



International Human Rights Instruments

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**Tenth inter-committee meeting
of human rights treaty bodies**
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Follow-up to decisions

Overview of follow-up procedures

1. All of the four treaty bodies currently dealing with individual communications — the Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women — have formal follow-up procedures to monitor and encourage the implementation of their decisions. To a large extent, these procedures have been harmonized.
2. The Committee on the Rights of Persons with Disabilities has not yet registered any individual communications. Neither the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families nor the Committee on Economic, Social and Cultural Rights have yet considered individual communications as the provisions or instrument relating thereto have not yet become operative.
3. In July 1990, the Human Rights Committee established a procedure for follow-up to its views under the Optional Protocol to the International Covenant on Civil and Political Rights, and created the position of Special Rapporteur for follow-up to views, with a mandate of two years, which is renewable.¹ Prior to 1990, the Committee was seldom

¹ A/45/40, vol. II, annex XI. The Committee decided that the Rapporteur would engage in, inter alia, the following activities:

- (a) To recommend action upon all letters of complaint received from individuals held, in the view of the Committee under the Optional Protocol, to have been victims of a violation and who claim that no appropriate remedy had been provided;
- (b) To communicate with States parties, and, if he deems it appropriate, with victims, in respect of such letters already received by the Committee;
- (c) To seek to provide information on any action taken by States parties in relation to views adopted by the Committee to date, when such information had not otherwise been made available. To this end, the Special Rapporteur will communicate with all States parties and, if he deems it appropriate, victims in respect of whom findings of violations have been made, in order to ascertain what action, if any, has been taken. This information, when collected, will also be made available in a future annual report;

informed of action taken by States parties with respect to its views. Since 1990, the procedure has gradually been developed. The modalities of follow-up and functions of the Rapporteur are set out in rules 101 and 103 of the rules of procedure of the Human Rights Committee.²

4. In decisions with a finding of a violation of the Covenant, the Committee gives the State party 180 days to provide information on measures taken to comply with the Committee's recommendations. The recommendation or remedy is in principle of a general nature, allowing the State party a certain discretion in implementation subject to its own legal or administrative system, but may include, inter alia, an amendment to legislation, the provision of compensation, retrial, or release or early release of the author. Following the paragraph in which the Committee finds a violation, the following standard language is used:

The Committee is of the view that the author is entitled, under article 2, paragraph 3 (a), of the Covenant, to ... [the remedy]. The State party is under an obligation to ensure that similar violations do not occur in the future.

Bearing in mind that, by becoming a State party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views.

5. Information on follow-up is regarded as public information. If information is received from the State party, it is routinely transmitted to the author, who is given two months to comment on the State party's submission. A summary of the State party's response and author's comments is presented by the Special Rapporteur in the form of interim reports (updates on follow-up information received between sessions), including recommendations on further action, and discussed in principle in public session by the Committee. These reports are compiled and published in the Committee's annual report to the General Assembly, including any decisions made by the Committee on the nature of the

(d) To assist the Rapporteur of the Committee in the preparation of the relevant sections of the annual report that will contain detailed information on the follow-up of cases;

(e) To advise the Committee on the appropriate deadline for the receipt of information on remedial measures adopted by the State party found to have violated provisions of the Covenant;

(f) To submit to the Committee, at suitable intervals, recommendations on possible ways of rendering the follow-up procedure more effective.

² Rule 101: 1. The Committee shall designate a Special Rapporteur for follow-up on Views adopted under article 5, paragraph 4, of the Optional Protocol, for the purpose of ascertaining the measures taken by States parties to give effect to the Committee's Views.

2. The Special Rapporteur may make such contacts and take such action as appropriate for the due performance of the follow-up mandate. The Special Rapporteur shall make such recommendations for further action by the Committee as may be necessary.

3. The Special Rapporteur shall regularly report to the Committee on follow-up activities.

4. The Committee shall include information on follow-up activities in its annual report.

Rule 103: Information furnished by the parties within the framework of follow-up to the Committee's Views is not subject to confidentiality, unless the Committee decides otherwise. Decisions of the Committee relating to follow-up activities are equally not subject to confidentiality, unless the Committee decides otherwise.

State party's response.³ If no information is received within a reasonable time after expiry of the deadline, the Special Rapporteur, through the secretariat, sends a reminder to the State party. If no information is forthcoming, the Special Rapporteur generally seeks to organize a meeting with a State party representative to discuss the facilitation of implementation.

6. Follow-up missions to States parties that have experienced particular difficulties with the implementation of the Committee's views may be organized. Only one such mission has been carried out to date (Jamaica, 24 to 30 June 1995). Where insufficient or no follow-up information has been provided by a State party, the Committee systematically seeks information from the State party during the examination of its subsequent periodic report under article 40 of the Covenant. The Committee has also expressed its satisfaction with follow-up information provided during the reporting process.

7. In May 2002, the Committee against Torture revised its rules of procedure and established the function of Special Rapporteur for follow-up on decisions to complaints submitted under article 22.⁴ The modalities of follow-up and functions of the Special Rapporteur are set out in rule 114 of the Committee's rules of procedure.⁵ Prior to the formal appointment of a follow-up rapporteur, requests for follow-up were made on an ad hoc basis. Only in a minority of cases did the State party volunteer information on action taken and the complainant's circumstances after a finding of a violation.

³ Chapter VI of the annual report consists of an explanation of the follow-up procedure, followed by a chart of compliance. This is a comprehensive list of all cases of findings of violations by States parties, including information on whether the States parties responded (and, if so, the annual report in which this information is set out), whether the nature of the response is considered satisfactory or unsatisfactory by the Committee, and whether the dialogue between the Committee and State party is ongoing. Responses are categorized in accordance with the Committee's decision expressed in previous annual reports. Generally, follow-up responses which have been considered unsatisfactory are also categorized as ongoing, in that the Committee continues to encourage the State party to implement the decision. The same is true for cases in which no follow-up has been received. Annex VII to the annual report sets out all information received from the States parties and authors since the previous report.

⁴ The Rapporteur shall engage, inter alia, in the following activities: (a) monitoring compliance with the Committee's decisions by writing to States parties to enquire about measures adopted pursuant to the Committee's decisions; (b) recommending to the Committee appropriate action in situations of non-response by States, and upon the receipt of letters from complainants concerning States' failure to implement the Committee's decisions; (c) meeting with representatives of the States parties to encourage compliance with the Committee's decisions and to determine whether advisory services or technical assistance by OHCHR would be appropriate or desirable; (d) conducting, with the approval of the Committee, follow-up visits to States parties; and (e) preparing periodic reports to the Committee on his/her activities.

⁵ Rule 114: 1. The Committee may designate one or more rapporteur(s) for follow-up on decisions adopted under article 22 of the Convention, for the purpose of ascertaining the measures taken by States parties to give effect to the Committee's findings.

2. The Rapporteur(s) may make such contacts and take such action as appropriate for the due performance of the follow-up mandate and report accordingly to the Committee. The Rapporteur(s) may make such recommendations for further action by the Committee as may be necessary for follow-up.

3. The Rapporteur(s) shall regularly report to the Committee on follow-up activities.

4. The Rapporteur(s), in discharge of the follow-up mandate, may, with the approval of the Committee, engage in necessary visits to the State party concerned.

8. In decisions with a finding of a violation of the Convention, the Committee gives the State party 90 days to provide information on measures taken to comply with the Committee's recommendations. The following standard language is added to the final paragraph after the finding of a violation, together with the suggested remedy:

The Committee urges the State party to ... [the remedy] and, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.

9. The procedure following the finding of a violation of the Convention is the same as that outlined in paragraph 4 above. Information on follow-up is regarded as public information. The interim follow-up reports are compiled and published in the Committee's annual report to the General Assembly, including any decisions made by the Committee on the nature of the State party's response. The Committee against Torture also considers follow-up in public session. To date, it has undertaken one mission, upon agreement by the State party, of a confidential nature.

10. Article 7, paragraphs 4 and 5 of the Optional Protocol to the Convention on the Elimination of Discrimination against Women explicitly obliges States parties to give due consideration to the views and recommendations of the Committee, if any, and to submit follow-up information within six months. Further information may also be sought from the State party, including in its subsequent reports.⁶ Rule 73 of its rules of procedure relates to the Committee's follow-up procedure on views, in particular the designation and functions of the rapporteur or working group on follow-up.⁷ Rule 74 states that information on

⁶ Article 7, paragraph 4: "The State party shall give due consideration to the views of the Committee together with its recommendations, if any, and shall submit to the Committee within six months, a written response including any action taken in light of the views and recommendations of the Committee." Article 7, paragraph 5: "The Committee may invite the State party to submit further information about any measures the State party has taken in response to its views or recommendations, if any, including, as deemed appropriate, by the Committee in the State party's subsequent reports under article 18 of the Convention."

⁷ Rule 73: Follow-up to the views of the Committee: 1. Within six months of the Committee's issuing its views on a communication, the State party concerned shall submit to the Committee a written response, including any information on any action taken in the light of the views and recommendations of the Committee.

2. After the six-month period referred to in paragraph 1 of the present rule, the Committee may invite the State party concerned to submit further information about any measures the State party has taken in response to its views or recommendations.

3. The Committee may request the State party to include information on any action taken in response to its views or recommendations in its subsequent reports under article 18 of the Convention.

4. The Committee shall designate for follow-up on views adopted under article 7 of the Optional Protocol a rapporteur or working group to ascertain the measures taken by States parties to give effect to the Committee's views and recommendations.

5. The rapporteur or working group may make such contacts and take such action as may be appropriate for the due performance of their assigned functions and shall make such recommendations for further action by the Committee as may be necessary.

6. The rapporteur or working group shall report to the Committee on follow-up activities on a regular basis.

7. The Committee shall include information on any follow-up activities in its annual report under article 21 of the Convention.

follow-up, including the decisions of the Committee on follow-up, shall not be confidential unless otherwise decided by the Committee.⁸

11. In decisions with a finding of a violation of the Convention, the Committee gives the State party six months to provide information on measures taken to comply with the Committee's recommendations. The standard language below is added to the final paragraph after the finding of a violation and after the suggested remedy (given that the follow-up procedure of this Committee is based on the Convention itself, the pertinent articles of the Convention are relied upon):

In accordance with article 7, paragraph 4, the State party shall give due consideration to the views of the Committee, together with its recommendations, and shall submit to the Committee, within six months, a written response, including any information on any action taken in the light of the views and recommendations of the Committee. The State party is also requested to publish the Committee's views and recommendations and to have them translated into the ... [State party] language and widely distributed in order to reach all relevant sectors of society.

12. Prior to July 2008, follow-up to decisions was undertaken on an ad hoc basis. In July 2008, as part of the harmonization process and for the purposes of ensuring consistency with other treaty bodies, the Committee decided to adopt follow-up reports on decisions at each session, and to include them in its annual report to the General Assembly. An updated report is prepared for each session and reviewed by the working group prior to the Committee. The contents of the reports are compiled in the follow-up chapter of the annual report. The procedure following the finding of a violation of the Convention is the same as that outlined in paragraph 4 above.

13. In August 2005, the Committee on the Elimination of Racial Discrimination decided to amend its rules of procedure to establish a procedure to follow up on its decisions and recommendations adopted following the examination of communications.⁹

14. In decisions with a finding of a violation of the Convention, the Committee gives the State party 90 days to provide information on measures taken to comply with the Committee's recommendation. The following standard language is added to the final paragraph after the finding of a violation and after the suggested remedy:

The Committee wishes to receive, within 90 days, information from the ... [State party] about the measures taken to give effect to the Committee's Opinion.

⁸ Rule 74: Confidentiality of communications: 11. Unless the Committee decides otherwise, information furnished by the parties in follow-up to the Committee's views and recommendations under paragraphs 4 and 5 of article 7 of the Optional Protocol shall not be confidential. Unless the Committee decides otherwise, decisions of the Committee with regard to follow-up activities shall not be confidential.

⁹ A/60/18, annex IV, sect. II. At its 1721st meeting (sixty-seventh session), on 15 August 2005, the Committee added the following two paragraphs to rule 95 of its rules of procedure:

6. The Committee may designate one or several Special Rapporteurs for follow-up on Opinions adopted by the Committee under article 14, paragraph 7, of the Convention, for the purpose of ascertaining the measures taken by States parties in the light of the Committee's suggestions and recommendations.

7. The Special Rapporteur(s) may establish such contacts and take such action as is appropriate for the proper discharge of the follow-up mandate. The Special Rapporteur(s) will make such recommendations for further action by the Committee as may be necessary; he/she (they) will report to the Committee on follow-up activities as required, and the Committee shall include information on follow-up activities in its annual report.

15. The procedure following the finding of a violation of the Convention is the same as that outlined in paragraph 4 above. Information on follow-up is regarded as public information. The interim follow-up reports are compiled and published in the Committee's annual report to the General Assembly, including any decisions made by the Committee on the nature of the State party's response. The Committee also considers follow-up in public session.
