

### **III.2 THE HUMAN RIGHTS COMMITTEE (CCPR)**

The Committee consists of 18 members serving in their personal capacity and elected for a term of four years. It is created by the International Covenant on Civil and Political Rights, in accordance with the provisions of Articles 28 to 32, in order to monitor the implementation by States parties of the provisions of the ICCPR and its Optional Protocol. "States parties" are those countries whose governments have ratified or acceded to treaties; they are legally bound to follow the treaty provisions. As of 11 January 2010, there were 165 States party to the Covenant and 113 States party to the Optional Protocol (OP1; for details see annex VI.3). The Second Optional Protocol, aiming at the abolition of the death penalty, entered into force on 11 July 1991. As at 11 January 2010, there were 72 States party to OP2-DP (see annex VI.3). States which have signed but not yet ratified have expressed their intention to become a party; meanwhile they are obliged to refrain from acts which would defeat the object and purpose of the treaty.

In its General Comment No. 26 the Committee stated unequivocally that the states cannot withdraw from the Covenant on Civil and Political Rights once it is ratified. Likewise, States parties may not denounce the Second Optional Protocol. Article 12 of the Optional Protocol, aiming at the individual complaints procedure, however explicitly allows the cancellation (1997: Jamaica, 2000: Trinidad and Tobago).

The Committee is empowered to consider reports on measures adopted and progress made in achieving the observance of the rights enshrined in the ICCPR. In addition, under the Optional Protocol to this Covenant, States parties have recognized the competence of the Committee to consider communications (written complaints) from individuals alleging that their rights have been violated (for a model communication see document 2).

The Committee normally meets three times a year for three weeks per session, usually as follows: March-April at the UN in New York, July and October-November at the UN Office in Geneva.

#### ***Article 40: States Reports on Implementation***

The Human Rights Committee examines reports by States parties about how they have implemented rights set forth in the Covenant (see chart 8). Such reports are to be submitted by a State within one year of becoming a State party to the Covenant and thereafter every four years. But the Committee may vary the date the next report is due, depending on the State party's level of compliance with the Covenant's provision, including the reporting record. The Committee currently examines an average of four reports per session.

All these State reports are public documents. The Committee shows a great interest for the input of NGOs. It therefore recommended that States make their reports fully public and available to national NGOs well in advance of the Committee's examination (States reports to be examined are listed two sessions ahead).

The examination takes place at public meetings at which representatives of the government concerned introduce the report and then answer questions put by

Committee members. The review and discussion of each report usually takes about two days.

In March 1999, the Committee decided that the list of issues for the examination of States parties' reports should be adopted at the session prior to the examination of the report, thereby allowing for States parties a preparation period of at least two months for the discussion with the Committee. In addition, in October 1999, the Committee adopted new consolidated guidelines, once again modified in October 2000, on States parties' reports which are designed to facilitate the preparation of the reports. Those lists of issues concerning the States parties' reports were prepared by a working group on Article 40 which has been replaced since July 2002 by country report task forces.

Since March 1992, the Committee publishes concluding observations which are taken as a starting point in the preparation of the list of issues for the examination of the subsequent report of a State party. The Committee also introduced a follow-up procedure to the concluding observations: the States parties will be requested to report back to the Committee within a specified period (usually within 12 months) with responses to the Committee's recommendations, indicating what steps have been taken. A Special Rapporteur on Follow-up to Concluding Observations has been assigned to evaluate the information; since 2003, a special chapter on follow-up activities of the States parties is enclosed in the annual reports (see references). According to its 2004 annual report the Committee noted with appreciation that the great majority of States parties have provided follow-up information. Since October 2006, the follow-up procedure is also applied in cases where the Committee examines implementation of the Covenant by a State party in the absence of a report and, if necessary, in the absence of a delegation.

Many States parties are in default of their reporting obligations. As at 31 July 2009, 50 States parties have reports overdue for more than five years or have not submitted a report requested by a special decision of the Committee; among them, 24 States parties have reports overdue since more than ten years. Moreover, 21 initial reports have not been submitted yet. In addition, the Committee has expressed deep concern that some States parties submitted inadequate reports which were too brief and general and has encouraged States parties to submit reports which frankly discuss difficulties in implementation as well as progress achieved.

Faced not only with the problem of overdue reports, but also with a backlog of reports already received but not considered, the Committee has decided in July 2000 to consider some periodic reports together even if they were issued as separate documents; the Committee has also accepted the submission of periodic reports which combine two overdue reports in a single document.

#### ***Article 41: Inter-State Complaints***

The Committee may review a complaint by one State party that another State party is not fulfilling its obligations under the Covenant, but only if both States have made a declaration pursuant to Article 41 of the Covenant recognizing the competence of the Committee to take such action. Some 48 States have recognized the competence of the Committee to receive and consider

communications by one States party against another. No such complaint has yet been made. Apparently the States parties want to avoid “countercharges”.

### ***General Comments***

Through the development and adoption of general comments on Articles of the Covenant the Committee intends to clarify the scope and meaning of the provisions of the Covenant. Between 1981 and 2008 33 General Comments were adopted. Article 40, para. 4, of the Covenant provides that the Committee may transmit “such general comments as it may consider appropriate” to the States parties.

### ***Individual Complaints***

The Committee may consider individual complaints only concerning States parties to the ICCPR and the Optional Protocol (see chart 9). The “communication” must be submitted by the alleged victim or by someone assigned by the victim to act on his/her behalf (see document 2). The Committee is prohibited from considering a communication if “the same matter is being examined under another procedure of international investigation or settlement”. Individual complaints are examined in closed meetings. The other conditions of admissibility are the following: (a) not anonymous; (b) no abuse of the right of submission of such communication; (c) compatibility with the provisions of the Covenant; and (d) exhaustion of all domestic remedies.

Since the Committee started its work under the Optional Protocol in 1977, 1,888 communications concerning 83 States parties have been registered for consideration until 31 July 2009. The status was as follows: (a) concluded by Views under Article 5, para. 4, of the Optional Protocol: 681, including 543 in which violations of the Covenant were found; (b) declared inadmissible: 533; (c) discontinued or withdrawn: 264; (d) not yet concluded: 410.

In July 1990, the Committee created the mandate of a Special Rapporteur on Follow-up to Views. Since 1991, follow-up information has systematically been requested in order to find out whether the States parties concerned took appropriate steps to remedy the violation, such as providing adequate compensation for the violations suffered.

### ***NGOs’ Participation***

The Committee shows a great interest in the input of NGOs. It therefore recommended that States make their reports fully public and available to national NGOs well in advance of the Committee’s examination (States reports to be examined are listed two sessions ahead). NGOs not only comment on states reports but also on individual complaints. Furthermore, they take part in the discussion of the general comments and render suggestions.

The Committee welcomed the increasing interest shown by and the participation of NGOs. In 2000/2001, the working groups of the Committee considered oral and written preparation by representatives of NGOs, including Amnesty International, Human Rights Watch, PEN International, the International Service for Human Rights, the International League for Human Rights, the Lawyers’ Committee for Human Rights and several national human rights NGOs.

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*In this volume 50 particular cases are presented in order to give an overview of the Human Rights Committee's jurisdiction practice since its 25 year long existence.*

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*The present annual report informs about the consideration of 12 periodic reports under Article 40 (see chapter IV). Under the Optional Protocol procedure, the Committee adopted Views on 46 communications and declared six communications admissible and 29 inadmissible (see chapter V). The text of the adopted General Comment No.33 on obligations of States parties under the Optional Protocol to the Covenant is reproduced in annex V.*

UNITED NATIONS / GENERAL ASSEMBLY: Report of the Human Rights Committee Volume II. New York: UN, 2009, (GAOR Sixty-fourth Session Supplement No. 40 (A/64/40)).

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*Chapter IV contains 13 considerations of States reports. Annex V reproduces the Views of the Committee under Article 5, para. 4, of the Optional protocol to the Covenant, whereas annex VI deals with the communications declared inadmissible.*

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## **E-Resources**

General:

<http://www2.ohchr.org/english/bodies/hrc/index.htm>

General Comments:

<http://www2.ohchr.org/english/bodies/hrc/comments.htm>

States reports:

<http://www2.ohchr.org/english/bodies/hrc/sessions.htm>