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**Report on the working methods of the human rights treaty  
bodies relating to the State party reporting process**

**Note by the secretariat**

This report, produced by the Office of the United Nations High Commissioner for Human Rights (OHCHR), provides a comparative overview of and update on the working methods of United Nations human rights treaty bodies.

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## I. Introduction

1. The present report provides an overview of the current working methods of eight of the nine human rights treaty bodies: the Committee on the Elimination of Racial Discrimination (CERD); the Committee on Economic, Social and Cultural Rights (CESCR); the Human Rights Committee; the Committee on the Elimination of Discrimination against Women (CEDAW); the Committee against Torture (CAT); the Committee on the Rights of the Child (CRC), the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) and the Committee on the Rights of Persons with Disabilities (CRPD).<sup>1</sup>

2. The report is confined to the working methods of the treaty bodies with respect to the reporting process. Consequently, it does not consider the Subcommittee on Prevention of Torture (SPT), established under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which is mandated to set up a system of regular visits to places where people are deprived of their liberty.

## II. Overview of the Committees

3. Eight of the nine core international human rights treaties in force provide for the establishment of a committee of independent experts to monitor implementation of the treaty provisions by States parties. CERD, the first treaty body to be established, monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); the Human Rights Committee monitors implementation of the International Covenant on Civil and Political Rights (ICCPR); CEDAW monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women; CAT monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; CRC monitors implementation of the Convention on the Rights of the Child and the Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography; CMW monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW); CRPD monitors the implementation of the Convention on the Rights of Persons with Disabilities; and SPT monitors implementation of OPCAT.

4. The International Covenant on Economic, Social and Cultural Rights (ICESCR) does not explicitly provide for the creation of a treaty body, but gives the Economic and Social Council (ECOSOC) a general mandate to monitor implementation of the Covenant by States parties and United Nations specialized agencies through consideration of regular reports. In 1985, a sessional working group established by ECOSOC to assist it in the consideration of States parties' reports (ECOSOC decision 1978/10 of 3 May 1978), was reconstituted on the model of the treaty bodies and renamed the Committee on Economic, Social and Cultural Rights (CESCR) (ECOSOC resolution 1985/17). The Committee, which first met in 1987, is regarded as a treaty body.<sup>2</sup>

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<sup>1</sup> The secretariat has sought to ensure that this report accurately reflects the current working methods of the human rights treaty bodies but these are constantly evolving and further updates may be necessary.

<sup>2</sup> Human Rights Council resolution 4/7 calls for the initiation of a process to rectify, in accordance with international law, in particular the law of international treaties, the legal status of CESCR, with the aim of placing the Committee on a par with all other treaty monitoring bodies.

## Membership

5. Each committee is composed of independent experts, ranging in number from 10 to 25 members (see table 1), who are nominated by States parties and elected by them for fixed, renewable terms of four years. Elections for half of the membership take place every two years. Except in the case of SPT and CRPD, whose members are eligible for re-election once if renominated, the treaties impose no limit on the number of times a member's term may be renewed, and some members have served for long unbroken periods.<sup>3</sup>

Table 1  
Composition of the treaty bodies

CERD	18 members		
HRC	18 members		
CESCR	18 members		
CEDAW	23 members		
CAT	10 members		
CRC	10 members	18 members <sup>a</sup>	
CMW	10 members	14 members	41 States parties <sup>b</sup>
SPT	10 members	25 members	50 States parties <sup>c</sup>
CRPD	12 members	18 members	80 States parties <sup>d</sup>

<sup>a</sup> Amendment to article 43 (2) of the Convention, approved by General Assembly resolution 50/155 of 21 December 1995, which entered into force on 18 November 2002 upon acceptance by two-thirds of States parties.

<sup>b</sup> Following the accession to the Convention by the forty-first State party on 18 March 2009, the membership of CMW has increased to 14 members as of 1 January 2010.

<sup>c</sup> Following the ratification of the OPCAT by the fiftieth State party on 24 September 2009, the membership of SPT has increased to 25 members as of 1 January 2010.

<sup>d</sup> The membership of CRPD will most likely increase in 2010 after the Convention has attained 80 ratifications or accessions.

## Mandates

6. With the exception of the SPT, all treaty bodies are mandated to consider the reports which States parties are obliged to submit periodically on steps they have taken to implement the provisions of the relevant treaty and, in the case of CRC, its substantive protocols. Six of the treaty bodies (CAT, CEDAW, CERD, CMW, CRPD and the Human

<sup>3</sup> This will also be the case with respect to the Committee on Enforced Disappearances, provided for under article 26(4) of the International Convention for the Protection of All Persons from Enforced Disappearance (ICCEPR), once operational. The ICCERP opened for signature, ratification and accession on 6 February 2007 and will enter into force upon the twentieth ratification.

Rights Committee<sup>4</sup>) are entitled to consider individual communications where States parties have accepted this procedure, and three (CAT, CEDAW and CRPD<sup>5</sup>) may conduct inquiries into alleged violations of their treaty's provisions, again where this procedure has been accepted by the State party. Some treaty bodies (CAT, CERD, CMW and the Human Rights Committee) are mandated by their respective treaties to consider inter-State communications whereby State parties may complain to the relevant treaty body about alleged violations of the treaty by another State party.<sup>6</sup> As far as reporting is concerned, there are variations in the wording in the treaties in relation to the content of States parties' reports, but the content required is similar. All committees have adopted guidelines on the form and content of reports to assist States parties with the preparation of their reports. It is to be noted that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities contain specific provisions which entitle their respective committees to adopt additional reporting guidelines (arts. 73 (3) and 35 (3), respectively).

7. The treaties do not set out in detail how the various treaty bodies are to treat the reports that they receive, but each (with the exception of ICESCR: see paras. 4, 28 and 29) establishes the same basic framework for "consideration," "study" or "examination" of reports by its respective committee and the adoption of such "general comments" (CRC, the Human Rights Committee and CAT), "suggestions and general recommendations" (CERD and CEDAW) or "comments" (CMW) as the relevant committee may consider appropriate. The International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities contain express provision for its committee to request additional information from States parties. All treaties allow States parties to reply to a treaty body's comments, recommendations or suggestions with their own observations.

8. Under ECOSOC resolution 1985/17, CESCR "shall make suggestions and recommendations of a general nature on the basis of its consideration of those reports and of the reports submitted by the specialized agencies, in order to assist the Council to fulfil, in particular, its responsibilities under articles 21 and 22 of the Covenant."

9. Several treaties state a wider purpose for which their committees were created: CEDAW was established "for the purpose of considering the progress made in the implementation of the [...] Convention" (art. 17, para. 1); the CRC has a general purpose "of examining the progress made by States parties in achieving the realization of the obligations undertaken" in the Convention (art. 43, para. 1); and CMW the purpose of "reviewing the application of the [...] Convention" (art. 72, para. 1(a)).

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<sup>4</sup> The CESCR, upon the entry into force of the Optional Protocol to the ICESCR, and the Committee on Enforced Disappearances, once operational, will also be empowered to consider individual complaints.

<sup>5</sup> The Committee on Enforced Disappearances will also be empowered to conduct inquiries once operational.

<sup>6</sup> See article 21 of the Convention against Torture, article 74 of ICRMW, articles 11-13 of ICERD, and articles 41-43 of ICCPR. Although not yet in force, article 32 of ICCEPD and article 10 of the Optional Protocol to ICESCR also provide for inter-State communications.

### States parties

10. Although universal ratification is yet to be achieved, progress in this regard has been steady. Table 2 sets out the number of States that have ratified, acceded or succeeded to the treaties.

Table 2  
States parties

	<i>No. of States parties<sup>7</sup></i>
ICERD	173 (173)
ICCPR	165 (163)
ICESCR	160 (160)
CEDAW	186 (186)
CAT	146 (146)
OPCAT	50 (12)
CRC	193 (193)
CRC-OPAC	131 (128)
CRC-OPSC	137 (131)
ICRMW	42 (41)
CRPD	85 (58)

### Rules of procedure

11. All treaties, and in the case of ICESCR, ECOSOC resolution 1985/17, empower committees to formulate their own rules of procedure. ICCPR and CAT provide that specific rules relating to the quorum and adoption of decisions by majority vote should be included in the rules of procedure of their respective committees. All operative committees have adopted rules of procedure, compiled in the document HRI/GEN/3, which is revised regularly.

12. Each committee's rules of procedure are divided into two main sections. The first section sets out the basic procedural rules governing decision-making within the committee and the second section focuses on the functions of the committee. Three committees – CEDAW, CESCR and CMW – have additional sections on rules relating to interpretation and, in the case of CEDAW, on rules relating to its optional protocol. In most cases, these are based on the ECOSOC standard rules of procedure and contain detailed provisions for the resolution of deadlock within political bodies, which are rarely used by the treaty bodies. CEDAW and CMW have adopted a shorter set of procedural rules adapted in each case to the requirements of a body that functions on the basis of consensus. CRPD concluded discussions on its rules of procedure and methods of work at its third session in February 2010. CRC is planning to revise its provisional rules of procedure which were last revised in 2003 at the thirty-third session of the Committee.

<sup>7</sup> Figures in brackets indicate the number of States parties in the 2009 report (HRI/IMC/2009/4). At the time of the publication of this report, there were 42 new States parties to the international human rights treaties compared to the same period last year.

13. Not all treaty bodies set out their working methods in their rules of procedure. Some committees compile separate reports on working methods; these are normally included in their annual reports to the General Assembly. Committees with competence to consider individual complaints or conduct inquiries have also set out procedures related to these activities in their rules of procedure.

#### **Officers**

14. All treaties, with the exception of CRPD, contain provisions for the election of officers by the members of its committee for a term of two years. The International Covenant on Civil and Political Rights and the Convention against Torture specify that officers may be re-elected, and other committees provide guidelines on re-election in their rules of procedure. Rule 17 of the rules of procedure of CEDAW provides that officers may be re-elected, provided that the principle of rotation is upheld.

#### **Official and working languages**

15. The official languages of the United Nations are Arabic, Chinese, English, French, Russian and Spanish. All treaty bodies, except CAT, have adopted these languages as their official languages. Arabic and Chinese are not included as the official languages of CAT.

16. Five of the committees have adopted working languages: the working languages of CAT, CERD and CESCR are English, French, Russian and Spanish; those of the Human Rights Committee and CRC English, French and Spanish. The pre-sessional working group of CEDAW uses English, French and/or Spanish as needed.

### **III. Consideration of States parties' reports**

17. The treaties do not indicate how treaty bodies should approach the task of considering States parties' reports. However, all treaty bodies have adopted broadly the same approach, the main features of which are the "constructive dialogue" in which all committees engage with a delegation from the State party whose report they are considering, and the adoption of "concluding observations", acknowledging progress made and indicating to the State party where further action is required. There is still, however, considerable variation in the practice of each treaty body with respect to report consideration, as explained below. Until recently, for instance, CRC considered initial reports submitted under OPAC by States parties without serious difficulties in the implementation of the Optional Protocol under a "technical review" (pursuant to the Committee's Decision No. 8 (2005)) rather than in the context of a plenary session. The Committee has subsequently discontinued the technical reviews and considers all initial reports under OPAC in session, prioritizing the opportunity for dialogue with each State party to OPAC.

#### **A. Reporting guidelines**

18. All committees have issued guidelines on reporting to provide guidance to States parties on the preparation of their reports. These guidelines are designed to ensure that reports are presented in a uniform manner so that treaty bodies and States parties can obtain a complete picture of the situation of each State party with respect to the implementation of the relevant treaty. A number of committees have issued separate guidelines for initial and periodic reports.

19. Harmonized guidelines on reporting under the core international human rights treaties comprising guidelines for a common core document and treaty-specific documents

were accepted by the fifth inter-committee meeting and the eighteenth meeting of chairpersons of human rights treaty bodies in June 2006. As requested by the sixth inter-committee meeting and the nineteenth meeting of chairpersons of human rights treaty bodies in June 2007, a note verbale was submitted to all States parties to human rights treaty bodies recommending reporting according to these guidelines (contained in HRI/GEN/2/Rev.4 which is continually updated). Four committees, CEDAW, CERD, CESCR and CMW have revised their guidelines for treaty-specific reports in order to complement the guidelines for the common core document.

20. Currently, the reporting guidelines of the Human Rights Committee call for comprehensive initial reports, prepared on an article-by-article basis. Although they do not set out specific information required under each article, States parties are required to take into account the Committee's general comments which cover specific articles. States parties are not required to report on every article of the Covenant in their periodic reports, but only on those provisions identified by the Committee in its concluding observations on the previous report and those articles in respect of which there have been significant developments since the submission of the previous report (A/56/40, paras. 50-54). At its ninety-second session in March and April 2008, the Committee held a discussion on a paper prepared by one of its members on the revision of the guidelines for State reports under the International Covenant on Civil and Political Rights. At its ninety-fifth session in March/April 2009, the Committee appointed one of its members as rapporteur on its revised reporting guidelines. At its ninety-seventh session held in October 2009, the Committee started discussing the draft reporting guidelines drafted by the rapporteur and continued adopting the draft at its ninety-eighth session held in March 2010.

21. CAT has adopted separate reporting guidelines for initial and periodic reports, and revised guidelines for initial reports were adopted in May 2005. Initial reports are to be structured in two parts, the first providing general background information and the second addressing each substantive article of the Convention. Periodic reports should be presented in three parts: the first dealing with new measures and developments on the substantive articles since the previous report; the second covering any additional information requested by the Committee; and the third describing compliance with the Committee's concluding observations and recommendations on the previous report. The Committee emphasizes the importance of information related to the de facto implementation of the Convention. As mentioned below in paragraphs 42 and 88, the Committee has adopted a new optional reporting procedure. At its forty-third session in November 2009, the Committee initiated discussion on treaty-specific reporting guidelines, which will cover both initial and periodic reports.

22. CRC has adopted four sets of reporting guidelines regarding the form and content of initial reports and of periodic reports under the Convention and initial reports under each of the Optional Protocols to the Convention. Revised guidelines for periodic reports were adopted by the Committee at its thirty-ninth session and are applicable from 1 January 2006. These guidelines build on the experience of the Committee and contain an annex of nine pages indicating the data requested by the Committee.

23. The CRC guidelines on initial and periodic reports request relevant legislative, judicial, administrative and other information, including statistical data, as well as information on follow-up to the previous concluding observations of the Committee, comprehensive national programmes and monitoring that have been put in place, the allocation of budgetary and other resources and factors and difficulties affecting the implementation of the Convention at the national level. To facilitate a more structured discussion during the consideration of the report by the Committee, the guidelines group the articles according to content into eight clusters: (a) general measures of implementation; (b) definition of the child; (c) general principles; (d) civil rights and freedoms; (e) family

environment and alternative care; (f) basic health and welfare; (g) education, leisure and cultural activities; and (h) special protection measures, including (i) children in situations of emergency; (ii) children in conflict with the law; (iii) children in situations of exploitation, including physical and psychological recovery and social reintegration; and (iv) children belonging to a minority or an indigenous group. The Committee has requested all States parties to the Convention to submit periodic reports that are concise, analytical and focused on key implementation issues, and do not exceed 120 regular-size pages (Decision No. 5, (2002), CRC/C/118).

24. CRC adopted revised guidelines on reporting under the OPSC and under the OPAC in September 2006 and September 2007, respectively, to assist States parties to understand better the information and data that the Committee considers necessary in order to understand and evaluate progress made in implementing their obligations and to enable it to adopt appropriate observations and recommendations. The Committee is in the process of revising its guidelines, in line with the requirements.

25. The CMW guidelines, adopted during the Committee's second session in April 2005, request that States parties provide general information relating to the framework for implementation of the Convention, followed by information on the implementation of each substantive article, which may be arranged in clusters, respecting the distinction in the Convention between all migrant workers and documented migrant workers. As noted above, the Committee adopted new reporting guidelines for periodic reports at its eighth session in April 2008.

26. There is considerable variation in the size and quality of reports submitted by States parties. Both the Human Rights Committee and CERD allow States parties to complement the information in their reports with additional information. The Human Rights Committee imposes a specified deadline, whereas CERD accepts additional information at any time, even if it cannot be translated in time for the relevant session. The practice adopted by most treaty bodies of submitting lists of issues and questions to a State party once the report has been submitted also provides an additional opportunity for States parties to supplement the information contained in the report.

## **B. Submission of States parties' reports**

27. With the exception of OPCAT, each of the core international human rights treaties establishes a framework for regular reporting by States parties on implementation of their obligations under those treaties. In most cases, the treaty explicitly sets out a timetable for the submission of initial and periodic reports, commonly referred to as the reporting "periodicity", based on the date of entry into force of the treaty for the specific State party. In the case of the two Covenants, no periodicity is envisaged in their provisions. The Human Rights Committee is given discretion to decide when periodic reports should be submitted

Table 3  
Reporting periodicity under the treaties

	<i>Initial reports within</i>	<i>Periodic reports every</i>
ICERD	1 year	2 years
ICCPR	1 year	3, 4 or 5 years <sup>a</sup>
ICESCR <sup>b</sup>	2 years	5 years
CEDAW	1 year	4 years
CAT	1 year	4 years <sup>c</sup>
CRC	2 years	5 years <sup>d</sup>
CRC-OPAC	2 years	integrated in next CRC report, every five years; every five years for States not party to the CRC
CRC-OPSC	2 years	integrated in next CRC report, every five years; every five years for States not party to the CRC
ICRMW	1 year	5 years
CRPD	2 years	4 years

<sup>a</sup> Average periodicity. The Human Rights Committee may vary the date the next report is due in accordance with its follow-up procedure. CAT also varies the due dates of the next periodic reports.

<sup>b</sup> Article 17 of the Covenant gives ECOSOC discretion to establish its own reporting programme.

<sup>c</sup> CAT indicates in its concluding observations that the next report of the respective State party is due within a four-year period.

<sup>d</sup> When appropriate, CRC invites States parties to submit combined reports.

#### **Flexible application of reporting periodicity**

28. Late submission of reports by States parties, as well as the time lag between the submission and the consideration of a report, can result in a State party's following periodic report falling due in the same year that the Committee considers the State's preceding report, or even before. The discretion given to the Human Rights Committee and CESCR to determine when periodic reports should be submitted has allowed these committees greater flexibility in this context, but other treaty bodies have also developed modalities to address this issue.

29. CESCR requires that periodic reports should be submitted at five-year intervals (rule 58 of the Committee's rules of procedure). Since 2000, CESCR has, as a general rule, applied the five-year rule, but has reduced this period in light of the timeliness of submission of reports, the quality of information provided, the quality of the constructive dialogue between the Committee and the State party, the adequacy of the State party's response to the Committee's concluding observations, and its implementation of the

Covenant (E/2002/22(SUPP) E/C.12/2001/17(SUPP), para. 1024). The due date of the next periodic report is indicated in the concluding observations. CESCR has also accepted combined reports more frequently since 2004. Combined reports may be submitted by States parties, as well as requested by the Committee in its concluding observations with respect to future reports that are due. A combined report may be submitted where a periodic report is already due or due within the year following consideration of an earlier periodic report. The Committee has not adopted a formal position in this regard.

30. On average, periodic reports to the Human Rights Committee are due four years after the submission of the previous report, but the Committee may call for a report after three years or after five years, depending on the State party's level of compliance with the Covenant's provisions, including its reporting record (rules 66 and 70 para. 1 of the rules of procedure). The Committee does not allow an accumulation of overdue reports: for any State party, only one report is due at any one time, regardless of how long that report has been overdue.

31. Despite the fixed periodicities set in their treaties, other committees have taken a flexible approach to the submission of reports. CERD allows States parties to submit "combined reports" (the combination of several reporting obligations in a single document), and has, since 1984, automatically accepted the submission of an unlimited number of reports in one document. In 1988, CERD decided that States parties should submit a comprehensive report every four years and a brief updating report in the two-year interim. Since 2001, in cases where the period between the date of examination of the last periodic report and the scheduled date for the submission of the next periodic report is less than two years, CERD can suggest in its concluding observations that the State party submit the latter report jointly with its subsequent periodic report (A/56/18, para. 477), thereby allowing the State to comply with the reporting schedule set by the Convention.

32. CRC also allows for the submission of combined reports, when appropriate. Thus, for example, a periodic report may be submitted combined with the next periodic report(s) at the time when the latter report is due, when the former is due within the year following the dialogue with the Committee or when it is already due at the time of the dialogue and the third (or fourth) report is due two years or more after the dialogue with the Committee. States are not entitled to submit combined reports automatically: the Committee must invite the State party to submit such a report in its concluding observations.

33. CEDAW has invited States parties with overdue reports to combine all outstanding reports in a single document (Decision 23/II). Under certain circumstances, CAT has accepted the submission of combined reports.

34. A number of committees have adopted the practice of identifying the date for the submission of the next periodic reports in their concluding observations. In the case of some committees, such as CEDAW, when consideration of a report has been delayed, the Committee will request the submission of a report combining the next two periodic reports in the concluding observations.

### **C. Pre-session preparation: drafting of lists of issues and questions**

35. All committees prepare lists of issues and questions for State parties whose reports are due to be considered. The practice of how these lists are produced, and their role in enhancing the work of the committees, varies. Lists of issues provide an opportunity for States parties to supplement the information contained in their report and also indicate to States parties the questions they are likely to face when their report is formally considered.

36. CEDAW, CESCR, CRC and the Human Rights Committee adopt lists of issues with respect to both initial and periodic reports. CMW adopts lists of issues with regard to initial

reports but it has not yet considered periodic reports. Currently, CAT adopts lists of issues only with respect to periodic reports, and has recently adopted a new procedure on the preparation of lists of issues prior to State party reporting, as outlined in paragraphs 42 and 88 below. CRC also adopts lists of issues and questions with respect to reports under its Optional Protocols. At its seventy-sixth session (February 2010), CERD agreed to adopt a new approach (“list of themes”) to be implemented from its seventy-seventh session (August 2010), described in paragraph 42 below. In the case of CERD, these lists are not formally adopted by the Committee and do not require written replies, but are rather drawn up by the designated country rapporteurs with respect to the State party reports assigned to them. The country rapporteurs are to submit their lists of themes ten weeks in advance of the session. All committees appoint one or more of their members to act as country rapporteur(s) for a specific country whose report is under consideration, and the rapporteur frequently takes the lead in drafting the list of issues (see section D below).

#### **Pre-sessional working group/country report taskforces**

37. With the exception of CERD, lists of issues are drafted prior to the session at which the report will be considered, either in a pre-sessional working group convened immediately after the previous session, immediately before the session at which the report will be considered, or during the plenary session.

38. CEDAW, CESCR and CRC convene a one-week pre-sessional working group to prepare lists of issues or questions with respect to the reports of States parties that are due to be considered by the relevant committee. CEDAW and CRC convene the working group immediately after the session, prior to the session at which the reports will be considered. While the CRC pre-sessional working group convenes immediately prior to the next session at which the State party for which the list of issues prepared will be considered, CEDAW’s pre-sessional working group prepares lists of issues and questions two sessions in advance of the consideration of reports. The CESCR pre-sessional working group prepares lists of issues and questions up to two sessions or 12 months prior to the consideration of reports. CMW prepares lists of issues in a closed meeting during the plenary session.

39. The pre-sessional working groups, which meet in private, usually consist of four to five members of the respective committee, and, in the case of CEDAW, include the country rapporteurs when possible. The CEDAW pre-sessional working group may consist of up to ten members when it is preparing lists of issues and questions in respect of reports to be taken up for two future sessions or in relation to sessions which meet in two chambers.

40. The CRC working group consists of all members of the Committee and from October 2009 to June 2010 met in two parallel chambers in accordance with General Assembly resolution 63/244. CESCR pre-sessional working groups consist of five members, selected with due consideration for balanced geographical representation.

41. The pre-sessional working group of the Human Rights Committee deals with individual communications and has no role in the preparation of lists of issues and questions relating to reports. The Committee assigns the preparation of its lists of issues to country report task forces, composed of the relevant country rapporteur(s) and between four and six other members of the Committee nominated by the Chairperson on the basis of a balanced geographical distribution and other relevant factors. The task forces generally meet in general two sessions prior to that at which the report is examined. The country rapporteur, who has overall responsibility for the list of issues, presents a draft to the task force for discussion. Once the members have made their observations, the list of issues is adopted by the task force as a whole, and principal responsibility for certain questions included in the list of issues is allocated. The list of issues is then transmitted to the State party (A/56/40, paras. 50 to 54).

42. For CAT, the lists of issues and questions are prepared by the two country rapporteurs and submitted to Committee members for written comments during the session prior to that at which the report will be considered and are formally adopted by the Committee in plenary. At its thirty-eighth session in May 2007, CAT adopted a new procedure whereby the Committee prepares a list of issues prior to the submission of a State party report (“list of issues prior to reporting” (LOIPR); see para. 88 below) and the written replies to the list of issues will constitute the State party’s report. The Human Rights Committee decided to adopt a similar procedure at its ninety-seventh session held in October 2009 (see para. 89 below). CMW formally adopts lists of issues for each State party report which are drawn up by two country rapporteurs. Although CERD discussed this possibility during its sixty-third session in 2003, it currently does not convene a pre-session working group. Starting in August 2010, the country rapporteur, at his or her discretion, will convey to the respective State party – before the session and on the basis of the report and information received – a list of main themes on which the presentation of the State party report and dialogue with the Committee will focus. List of main themes will not require written replies.

#### **Format and content of lists of issues**

43. Lists of issues produced by CAT, CERD and CESCR are generally formulated on an article-by-article basis, drawing on the information contained in the State party’s report. CEDAW adopts an article-by-article approach for lists of issues for initial reports (except in the case of articles 1 and 2; 7 and 8; and 15 and 16, which are considered together), whereas lists of issues for periodic reports are arranged in clusters. The Human Rights Committee formulates its lists of issues on a thematic basis, arranged by sequence of the substantive provisions of the Covenant, and grouped in clusters. Committees may include a number of standard questions: CAT, for example, routinely asks States parties about measures to counter terrorism and about their intention to ratify the OPCAT. In the case of CERD, lists of themes are to contain three to five themes, and, in exceptional cases, seven. They are formulated on a thematic basis and arranged by sequence of the substantive provisions of the Convention. When a theme is relevant under several articles of the Convention, the other relevant articles of the Convention are given in parenthesis.

44. CESCR generally attempts to limit its lists of issues to 30 questions on matters that require more research than would be possible during the dialogue itself, such as supplementary statistical data, points of clarification regarding the report, and implementation of its previous concluding observations. The CEDAW list of issues focuses on data and information that require updating since the report was submitted or supplementary information, as well as a number of standard questions that relate, in particular, to the ratification of the Optional Protocol to the Convention and acceptance of the amendment of article 20, paragraph 1. For periodic reports, particular attention is paid to the State party’s follow-up to previous concluding observations, and questions are clustered according to priority issues rather than addressing specific articles. CEDAW limits itself to a total of 30 clear and direct questions (CEDAW/C/2004/II/4).

45. At its fifty-third session in February 2010, CRC revised the structure of the lists of issues adopted by the Committee for reports submitted under the Convention on the Rights of the Child. The list of issues identifies some of the priority questions for which the Committee requests additional information prior to the dialogue with the State party and consists of three parts: (a) specific information on implementation of the Convention; (b) new measures (regarding new bills or enacted legislation/institutions/policies and programmes/ratifications); and (c) data and statistics and other information, if available.

46. Lists of issues for CAT, CEDAW, CESCR, CMW, CRC, and the Human Rights Committee are official documents for general distribution. They are translated into the

working languages of the relevant committee, and are publicly available on the Official Documents System (ODS). The lists of themes adopted by CERD are informal documents, submitted by the country rapporteur to the State party, and are translated into the working languages of the Committee.

### **Replies to lists of issues**

47. CEDAW, CESC, CMW, CRC and the Human Rights Committee require the State party to reply to the lists of issues and questions in writing, while CAT encourages the State party to do the same. CEDAW requires replies to be short, precise and to the point, and under 25 to 30 pages, although additional pages of statistical data may be included (A/59/38, paras. 418 to 440). CEDAW formally requests a reply within six weeks in order to allow time for translation before the session, and forwards unedited versions of the lists to the State party immediately after their adoption to maximize the time available for replies. CERD does not request a written reply by States parties.

48. The Human Rights Committee forwards unedited versions of the lists of issues to the State party immediately after their adoption to maximize the time available to the State to draft its replies. It strongly encourages States parties to limit their replies to 30 pages and to submit them at least three months prior to the examination of reports so as to leave time for the translation of the replies into the working languages of the Committee (unless its programme of work requires it to schedule the consideration of a State party report only one session in advance). Given the short period of time between the pre-session working group and the subsequent session of CRC, States parties normally have only six weeks to submit their written replies to the Committee. At its forty-second session, CRC urged States to limit the written replies to 40 pages. In the case of CESC, States parties may have three months to submit their replies to the lists of issues when they are scheduled for consideration at the following session, or nine months if they are scheduled for the session after. They are requested approximately six weeks prior to the session at which the corresponding State party report is to be examined, in order to allow sufficient time for translation into the working languages of the Committee.

49. Subject to timely submission, written replies submitted to CEDAW are published as official documents in the six United Nations languages and, together with the list of issues, posted on the CEDAW web page. The annexes are made available to the Committee in the language received, and posted on the CEDAW web page when received electronically. States in general provide written replies within the given time frame. In very few cases, where a delay in replies does not allow for timely translation, only the original is posted on the Committee's web page. Written replies to the Human Rights Committee that are in conformity with the above-mentioned guidelines are translated and posted on the Committee's web page. CAT, CESC and CRC also post the written replies on their web pages as soon as they are received and, subject to timely submission, they are translated into the working languages of the committees. In CERD, written replies are not requested of States parties but, if submitted, are not published as official documents or translated. Written replies submitted to CRC and CMW are issued as official documents. They are translated into the working languages of the two Committees and are available in ODS.

### **The role of list of issues in the constructive dialogue**

50. The primary role of the list of issues is to elicit additional, or to update, information from the State party. The list also provides the State party's delegation with advance notice of the issues with which the committee is likely to be concerned. The Human Rights Committee structures its constructive dialogue around the list of issues, and while the Committee requests that States parties provide full written replies to the questions for reference purposes, the members of the country task force pose additional questions based

on the list of issues, and these may be followed up by other Committee members. CERD agreed, at its seventy-sixth session, that the presentation of the report and dialogue with the Committee should focus on the list of main themes. As noted above, the Committee does not require a written reply and Committee members are free to raise appropriate additional issues during the dialogue. In CAT, since the fortieth session, the delegation provides an opening statement which includes any new information not included in the report or the written replies, and Committee members may pose follow-up questions directly after the opening statement. If there are no written replies, CAT expects the delegation to provide answers orally to the list of issues and the members will then pose questions. CERD requests the State party to submit written replies to the list of issues and encourages the delegation to provide a summary of the replies immediately after the opening statement by the head of delegation.

#### **D. Constructive dialogue with States parties**

51. Although not provided for in the treaties, all human rights treaty bodies have adopted the practice introduced by CERD in 1972 of considering States parties' reports in the presence of representatives from the reporting State party. This approach may be contrasted with the "technical review" previously used by the CRC with respect to the OPAC, and the paper-based procedures adopted by the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations in considering reports by States parties with respect to the more than 150 ILO conventions that impose reporting obligations.

##### **Number of reports examined per session**

52. The Human Rights Committee and CRC convene three three-week sessions per year. CEDAW, CESCR and CAT convene two three-week sessions annually. CMW initially met twice a year for a one-week session, but as of 2008 the Committee meets two weeks in April and one week in November. Following General Assembly resolution 63/243, CERD now convenes two four-week sessions as a measure to address the persistent backlog of reports awaiting consideration. At its sixty-second session in 2007, the General Assembly adopted resolution 62/218 in which it authorized CEDAW to hold three annual sessions of three weeks each, with a one-week pre-session working group for each session, for an interim period effective from January 2010, pending the entry into force of the amendment to article 20, paragraph 1, of the Convention. The General Assembly also approved the Committee's request to hold a total of five sessions, in 2008 and 2009, three of these meetings in parallel chambers. In the past, the Assembly has also authorized more meeting time for CEDAW, CESCR and CRC. CAT, CRC and CESCR are planning to request more meeting time in the future. Subsequent to the approval by the General Assembly in 2009 (resolution 63/244), the CRC will meet in two parallel chambers during all three of its sessions in 2010.

53. The number of reports examined per session varies from committee to committee. The Human Rights Committee currently examines an average of four reports per session at its March and July sessions and five reports at its October session, CESCR considers five, CAT seven, CEDAW between eight (without parallel working groups) and 13 (with parallel working groups), CERD approximately 12 and CRC between 17 to 19 reports (for 2010 in parallel chambers - including Convention and Optional Protocol reports). CMW schedules the consideration of two to three reports in a two-week session and one report in a one-week session. Committees devote additional session time to consideration of countries in the absence of a report, and other matters such as the drafting of general comments. Some committees must also allocate a substantial part of their meeting time to the consideration of individual communications.

54. The selection of reports to be considered at future sessions is based on chronological order of receipt, with priority being given to initial reports and reports submitted by States parties that have not reported for some time. Some committees seek to achieve a geographical balance in reports to be considered, and may give priority to consideration of certain reports at their discretion.

#### **Duration and timing of meetings for the examination of reports**

55. Each committee holds two meetings of three hours a day during the session. CRC, CERD and CEDAW devote two meetings, and CAT one meeting and a half, to the public examination of each State party report and, with the exception of CEDAW and CRC, they ensure that those meetings take place on two different days, allowing members of the delegation time overnight to address issues raised in the questioning. The Committee on the Rights of the Child considers each CRC report over one day, although extra time may be allocated by CRC in exceptional circumstances, and it considers each report submitted under the Optional Protocols to the Convention in half a day. When the CRC considers all three reports of a State (i.e. on the Convention and the two Optional Protocols), it may take three meetings (a day and a half). CESCR generally considers reports over three meetings but has scheduled reports over two meetings. The Human Rights Committee, in principle, considers initial reports over three meetings and periodic reports over two meetings, with the possibility of extending the consideration for part of a meeting or for an additional meeting if necessary (States parties are informed in advance of this possibility).

Table 4

#### **Number of reports examined each year by the treaty bodies**

	<i>No. of sessions per year</i>	<i>No. of weeks per session</i>	<i>No. of reports per session</i>	<i>No. of reports considered annually<sup>a</sup></i>
CERD	2	4	12	24
Human Rights Committee	3	3	4-5	13
CESCR	2	3	5	10
CEDAW	2-3 <sup>b</sup>	3	8-13	16-38
CAT	2	3	7	14
CRC	3 <sup>b</sup>	3	18 <sup>c</sup>	54
CMW <sup>d</sup>	2	1-2	1-4	3-5

a Most committees also review a number of country situations in the absence of a State party report. The figures refer to the average number of reports considered annually.

b The numbers vary, depending on whether the Committee concerned has been granted extra meeting time.

c The number of reports includes both Convention and Optional Protocol reports and refers to 2010.

d CMW currently convenes two annual sessions, one two-week and one one-week session.

#### **Briefings of the State party prior to the session**

56. OHCHR provides collective and/or individual briefings to representatives of States parties whose reports are due to be considered by one of the treaty bodies, generally four weeks in advance of the relevant session. These briefings provide an opportunity for States parties to familiarize themselves with the various procedures and approaches of each committee with regard to the consideration of reports. The secretariat also maintains

ongoing contact with delegations both in Geneva and New York and in the country concerned on matters relating to sessions.

**Participation of members in the consideration of reports of States parties of which they are nationals**

57. All committees have adopted decisions requiring that members refrain from participating in any aspect of the consideration of the reports of the States parties of which they are nationals in order to maintain the highest standards of impartiality, both in substance and appearance. The Human Rights Committee and CMW formally specify this in their rules of procedure (rule 71, para. 4, rule 33). The Human Rights Committee has adopted guidelines for the exercise of the functions by its members (A/53/40 (vol. I), Annex 3). At its forty-second session in April/May 2009, CAT issued a statement (CAT/C/42/3) on the independent, expert manner in which it carries out its functions, in accordance with the provisions of the Convention.

**Conduct of the constructive dialogue**

58. The constructive dialogue in all of the committees follows the same broad structure:

- (a) The State party is invited to send a delegation to attend the meetings at which the committee will consider the State party's report;
- (b) The head of the delegation is invited to introduce the report in a brief opening statement and, in some committees, such as the Human Rights Committee, the delegation is requested to provide an oral summary of the State party's written replies to the lists of issues;
- (c) Members of the committee, usually led by the country rapporteur(s) or country report task force members, raise questions on specific aspects of the report of particular concern and/or as follow-up questions following the oral summary of the written replies to the list of issues.

59. After a formal welcome by the Chairperson, the head of the delegation is invited to make an opening statement introducing the State party's report and summarizing important developments. In the case of CEDAW, this statement should not exceed 30 minutes and the delegation is urged to provide precise, short and direct responses to questions asked in the interests of time management (A/59/38, Part II, paras. 418 to 440). In the case of the Human Rights Committee, guidelines on the presentation of reports during their examination by the Committee are sent to the States parties. After introductory comments, Committee members may make comments, observations and ask questions or seek clarification with regard to the report. CEDAW imposes strict time limits on members, with the time limit being monitored by a speech timer, but which are enforced in a flexible manner. CEDAW considers initial reports on an article-by-article basis, with the exception of articles 1 and 2, 7 and 8, and 15 and 16, which are considered as three clusters. For CRC, the delegation is asked to limit the opening statement by the delegation to fifteen minutes. When several reports (CRC and OPs) are being considered the delegation is asked to make one introductory statement for all three reports, if possible, in the interest of time. The Committee proceeds with questions related to the CRC, but also includes issues related to general measures of implementation of the Optional Protocols. After the dialogue focusing on the CRC, the Committee proceeds with a dialogue on each of the Protocols. For States that have incorporated information on the implementation of the Protocol(s) in their CRC reports (as set out in the Protocols for all State Parties to the CRC which have already submitted separate reports), the dialogue will last for one day and will include, to the extent possible, issues related to the Protocols. CESCR and CRC, and CEDAW for periodic reports only, consider each report by clusters of articles, inviting the delegation to reply immediately to questions that do not require further reflection or research between each

cluster. The remaining committees pose all their questions together, formulated article by article.

### **The role of the country rapporteur**

60. Most committees appoint one member (two in the case of CAT, CMW and CRC and one to three in the case of the Human Rights Committee) to act as country rapporteurs with respect to the report under consideration. Where possible, CEDAW appoints a rapporteur from the same geographical region as the State party whose report is being considered. Except in the case of the Human Rights Committee, the identity of the country rapporteur is public. Harmonization of the practice of treaty bodies in relation to the identity of the country rapporteur/s has been requested by States parties and other stakeholders and will be a topic for discussion for future inter-committee and chairpersons' meetings.

61. Country rapporteurs undertake a thorough study of the report and assume the task of drafting lists of issues and questions. On some committees, they take the lead in posing questions to the State party's delegation during the constructive dialogue and summing up after the discussion. Rapporteurs have primary responsibility for drafting the committee's concluding observations on the State party's report. In CAT, CERD and CRC, the country rapporteurs are the first members to pose questions to the delegation, and in the case of CERD and CRC, also the last to address the delegation. In CESCRC, the country rapporteur opens the dialogue with questions concerning implementation of the previous concluding observations on the State party under review but he or she is not expected to sum up the discussion. CEDAW country rapporteurs have a strong and pro-active role in coordinating the work of the Committee in respect of the consideration of States parties' reports, and prepare country briefing notes which are circulated to the Committee seven to ten days prior to the beginning of a session.

62. On the Human Rights Committee, members of the country report task force are allocated specific questions from the list of issues to address to the delegation during the constructive dialogue. Country task forces, who took the lead in posing questions to delegations during constructive dialogue, were responsible for consideration of the four periodic reports considered at CEDAW's thirty-fourth session in January/February 2006. CEDAW has not used country task forces since then but its parallel chambers build on the experience gained with country task forces.

### **The delegation's responses to members' questions during the session**

63. All committees provide an opportunity for members to pose questions additional to those included in the list of issues. In CEDAW, CESCRC and CRC, members pose questions by clusters of articles, and the delegation is invited to respond to each cluster immediately, before moving to the next group of questions. In CRC, a brief pause is allowed between each cluster of questions, in which the members of the delegation can confer. The delegation may defer answering immediately any question which it wishes to refer to its capital for information. Where questions have not been answered, the committees will request the State party to respond to such concerns expressed in the concluding observations in its next periodic report. CESCRC will allow, upon request, a brief pause to enable the delegation to organize its responses and will allow questions that need referral to the capital to be answered later in the dialogue, which will normally be scheduled over two days. If outstanding questions remain, supplementary information submitted in writing within several days after the conclusion of the dialogue will be taken into consideration during the formulation of the concluding observations. This has not been formally adopted as a procedure of the Committee.

64. In the Human Rights Committee, following its statement, the delegation responds to the first part of the list of issues, after which members of the country report taskforce ask

follow-up questions. If other members wish to do so, they may then also ask questions of the State party delegation. The remainder of the list of questions is dealt with in the same fashion. A brief break after Committee members' questions allows State party delegates to confer. The delegation may defer answering any question which it wishes to refer to its capital for information. Such information can then be provided in written form within specific deadlines publicly announced by the Chairperson of the Committee (within at most two days to enable the Committee to take the additional information into account in the process of drafting the concluding observations).

65. In CERD, following the statement by the head of the delegation, the country rapporteur poses initial questions, followed by Committee members' additional questions, to which delegations typically respond at the beginning of the second meeting, after which a further, interactive exchange of questions and answers is held for the remainder of that meeting. In the case of CAT, reports are introduced by the delegation and immediately thereafter the Committee poses questions. In the case of periodic reports where no written replies to the list of issues and questions have been received, the delegation is requested to provide such replies orally before the Committee poses further questions. Where both initial and periodic reports are concerned, the delegation returns the following afternoon to reply to the Committee's questions.

#### **Postponement of the consideration of reports and consideration of reports in the absence of a delegation**

66. Although this has become the practice, the treaties do not oblige States parties to send a delegation to present their reports, and all treaty bodies may consider reports in the absence of a delegation, *inter alia*, where there is a request for last-minute postponements in the event that the State party has failed to respond to the request to attend, or does not appear.

67. States parties whose reports have been scheduled to be considered by a committee at a session sometimes request that consideration be postponed to a later session.

68. CESCR adheres to the formal rule that once a State party has agreed to the scheduling of its report for consideration, the Committee will proceed with the examination of that report at the time scheduled, even in the absence of a representative (rule 62, para. 3 of the rules of procedure). Both the Human Rights Committee (rule 68) and CAT (rule 66, para. 2) may, at their own discretion, either notify the State party of the alternative date on which it intends to consider the report, or consider the report as originally scheduled in the absence of a delegation. In the latter case, provisional concluding observations on the report will be submitted to the State party and the date when the report will be further considered, or on which a new periodic report should be submitted, will be identified.

69. CEDAW agrees to reschedule consideration of the report to another session (rule 51, para. 5 of the rules of procedure), but if at such a subsequent session the State party, after due notification, fails to have a representative present, the Committee may proceed with the examination of the report in the absence of the representative of the State party (decision 31/III, para. (i), A/59/38, part II). At its thirty-first session in July 2004, the Committee decided that, in principle, it will consider implementation of the Convention by a State party in the absence of a report, only as a measure of last resort and in the presence of a delegation. CERD has no formal rules on this matter, but may consider a report in the absence of representatives of the State party when, after being notified, it does not provide compelling reasons for deferral of the consideration of its report. CRC may agree to reschedule the consideration of a report to another session if the State party provides compelling reasons. However, if the State party fails to send a representative without notification, or is unable to appear at the following session at which the consideration of the

report is scheduled, the Committee may proceed with the examination of the report in the absence of a representative of the State party.

## **E. Concluding observations**

70. All treaty bodies have adopted the practice established by CESCR in 1990 of formulating “concluding observations” following the consideration of the reports of States parties. In general, these take the following structure: introduction; positive aspects; principal subjects of concern; and suggestions and recommendations. Concluding observations may also include factors and difficulties impeding the implementation of the treaty, a request for their wide dissemination in the State party concerned, and a paragraph may be included requesting that additional information be provided to the respective committee by a specified deadline (usually one year), or on specific points of the concluding observations (see section F below). The concluding observations of the Human Rights Committee and CESCR and those committees that have adopted a flexible approach to periodicity of reporting may also indicate the provisional date when the State party’s next periodic report is due. The last section of the concluding observations of CAT, CEDAW, CERD, and CRC systematically indicates the date when the next report is due. Some committees group all positive aspects, all issues of concern and finally the recommendations together; others identify concerns followed by a corresponding recommendation. CEDAW has sought to enhance the quality of its concluding observations, including their specificity, and by including headings (Decision 41/11, A/63/38, part II).

71. Concluding observations of the treaty bodies are normally four to eight pages long. Concluding observations adopted by CRC with respect to the Convention on the Rights of the Child, however, average 21 pages (with 7 pages on the Optional Protocols). In all committees, the country rapporteur coordinates the drafting process, collecting comments and suggestions from other members before the draft is discussed and adopted in formal session. The draft concluding observations of all committees, with the exception of CRC, are, if time allows, translated during the session into the working languages of the committee to facilitate the drafting and adoption processes.

### **Release of concluding observations**

72. Advance unedited versions of the concluding observations are normally given to the State party concerned before they are made available to others. The Human Rights Committee releases the text of its concluding observations at the end of the session. Those concluding observations are first transmitted to the State party once formally adopted and finalised, and are made public 12 hours thereafter. The concluding observations of CESCR, once formally adopted, are not made public until 6 p.m. on the final day of the session, when they are sent to the States parties concerned. Similarly, CAT, CERD and CMW make their concluding observations public at the end of the session. CAT sends the advance unedited version of the concluding observations to States parties the evening before making them public on the last Friday of the session. CRC concluding observations are made public on the last day of a committee session during the adoption of the session report, of which they form part. CEDAW sends its concluding observations to the State party as soon as possible after the session and makes them public several days later in advance unedited versions. Final versions in the six languages are posted on the Committee’s web page when these are available.

73. Concluding observations have been included in the respective committee’s sessional or annual reports, and all committees publish their concluding observations as separate official documents in all official languages. These are posted on the OHCHR website,

initially in advance unedited form to allow interested parties immediate access. Once the translated texts are finalized, they are publicly available on the ODS. The concluding observations are also distributed electronically to subscribers to the treaty bodies' list serve, an electronic notification service administered by OHCHR.

#### **Comments by States parties on concluding observations**

74. In accordance with specific provisions in the treaties, States parties may, if they wish, submit to the relevant committee comments on the concluding observations adopted with respect to their reports. All treaty bodies may make any such comments received publicly available. Observations by States parties on concluding observations of CEDAW are circulated to the Committee members and their receipt acknowledged in an annex to the Committee's report to the General Assembly (Decision 21/II, A/54/38/Rev.1, p. 45). In accordance with article 9 of the Convention, comments on CERD's concluding observations are included in the Committee's annual report to the General Assembly. Comments on the concluding observations of the Human Rights Committee and CAT are issued as official documents, and they may be referred to, but not included, in their annual reports. CRC similarly acknowledges comments received in its sessional and biennial reports, and may reproduce them in its biennial reports to the General Assembly upon formal request. CESCR makes any comments received public, as submitted, for information purposes only, as Committee documents and mentions them in its annual report (E/2005/22).

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

#### **Follow-up procedures**

75. All treaty bodies request States parties to provide information on implementation of the recommendations contained in previous concluding observations in their periodic reports or during the constructive dialogue. Several treaty bodies have also adopted formal procedures to monitor more closely implementation of specific concluding observations.

76. According to its follow-up procedure, the Human Rights Committee identifies a number of specific recommendations in its concluding observations as requiring immediate attention, and requests the State party to provide additional information on their implementation within a set period of one year. The concluding observations set the date of submission of the next periodic report. Since October 2006, the procedure has been applied in cases where the Committee examines implementation of the Covenant by a State party in the absence of a report. The Committee examines the rapporteur's follow-up progress report in a public meeting, and includes a chapter on follow-up in its annual report to the General Assembly. At its ninety-fourth session in October 2008, the Committee decided that the follow-up progress report produced by the rapporteur at each session and NGO submissions on follow-up should be published on the Committee's web page, together with the follow-up replies from States parties. At its ninety-fifth session in March/April 2009, the Committee adopted a paper prepared by the rapporteur aimed at strengthening its follow-up procedure, in particular through the establishment of criteria allowing for a qualitative assessment of the information on follow-up provided by States.

77. CAT identifies a limited number of recommendations that warrant a request for additional information following the consideration of a State party's periodic report and requests follow-up information within one year. Such "follow-up" recommendations are identified because they are serious, protective, and are considered possible to accomplish within one year (rule 68, para. 1 of the rules of procedure). A rapporteur to monitor the State party's compliance with these requests is appointed by the Committee who presents progress reports to the Committee on the results of the procedure. Chapter IV of the

Committee's annual report for 2005-2006 (A/61/44) describes the framework that the Committee initially developed to provide for follow-up subsequent to the adoption of the concluding observations. It also presents information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. Chapter IV of the Committee's annual report for 2006-2007 (A/62/44) updates the Committee's experience with respect to the follow-up procedure to 18 May 2007, the end of its thirty-eighth session. At its forty-second session in May 2009, CAT decided to assess and analyse its follow-up procedure, identifying difficulties, obstacles and results, by 2010.

78. CERD has a long-standing procedure, set out in rule 65 of its rules of procedure, whereby the Committee may request further information or an additional report concerning, inter alia, action taken by States parties to implement the Committee's recommendations. This procedure has been supplemented with the appointment of a coordinator on follow-up since the sixty-fifth session of CERD in August 2004. The coordinator is appointed for a period of two years and works in cooperation with the country rapporteurs. A working paper clarifying the terms of reference of the coordinator was adopted by CERD at its sixty-sixth session in February/March 2005 (CERD/C/66/Misc.11/Rev.2). Guidelines to follow-up on concluding observations and recommendations were adopted at its sixty-eighth session in February/March 2006 (CERD/C/68/Misc.5/Rev.1) and are sent to all State parties together with the concluding observations. The coordinator on follow-up of CERD presented his first report to the Committee at the sixty-eighth session in February/March 2006.

79. CESCR may, in its concluding observations, make a specific request to a State party to provide more information or statistical data prior to the date on which the next periodic report is due. Information provided in accordance with this procedure will be considered at the next pre-sessional working group, which, based on that information, can recommend that the Committee take note of the information, adopt specific additional concluding observations in response to that information, recommend that the matter be pursued through a request for further information, or authorize the Chairperson to inform the State party, in advance of the next session, that the Committee will take up the issue at that session, preferably in the presence of a representative of the State party. If the additional information requested in accordance with these procedures is not provided by the specified date, or is considered to be unsatisfactory, the Chairperson, in consultation with the Bureau, may pursue the matter with the State party. This procedure, however, is rarely used. Where the Committee has been unable to obtain the information it requires, it may request that the State party accept a technical assistance mission consisting of one or two Committee members, an approach which it has applied in relation to two States parties. In cases where the State party is unwilling to accept the proposed mission, the Committee may make appropriate recommendations to the Economic and Social Council. CESCR entrusts its country rapporteurs with the task of following up on the State parties for which they served as rapporteur in the inter-sessional period until the next time they appear before the Committee.

80. CEDAW introduced a follow-up procedure in June 2008 whereby it requests States parties to provide follow-up information on the implementation of two recommendations in its concluding observations on States parties' reports. States parties are requested to provide such information to the Committee within two years. In 2009, the Committee appointed a rapporteur on follow-up and an alternate. The first follow-up reports were received in 2009 and the Committee has decided to assess its follow-up procedure in 2011. In January 2010, CEDAW adopted a methodology to assess follow-up reports. Furthermore, at the invitation of a State party to the Convention, a delegation of the Committee conducted the first-ever visit to the State party to discuss its concluding observations in 2009.

81. The CRC does not have a written follow-up procedure nor does it identify priority issues for follow-up in its concluding observations. Given the burden of considering reports under three treaties (the Convention and its two Protocols) and the special role that UNICEF plays in follow-up to the concluding observations of CRC, such a formal procedure was not considered the best approach for following up its recommendations. In addition, CRC members regularly participate in follow-up activities in States parties, with the support of OHCHR, UNICEF and other partners. Other treaty body members also participate in such follow-up activities, and encourage their organization by States parties, the United Nations system and civil society.

82. CMW discussed follow-up to concluding observations at its ninth and tenth sessions in November 2008 and April/May 2009 and decided that it would not include specific requests for follow-up in its concluding observations on initial reports. Country rapporteurs would be tasked with examining any follow-up information received from States parties and reporting back to the Committee.

### **G. Strategies to encourage reporting by States parties**

83. All committees have adopted strategies to encourage reporting by States parties. Several allow for the combination of reporting obligations in a single document. A list of reports that are overdue are included in the annual reports of most treaty bodies, with some, such as the Human Rights Committee, CEDAW and CERD, providing lists of States parties whose reports are 5 and 10 years overdue, respectively. Most committees send targeted reminders to States parties whose reports, in particular initial reports, are overdue. In the case of CAT, two members have been appointed by the Committee to maintain contacts with representatives of non-reporting States in order to encourage the preparation and submission of reports. In the case of CRC, reminder letters and informal contacts by the Chairperson with representatives of non-reporting States, or through UNICEF or OHCHR field presences, are maintained, in particular with regard to the pending initial reports. Due to the fact that the CRC monitors three treaties, all of which have a reporting requirement, the number of reports received has increased considerably. It should be mentioned, however, that separate reporting under the Optional Protocols is limited to initial reports; subsequent reporting on the Optional Protocols is incorporated into States parties' reports on the implementation of the Convention (the exception is only for States not party to the Convention). At present, the Committee has over 100 reports pending review, and efforts to encourage reporting have thus far not been significant.

84. CESCR follows a three-stage approach, in which non-reporting States are first invited to submit their overdue reports. If no response is received, a second letter is sent inviting the State to submit the report by a specified date and informing it of the session at which that report would be considered. If the report is not submitted by the deadline, a third letter is sent in which the State is informed that at a certain session, the status of implementation of the Covenant in the State party would be examined in the absence of a report. If no report is submitted, the Committee proceeds to consider the situation in the State party on the basis of all information available and prepares preliminary conclusions.

#### **The review procedure: Consideration of a country situation in the absence of a report**

85. All committees, except CMW, have adopted the practice, pioneered by CERD in 1991 under its "review procedure," of proceeding with examination of the state of implementation of the relevant treaty by the State party even where no report has been received (see CERD, A/58/18, annex IV, section P; CESCR, E/C.12/2004/9; CEDAW, rule 65 of the rules of procedure; the Human Rights Committee, rule 70; CAT, rule 65 of the rules of procedure; CRC, CRC/C/33, paras. 29 to 32 and rule 67 of the rules of procedure).

This procedure is specifically provided for in article 36, paragraph 2 of the Convention on the Rights of Persons with Disabilities. In general, the review procedure is as follows:

(a) The committee notifies a non-reporting State party of its intention to examine implementation of the relevant treaty by the State party in the absence of a report during a public meeting on a specified date. The State party may respond by submitting a report, at which time the procedure is suspended and the normal process of consideration of the report begins. Where the State party concerned indicates that a report will be provided, pending receipt of that report, the review may be postponed to another session;

(b) The committee may formulate a list of issues and questions for the State party, which is invited to send a delegation to attend the session. If the State party is not represented, the committee may decide to proceed with the review, or it may notify the State party of a new date for consideration;

(c) The committee reviews the situation in the country on the basis of information available to it, including any dialogue with the State party delegation and information submitted by United Nations partners, national human rights institutions and NGOs. Some treaty bodies prepare provisional concluding observations, which will be referred to, but not published, in its annual report and which will be transmitted to the State party. These provisional concluding observations become final if the State party does not respond or indicate that it will submit a report in the near future. Other treaty bodies issue concluding observations in the usual way.

86. In many cases, notification by the committee that it intends to consider the situation in a country in the absence of a report encourages the State party to produce a report. Generally, the procedure is invoked where reports are long overdue. CERD, CESC and the Human Rights Committee, for example, review States parties that are at least five years late in the submission of their initial or periodic reports. When no report has been received from a State party after the initiation of the first review, a subsequent round of reviews may take place. At its ninety-fourth session in October 2008, the Human Rights Committee decided to schedule one non-reporting State party for consideration at each session. CESC normally adopts preliminary concluding observations at the first review. If a report is subsequently submitted, it is examined according to the usual procedure and final concluding observations are adopted. If no report is received, the Committee reviews the State party's compliance with the Covenant based on all information available, and adopts preliminary concluding observations.

87. CAT and CRC have yet to carry out a review under this procedure as notices of planned reviews have always resulted in the submission of a report. At its thirty-eighth session in May 2007, CEDAW decided to send reminder letters to States parties whose initial reports were more than 10 years overdue and to request the States parties that were more than 20 years overdue in submitting their initial reports to submit all their overdue reports as combined reports by a fixed date. Failing the receipt of the reports within the suggested time frame, the Committee has decided to proceed with consideration of the implementation of the Convention by States parties in the absence of a report. At its forty-third session in January 2009, the Committee considered, for the first time, the implementation of the Convention in a State party in the absence of a report but in the presence of a delegation. At its tenth session in April/May 2009, CMW considered that it might need to adopt a similar policy to that of other treaty bodies on this issue, and reflected on the possibility of examining the state of compliance with the Convention in the absence of a State party's report. No formal decision was taken in this regard. Although CRPD has yet to receive reports from States parties, possible consideration of implementation of the Convention in the absence of a report, where this is significantly overdue is expressly provided for in the Convention (art. 36, para. 2).

### **Lists of issues for the preparation of States parties' reports**

88. In order to assist States parties to report in a timely manner and submit more focused reports, CAT adopted a new optional reporting procedure at its thirty-eighth session in May 2007 consisting of the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic reports ("list of issues prior to reporting" – LOIPR). The State party's response to these lists of issues will constitute its periodic report under the Convention and any State party reporting under this new procedure will have fulfilled its reporting obligations under the Convention for the period under consideration. States parties may decide to continue to submit their reports under the traditional procedure, i.e. to submit a full-fledged periodic report under article 19 of the Convention, every four years after the initial report has been presented. The new procedure was introduced after the Committee met with States parties to present and discuss this new approach to State reporting and further to collecting the views of NGOs on the matter. CAT adopted the new procedure on a trial basis for 2009. For reports due in 2009, nine out of 11 States parties accepted the new procedure and four States have already submitted their reports under it. These reports will be considered by CAT at its forty-fourth session in November 2010. Further to the positive responses to this new methodology, CAT decided in May 2009 to adopt the procedure for use on a regular basis for reports due in 2010, 2011 and 2012. For reports due in 2010, eight out of nine States agreed to report under this procedure; the reports are due by September 2010. For reports due in 2011, CAT has submitted focused lists of issues to 16 States parties to the Convention.

89. At its ninety-seventh session in October 2009, the Human Rights Committee adopted on a trial basis a procedure similar to that of CAT whereby the Committee will prepare a list of issues prior to the submission of a State party's periodic report and the written replies to the list of issues will constitute the State party's report. The Committee decided to adopt the modalities of this new procedure at its ninety-ninth session to be held in July 2010.

## **H. Early warning and urgent action procedures**

90. Since 1993, CERD has developed procedures relating to early warning measures and urgent action (A/48/18, annex III), the former directed at preventing existing problems in States parties from escalating into new conflict or preventing a resumption of conflict, and the latter to respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention.

91. The procedures may be invoked by the Committee itself or by interested parties such as NGOs. The Committee has established a working group to direct its work under the procedures which have been used since 1993 in relation to many States parties to ICERD. At its seventy-first session in August 2007, CERD adopted new guidelines for its early warning and urgent action procedures (A/62/18, Annex III). The guidelines are based on the procedures developed in 1993 but set out more detailed criteria and indicators for the necessity of action as well as possible measures to be taken. They also include terms of reference for the five-member working group on early warning and urgent action.

92. In the 1990s, the Human Rights Committee requested that several States parties facing serious difficulties in the implementation of rights contained in the Covenant either present their overdue initial/periodic reports without delay or prepare ad hoc reports on specific issues. Three States parties submitted ad hoc reports as requested. In March 2004, the Committee's Bureau discussed the possibility of reviving this urgent/ad hoc reporting procedure and in March 2005, after further discussion, the Committee requested one State party to produce an ad hoc report, which was submitted in 2006.

## **I. Participation of United Nations specialized agencies, funds and programmes and other United Nations entities**

93. Most treaty bodies have adopted modalities for interaction with specialized agencies and other bodies of the United Nations. This interaction is specifically provided for in the provisions of some of the treaties (arts. 16-24, ICESCR; art. 40 (2) ICCPR; art. 22, CEDAW; art. 45, CRC; art. 74, ICRMW and arts. 36 (5) and 38 (a), CRPD). Most treaty bodies have made provision for such interaction in their rules of procedure (Human Rights Committee, rule 67; CEDAW, rules 44 and 45; CAT, rule 62; CRC, rule 70; CESC, rules 66-68; CMW, rules 28-29). Two treaties, the Convention on the Rights of the Child and the ICRMW, mention specific specialized agencies in relation to the work of their treaty bodies: the United Nations Children's Fund (UNICEF) in article 45 of the Convention on the Rights of the Child and ILO in article 74 of the ICRMW.

94. Most of the treaties provide for their committees to forward States parties' reports to relevant United Nations entities through the Secretary-General, although this is rarely applied in practice. Reports, as official United Nations documents, are sent to these entities as part of the general distribution and are available on ODS in addition to being posted on the OHCHR website.

### **Submission of written information**

95. Four treaties (the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the ICESCR) provide for United Nations specialized agencies to submit specific reports to the relevant treaty bodies on implementation of the treaty in areas falling within the scope of their activities. In practice, committees do not require specialized agencies to submit separate reports on their own activities, but most committees may invite them to provide written reports containing country-specific information on States parties to be considered. Depending on the committee, such information is requested for the plenary committee session and for the pre-session working group/country task force. All relevant agencies are informed by e-mail or fax of the countries whose reports are due to be considered in the pre-sessions or sessions of CEDAW, CESC, CRC, CMW, and the Human Rights Committee and input is requested. UNICEF, ILO, the World Health Organization (WHO) and the United Nations High Commissioner for Refugees (UNHCR) provide written information systematically to the treaty bodies. The Human Rights Committee and CERD systematically receive information from ILO and UNHCR at the request of the secretariat; CESC and CRC systematically receive information from UNICEF, UNHCR and from other United Nations bodies, including the United Nations Educational, Scientific and Cultural Organization (UNESCO), ILO, WHO and UNAIDS. CRC has also increasingly begun to receive joint submissions from United Nations Country Teams (UNCTs). CAT maintains regular contact with UNHCR, which provides confidential information on a regular basis. UNICEF, ILO, WHO and UNHCR provide written information systematically to the treaty bodies. CMW systematically receives information from ILO and the International Organization for Migration (IOM). The Food and Agriculture Organization of the United Nations (FAO), the Office for the Coordination of Humanitarian Affairs (OCHA), UNAIDS, UNESCO, the United Nations Development Fund for Women (UNIFEM), the United Nations Population Fund (UNFPA) and the International Organization for Migration (IOM) (which is outside the United Nations system) also provide input on occasion. Some agencies may request that written information submitted be kept confidential.

96. CEDAW has adopted guidelines for the submission of reports by specialized agencies and other bodies of the United Nations system (A/61/38, Part I, annex II).

Accordingly, such entities are invited to provide country-specific information on the implementation of the Convention and the Committee's concluding observations. They are also invited to provide information about efforts made by the concerned entity to promote implementation of the provisions of the Convention and the Committee's concluding observations through its own policies and programmes. As applicable, United Nations bodies and agencies are invited to provide information about ongoing efforts to support ratification of the Optional Protocol, acceptance of the amendment to article 20, paragraph 1 of the Convention, concerning the Committee's meeting time in the State party concerned, or to give publicity to the procedures available under the Optional Protocol.

### **Provisions for participation**

97. Representatives of specialized agencies are also invited by CEDAW, CERD, CESCR, CMW and the Human Rights Committee to meet with the committee during the session to discuss the situation in the countries whose reports are being considered. Representatives of United Nations entities may address CESCR and CEDAW during a designated meeting at the beginning of the pre-sessional working group. CERD and the Human Rights Committee invite representatives to a designated meeting in plenary at the beginning of the session. CRC invites representatives of specialized agencies to address the Committee at a meeting during the pre-sessional working group and encourages attendance during the session. CEDAW and CESCR invite representatives to the session, in addition to the pre-sessional working group meetings. At its fortieth session, CAT requested the secretariat to invite UNHCR to meet with the Committee in private in the afternoon of the first day of each session.

98. The participation of specialized agencies in the pre-sessional working groups of CEDAW and CRC and the beginning of the sessions of CEDAW and the Human Rights Committee takes place in closed meetings. In CERD and CESCR, all or part of the meeting may be open or closed, in accordance with the preferences of the United Nations representatives. In order for the Committee to benefit fully from the information provided, CEDAW, in its guidelines, encourages agencies or bodies to ensure that representatives are equipped to respond to the questions and comments that may be raised by Committee members. Joint reports have been submitted by United Nations entities to treaty bodies on occasion as well as by UNCTs. Discussions on expanding the latter are ongoing among interested entities and, in particular, in relation to CEDAW. Committees also encourage UNCTs to undertake follow-up activities on the basis of concluding observations, to support States parties in their implementation of the concluding observations at the country level, and to submit further information at the time of the next consideration of the respective State party reports.

99. Certain agencies maintain close links with specific committees. The working relationship between UNICEF and CRC, encouraged by the Convention, is close and extends beyond consideration of reports to include assistance to facilitate reporting by States parties, the drafting of general comments, involvement in days of general discussion and assistance with informal field visits, together with follow-up to the concluding observations. The relationship between ILO and CMW is also specified in the Convention. CESCR has forged a close working relationship with UNESCO through the Joint Expert Group in connection with the right to education, and it also has a close working relationship with the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) with which it meets annually on an informal basis. CESCR regularly receives information from ILO, UNHCR and UNESCO on the States parties being reviewed. UNHCR submits comments to the members of CAT on States parties whose reports are being examined and where UNHCR is active. UNHCR representatives attend the sessions of the Committee and report back on issues of concern raised by Committee members. ILO and UNHCR regularly submit reports to the Human Rights

Committee and to CERD, and, at each session, both agencies are invited to attend. At the previous two sessions, ILO and UNHCR briefed the Committee on the first day of the session on matters of common interest. Representatives of ILO, UNESCO and UNHCR are also regularly invited to participate in, and contribute to, thematic discussions organized by CERD and CESCR. Some United Nations agencies, funds and programmes have also worked together with certain treaty bodies to assist in the drafting of specific general comments.

100. At its forty-first session, the CRC appointed a member to act as focal point for various United Nations entities, and may consider increasing the number of focal points as required. In March 2006, the HRC appointed a rapporteur to liaise with specialized agencies and other bodies of the United Nations system. CESCR has appointed a focal point in 2005 to liaise on specific issues.

## **J. Interaction with special procedures**

101. Relevant information from the reports of country-specific and thematic special rapporteurs is routinely provided to treaty bodies by OHCHR, and input from the special procedures of the former Commission on Human Rights and the current Human Rights Council to the reporting process has been developing steadily. A good example is the effective and systematic collaboration between the Special Rapporteur on torture and CAT, which includes the sharing of country-specific information relating to States parties' reports, article 20 on inquiries and individual communications, and a formal annual meeting between the Special Rapporteur and the Committee.

102. Outside of its work in considering reports, CESCR has often invited special rapporteurs of the former Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights and members of its working groups, and the current Human Rights Council to address the Committee and engage in discussions. It has formed particularly close relations with the Special Rapporteurs on the right to adequate housing, the right to education, and the rights of indigenous persons. The Committee tries to organize a meeting at each of its sessions with one of the special procedures mandate holders with an economic, social and cultural rights mandate. During its forty-second session in May 2009, the Committee met with the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation. Furthermore, the newly appointed Independent Expert in the field of cultural rights attended the closed meeting of the Committee, held at its forty-third session in November 2009, during which the Committee adopted its general comment No. 21 on the right of everyone to take part in cultural life. Special procedures mandate holders have attended CERD sessions in the context of both its annual thematic debates and ad hoc debates that are held periodically. During its seventy-fifth session in 2009, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples held a dialogue with the Committee. CERD has also exchanged information on numerous occasions with the former Sub-Commission on the Promotion and Protection of Human Rights and has attended all sessions of the Inter-Governmental Working Group on the effective implementation of the Durban Declaration and Programme of Action and provided it with written input. CERD has also held extensive dialogues over recent years with several mandate holders, including the Special Rapporteurs on racism, adequate housing, health and minority issues. CERD also cooperates with the Special Adviser of the Secretary-General on genocide.

103. CEDAW has interacted, in particular, with the Special Rapporteur on violence against women, its causes and consequences, and with the Special Rapporteur on the right to health. At its forty-third session in January/February 2009, CEDAW took full advantage

of being located in Geneva to strengthen its cooperation with other United Nations human rights mechanisms and met with the Special Rapporteurs on violence against women and the right to health as well as the Independent Expert on the situation of human rights in Haiti who provided information on Haiti and whose report was considered by the Committee during the session. CRC has interacted with many special procedure mandate holders. This interaction may be related to the reporting process, discussion days, general comments or other issues related to the Committee's work. Many rapporteurs have focused their thematic reports on children on the year 2009 or 2010, and have sought interaction in this context as well. More recently, there has been regular interaction with the Special Rapporteur on the sale of children, child prostitution and child pornography. The newly appointed Special Representative of the Secretary-General on violence against children has a close working relationship with the Committee, and the Special Representative of the Secretary-General on children in armed conflict also maintains regular contact with the Committee and met with the Committee during its fifty-second session.<sup>8</sup> CMW has interacted, in particular, with the Special Rapporteur on the Human Rights of Migrants. At its ninety-seventh session, held in October 2009, the Human Rights Committee appointed one of its members as a focal point to liaise with special procedures.

## **K. Participation of national human rights institutions**

104. Three committees have adopted general comments on the role of national human rights institutions in their work. General comment No. 10 of CESCR acknowledges the role of national human rights institutions (NHRIs) in monitoring implementation of the Covenant at the national level. In its general recommendation No. 17 concerning the establishment of national institutions to facilitate implementation of the Convention, CERD recommends that where NHRIs have been established, "they should be associated with the preparation of reports." The detailed general comment No. 2 (2002) of CRC includes a section on reporting to the Committee and cooperation between NHRIs and United Nations agencies and human rights mechanisms. The Committee suggests that NHRIs should contribute independently to the reporting process and "monitor the integrity of government reports to international treaty bodies with respect to children's rights, including through dialogue with the Committee on the Rights of the Child at its pre-sessional working group and with other relevant treaty bodies." It also considers it appropriate for States parties to consult with independent human rights institutions during the preparation of their reports to the Committee, provided that the independence of these bodies and their independent role in providing information to the Committee is respected. The CRC considers that "it is not appropriate to delegate to NHRIs the drafting of reports or to include them in the government delegation when reports are examined by the Committee."

105. At its thirty-third session in July 2005, CEDAW allowed an NHRI to make an oral presentation to the Committee for the first time. At its fortieth session in January 2008, the Committee adopted a statement on its relationship with NHRIs, in which the Committee recognized that NHRIs may contribute in various ways to the work of the Committee under the monitoring procedures of the Convention and its Optional Protocol.

106. NHRIs of States parties which are to be considered by CAT and CRC are routinely informed of the forthcoming consideration and invited to submit written information. NHRIs may request a private meeting with CAT, as is the case with the CRC. NHRIs may

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<sup>8</sup> It should be noted that the Special Representative of the Secretary-General (SRSG) on violence against children and the SRSG on children and armed conflict are not special procedures mandate-holders established under the Human Rights Council but are appointed by the Secretary-General in accordance with General Assembly resolutions 62/141 (2008) and 51/77 (1996) respectively.

provide information to CRC in closed meetings during the pre-sessional working group and may respond to requests to clarify or supplement such information. CRC engages both with general NHRIs and child-specific NHRIs, including children's ombudsmen, where these exist. NHRIs are also informed about the programme of work of CERD for each session and provided with copies of the reports due to be considered by the Committee (A/58/18, annex IV). NHRIs may provide information to members of the Human Rights Committee on issues relating to the consideration of reports of States parties, in informal meetings outside the Committee's working hours, and may respond to requests to clarify or supplement such information.

107. At its last few sessions, with the agreement of the State party's delegation, CERD provided NHRIs that were present with the opportunity to make an oral presentation in the plenary on the second day of the consideration of the State party's report. NHRI representatives were seated separately from representatives of NGOs, with a sign clearly identifying them. At its seventy-first session in August 2007, the Committee formalized this procedure through an amendment to its rules of procedure (rule 40 (2), in A/62/18, Annex IX). Concluding observations on States parties' reports consistently refer to national human rights institutions. CESCR and CEDAW regularly invite NHRIs, through the National Institutions Unit of OHCHR and, more recently, the Geneva-based representative of the International Coordinating Committee on NHRIs (ICC), to submit information and attend its sessions. CMW routinely informs NHRIs of the States parties which are to be considered by the Committee about the forthcoming consideration and invites them to submit written information and to attend both the private meeting with the Committee in preparation of the list of issues as well as the consideration of the report. Since its fifth session held in 2005, the Committee provides the representative of the NHRI present with an opportunity to make an oral presentation in a public meeting during the session at which the State party's report is considered.

#### **L. Interaction with civil society actors**

108. Although all treaty bodies have developed modalities for interaction with NGOs, article 45 (a) of the Convention on the Rights of the Child, article 74 (4) of the ICRMW and article 38 (a) of the Convention on the Rights of Persons with Disabilities expressly provide for a role for NGOs in the work of the treaty body. Article 45 (a) provides for CRC to seek expert advice on implementation of the Convention from specialized agencies, UNICEF and "other competent bodies", which is understood to include NGOs. Since its first session in 1991, the Committee, in cooperation with the Geneva-based NGO Group for CRC, has systematically encouraged NGOs to submit reports, documentation or other information in order to provide it with a comprehensive picture and expertise as to how the Convention is being implemented in a particular country. The NGO Group for CRC has also facilitated interaction with child-led organizations and children themselves. Written information is received from international, regional, national and local organizations, and may be submitted by individual NGOs or national coalitions or committees of NGOs.

109. Article 74 (4) of the ICRMW provides that the CMW may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit written information to the Committee. The Committee has interpreted "other concerned bodies" as including NGOs. At its ninety-seventh session, held in October 2009, the Human Rights Committee appointed one of its members as focal point for liaising with NGOs.

110. Article 38 (a) of the Convention on the Rights of Persons with Disabilities and article 45 (a) of the Convention on the Rights of the Child provides that the CRPD may invite specialized agencies and other competent bodies as it considers appropriate to

provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates.

111. CESCR and CRC have adopted specific guidelines on NGO participation in their work (CESCR, E/C.12/2000/6; CRC, CRC/C/90, annex VII). CESCR sets aside half a day during the first day of both its sessions and pre-sessional working groups to hear statements from external partners. This is normally dedicated, in whole or in part, to statements by NGOs, which are issued as United Nations documents if these are presented in a single synthesis report. Individual submissions are not processed. The Committee requires that NGO statements be specific to the articles of the Covenant, focusing on the most pressing issues from the NGO perspective and providing suggestions for specific questions that the pre-sessional working group may consider incorporating in the list of issues with respect to the State party concerned. NGO input should also be of direct relevance to matters under consideration by the Committee, be reliable, and not abusive. The CRC devotes half a day per State party under consideration to meetings with partners. This means that NGOs, the United Nations and other partners will all meet the Committee at the same time to discuss one State party (which may be scheduled for consideration concerning implementation of the Convention on the Rights of the Child or a report under the Optional Protocols, or all three). CEDAW invites representatives of NGOs to make oral or written statements and provide information or documentation to the Committee or its pre-sessional working group (rule 47), and there is an information note for NGOs on the matter on its web page.

#### **Submission of written information**

112. CAT, CERD, CMW and the Human Rights Committee invite NGOs to provide reports containing country-specific information on States parties whose reports are due for consideration (see for example, CERD, Section B, Annex IV (A/58/18); CAT, rule 62 of the rules of procedure; CMW, rule 29 of the rules of procedure, see also A/60/48, para. 15), as well as to the country task forces in charge of the lists of issues. CESCR and CEDAW similarly welcome written information from national and international NGOs at both their pre-sessional working groups, during the drafting of the list of issues, and the full committee session at which the State party report will be considered. When many NGOs submit information, they are encouraged to organize and summarize their submissions in a single synthesis report. In a number of instances, synthesis reports of NGOs have consolidated the reports of over 100 national NGOs. The CRC requires submissions to be made, if possible, two months prior to its pre-sessional working group. NGOs are encouraged to form coalitions and submit joint reports, and can be supported in this process by the NGO Group for the CRC. Additional information may be submitted, if necessary and relevant, such as input further to publication of the lists of issues or replies received from the State party. CERD also accepts written submissions from NGOs in relation to its early warning and urgent action procedures, and these procedures may be invoked by NGOs. Written statements that are submitted at least three months in advance by NGOs with ECOSOC status (or sponsored by such an NGO) are issued as United Nations documents.

#### **Confidentiality of NGO information**

113. CESCR asks the secretariat to ensure that any written information formally submitted to it by individuals or NGOs in relation to the consideration of a specific State party's report be made available as soon as possible to the representative of the State concerned. As of its thirty-sixth session held in May 2006, this has been done through the OHCHR website. However, when an NGO requests confidentiality, the Committee respects this. A similar approach is followed by CAT, CMW and the Human Rights Committee. In the case of CAT, the Committee will assess the information provided in such confidential reports at its discretion. CAT, CEDAW, CMW and the Human Rights Committee make

NGO information available on their respective web pages. The CRC guidelines allow NGOs to request that their written submissions be kept confidential. If a request is not made to CRC, these submissions are posted on an external internet web page by the NGO Group for the CRC.

#### **Oral briefings during pre-sessional preparations**

114. CEDAW, CESCR and CRC devote specific meetings during their pre-sessional working groups to NGOs in order to enable them to brief members orally on the situation in States parties whose reports are under consideration. Since March 2005, the Human Rights Committee has invited NGOs to address the Committee during the process of drafting list of issues.

115. NGOs wishing to participate in the CRC pre-sessional working group must submit a written report to the Committee at least two months in advance. The Committee then invites selected NGOs to attend, on the basis of the written information submitted. Introductory remarks by participants are limited to a maximum of 15 minutes for NGOs coming from the country concerned and 5 minutes for others, allowing time for questions and answers. The CRC, CEDAW and CESCR pre-sessional working groups meet with NGOs in private.

#### **Oral briefings during sessions**

116. Most committees make provision for representatives of NGOs to brief members during the session at which the State party's report is to be considered. The Human Rights Committee and CESCR set aside meeting time on the first day of the session for this purpose and CEDAW at the beginning of the first and second week of the session, according to its schedule. CAT invites NGOs to brief Committee members orally in private during formal meetings, devoted to one country at a time, the day before the report of the State party is considered. NGOs do not brief CERD during formal session time. Except in the case of CESCR, where the meeting is open and covered by the press services, and CEDAW, where the meeting is open, oral briefings during session time take place in closed meetings. At its fourth session, CMW decided that in future, it would provide an opportunity for NGOs to brief the Committee publicly during the session at which the report of the State party concerned is to be considered.

#### **Country-specific briefings to members during sessions**

117. Additional breakfast or lunchtime briefings are regularly convened for CEDAW, CESCR and the Human Rights Committee to allow NGOs to provide the most up-to-date country-specific information to members, in advance of the examination of a particular State party's report. The Human Rights Committee has reserved the right, in the future, to determine whether other briefings by NGOs should also become part of the Committee's official programme and thus be provided with interpretation (A/57/40, vol. I, annex III, Section B (II), para. 12). NGOs may request a private meeting with CRC. Lunchtime briefings are regularly convened by NGOs for CERD members on the first day of the examination of a particular State party's report by the Committee or for States whose situation is examined under the review procedure or under the early warning and urgent action procedures.

#### **The role of NGO coalitions**

118. In the case of several treaty bodies, coalitions are active in coordinating input. For example, CRC maintains a close working relationship with the NGO Group for the CRC, a coalition of some 60 to 70 international NGOs, which were active in the drafting of the Convention and work together to promote its implementation. The NGO Group has a liaison unit that supports participation of NGOs, particularly national coalitions, in the CRC

reporting process, including coordination of NGO written submissions. It also supports attendance of national NGOs at the Committee's sessions in Geneva. International Women's Rights Action Watch (IWRAW Asia Pacific) facilitates interaction between NGOs and CEDAW through training sessions convened at the time of the Committee's sessions and, as is the case with other NGOs, coordinates the submission of NGO reports to CEDAW in advance of sessions. An informal network of NGOs (Association for the Prevention of Torture (APT), International Federation for Human Rights (FIDH) and World Organisation against Torture (OMCT)) working on torture-related issues, works with national partner NGOs to submit a consolidated report to CAT.

119. The International NGO Platform on the Migrant Workers' Convention coordinates NGO input for the CMW and facilitates interaction of national NGOs with the Committee. In an increasing number of States parties to the ICESCR, national coalitions for the coordination of NGO submissions have been formed. Often they are constituted on the occasion of the submission of the State party report and subsequently produce the synthesis report.

## **IV. Other activities related to the reporting process**

### **A. General comments/recommendations**

120. All committees have adopted the practice of setting out their views on the content of the obligations assumed by States parties in the form of "general comments". Two committees, CEDAW and CERD, refer to these as "general recommendations". CERD issued its first general recommendation in 1972 on the basis of article 9 of the Convention, which allows the Committee to make suggestions and general recommendations based on its examination of reports. CEDAW issues its general recommendations under article 21 of the Convention and the Human Rights Committee under article 40 (4) of the ICCPR. CESCR began preparing general comments at the invitation of the Economic and Social Council with a view to assisting the States parties in fulfilling their reporting obligations (rule 65 of its rules of procedure). General comments have evolved in length and complexity and now constitute detailed and comprehensive commentaries on specific provisions of the treaties and on the relationship between the articles of the Convention or Covenant and specific themes/issues. Several treaty bodies have revised or replaced their general comments in the light of experience gained through consideration of reports.

121. CESCR has defined the purpose of issuing general comments as follows (E/2000/22, para. 51):

(a) To make the experience gained so far through the examination of States parties' reports available for the benefit of all States parties, in order to assist and promote their further implementation of the Covenant;

(b) To draw the attention of the States parties to insufficiencies disclosed by a large number of reports;

(c) 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.

**Process of adoption of general comments**

122. All treaty bodies have developed modalities for the formulation of general comments, which broadly follow the procedure adopted by CEDAW in 1997 (A/52/38/Rev.1, para. 480). This involves the following basic stages:

(a) Wide consultation with specialized agencies, NGOs, academics and other human rights treaty bodies, sometimes in the context of a day of general discussion or thematic debate;

(b) Preparation of a draft by one or more designated members of the committee on the basis of the consultation process, for further discussion by the committee and interested parties;

(c) Formal adoption of the revised draft of the general comment in plenary session;

(d) Some committees seek expert advice from United Nations specialized agencies or other sources, including academics, in the formulation of general comments, and informal background papers may be requested from other interested parties.

123 CESCR has adopted an outline for drafting general comments (E/2000/22, annex IX). The outline aims at ensuring consistency and clarity in the content, format, structure and ambit of future general comments, thus promoting their accessibility and strengthening the authoritative interpretation of the Covenant provided. In the Committee's view, general comments should be reader-friendly and readily understandable to a broad range of readers, primarily States parties to the Covenant. The Committee may devote a day of general discussion to review of the subject of the general comment or draft text, inviting input and discussion from a range of external experts in the subject.

124. At any time, members of a treaty body may propose that a general comment relating to a specific article, provision or theme be prepared. Most committees circulate draft general comments with a selected number of experts, including those from other treaty bodies, for comments, with some adopting the practice of calling for comments on the text of the general comment from other treaty bodies. Some treaty bodies request that draft general comments be posted on the OHCHR web site to allow for wider input. The Human Rights Committee welcomes comments from all interested stakeholders, including States parties to the Covenant, United Nations specialized agencies and other sources, including academics and NGOs, once it has completed its first reading of its draft general comments. The fourth inter-committee meeting recommended that treaty bodies consider drafting joint general comments on issues of common concern and this was reiterated by the seventh inter-committee meeting, but a joint general comment has yet to be adopted. Subsequent to a first meeting of the joint CRC/CEDAW Working Group held on 23 January 2010, however, CRC and CEDAW have agreed to proceed with the preparation of a joint general comment/recommendation on the issue of harmful traditional practices.

**B. Days of general discussion and thematic debates/discussions**

125. Four treaty bodies (CERD, CERD, CMW and CRC) have adopted the practice of organizing what are variously described as "thematic debates", "thematic discussions" or "days of general discussion" in order to discuss issues of general concern to the implementation of their treaties. CRPD convened its first day of general discussion on article 12 of the CRPD (the right to equal recognition before the law) at its second session in October 2009. Thematic discussions have been convened by CERD on specific themes in order to specify the extent of its responsibilities under the Convention and provide States parties with guidance on more complete fulfilment of their obligations. CERD and CRC

hold regular annual thematic discussions, whereas CESCR organizes these on an ad hoc basis, mainly in relation to the preparation of a general comment, and may decide to invite general participation or restrict it to a limited number of experts. CEDAW convenes open discussions in the context of preparation of general comments only.

126. Since 1992, CRC has convened 18 days of general discussion, open to all interested parties, including discussions in working groups on sub-themes, identified in an outline adopted by the Committee up to twelve months in advance. At the end of its discussion days, CRC adopts recommendations. The general discussions of CRC can also work in conjunction with article 45 (c) of the Convention, a unique provision that allows the Committee to recommend that the General Assembly request the Secretary-General to undertake action on specific issues related to the rights of the child. The 1992 discussion day on children in armed conflict formed the background to the Secretary-General's comprehensive study on the impact of armed conflict on children, while the general discussion days in 2000 and 2001 led to the General Assembly's request to the Secretary-General to conduct an in-depth study on violence against children.

### **C. Committee statements**

127. Some treaty bodies formulate statements on international developments and issues that have a bearing upon the implementation of their treaties. CESCR has adopted statements in the context of a number of world conferences, together with statements on globalization, trade, intellectual property and the world food crisis. CERD has adopted statements directed to world conferences. In 2002, it adopted a statement on racial discrimination and measures to combat terrorism and, in 2005, a "declaration on the prevention of genocide". More recently, at its seventy-sixth session held in 2010, CERD adopted a statement on ethnic violence and massacres in Nigeria. Statements by CEDAW have covered issues such as reservations, gender and racial discrimination, solidarity with Afghan women, gender and sustainable development, discrimination against older women, the situation of women in Iraq, the tsunami disaster that occurred in South-East Asia on 26 December 2004, the commemoration of the sixtieth anniversary of the Universal Declaration of Human Rights, military engagement in Gaza, the consequences of the international financial crisis on the human rights of women and girls, and gender and climate change. In 2010, statements were adopted by the Committee on the situation of women in Haiti following the earthquake in January 2010, the inclusion of Afghan women in the process of peacebuilding, security and reconstruction in Afghanistan and on the Committee's relationship with parliamentarians and non-governmental organizations. CEDAW has also issued statements in conjunction with the Convention's twenty-fifth anniversary, and with regard to the review and appraisal processes of the Beijing Platform for Action. CRC has issued statements in the past related to situations of concern, such as the Beslan school hostage crisis (2004), the military engagement in Gaza (2009) or the earthquake in Haiti (2010). The Committee has decided to develop criteria for issuing statements as many situations of concern have not been addressed in the same way.

128. Several committees have issued statements jointly with other United Nations bodies. CESCR has issued a joint statement with the special rapporteurs with regard to the Millennium Development Goals, and CAT issues an annual joint statement with the Special Rapporteur on torture, the SPT, the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture and the High Commissioner for Human Rights on the occasion of the United Nations International Day in Support of Victims of Torture. The Human Rights Committee has not adopted the practice of issuing formal statements. The Chairperson of CMW issued a joint statement with the Special Rapporteur on the Human Rights of Migrants on the occasion of International Migrants' Day on December 2008. At

its fourth session, CMW adopted a “written contribution” to the High-Level Dialogue of the General Assembly on International Migration and Development.

129. CRC and CEDAW also adopt “decisions,” which can concern either its methods of work or substantive issues. Since 1991, the CRC has adopted over 40 such decisions/recommendations (see CRC/C/19/Rev.10) and, since 1983, CEDAW has adopted over 100 decisions. Recent decisions by the Committee on the Rights of the Child have included decisions on the exceptional submission of combined reports, content and size of reports and the proposal for the Committee to sit in two chambers. Other decisions, such as those concerning children in armed conflict, administration of juvenile justice and children without parental care have been made in the context of the Committee’s days of general discussion. CEDAW’s decisions generally concern working methods and substantive issues. Decisions are generally included in the annual reports.

## **V. Other matters**

### **A. Meetings with States parties**

130. Committees regularly convene informal consultations during sessions with States parties to discuss matters of mutual concern. CEDAW has also convened meetings of this type with States that are not party to the Convention.

### **B. Sources of additional information concerning treaty bodies**

#### **Official publications**

131. OHCHR publishes a series of human rights fact sheets on a range of human rights issues, which include individual fact sheets on each of the core international human rights treaties, setting out in accessible language the provisions of the treaty and the work of its treaty body. These were supplemented in 2005 by a fact sheet on the “United Nations Human Rights Treaty System,” which provides an overview of the seven core treaties and the seven human rights treaty bodies. A full list of fact sheets is available on the OHCHR web site, together with the fact sheets themselves, in Portable Document Format (PDF).

132. OHCHR regional offices have also published compilations of the concluding observations relating to States parties while a CD-ROM compilation of the past concluding observations and summary records of CEDAW was produced in 2007 by the Division for the Advancement of Women to mark the Committee’s twenty-fifth anniversary.

133. A film in DVD format on the treaty body system and the core international human rights instruments was produced by OHCHR in 2006 mainly as a training tool. The film is currently being revised and updated and will be available in all six United Nations official languages in 2010.

#### **Information related to the treaty bodies on the OHCHR website**

134. OHCHR maintains a treaty bodies database, which contains all official documentation related to the State party reporting process in English, French and Spanish, with the full reporting history of each State party to each treaty. The database is accessible through the OHCHR website, which is currently being updated and improved. OHCHR also operates an electronic list serve which automatically circulates treaty body outputs to subscribers.

135. The Universal Human Rights Index is an online database compiling the concluding observations adopted by the treaty bodies since 2000 as well as the conclusions and recommendations of the Human Rights Council's special procedures concerning specific countries since 2006. Recommendations issued under the Universal Periodic Review (UPR), together with voluntary pledges, commitments and responses by States will soon be included in the Index. The database is searchable through criteria such as "keyword", "right", "country", "body" and/or "affected persons". The Index is linked to the OHCHR website. A CD-ROM providing the information contained in the website is being produced and will be distributed to Governments, United Nations entities, including field presences, and NGOs.

136. The secretariat maintains web pages for each of the Geneva-based treaty bodies, hosted on the OHCHR website presenting information related to the work of the treaty bodies and their sessions in a consistent way.

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