaty bodies, as the information will be more closely tailored to the particular concerns of the Committee. Moreover, shorter periodic

² *Official Records of the Economic and Social Council, 1991, Supplement No. 3 (E/1991/23-E/C.12/1990/8), annex IV.*

reports by State parties are likely to facilitate their processing, which takes up to one year. Shorter reports also require less time for editing and translating. Importantly, the Committee will retain its

freedom to request States parties to submit a comprehensive periodic report if it is deemed necessary.

1028. In order to better assist State parties in discharging their obligations, the Committee will endeavour to bring a closer focus on the selection of priority issues for concluding observations.

3. Pre-sessional working group

Present practice

1029. A pre-sessional working group meets for five days to discuss a number of State party reports and to adopt lists of issues prior to the session at which these reports are to be considered. The working group is composed of five members of the Committee nominated by the Chairperson, taking account of the desirability of a balanced geographical distribution and other relevant factors.

1030. The working group allocates to each of its members (the “country rapporteurs”) the initial responsibility for undertaking a detailed review of a specific report, as well as the relevant information provided by the secretariat, and for putting before the working group a preliminary list of issues. Each draft by a country rapporteur is then revised and supplemented on the basis of observations by the other members of the working group and the final version of the list is adopted by the group as a whole. This procedure applies equally to both initial and periodic reports. In 1999, the Committee decided that its pre-sessional working group should draft and approve lists of issues with respect to initial reports not exceeding 60 questions, while for periodic reports lists of issues should be limited where possible to 30 questions.

1031. Immediately after their adoption by the pre-sessional working group, the secretariat transmits the lists of issues to the State party in question for a written response. This takes place some 6 to 12 months before the session at which the report of the State party is considered.

1032. In preparation for the pre-sessional working group, the Committee asks the secretariat to place country profiles at the disposal of its members, as well as all pertinent documents containing information relevant to each report to be examined. The country profile is made available to the country rapporteur six months prior to the meeting of the pre-sessional working group at which the rapporteur’s draft list of issues is discussed.

Problems with the present practice

1033. If States parties submit written replies to the list of issues, which happens a little over 50 per cent of the time, such replies often arrive after the deadline, set at three months before the session at which the report is to be considered. The deadline marks the time needed for the editing and translation of the replies into the working languages of the Committee. As a result, the Committee often has the replies only in one language, usually English. In such cases, the delegation is asked to summarize the text of the replies to be interpreted simultaneously for non-anglophone Committee members. This procedure takes up an inordinate amount of time during the constructive dialogue.

1034. The second problem with the present procedure is that the lists of issues are often long for both initial and periodic reports, containing 40 or more detailed questions. While this practice may be justified when the Committee is considering a seriously unsatisfactory initial (or periodic) report, the number of questions should be reduced considerably in an effort to focus on the ensuing constructive dialogue, especially in the case of periodic reports.

Future procedure

1035. In an effort to better focus the constructive dialogue, the Committee has decided to formalize the existing practice of limiting the number of questions in the list of issues. In future, the maximum number of questions will be set at 40 for initial reports and at 25 for periodic reports. However, if a report proves to be grossly inadequate, additional necessary questions will be asked.

1036. The Committee has also decided to change the structure of the lists of issues. In future, it will limit requests for written information to statistical data, information requested in the guidelines but missing in the report, points of clarification regarding the report, and information on key legal, structural, policy and institutional issues (for the initial report) or new developments (with regard to periodic reports). This approach serves to indicate to the State party the issues that the Committee will take up during the dialogue, as well as providing the State party with an idea about the experts needed by the delegation.

4. Constructive dialogue

Present practice

1037. In general, the Committee devotes three meetings of three hours each to the public examination of each report. In addition, it generally devotes three hours during the third week of the session, in private, to the discussion and adoption of each set of concluding observations.

1038. At the beginning of the dialogue, representatives of the reporting State are invited to make a brief introductory statement and to summarize written replies to the list of issues. The Committee then considers the report on an article-by-article basis, taking particular account of the replies furnished in response to the list of issues. The Chairperson will normally invite questions or comments from Committee members in relation to each issue, first giving the floor to the country rapporteur if he/she so wishes, and then invite the representatives of the State party to reply immediately to questions that do not require further reflection or research. Other questions remaining to be answered are taken up at a subsequent meeting or, if necessary, may be the subject of additional information provided to the Committee in writing. The chairperson and/or individual members may, if necessary, intervene whenever the dialogue seems to be going off on a tangent, when responses seem to be taking an unduly long time or when answers lack the necessary focus and precision. Representatives of relevant specialized agencies may also be invited to contribute at any stage of the dialogue.

1039. The final phase of the Committee's examination of the report consists of the drafting and adoption of its concluding observations. For this purpose, the Committee usually sets aside a brief

period (40 minutes to an hour) in closed session after the conclusion of the dialogue to enable its members to express their preliminary views. The country rapporteur then prepares, with the assistance of the secretariat, a draft set of concluding observations for consideration by the Committee. At a later stage, the Committee then discusses the draft, again in private session, with a view to adopting it by consensus.

Problems with the present practice

1040. At its twentieth session, held in 1999, the Committee considered how to improve the questioning and dialogue with government delegations. In order to avoid repetitious questions and dwelling unnecessarily long on opening questions that refer to very general matters, it was considered expedient to adopt a different approach: Committee members would be invited, before the beginning of the dialogue, to indicate which article(s) they wish to comment on. If several Committee members put down their names for one article, the Chairperson will try to arrange who should be the main questioner. This does not, of course, affect the right of any member to raise questions additionally or spontaneously, but it helps to ensure that more equal weight is placed on all articles of the Covenant and that the unnecessary repetition of questions is avoided.

Future practice

1041. In an effort to save time and to allow for the consideration of more reports during each session, the Committee, following the practice adopted by the Human Rights Committee and the Committee on the Elimination of Discrimination against Women, has decided to schedule three meetings for initial reports and two for periodic reports.

1042. In order to ensure that the State party delegation is well aware of the procedure of the constructive dialogue, the Committee on Economic, Social and Cultural Rights requests the secretariat to brief the mission of a State party on the procedure as it notifies it of the scheduling of the consideration of its report. The secretariat will also be requested to advise the mission on the composition of the delegation.

1043. To avoid repetition of questions and emphasis on general opening questions, the Committee has decided to formalize the approach considered at its twentieth session. The Committee will set half an hour before the beginning of the dialogue to go over, in a private meeting, the main issues concerning the State party, in order to confer about how to approach cross-cutting issues. Experts from the secretariat may be invited to inform the Committee about issues pertaining to the implementation of the Covenant by the respective State party. For initial reports this coordination meeting will take place within the nine hours allocated for the dialogue; for periodic reports it will have to be held before the six-hour dialogue with the State party and, consequently, can only be conducted in two of the Committee's working languages (English and French). The meeting cannot take place during the six-hour dialogue, as time is too short to spend half an hour considering how to proceed.

1044. During the 30 minutes before the beginning of the dialogue, the Committee will name a main commentator on each question, article or issue. Other commentators will take up matters not

addressed by the main commentator and limit their interventions to three minutes or less. This method will not prejudice the country rapporteur, who will be free to intervene at any time.

1045. In order to enhance the quality of the dialogue between the State party and the Committee in future, the head of the State party delegation will be requested to confine the opening statement to a maximum of 10 minutes. Remarks by Committee members should be much shorter than in the past and, in any event, must not exceed three minutes per speaker. The delegation's answers should also be very brief and to the point, avoiding generalities and detailed explanations of existing legislation. The Committee, although interested in such information, is primarily interested in the operation of such legislation, plans of action and other administrative or judicial measures taken, in order to be able to ascertain whether the State party has met its obligations under the Covenant and to make meaningful suggestions and recommendations in its concluding observations.

1046. In an effort to focus the dialogue, the Chairperson will indicate at the beginning of the dialogue which of the Committee members will be leading the questions on particular articles or issues. Additional questions on individual articles will be raised sparingly, avoiding repetition at all costs, and should be coordinated in the structure meeting prior to the beginning of the dialogue.

5. Follow-up

Present practice

1047. Procedures in relation to follow-up action:

- (a) In all concluding observations, the Committee will request the State party to inform the Committee, in its next periodic report, about steps taken to implement the recommendations in the concluding observations;
- (b) Where appropriate, the Committee, in its concluding observations, may make a specific request to a State party to provide more information or statistical data at a time prior to the date that the next periodic report is due to be submitted;
- (c) Where appropriate, the Committee may, in its concluding observations, ask the State party to respond, prior to the date that the next report is due to be submitted, to any pressing specific issue identified by the concluding observations;
- (d) Any information provided in accordance with (b) and (c) above will be considered by the next meeting of the Committee's pre-sessional working group;
- (e) Thereafter, the Committee's Chairperson will inform the State party, in advance of the next session, that the Committee will take up the issue at its next session and that, for that purpose, the participation of a representative of the State party in the work of the Committee would be welcome;
- (f) If the information requested in accordance with (b) and (c) above is not provided by

the specified date, or is patently unsatisfactory, the Chairperson, in consultation with the members of the Bureau, is authorized to follow up the matter with the State party.

Future practice

1048. In its revision of reporting guidelines, the Committee will consider emphasizing the importance of addressing the previous concluding observations of the Committee in subsequent periodic reports (see para. 1027 above).

1049. To ensure more efficient follow-up to the consideration of reports, the Committee requests the secretariat to strengthen in-house cooperation with the national human rights institutions team and country desk officers.

1050. With regard to follow-up, the Committee will also look into ways of further strengthening its cooperation with the relevant special rapporteurs of the Commission on Human Rights (including the special rapporteurs on adequate housing, on the right to education, on the right to food, on violence against women, its causes and consequences, on the sale of children, child prostitution and child pornography and on the human rights of migrants) and with its independent experts (on the right to development, on the question of human rights and extreme poverty and on structural adjustment and foreign debt), and with United Nations specialized agencies and programmes, in line with Commission resolution 2001/30 of 20 April 2001.

1051. The Committee will closely address the problem of consistent implementation of the follow-up procedure.

6. Overdue reports and non-reporting

1052. The Committee resolved at its sixth session to begin to consider the situation concerning the implementation of the Covenant in respect of each State party whose reports are significantly overdue.

1053. The Committee has adopted the following procedure:

- (a) To select States parties whose reports are very much overdue on the basis of the length of time involved;
- (b) To notify each such State party that the Committee intends to consider the situation with respect to that country at a specified future session;
- (c) To move, in the absence of any report, to consider the status of economic, social and cultural rights in the light of all available information;
- (d) To authorize its chairperson, in situations where the State party concerned indicates that a report will be provided to the Committee and upon a request from the State party, to defer consideration of the situation for one session.

1054. The present practice only applies to non-reporting States, that is, to those States that have not submitted an initial report. No procedure exists with regard to States with overdue periodic reports.

1055. The Committee has decided to develop a similar procedure concerning State parties, whose periodic reports are significantly overdue, similar to the one applied to States with overdue initial reports. In such cases, States will be informed by the chairperson that a non-reporting procedure will be set in motion, if a periodic report is not submitted at the next session. That reporting deadline may be extended for one further session, upon satisfactory explanation by the State party as to why it cannot comply with the reporting requirements within that period of time. States parties are reminded that they can avail themselves of the advisory and technical services of the Office of the United Nations High Commissioner for Human Rights in this respect. Thereafter, the Committee will proceed with an analysis of the situation in the State party, based on information available to it from other sources.

7. General comments

1056. The Committee prepares general comments based on various articles, provisions and themes of the Covenant to assist the States parties in fulfilling their obligations under the Covenant and to stimulate the international organizations and specialized agencies concerned in achieving progressively and effectively the full realization of the rights recognized therein. Members may propose at any time that a general comment relating to a specific article or provision of an article be prepared. Usually, individual members of the Committee are charged with producing the initial, informal draft general comment. Generally, the Committee devotes one day, usually the Monday of the third week of the session, to a discussion on the aspect of the Covenant addressed in the draft general comment. The purpose is twofold: to assist the Committee in developing in greater depth its understanding of the relevant issues; and to enable the Committee to encourage input to its work from all interested parties.

1057. The practice works well, but in order to ensure better coordination with other treaty monitoring bodies, the Committee will continue to try to issue joint general comments on overlapping provisions and will continue to consult with the other treaty monitoring bodies on any draft general comment it is preparing.

1058. The Committee will continue the efforts it successfully instituted during the drafting stage of the most recent general comments to ensure the widest possible consultation with those interested in contributing to them.

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