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REPORTING OBLIGATIONS OF STATES PARTIES TO UNITED NATIONS
INSTRUMENTS ON HUMAN RIGHTS

Letter dated 29 September 1988 from the Minister for
Foreign Affairs of the Netherlands addressed to the
Secretary-General

I have the honour to forward to you an advisory report of the Netherlands Human Rights and Foreign Policy Advisory Committee on the functioning of the human rights conventions under United Nations auspices.

In this year in which we celebrate the fortieth anniversary of the Universal Declaration of Human Rights, the Netherlands wishes to stimulate a review of the various monitoring mechanisms with a view to improving and strengthening these mechanisms.

I therefore requested the Advisory Committee to prepare such a report, mindful of the critical importance of full compliance by Governments with their obligations under the human rights conventions and the corresponding need for proper functioning of the various supervisory mechanisms as provided for in those conventions.

As you no doubt remember, I presented you with this report during your official visit to the Netherlands from 5 to 7 September of this year and I asked you on that occasion to make the report available to the meeting of chairpersons of the supervisory bodies to be held at Geneva from 10 to 14 October 1988. In view of the importance the Netherlands attaches to this matter, I would be grateful if you could also circulate this letter and the attached document as an official document.

of the forty-third session of the General Assembly, under agenda item 101 concerning reporting obligations of States parties to United Nations instruments on human rights.

(Signed) H. VAN DEN BROEK
Minister for Foreign Affairs

Annex

**DUTCH HUMAN RIGHTS AND FOREIGN POLICY ADVISORY
COMMITTEE: HUMAN RIGHTS CONVENTIONS UNDER
UNITED NATIONS SUPERVISION**

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SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

This advisory report concerns six international human rights conventions drawn up under the auspices to the United Nations: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Suppression and Punishment of the Crime of apartheid.

The international procedures for monitoring compliance with the conventions are being threatened by stagnation, which is endangering the effectiveness of the whole system of supervision. The causes are largely to be found in the enormous backlog of periodic reports which the parties to the conventions are obliged to produce, the excessive burden placed on the various supervisory committees and financial problems.

In its search to find solutions to the impending stalemate, the Advisory Committee has restricted itself to proposals which do not require amendment of any convention. Its prime consideration has been to ensure that there is no undermining of what has been achieved with regard to international supervision of compliance with human rights conventions. Most specifically there must be no going back on the obligation to produce reports and the procedures whereby the consideration of such reports is delegated to independent committees. However, this does not detract from the fact that when setting up supervisory systems for new conventions currently under preparation, it is essential to consider the practical implications and the viability of the new procedures. The Advisory Committee feels that future committees should be funded from the regular United Nations budget.

It is possible to simplify reporting procedures without detracting from their quality. In the case of certain conventions one could suffice with an initial extensive report followed by updating on specific points in follow-up reports. When necessary, the committee in question could indicate the points with regard to which follow-up reporting is particularly required. In the case of conventions which primarily require stimulatory measures to be taken, as for example the International Covenant on Economic, Social and Cultural Rights, new developments constantly take place due to the fact that this is an ongoing process. It is this which makes reporting with regard to the Covenant such a heavy burden. The Advisory Committee advocates a more effective use by committees of reporting to other committees and specialized United Nations bodies, particularly the International Labour Organisation (ILO).

The simplification of reports to the Committee on Economic, Social and Cultural Rights recently approved by the Economic and Social Council creates scope for the gearing of follow-up reports concerning the Covenant be geared to subjects which require special attention. The recent decision to streamline the reporting cycle to intervals of four and five years can contribute to a real reduction of the burden of reporting. Further adjustments will have to concentrate on improving quality and certainly not to increasing the frequency and bulk of reports.

The length and frequency of committee meetings must be determined by the burden of work, and decisions must be taken on whether optimal use is being made of the funds for committee meetings which are paid from the regular United Nations budget.

Simultaneous consideration of overdue reports relating to a single convention and originating from the same State is a acceptable method of reducing the backlog in the processing of reports.

The committees could function more easily and effectively if reports were analysed beforehand by one of the members acting as a rapporteur. Besides the reports produced by the authorities, the rapporteur could include other authoritative and objective information sources in his analysis.

Each committee should investigate whether reports could be dealt with by a sub-committee, whereby the multiplicity of geographical, socio-political and cultural features of the committee should as far as possible be retained.

With a view to cutting costs and in the interests of efficiency there should be investigation of the possibility of concentrating in Geneva all the meetings of committees of which the secretariat is run by the United Nations Centre for Human Rights.

It is desirable that the United Nations Programme of Advisory Services tackle the establishment of general guidelines for the production of reports pursuant to the conventions. The Advisory Committee advocates the setting up of a pool of experts to help countries which require assistance in the drawing up of records and to train local officials to prepare reports.

The Advisory Committee expects a sharp increase in the use of right of individual complaint contained in certain conventions. Consideration of complaints should be entrusted to individual sub-committees which will then report to the committee in question.

The United Nations Centre for Human Rights, which acts as secretariat for most committees, seems to be seriously understaffed. Owing to a structural shortage of qualified personnel, the Centre lacks the time to fulfil its support function properly, and there is a real need for improvement in the provision of information to the committees. Such improvement could take the form of submission of chapters of various related reports, and of the compilation per convention and per convention article of a survey of previous reports submitted by a State party to a convention amplified by the comments from the members of the committee concerned.

Reinforcement of the Centre in the interests of the work carried out by the committees is necessary in order to ensure the continuation and effectiveness of United Nations supervisory systems. An increase in staff members is urgently required and is unavoidable even in the short term.

INTRODUCTION AND OUTLINE OF PROBLEMS

On 2 March 1988, the Minister for Foreign Affairs submitted to the Advisory Committee a request for recommendations on how to deal with the impending deadlock affecting international procedures for monitoring compliance with United Nations human rights conventions. In his request, the Minister mentioned five conventions: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this context, mention should also be made of the International Convention on the Suppression and Punishment of the Crime of Apartheid in view of this convention's similar supervisory system.

The effectiveness of existing systems - in the case of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment a recently established system - of international monitoring of compliance is threatened. This manifests itself primarily in the crisis affecting reporting procedures with regard to compliance with obligations under the conventions. Pursuant to each of the six above-mentioned conventions, parties to the conventions are required to submit to a supervisory committee periodic reports on the domestic implementation of the conventions. The various committees meet periodically to evaluate and discuss the reports, usually with representatives of the State concerned. Besides evaluating the reports the committees sometimes also have other functions intended to promote compliance with the conventions. However, the crisis confronting international supervisory systems is primarily due to the problems concerning reporting. On the one hand there is an enormous backlog in reports due to the fact that most countries are unable to submit them within the required time-limit. On the other hand the committees lack the time and staff to consider even those reports which are submitted in time. The time problem is further exacerbated by the cancellation or postponement of the periodic meetings of certain committees due to lack of funds. This complex of factors threatens to disrupt the carefully erected structure of international supervision.

The structural problems of the supervisory procedures can thus be traced to a number of factors:

(a) The enormous backlog affecting the periodic reports of parties to the conventions. Many States, certainly not all of them developing countries, have enormous difficulty in complying with the reporting obligations within the time-limits. At present over a hundred countries are behind with submission of almost 500 reports pursuant to various conventions. Where reports are overdue, their consideration by the relevant committee is postponed. Sometimes the consideration of a particular report is so long overdue that it is time for the following report to be submitted when the committee gets round to consideration of the first report.

(b) Duplication in reporting requirements and the consideration of reports. Various conventions containing reporting requirements cover to a certain extent the same or similar fields. The guidelines for reporting issued by the various committees require detailed reporting on these fields. Each of the committees concerned subjects the reports to its own scrupulous and time-consuming examination.

(c) The working methods of the supervisory committees. The generally detailed nature of the committees' work takes a lot of time. Besides consideration of country reports some of the committees are also required to assess individual complaints concerning violation of the relevant convention. Most committees are moreover competent to issue general comments/recommendations concerning interpretation of articles of the conventions. The Human Rights Committee and the Committee on the Elimination of Racial Discrimination make regular use of these powers. In its spring session of 1988 the Committee on Economic, Social and Cultural Rights decided that in future it would draft general recommendations.

(d) Financial problems. In some cases the supervisory mechanism of the United Nations human rights conventions is funded from the regular United Nations budget, in others from contributions by the parties to the conventions themselves; sometimes a mixture of the two. Where a small number of States parties, often developing countries, have to bear the full costs themselves, funding becomes a problem and this factor alone can place pressure on the supervisory systems. Failure to pay or late payment by States parties leads to curtailing or cancelling meetings of supervisory committees. Committees funded from the regular United Nations budget are hit by the budgetary crisis affecting the United Nations. Those with mixed funding are threatened by both phenomena.

To a certain extent the committees are the victim of the conventions' success - the large number of States parties with reporting obligations - and of the meticulousness with which they work. In its search for possible ways of breaking the impending deadlock, the Advisory Committee has set itself various restrictions. Pursuant to the wording of the request for the advisory report, it has not examined ways of solving the present financial problems. This does not, however, mean that the committee has shrunk from making recommendations with financial consequences. Some of the factors which contribute to the present problems derive after all from the completely inadequate allocation of manpower and other resources for supervision of compliance with the conventions. A second restriction is that the mechanisms for supervision have their basis in the conventions themselves. Solutions such as fusion or expansion of the various supervisory committees would require amendments to the conventions. This certainly could not be accomplished in the short term because such amendments would require the consent of all States parties. It is therefore realistic to search only for solutions which do not require amendments to conventions.

SIGNIFICANCE OF THE SUPERVISORY PROCEDURES

Before considering the supervisory procedures themselves, it is useful to examine the more fundamental question concerning the use of the existing forms of supervision and the ever-growing number of reporting obligations.

The supervisory procedures contained in international conventions for the protection of human rights constitute a qualitative step forward after a period in which there was, in principle, a taboo on outside interference with a country's human rights situation. The right to monitor compliance has now been internationally accepted and may not be given up. The present forms of supervision

provided for by international conventions focus on periodic reporting by States parties and are of a modest nature. The reports are studied and discussed by a supervisory committee, generally with representatives of the country in question.

Some conventions provide for an optional, individual complaint procedure. Only a restricted number of countries have accepted the competence of supervisory committees to register individual complaints. One convention, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, moreover provides for making a confidential inquiry by the supervisory committee on the basis of "reliable information" indicating that torture is being systematically practised in the territory of a State party, except in cases where a country has refused to recognise this competence at the time of signature or ratification. Certain conventions provide for complaints by States; these must also be submitted to the competent supervisory committee. No use has ever been made of this possibility. A table of the most important supervisory systems provided for by the six relevant conventions is appended.

The above-mentioned procedures and legal remedies are not insignificant, but they by no means make the obligations contained in the conventions enforceable. The provisions for international supervision introduced in the human rights conventions constitute an important step forward, but in the final instance they remain modest. In this very early stage of development it would be undesirable to tamper with the existing system in such a way as to erode the obligation to submit reports and the procedure of consideration of reports. Experience shows that producing and discussing reports can have a positive effect. Reporting imposes a periodical review on States parties and often leads to fertile interministerial consultation. When the reports are considered, a dialogue is created between the country in question and the committee. Both of these exercises can often have an educational effect on the country in question and can be useful for the implementation of the convention in law and in practice. Reporting and dialogue can lead to a growing awareness among States that national legislation must be improved or lacunae filled. The dialogue can also lead to requests for international assistance to improve compliance. Such help is for example provided by the United Nations Advisory Services (see below). A further aspect is that public assessment of the reports - however biased such a report may be - places the human rights situation in the country in question in the limelight. Practically no country is insensitive to public criticism. To such an extent the consideration of reports can have a preventive and corrective effect.

It must not be forgotten, despite the shortcomings of the system of international supervision, that the actual developments of the past 15 years have exceeded the expectations of the 1960s. The standing already built up by certain committees and the quality and influence of their work have increased the relatively restricted powers of the international community with regard to monitoring compliance by the States parties with their obligations. Caution must therefore be exercised when proposing changes to the present system and present working methods, so as to avoid undermining what has been achieved.

The Advisory Committee believes that consultations concerning the establishment of new supervisory systems, such as in the case of the draft

convention on the rights of the child and the draft convention on the rights of migrant workers, will have to envisage the practical implications and future expectations of such systems. The question must be asked as to whether, in the light of the present crisis, it is meaningful to equip new conventions with supervisory systems without considering the practical implications and the viability of such systems. At first sight it seems logical to entrust supervisory functions concerning the new conventions to existing supervisory committees. One is after all dealing with related rights which have often already been laid down, albeit in less detailed form, in other conventions. There are however insurmountable objections to such a course of action. The States parties are not necessarily those of existing conventions, whereas they determine the composition of the relevant committee. In addition there are of course problems relating to matters of content and routine procedures. The various conventions do not cover exactly the same ground, even where a subsequent convention often constitutes an elaboration of certain rights laid down in an earlier convention. It moreover goes without saying, given the crisis already affecting many committees, that additional supervisory tasks will considerably add to the existing burden of work.

If a new supervisory committee were to be set up, the Advisory Committee feels, in view of the financial complexities referred to above, that it would be undesirable for its work to be funded wholly by the States parties. Besides, the promotion and protection of human rights are major responsibilities laid down in the United Nations Charter. Responsibility in this field, in both a material and a non-material sense, for conventions drawn up within the framework of the United Nations should accordingly be a collective matter. In this context it should be emphasized that in financial terms this responsibility imposes only a slight burden on the United Nations budget, while at the same time representing one of the most concrete aspects of the Organization's work.

REPORTING

The Advisory Committee started with the premise that the existing supervisory procedures should be maintained, and where possible their quality improved. The Advisory Committee is of the opinion that solutions to the present crisis must primarily be sought in rationalization of reporting procedures.

Besides the obligation to produce an initial report within a year of accession, each of the six above-mentioned conventions imposes an obligation to produce follow-up reports. Both of these obligations appear to create problems in the light of the colossal backlog of reports. This would seem to have some connection with one or more of the following factors:

(a) Insufficient awareness that reporting is an obligation which States parties are required to fulfil;

(b) Shortage of qualified government staff, lack of an efficient administrative structure or deficient co-ordination between administrative bodies leading to problems in the drafting of the required reports;

- (c) The cumulative burden of producing reports;
- (d) Lack of motivation due to the backlog in the consideration of reports.

It is moreover not impossible that certain States are unhappy with the painstaking and sometimes probing methods used by the committees in the course of their work, which reduces the willingness of such States faithfully to fulfil their reporting obligations.

An attempt is made below to show ways of tackling the problems affecting reporting and the consideration of reports by the committees. First, an attempt is made by the Advisory Committee to analyse the nature of the various reporting obligations.

Nature of reports

A description of the national legal and social framework within which the rights which the conventions aim to promote and protect must flourish is essential for a balanced assessment by the committees. For this purpose the guidelines given by the various supervisory committees have proved effective. The required framework and the detailed description of the various categories of rights are generally clear (see United Nations document A/40/600/Add.1 for the guidelines). It is possible that these guidelines too could be used to ensure that the information provided is kept brief and relevant, and to promote concentration on the main issues in hand. Whereas the Human Rights Committee and the Committee on Economic, Social and Cultural Rights distinguish between guidelines for initial reports and for periodic follow-up reports, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Group of Three of the Commission on Human Rights (the anti-apartheid committee) do not. The Committee against Torture has not yet completed the drafting of its guidelines.

The Advisory Committee believes the distinction between initial and follow-up reports to be a valid one since initial reports are often very different in nature to periodic follow-up reports. Whereas initial reports provide a picture of a State party's legal and social situation, follow-up reports can in principle be confined to an update on the extent to which the rights which the relevant convention aims to protect or promote are being realized. Reports should be brief and to the point.

The nature of the obligations tends to differ somewhat from convention to convention. Certain conventions cover only a specific field such a discrimination on the grounds of race or sex, or impose on States specific obligations, compliance with which must be ensured right from the start. Progress reports on the implementation of these conventions can often be confined to specific points. Where necessary the committee concerned can indicate particular points to be covered in follow-up reports. The conclusions of the committee members after the examination of a report could take the form of guidelines for a follow-up report. In the case of such conventions attention can accordingly be focused on points

which give cause for concern. This both lightens the burden of reporting for the States parties and ensures that the supervisory committees lose no time searching for points which require attention in a large mass of information. There is nothing in the International Covenant on Civil and Political Rights to prevent such an approach (see appendix). The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also allows the possibility of this kind of reporting, and in the case of the International Convention on the Elimination of All Forms of Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women this method can be introduced without the need for an amendment to the conventions.

Other conventions particularly the International Covenant on Economic, Social and Cultural Rights, impose on States parties the obligation to make efforts to ensure that the rights contained in the conventions are enjoyed. The rights provided for in that covenant cover large areas of public life which are constantly affected by new developments. The periodic production of progress reports requires constant updating of the description of a process. It is this which makes reporting such a heavy burden and is presumably the reason that the backlog in reports with regard to this covenant is greater than in the case of other conventions.

Many of the areas on which the International Covenant on Economic, Social and Cultural Rights focuses are also fields in which various United Nations specialized agencies are active. The risk of reporting obligations overlapping with those of other conventions is particularly acute in the case of the Covenant. The drafters of the Covenant were aware of this fact: article 18 refers to the making of arrangements with specialized agencies in respect of the progress made in achieving observance of the provisions of the Covenant falling within the scope of those agencies' activities. In the case of ILO this has led to co-operation in the form of submission to ILO of reports on the observance of obligations which also lie within the ILO mandate. ILO representatives attend meetings of the Committee on Economic, Social and Cultural Rights and are given the opportunity to comment on the reports submitted by States parties. It would be useful to allow States to refer to their reports on relevant ILO conventions to ILO supervisory bodies and to enable the Committee to take these reports and their consideration by the ILO into account.

All committees concerned could show a greater awareness of other supervisory systems provided for by global conventions. Many a requirement under a convention is mirrored in one of the dozens of ILO conventions and recommendations, the monitoring of which is entrusted to an ILO Committee of Experts on the application of conventions and recommendations and to a tripartite commission of the international labour conference comprising representatives of Governments and of employers' and employees' associations. These bodies have amassed a great deal of expertise and built up a considerable standing in the many years that they have carried out their tasks. Nothing prevents any of the six supervisory committees from drawing the attention of the ILO Committee of Experts to areas of concern falling within its competence. The Advisory Committee believes that reference by a State to specific reports submitted pursuant to other conventions, and recognition of such by the six treaty monitoring bodies would save time, prove more effective and improve quality.

The reporting obligations laid down in the various human rights conventions will continue to overlap. All conventions are concerned with discrimination and equal treatment. The right to work and education, to form trade unions, to freedom of movement and to the protection of family life is also covered in various conventions. The ban on torture laid down in the International Covenant on Civil and Political Rights appears in elaborated form in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, etc. Where States are parties to more than one of the six above-mentioned conventions, a rational approach can prevent duplication in the consideration of reports. A general principle here would be that the specific takes priority over the general. This means that reports concerning a right specifically covered by a particular convention do not need to be extensively repeated and dealt with by the supervisory committee of another convention which stipulates the right in question in more general terms. The above applies all the more in cases where reports have been recently discussed by another committee. Such rationalization is incidentally not intended to deprive any committee of its right to deal with any point whatsoever within its competence. The Advisory Committee wishes to emphasize that the complex of human rights is interrelated. It is therefore particularly important that the committees of the two broadest instruments, the International Covenants on Human Rights, continue to assess compliance with treaty obligation in an overall perspective.

Cycle of reporting

The guidelines for reports required under the International Covenant on Economic, Social and Cultural Rights cover 20 closely typed pages. This fact alone gives some indication of the burden of reporting. Until recently, in line with a programme drawn up by the Economic and Social Council, reports were divided into three groups of substantive articles: the first group comprised articles 6 to 9 of the Covenant, the second group articles 10 to 12, and the third group articles 13 to 15. Within a year of accession a State party was obliged to submit reports on the first group. Two years later it was the turn of the second group, and two years after that, the turn of the third group. A new cycle began again with the first group after an interval of three years.

Without wishing to attribute the backlog in reports entirely to the heavy burden imposed by this obligation, it is significant that most States parties are behind with their reports. Various States have been parties since the entry into force of the Covenant in 1976, and yet have never got round to the production of reports.

The Committee on Economic, Social and Cultural Rights has recognized the inevitable need for reform and has accordingly taken steps. In its February 1988 session, agreement was reached on a new reporting cycle. In future, States parties will be obliged to produce an initial integrated report on all the substantive articles of the Convention - articles 6 to 15 - within two years of accession, as well as to produce subsequent reports, also dealing simultaneously with all substantive articles once every five years. The Economic and Social Council recently endorsed these proposals. The Advisory Committee applauds this decision,

since it enables States parties to produce better reports on those areas covered by the Covenant in which progress has been made, in which important changes have occurred or on which the committee has requested a state to focus its attention in subsequent reports. States parties can thus concentrate their efforts more effectively on topics requiring special attention.

The five-year cycle of reporting of the International Covenant on Civil and Political Rights conforms perfectly with the new cycle of the International Covenant on Economic, Social and Cultural Rights. The cycles of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women are four-year cycles; a change to a five-year cycle would perhaps be desirable with a view to improving co-ordination between the various reports, but is not possible without amending the conventions. The Committee on the Elimination of Racial Discrimination has also taken a step in the direction of a four-year cycle by replacing the system of extensive biennial reports used up to now by an extensive report every four years and a short follow-up report two years after every extensive report.

The Advisory Committee believes that a reduction in reporting frequency can help effectively to reduce the burden on States parties. Frequent, extensive reports are not synonymous with high quality reports. A reduction in reporting obligations could even improve quality. Future adjustments will have to be geared more to improving quality and effectiveness than size and frequency of reports.

Committees' working methods

The consideration of reports by the various committees has been adversely affected by the cancellation, postponement and curtailment of meetings. In 1986, the Human Rights Committee was forced to cancel one of its three annual meetings and the Committee on the Elimination of Racial Discrimination one of its two annual meetings. In 1987 one meeting of the Committee on the Elimination of Racial Discrimination was curtailed from two weeks to one. A shortage of funds caused these drastic reductions. The financial problems seem to be taking on ever greater proportions, particularly in the case of committees funded exclusively from contributions from States parties and not from the regular United Nations budget.

Assuming that the financial restrictions are likely to continue, the Advisory Committee would like to suggest various ways of rationalizing the consideration of State reports. This is all the more necessary in the case of committees which also have to investigate individual claims concerning purported violations of conventions, since the Advisory Committee is convinced that the burden of work entailed by the complaint procedures will increase considerably (see also below).

The length of committee meetings does not need to be the same. The length and frequency of meetings must be dictated by the burden of work. It is necessary to investigate whether optimal use is presently being made of the funds available for meetings of committees funded from the regular United Nations budget.

The backlog in reports still to be dealt with by committees is a source of concern. Postponement of consideration has a disheartening effect on States which have submitted reports on time. Besides, it provides other States parties with an excuse not to take their reporting obligations too seriously. It will take years before some committees have considered the overdue reports. Simultaneous consideration of various consecutive reports relating to a single convention and produced by the same State as currently envisaged by certain committees, would seem a rational and acceptable method of combating the backlog.

The committees could function more easily and effectively if a member of a committee, acting as rapporteur, were to analyse the reports submitted by the Governments before consideration by the committee. At present a working group draws up a list of issues before a report is considered by a committee. The rapporteur, who could either report to the working group or directly to the committee, could include in his analysis not only the official government reports but also other authoritative and objective sources of information. This process would require the support of the secretariat of the committee in question, i.e. the United Nations Centre for Human Rights at Geneva and, in the case of the Convention on the Elimination of All Forms of Discrimination against Women, the Centre for Social Development and Humanitarian Affairs at Vienna. The time which committee members are currently forced to spend on preparing country reports for consideration could then be used for a meaningful discussion of points for concern identified and documented prior to the public meeting of the committee, such documentation possibly including other committee reports. The dialogue with the reporting State can thus be focused on the issues of greatest doubt or concern.

As stated above, many conventions have overlapping fields and thus overlapping reporting obligations. The supervisory committees continually run the risk of duplicating the work of other committees. They could make more use than they do now of reports based on other conventions and the consideration of such reports by other committees. It is already general practice for most committees to be sent other committees' accounts of their consideration of reports.

The provision to committee members of supplementary information by reporting countries could often be provided in written form, so that less time is spent on oral explanations. The committees should investigate whether reports by government delegations really require an oral introduction. Speaking time limits are unavoidable in order to complete the public examination of reports within a reasonable time.

The Advisory Committee feels that each committee should investigate the possibility of dealing with reports in separate sub-committees; the larger committees particularly, could divide themselves up into such sub-committees and simultaneously deal with several reports, while largely keeping intact geographical, socio-political and cultural diversity within these sub-committees. The committee as a whole would continue to be responsible for the annual report to the Economic and Social Council and for the general comments.

A final point suggested for consideration is the concentration in Geneva of all meetings of committees whose secretariat is run by the United Nations Centre

for Human Rights. This would be cheaper and more rational in view of the fact that the United Nations Centre for Human Rights is situated there.

The above-mentioned suggestions do not offer any ideal solutions. The treaty monitoring bodies will, however, have to adapt their working methods to the crisis which is at present undoubtedly affecting the reporting system.

UNITED NATIONS ADVISORY SERVICES

Almost 35 years ago the United Nations General Assembly set up a Programme of Advisory Services in the field of human rights. This programme currently constitutes a modest but useful instrument for the promotion of knowledge of human rights and their implementation. Two major elements are of particular importance with regard to the problems under discussion: the organization of seminars for government officials and the provision of technical assistance to countries with a view to constructing a national structure for the promotion and protection of human rights. The programme may provide for special training for members of the police, judges, prison officers, ministry officials, etc. in order to generate increased knowledge and understanding of human rights. Both elements are used to help States parties to the conventions to fulfil their reporting obligations by producing adequate reports within the required time. Until now emphasis has been on regional and sub-regional seminars.

It has been urged at various seminars that the Advisory Services draft general guidelines for the production of national reports under the terms of the conventions. The Advisory Committee endorses this request. In the coming years the programme will also have to devote itself to the production of specially tailored advice for countries wrestling with reporting obligations. On request the programme could second experts to countries in order to provide assistance in the preparation of reports and to train local officials in the drafting, composition and presentation of reports. Ideally, an international pool of experts should be formed upon whom the United Nations could call when necessary. The United Nations Centre for Human Rights could draw up a register of names from which countries wishing assistance could choose in consultation with the United Nations Centre.

The relationship between development co-operation and the promotion of human rights would also allow bilateral and multilateral aid programmes to be used for the above purpose. It would be worth considering whether aid of this type could be channelled through the United Nations.

COMPLAINT PROCEDURES

The International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights provide for a procedure whereby States parties and individuals may lodge complaints about alleged violations of convention obligations. This procedure is usually built in to the conventions as an optional element. Since no

single complaint has been received to date from a State under the terms of the above conventions, this element has not constituted an additional work-load for the supervisory bodies. The Advisory Committee is not taking this area into consideration as it seems unlikely that it will significantly increase the burden of work even in the future.

The situation is quite different with regard to complaints by individuals concerning purported violations of human rights under one of the conventions in question. As of 1 March 1988, 40 States had acceded to the Optional Protocol to the Covenant on Civil and Political Rights which stipulates the competence of the Committee on Human Rights to receive and consider individual complaints. On that date, 12 of the States parties to the Committee on the Elimination of Racial Discrimination Convention and 10 States parties to the Convention against Torture had recognized the individual right of complaint provided for by these two treaties. Although the number of countries which have recognized the competence of committees to receive and consider individual complaints is still modest, the Advisory Committee expects the number of complaints to increase sharply in the years ahead. More States parties will recognize the competence of the committees and at the same time individuals and lawyers will become increasingly aware of the possibility for submitting complaints. Increased familiarity with procedures and increased means to institute such procedures will cause a great rise in the number of complaints, particularly in the case of the Committee on Human Rights. Bearing in mind the explosive development of the individual complaint procedure under the European Convention on Human Rights, the Committee on Human Rights ought to consider the amount of time required by this task. Complaint procedures are time-consuming because, unlike the case with country reports, it is necessary to study the entire dossier - which is often extensive and complex - in order to reach a balanced opinion. Just as with the consideration of country reports, there would seem to be a need to divide the Committee on Human Rights into representative sub-committees which would examine the separate complaints and then advise the committee as a whole. This would simply be a further development of the established system whereby a working party prepares a complaint for consideration by the committee as a whole.

A rise in the number of complaints will considerably increase the work of the United Nations Centre for Human Rights, which also acts as secretariat to the committees in the case of complaint procedures. When comparing the Centre's functions with those of the secretariat units of the Council of Europe in the field of human rights monitoring (the secretariat of the European Commission of Human Rights and the Registrar's Office of the European Court of Human Rights), it is obvious that the staff of the Centre must be reinforced. The staff has to prepare dossiers for consideration and, in line with the discussions in a committee or sub-committees (depending on which method is chosen) must formulate conclusions, i.e. draw up draft judgements.

It is essential that the States parties and especially the United Nations General Assembly give advance consideration to this increasing burden of work and take measures to reinforce the United Nations Centre for Human Rights. Under no circumstances may the consideration of reports be at the expense of the consideration of complaints or vice versa.

UNITED NATIONS CENTRE FOR HUMAN RIGHTS

The United Nations Centre for Human Rights acts as secretariat for all the above-mentioned supervisory committees, except the Committee on the Elimination of Discrimination against Women. It processes country reports and complaints relating to the conventions and prepares them for consideration, draws up the minutes of meetings and is generally responsible for the organization of activities. In numerous cases it has to seek further information on complaints concerning the alleged violation of conventions. The complaints that are to be considered by a committee have to be thoroughly prepared by the Centre. Great expertise is required as well as extreme care. Besides being responsible for the complaints procedure under the terms of the conventions, the Centre is also charged with the processing of thousands of individual communications which fall outside the framework of the conventions, but which must be investigated pursuant to the procedure established by Economic and Social Council resolutions 728 F (XXVIII) and 1503 (XLVIII).

In the light of the mass of time-consuming and painstaking work emanating from the conventions and the 1503 (XLVIII) procedure, the Centre would seem to be seriously understaffed. The Advisory Committee believes that at its present staffing level the Centre is scarcely able to cope with all the work involved in preparing supervisory committee meetings, let alone contribute to a more rational and efficient division of labour between committees and secretariat. Owing to a structural shortage of qualified personnel, the Centre lacks the time to analyse country reports and to back them up with sufficient documentation. It is equally unable optimally to fulfil its co-ordinating role with regard to reports submitted under the terms of the various conventions. One aspect of this role is to ensure that chapters of reports relating to different conventions but covering the same rights are submitted to the committees in question as a related package. This would clarify the context in which the various rights are guaranteed by a country and increase the information available to committee members. Also urgently required, for the benefit of the various committees, is an overview per convention and per convention article of previous reports submitted by a State party whose report is under consideration, amplified by the comments from the members of the committee in question.

The Advisory Committee believes that thorough analyses of the reports, preferably under the responsibility of a rapporteur-member of the committee in question, as well as the composition of lists of issues and the compilation of other background documentation by a competent and adequately staffed secretariat, are essential if the committees are to function optimally. Despite differences in working methods and types of supervision, lessons can be learnt from comparison with the secretariats of other expert supervisory bodies. The ILO Committee of Experts on the application of conventions and recommendations, which supervises compliance with ILO conventions, is assisted by a secretariat with a staff of 20-25 persons. The European Commission and the European Court of Human Rights of the Council of Europe have 32 and 10 lawyers at their disposal respectively, without whom they would be unable to function effectively. A sharp contrast is presented by the staffing of the United Nations Centre for Human Rights. The International Instruments Unit consists of six staff members, and the

Communications Unit (complaints) also consists of six staff members, the majority of whom are charged with dealing with communications relating to Economic and Social Council resolutions 728 F (XXVIII) and 1503 (XLVIII) procedure.

The funds available to the Centre are completely inadequate. The regular United Nations budget, of which less than 1 per cent is earmarked for tasks relating to human rights, is supposed to equip the Centre with the resources which it requires. The Advisory Committee is against financing the Centre's above-mentioned tasks with special or voluntary contributions from outside the regular United Nations budget, since this would create an undesirable precedent. When determining the staffing levels necessary to provide a back-up for the work of the supervisory committees one could look to the equivalent secretariat units in ILO and the Council of Europe.

The crux of the problem is that the Centre has too many tasks and too few staff. This ratio will become increasingly disproportionate as the number of reports and complaints increases and more States become party to the convention. If effective supervisory mechanisms are to continue to exist within the United Nations framework it is absolutely crucial to reinforce the secretariat of the six above-mentioned treaty monitoring bodies. The Advisory Committee feels that staff increases are urgently required and that they must in fact take place within the short term.

Appendix

TABLE OF SUPERVISORY BODIES

Committees	Reporting obligations under convention articles	Complaints by States	Right of individual complaint
Human Rights Committee 18 members	First report within one year of accession. Subsequently whenever requested by the Committee (article 40)	Optional (article 41)	Optional Protocol ratified by 40 countries
Committee on Economic, Social and Cultural Rights 18 members	In instalments according to a system to be determined by the Economic and Social Council (article 16-17)	No	No
Commission on the Elimination of Racial Discrimination 18 members	First report within one year of accession. Subsequently once every two years and whenever requested by the Committee (article 9)	Yes (article 11)	Optional (article 14)
Committee on the Elimination of Discrimination against Women 18-23 members	First report within one year of accession. Subsequently once every four years and whenever requested by the Committee (article 18)	No	No
Committee against Torture 10 members	First report within one year of accession. Supplementary reports once every four years and other reports whenever requested by by the Committee (article 19)	Optional (article 21). Investigation, possibly in the country concerned, on the reception of reliable information - optional (articles 20 and 28)	Optional (article 22)
Group of Three of the Commission on Human Rights 3 members	Periodic reports (article 7)	No	No
