

PARTICIPANT'S HANDBOOK

MODULE 8: FOLLOW UP

DESCRIPTION

The module focuses on the actions to be taken once the CRC or CEDAW Committee have issued their Concluding Observations.

TIME: 2 HOURS 45 MINUTES

MODULE AIMS

The aim of this module is to provide the reader an understanding of the range of actions that should be taken once the CRC Committee or the CEDAW Committee have issued their Concluding Observations on the State Report.

- The first part of the module reviews the actions to be taken, including dissemination, the need to report on follow-up to the CEDAW Committee and the action to be taken to address the recommendations made in the Concluding Observations, including ensuring that children's rights and women's rights are part of national strategies or national plans of action.
- The second part of the module addresses accessing technical assistance to help with implementation of the recommendations contained in the Concluding Observations.

LEARNING OUTCOMES

On the completion of this module, participants should:

1. Understand the duties placed on the State once the Concluding Observations are issued;
2. Understand CEDAW's follow-up procedure;
3. Know how to disseminate Concluding Observations (and who to include in the process);
4. Understand how to coordinate a response to Concluding Observations;
5. Understand the need to mainstream women and children's rights into national strategies and action plans;
6. Understand how to identify and pursue opportunities for technical assistance.

SECTION HEADINGS

- 8.1 Following up on Concluding Observations
- 8.2 The CEDAW Follow-Up Procedure
- 8.3 Follow-Up at the National Level
- 8.4 Mainstreaming Children’s and Women’s Rights: National Strategies and Action Plans
- 8.5 Technical Assistance for Follow-Up to the Concluding Observations

8.1 Following up on Concluding Observations

Concluding Observations are a useful tool for States when preparing a Periodic Report. They enable the State to focus on the issues that were raised by the Committee as areas of concern, and areas where further efforts were needed to implement the Convention fully. Not only do they help the State when preparing the next report, but they also have an essential role to play in future planning and in determining the direction of national policies.

Both Committees ask States to report on their follow-up to the Concluding Observations in their next periodic report and during the reporting process. It is important, therefore, for States to set out the actions that have been taken in response to the Concluding Observations at the beginning of the next Periodic Report.

In the Harmonised Reporting Guidelines, the CRC Committee uses Concluding Observations as a starting point when indicating the information that States must include in their reports. The Guidelines state that:

“In particular, the State party is requested to provide specific information on actions taken to implement the recommendations from previous concluding observations as they relate to each cluster.”

The CEDAW Committee also uses Concluding Observations as a starting point when reviewing the report submitted by the State. In an overview of its working methods, the Committee emphasised that:

“in preparing the lists of issues and questions for periodic reports, the pre-session working group pays particular attention to the State party’s follow-up to the Committee’s previous concluding [observations].”

8.2 The CEDAW ‘Follow-Up’ Procedure

The CEDAW Committee has a unique follow-up procedure, introduced in 2008. The new procedures give the CEDAW Committee a more active monitoring role, and requires States to report back to the Committee in between reporting cycles and before the submission of the next periodic report. When the CEDAW Committee issues its Concluding Observations, it will typically indicate two recommendations on which it requests a follow-up report.

States should provide the Committee with information on the steps taken to address and implement the recommendations within two years by submitting a report. NGOs are also encouraged to submit alternative reports to the Committees giving their view on the implementation of the specific recommendations.



In its Concluding Observations to Tanzania in 2008, the CEDAW Committee requested the State Party to, “provide, within [two years], written information on the steps undertaken to implement the recommendations contained in paragraphs [16, 26 and 50].”

Concluding Observation 16 urges Tanzania to integrate the Convention into domestic law by eliminating discriminatory laws:

16. The Committee urges the State party to place high priority on completing the process of full domestication of the Convention. It calls on the State party to accelerate its law review process and to work effectively with Parliament in ensuring that all discriminatory legislation is amended or repealed to bring it into compliance with the Convention and the Committee’s general recommendations. It urges the State party to raise the awareness of legislators about the need to give priority attention to such reforms in order to achieve de jure equality for women and compliance with the State party’s international treaty obligations. It further encourages the State party to set a clear timeframe for such reforms, including the passage of the proposed amendments to the Marriage Act of 1971, inheritance laws as well as the Law on the Custodian of Children. The Committee recommends that the State party seek technical support from the international community in this regard.

In its reply, Tanzania gave the Committee information on its progress towards changing the Marriage Act of 1971 and its inheritance laws to “eliminate sex based discrimination.” The report then explains how far Tanzania has come in the process of legislative change: “*The processes of amendments are still underway, i.e. the government has already submitted a cabinet paper for approval. After approval a white paper would be issued to invite for public opinion and stakeholder consultations. The views gathered from the consultation processes will inform the envisioned new law which will finally require the bill to be submitted to Parliament for enactment processes.*”

Exercise 8.2.1: The facilitator will now conduct a discussion on “the CEDAW Committee’s Request to Tanzania and Tanzania’s Response”.

The CEDAW Committee publishes all information received under this procedure on its website.

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

At its 44th Session in 2009, the CEDAW Committee strengthened its capacity to monitor States' follow-up to the Concluding Observations. It now appoints a Rapporteur who will report back to the Committee on the State's progress in implementing the recommendations. The Rapporteur will respond to information provided by States in a letter, which generally welcomes progress towards the implementation of recommendations, urges States to continue where recommendations have not been implemented fully, and makes note of any failure by the State to provide information on a Concluding Observation requested by the Committee.

8.3 Follow-Up at the National Level

Dissemination of Concluding Observations

Article 44 (6) of **CRC** requires that a State shall make the Concluding Observations widely available to the public in their country: *'to the public at large, to civil society, business organizations and labour unions, to religious organizations, the media, and others as appropriate.'*²⁷⁶

The Concluding Observations for **CEDAW** always include a recommendation to disseminate the document widely in the State.

In order to ensure that Concluding Observations are widely available and easily accessible, a State should consider translating the documents into different languages, including minority and/or indigenous languages if this is necessary, using a variety of different media (including radio, posters, TV, film, online content etc.), organising events, conferences and workshops, disseminating and transforming findings so that they are accessible to people with different abilities and levels of literacy.

In order to reach children, States should consider producing child-friendly and child-specific material especially for them, and should think about how to reach the most vulnerable and marginalised children in particular.

A **child-friendly** version of the State Report to CRC and the Committee's Concluding Observations should be produced and disseminated as quickly as possible.

Examples of child friendly versions of the State report and Concluding Observations on the implementation of CRC can be accessed at

http://www.childoneurope.org/issues/crc_committee/su00-Survey.pdf

Coordination

Concluding Observations will contain recommendations for actions that will inevitably require the input of a number of different government departments, agencies and institutions. Implementing these recommendations will require inter-ministerial and inter-departmental action. To assist the State in undertaking what can be a considerable task, the CRC Committee has recommended that States establish a **single permanent coordination mechanism** with the aim of **coordinating the follow-up to Concluding Observations**. The Committee has

²⁷⁶ See CRC Guidelines.

consistently emphasised that this mechanism will need to have a strong mandate and adequate resources available to it in order to fulfil its role.²⁷⁷

If change is to be achieved, it is vital that this coordination body is given the power to and role of coordinating and streamlining activities across different bodies at governmental, provincial, federal, regional and municipal levels, and also between these levels. The coordination body will also need to work with civil society actors at all levels. Both the CRC and CEDAW Committees have continuously stressed the need for government to work with civil society actors, to ensure the effective implementation of the Concluding Observations, and the Conventions.

Cooperation with Other Actors

As has been seen in earlier modules, National Human Rights Institutions (NHRIs) and NGOs have a crucial role to play in supporting the State as they work towards implementing the recommendations contained within the Concluding Observations, including supporting the reform of law and policy, and the delivery and administration of services. The Committee has not only actively encouraged cooperation and consultation with civil society in the follow-up process, but in some cases the Committee has made this a recommendation within the Concluding Observations. For example, in the most recent Concluding Observations to the State of Moldova, the CRC Committee recommended:

“that the State party ensure that the input of civil society organizations is taken into account in legislative, administrative and policy reform.”²⁷⁸

Organising regular roundtable meetings and workshops with different civil society actors to discuss, plan and review the implementation of the Concluding Observations is one way in which governments can facilitate cooperation with civil society.

e.g

Good Practice Example: a forum for UN agencies, government and civil society to discuss follow-up to Concluding Observations.

In September 2011 the UK hosted a High Level Seminar on the role of national and regional mechanisms in Europe for implementing UN Treaty Body Concluding Observations.

The Seminar explored the implementation methods and strategies adopted by State authorities and follow-up mechanisms adopted by other national actors in the European Region.

http://www2.ohchr.org/english/bodies/HRTD/docs/Summary_Proceedings_Bristol_Sept2011_24.10.2011.pdf

Establishing partnerships

i

²⁷⁷ http://www.childoneurope.org/issues/crc_committee/su00-Survey.pdf

²⁷⁸ <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-MDA-CO3.pdf>

Involving organisations and individuals in work related to the reporting process and follow-up activities, can considerably increase the effectiveness, impact and sustainability of State party action, in the short and long terms.

Key stakeholders to engage with include international, national and local NGOs, Community Based Organisations, faith organisations, schools, child clubs and youth groups, child-led organisations, local and national broadcast and print media, local authorities, community leadership organisations and structures.

Supporting the development of national coalitions, and establishing a children's ombudsman could also be highly effective. The State can also consult with UN Agencies such as UN Women and UNICEF to see if they can participate or support initiative technically or financially.

The Involvement of Children

Under Article 12 CRC children have the right to be consulted in decisions that affect their lives and wellbeing. A continuous dialogue with children and young people should be a central part of national efforts to implement CRC and the Committee's Concluding Observations.

There are many different ways that children can be involved and participate in follow-up to the Concluding Observations. Many of these activities are most appropriately facilitated by NGOs, but the Government can also support and cooperate with these initiatives. They include:

- Involving children in the dissemination of Concluding Observations, e.g. involving children in presenting the recommendations and facilitating the debate on children's television and radio, in school debates and in social media.
- Establishing a Youth Parliament to debate the recommendations in the Concluding Observations and ways in which they could be implemented
- Setting up local child/youth councils where young people can meet and discuss local issues with local authorities and government representatives.

Case Study: Peru

After participating in the 2005 reporting process, children from the national network of children from Peru (REDNNA) decided that they wanted to be involved in the dissemination of the Concluding Observations throughout the country. Children from diverse backgrounds, including orphaned children, indigenous children and working children, were involved.

21 public events were hosted all over Peru. Children facilitated the events, presenting the Concluding Observations (using age and culturally appropriate materials and methods) and communicated the ways in which recommendations related to the realities of children's lives in Peru. Children debated the recommendations with government representatives, and offered suggestions and solutions for how they could be implemented in local contexts.



The child-led national organisation also invited a CRC Committee member to visit Peru, and to participate in some of the events surrounding the dissemination of findings. During this trip children from different regions and cultures presented a legislative proposal to members of Congress, calling on the Peruvian government to implement fully all the recommendations made by the Committee on the Rights of the Child.²⁷⁹

It is important that any processes that are developed and set up are especially designed with children in mind (and are not just an extension of adult processes). Further, (in line with CRC Article 2) these processes should take into consideration and include especially vulnerable and marginalised groups of children.

The Involvement of Women

It is essential that States continue to involve women from a range of backgrounds after the completion of the reporting cycle. In particular, it is important to ensure that women are involved in discourse surrounding development of national strategies and action plans and monitoring and implementation of these plans.

There are many different options for the involvement of women in follow-up to the reporting process. One of the most effective ways might be to involve NGOs who work with women (particularly vulnerable or hard to reach women) and to work with these NGOs to facilitate:

- Strategy workshops
- Community meetings and discussions
- Written, verbal or (where applicable) on-line mechanisms by which women can make suggestions or provide feedback

8.4 Mainstreaming Children’s and Women’s Rights: National Strategies and Action Plans

There has been considerable debate about how best the Concluding Observations can be implemented by Government and non-state actors. The CRC Committee has expressed its concern in General Comment No 5,²⁸⁰ about the fragmented approach taken by many States in developing policies for change that would implement the Concluding Observations. Typically, States produce a wide array of different “action plans”, “strategies”, “white papers” etc. addressing different aspects of children’s rights in isolation, leading to inefficiency, overlap and confusion in implementing the Convention. For example, strategies may address childcare, juvenile justice issues, or the treatment of children in the asylum and immigration system in isolation, neglecting and ignoring the fact that all of these issues are interlinked and

²⁷⁹ Case study from Save the Children Sweden: Latin America and the Caribbean in “It’s All About Children” by Save the Children, available at <http://resourcecentre.savethechildren.se/node/3961>.

²⁸⁰ CRC/GC/2003/5

interrelated. The effect of this in practice is that children fall between the gaps of different policies, and rights remain unimplemented.

The CRC Committee has recommended that States utilise the **Concluding Observations** as a guide to developing a **comprehensive national framework** that covers all the rights contained within CRC. This, it has recommended, should take the form of a **national plan of action** on children's rights which brings together all existing plans and policies, as well as addressing gaps and areas needing reform. This plan should also take into consideration the outcome document of the 2002 United National General Assembly Special Session on Children: "A World Fit for Children".²⁸¹

This approach, although supported by the CRC Committee, has not always produced sufficient impetus for change, especially where a children's rights or women's rights action plan is just one of many action plans produced by the State. As a result, the UNICEF focus has shifted away from support of developing national action plans specifically for children towards mainstreaming children's rights and including them in all national strategies and plans of action. Thus, whenever the government is developing policy, children's rights and women's rights should always be considered and included within that policy, rather than in a separate document.

While there should be a focus on mainstreaming children's and women's rights, there is still a need to monitor the progress made to address the specific issues contained in the Concluding Observations. To ensure that this occurs it is recommended that a national action plan for children or for women should still be developed, and used as a means of setting out the main actions that need to be taken and to serve as a yardstick by which the progress that is being made in implementing children's and women's rights is measured. Preparation of this document should not be seen as an alternative to mainstreaming children's rights but as an addition, to enable key performance indicators to be set and to measure implementation.

When developing or reviewing their **national plans**, States should look closely and carefully at the Concluding Observations to their periodic report, which will provide important, **practical guidance** on the areas where State legislation and policy needs development and improvement. The national plan should set out **priorities** for ensuring progress towards comprehensive implementation of the Concluding Observations and recommendations. This will then enable the government and non-state actors to be more effective in influencing subject specific national action plans

²⁸¹ http://www.childoneurope.org/issues/crc_committee/su00-Survey.pdf

What should be included in a national plan?

Overarching points

The plan should cover a specified **period of time**: conventionally this is **5 years**, a timeframe that also fits into the CRC reporting cycle time frame. For a plan of action relating to CEDAW, however, States should cover a **4-year period**.

Every plan should set out objectives and the key performance indicators enabling it to measure achievement of its objectives by the end of the time-period: e.g. progress in implementing children's and women's rights across the identified priority areas.

The plan should include information on which ministries, departments, political and professional bodies and civil society groups (NHRIs, NGOs, etc.) are crucial to implementation, which are the key areas of national policy being developed, how mainstreaming is to be ensured and how monitoring of national change will be effected. It should also address how issues, which may not be the subject of national policy, are to be addressed.

The plan should be a **living, organic** document. This means that it can and should be subject to regular review to measure progress and should be updated based on recent developments in the State, whether changes in law, policy and strategy, or broader changes within the State (e.g. an economic downturn) to reflect the extent to which progress in implementation of the Concluding Observations or recommendations are being met. Reviewing and updating the plan over time will ensure that it continues to be relevant, purposeful and timely. Reviewing the plan could involve changing, removing or adding, areas of priority, strategy and specific points of action within the plan.

Content and structure of the plan

The content and structure of the plan will depend on the particular State context, the State's progress in reporting to and implementing CRC and CEDAW, and the content of the Committees' Concluding Observations.

It is recommended that the National Plan should include:

- 1) **An introduction**, which contains general information on the purpose or the plan, and the context in which the plan is being developed.
- 2) **The reporting process**: general information on the State's reporting obligations, the progress it has made, and a summary of what took place during the last reporting cycle (who was involved, i.e. NGOs, children's groups; and what took place);
- 3) A summary of the **Concluding Observations** made by the Committee to the State: including overarching comments, relevant General Recommendations or General Comments, respectively, and recommendations for specific actions.
- 4) A list of **key priorities** to promote the implementation of the Convention in the State party. These priorities should be derived from information learned and evidence

gathered during the entire reporting cycle: the State Party Report, alternative and shadow NGOs' and children's reports; the constructive dialogue between the Committee and the State and the Concluding Observations made to the State.

- 5) **Measures taken:** Which of the Concluding Observations and General Recommendations/Comments will be addressed through mainstreaming these into national strategies and which will require a child or women specific approach. A proposed framework for this part of the plan is outlined below.
- 6) **Monitoring and review:** this section should contain information about the process for reviewing the plan's provisions over time, and a set of indicators against which progress towards implementing the plan's provisions can be measured.
- 7) **Summary of measures and conclusions:** the concluding section of the plan should contain a summary of the key measures that have been taken and the extent to which these implement the Concluding Observations.



Measures taken

Under each specific Concluding Observation the following information should be recorded and updated at agreed intervals:

- a description of the Concluding Observation;
- a summary of any national policy development relating to the individual Concluding Observations;
- identification of Concluding Observations for which there is no current national policy and policy is not currently in the process of development;
- Child specific or women specific policies and actions that will need to be developed in the absence of any national policy, the strategy for initiating this development and responsible actors;
- detailed information on the **actors** responsible for supporting the implementation of the national plans;
- the timescale for the national plans to be introduced and the mechanism by which changes will be introduced.

8.5 Technical Assistance for Follow-Up to the Concluding Observations

The United Nations Technical Cooperation Programme in the Field of Human Rights was established in 1955 in order to assist States “*in the building and strengthening of national structures that have a direct impact on the overall observance of human rights and the maintenance of the rule of law.*”²⁸² The Office of the High Commissioner for Human Rights (OHCHR) participates in the United Nations' Technical Cooperation programme by providing technical assistance to States to promote and encourage their respect for human rights and fundamental freedoms, including the right to development.

²⁸² <http://www.ohchr.org/EN/Countries/Pages/TechnicalCooperationIndex.aspx>

The OHCHR provides States with technical assistance in the following four areas, all of which are relevant to the implementation of human rights treaties, including the CRC and CEDAW:

1. Technical assistance to improve the administration of justice, to strengthen and increase the ability of the State to implement the CRC and CEDAW.
2. Human rights education to build capacity within government, civil society, and NHRIs.
3. The development of human rights action plans.
4. The establishment or strengthening of national human rights institutions.

The OHCHR sees technical assistance as: **“a complement to, but never a substitute for, the monitoring and investigating activities of the human rights programme.”**²⁸³

And, according to the resolutions of the Commission on Human Rights, **“the provision of advisory services and technical assistance does not reduce a Government's responsibility to account for the human rights situation in its territory and, where applicable, does not exempt it from monitoring through the various procedures established by the United Nations.”**²⁸⁴

Concluding Observations from the CRC Committee often recommend that the State seek technical assistance from UNICEF. They can provide a wider range of technical assistance including assisting with implementation of specific Articles of the Convention. Similarly, technical assistance can be sought from UN Women on specific issues of implementation of CEDAW.

The Relationship Between Technical Assistance and Treaty Body Reporting

The United Nations is particularly interested in providing Technical Assistance that facilitates the implementation of human rights treaties, while the OHCHR is particularly interested in establishing a synergy between the reporting process and technical assistance. It recognises that the provision of Technical Assistance can facilitate States' implementation of CRC and CEDAW and that Concluding Observations provided by the Committees may help States identify areas where they are in need of technical assistance. NGOs can also benefit from technical assistance, through grants, which provide NGOs with the resources and incentive to write shadow or alternative reports.

Technical Assistance to States Parties can expedite the process of reporting by informing their governments about the reporting process. Greater awareness of the process may encourage civil servants to plan for the collection and collation of the data necessary for reporting. The advice can also allow the government to develop more efficient means of reporting.

²⁸³ <http://www.ohchr.org/EN/Countries/Pages/TechnicalCooperationIndex.aspx>

²⁸⁴ <http://www.ohchr.org/EN/Countries/Pages/TechnicalCooperationIndex.aspx>

What is the process for acquiring Technical Assistance?

In order to receive Technical Assistance, a State must make a request for assistance to the OHCHR Secretariat. The Secretariat responds by conducting an assessment of the State, which will consider the extent to which human rights are being reported or implemented in the State. The assessment is usually conducted through an international mission to the State concerned.

The OHCHR is likely to prioritise requests for assistance from countries or regions that are in the process of developing a democratic political system. Priority will also be given to requests for assistance from less economically developed countries.



Case Study: Technical Assistance in Malawi

OHCHR helped facilitate Malawi's transition from dictatorship to democracy in 1994 through several technical cooperation activities over a number of years. After conducting a needs assessment to determine where its greatest contributions could be made, the OHCHR provided assistance to Malawi in developing a National Plan of Action in the field of human rights, and in signing human rights treaties and incorporating their provisions into national law. OHCHR also provided training on treaty body reporting on CRC and CEDAW.

OHCHR's second wave of assistance in Malawi focused on strengthening national capacity, including encouraging the development of a strong civil society. In order to achieve this, OHCHR helped the government organise a national conference on the National Plan of Action and provided Malawi with a range of assistance programmes including training for members of the police force, lawyers and military and training services. Malawi received Technical Assistance and advice from OHCHR on the implementation of CRC. The OHCHR also provided assistance throughout the development of the Malawi Human Rights Commission, including training for members of staff, and the development of a strategic plan.



FURTHER READING

NGO Group for the Convention on the Rights of the Child, *The Use of Concluding Observations for Monitoring the Implementation of the Convention on the Rights of the Child: The Experience of NGO Coalitions in Nine Country Case Studies*, January 2005, available at http://www.childrightsnet.org/docs/resources/publications/ngocrc/CRIN-NGOCRC_WP2_en.pdf [accessed 15 May 2013]

Office of the United Nations Commissioner for Human Rights, *Committee on the Rights of the Child – Follow-up to Concluding Observations: Workshops on the Implementation of the Concluding Observation of the Committee on the Rights of the Child*, <http://www2.ohchr.org/english/bodies/crc/follow-up.htm> [accessed 15 May 2013]

Office of the United Nations Commissioner for Human Rights, *Committee on the Elimination of all Forms of Discrimination Against Women – Follow up Procedure*, <http://www2.ohchr.org/english/bodies/cedaw/followup.htm> [accessed 15 May 2013]