



**United Nations**

# **Report of the Human Rights Committee**

## **Volume I**

**Ninety-first session  
(15 October-2 November 2007)**

**Ninety-second session  
(17 March-4 April 2008)**

**Ninety-third session  
(7-25 July 2008)**

**General Assembly  
Official Records  
Sixty-third session  
Supplement No. 40 (A/63/40)**



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### **Note**

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## Summary

The present annual report covers the period from 1 August 2007 to 31 July 2008 and the ninety-first, ninety-second and ninety-third sessions of the Human Rights Committee. Since the adoption of the last report, Samoa has become a party to the International Covenant on Civil and Political Rights. Albania and the Republic of Moldova have become parties to the First Optional Protocol [as at 27 May 2008]. Albania, France, Honduras, Mexico, the Philippines and Ukraine have become parties to the Second Optional Protocol. In total, there are 161 States parties to the Covenant, 111 to the First Optional Protocol and 66 to the Second Optional Protocol.

During the period under review, the Committee considered 13 States parties' reports submitted under article 40 and adopted concluding observations on them (ninety-first session: Georgia, Libyan Arab Jamahiriya, Austria, Costa Rica and Algeria; ninety-second session: Tunisia, Botswana, Panama and the former Yugoslav Republic of Macedonia; ninety-third session: United Kingdom of Great Britain and Northern Ireland, France, San Marino and Ireland - see chapter IV for concluding observations). Lastly, pursuant to rule 70, paragraph 3, of its rules of procedure, the Committee made its provisional concluding observations on Saint Vincent and the Grenadines final and public, regretting the lack of cooperation by that State.

Under the Optional Protocol procedure, the Committee adopted Views on 40 communications, and declared 6 communications admissible and 25 inadmissible. Consideration of 11 communications was discontinued (see chapter V for information on Optional Protocol decisions). So far, 1,799 communications have been registered since the entry into force of the Optional Protocol to the Covenant, and 225 since the writing of the last report.

The Committee's procedure for following up on concluding observations, initiated in 2001, continued to develop during the reporting period. The Special Rapporteur for follow-up to concluding observations, Sir Nigel Rodley, presented progress reports during the Committee's ninety-first, ninety-second and ninety-third sessions. The Committee notes with satisfaction that the majority of States parties have continued to provide it with additional information pursuant to rule 70, paragraph 5, of its rules of procedure, and expresses its appreciation to those States parties that have provided timely follow-up information.

The Committee again deplores the fact that some States parties do not comply with their reporting obligations under article 40 of the Covenant. In 2001, therefore, it adopted a procedure to deal with this situation. It applied this procedure at its ninetieth session to examine, in the absence of a report, the measures taken by Grenada to give effect to the rights recognized in the Covenant. In accordance with rule 70 of its revised rules of procedure, the Committee adopted provisional concluding observations on the measures taken by the State party to give effect to the rights recognized in the Covenant and transmitted them to Grenada.

The Committee's workload under article 40 of the Covenant and the Optional Protocol to the Covenant continues to grow, as demonstrated by the large number of State party reports received and cases registered during the reporting period. Thirteen initial or periodic reports were received between 1 August 2007 and 31 July 2008, and by the end of the ninety-third

session, 22 reports had not yet been considered by the Committee. At the end of the ninety-third session, 409 communications were pending (see chapter V). The Committee has given consideration to implementing special measures to remedy this situation, such as lengthening one of the sessions.

The Committee again notes that many States parties have failed to implement the Views adopted under the Optional Protocol. The Committee has continued to seek to ensure implementation of its Views through its Special Rapporteur for follow-up to Views, Mr. Ivan Shearer, who arranged meetings with representatives of States parties that had not responded to the Committee's requests for information about measures taken to give effect to its Views, or that had given unsatisfactory replies (see chapter VI).

Throughout the reporting period, the Committee continued to contribute to the discussion prompted by the Secretary-General's proposals for reform and streamlining of the treaty body system. The Chairperson, Mr. Rafael Rivas Posada, represented the Committee at the twentieth meeting of chairpersons of the human rights treaty bodies (26 and 27 June 2008) and Mr. Abdelfattah Amor and Mr. Michael O'Flaherty participated in the seventh inter-committee meeting (23-25 June 2008).

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## **CHAPTER I. JURISDICTION AND ACTIVITIES**

### **A. States parties to the International Covenant on Civil and Political Rights and to the First and Second Optional Protocols**

1. By the end of the ninety-third session of the Human Rights Committee, there were 162 States parties to the International Covenant on Civil and Political Rights and 109 States parties to the Optional Protocol to the Covenant. Both instruments have been in force since 23 March 1976.
2. Since the last report, Samoa and Papua New Guinea have become parties to the Covenant. Albania and the Republic of Moldova have acceded to the First Optional Protocol.
3. As at 25 July 2008, 48 States had made the declaration provided for under article 41, paragraph 1, of the Covenant. In this connection, the Committee appeals to States parties to make the declaration under article 41 of the Covenant and to consider using this mechanism with a view to making implementation of the provisions of the Covenant more effective.
4. The Second Optional Protocol to the Covenant, aimed at abolishing the death penalty, entered into force on 11 July 1991. As at 25 July 2008, there were 66 States parties to the Protocol, an increase of 6 (Albania, France, Honduras, Mexico, Philippines and Ukraine) since the Committee's last report.
5. A list of States parties to the Covenant and to the two Optional Protocols, indicating those States that have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.
6. Reservations and other declarations made by a number of States parties in respect of the Covenant or the Optional Protocols are set out in the notifications deposited with the Secretary-General. The Committee once again urges States parties to consider withdrawing their reservations.

### **B. Sessions of the Committee**

7. The Human Rights Committee held three sessions since the adoption of its previous annual report. The ninety-first session was held from 15 October to 2 November 2007, the ninety-second session from 17 March to 4 April 2008 and the ninety-third session from 7 to 25 July 2008. The ninety-first and ninety-third sessions were held at the United Nations Office at Geneva, and the ninety-second session at United Nations Headquarters in New York.

### **C. Election of officers**

8. On 12 March 2007, the Committee elected the following officers for a term of two years, in accordance with article 39, paragraph 1, of the Covenant:

Chairperson: Mr. Rafael Rivas Posada

Vice-Chairpersons: Mr. Ahmed Tawfik Khalil  
Ms. Elisabeth Palm  
Mr. Ivan Shearer

Rapporteur: Mr. Abdelfattah Amor

9. During its ninety-first, ninety-second and ninety-third sessions, the Bureau of the Committee held nine meetings (three per session), with interpretation. Pursuant to the decision taken at the seventy-first session, the Bureau records its decisions in formal minutes, which are kept as a record of all decisions taken.

#### **D. Special rapporteurs**

10. The Special Rapporteur on new communications, Mr. Walter Kälin, registered 225 communications during the reporting period and transmitted them to the States parties concerned, and issued 12 decisions calling for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure. During the ninety-third session, the Committee designated Ms. Christine Chanet as the new Special Rapporteur on new communications.

11. The Special Rapporteur for follow-up on Views, Mr. Ivan Shearer, and the Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, assumed their functions during the reporting period. During the ninety-first, ninety-second and ninety-third sessions, Mr. Shearer presented interim reports on his follow-up activities to the plenary. Interim reports were also submitted to the Committee by Sir Nigel Rodley during the ninety-first, ninety-second and ninety-third sessions. The reports on follow-up on Views can be found in annex VII. Details on follow-up on Views under the Optional Protocol and on concluding observations appear in chapters VI and VII respectively.

#### **E. Working group and country report task forces**

12. In accordance with rules 62 and 89<sup>1</sup> of its rules of procedure, the Committee established a working group which met before each of its three sessions. The working group was entrusted with the task of making recommendations on the communications received under the Optional Protocol. The former working group on article 40, entrusted with the preparation of lists of issues concerning the initial or periodic reports scheduled for consideration by the Committee, has been replaced since the seventy-fifth session (July 2002) by country report task forces.<sup>2</sup> Country report task forces met during the ninety-first, ninety-second and ninety-third sessions to consider and adopt lists of issues on the reports of Denmark, France, Ireland, Japan, Monaco, Nicaragua, Panama, San Marino, Spain, Sweden, Tunisia and the United Kingdom of Great Britain and Northern Ireland.

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<sup>1</sup> Rule 95 of the revised rules of procedure.

<sup>2</sup> See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, para. 56, and annex III, sect. B.

13. The Committee benefits increasingly from information made available to it by the Office of the United Nations High Commissioner for Human Rights (OHCHR). United Nations bodies (the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Development Programme (UNDP)) and specialized agencies (the International Labour Organization (ILO) and the World Health Organization (WHO)) provided advance information on several of the countries whose reports were to be considered by the Committee. To that end, country report task forces also considered material submitted by representatives of a number of international and national human rights non-governmental organizations. The Committee welcomed the interest shown by and the participation of those agencies and organizations and thanked them for the information provided.

14. At the ninety-first session, the Working Group on Communications was composed of Mr. Bhagwati, Mr. Johnson Lopez, Mr. Kälin, Mr. Tawfik Khalil, Ms. Palm, Mr. Rivas Posada, Mr. Lallah, Ms. Motoc and Ms. Majodina. Ms. Palm was designated Chairperson-Rapporteur. The Working Group met from 8 to 11 October 2007.

15. At the ninety-second session, the Working Group on Communications was composed of Mr. Bhagwati, Mr. Johnson Lopez, Mr. O'Flaherty, Ms. Palm, Mr. Rivas Posada, Mr. Shearer, Mr. Iwasawa, Mr. Kälin, Ms. Motoc and Sir Nigel Rodley. Mr. Shearer was designated Chairperson-Rapporteur. The Working Group met from 10 to 14 March 2008.

16. At the ninety-third session, the Working Group on Communications was composed of Mr. Bhagwati, Ms. Chanet, Mr. Johnson Lopez, Ms. Motoc, Mr. O'Flaherty, Mr. Rivas Posada, Ms. Majodina and Mr. Shearer, and Ms. Chanet was designated Chairperson-Rapporteur. The Working Group met from 30 June to 4 July 2008.

#### **F. Secretary-General's recommendations for reform of treaty bodies**

17. In his second report on further reform of the United Nations system (A/57/387 and Corr.1), the Secretary-General invited the human rights treaty bodies to further streamline their reporting procedures and suggested that, to enable States to meet the challenges that they faced under multiple reporting obligations, the States parties to the main human rights instruments should be permitted to submit a single or consolidated report which would cover the implementation of their obligations under all the instruments that they had ratified. The Committee has participated in and contributed to the discussions prompted by the Secretary-General's proposals. At its seventy-sixth session, in October 2002, it set up an informal working group to analyse and discuss the proposals and report back to the plenary at the seventy-seventh session. At its seventy-seventh session, in March 2003, the plenary discussed the working group's recommendations. It did not consider the concept of a single or consolidated report to be a viable one, but adopted a recommendation which, if implemented, would enable States parties to submit to the Committee focused reports on the basis of lists of issues transmitted previously to the States parties concerned. This system would be applied after the presentation, by the States parties concerned, of an initial and one periodic report. The Committee was represented at informal meetings on treaty body reform held at Malbun, Liechtenstein, from 4 to 7 May 2003 (see document HRI/ICM/2003/4) and from 14 to 16 July 2006.

18. The Committee was also represented at the second,<sup>3</sup> third,<sup>4</sup> fourth,<sup>5</sup> fifth, sixth and seventh inter-committee meetings, held respectively from 18 to 20 June 2003, on 21 and 22 June 2004, from 20 to 22 June 2005, from 19 to 21 June 2006, from 18 to 20 June 2007 and from 23 to 25 June 2008, where this matter was also given consideration. Mr. Amor and Mr. O'Flaherty represented the Committee at the seventh inter-committee meeting.

### **G. Harmonization of working methods of the treaty bodies**

19. Ms. Chanut chaired the eighteenth meeting of persons chairing the human rights treaty bodies (22 and 23 June 2006) and at the same time represented the Committee. At that meeting, participants accepted the revised harmonized guidelines and recommended that the committees should begin to apply them immediately, in a flexible manner, review their existing reporting guidelines for initial and periodic reports, and compile indications of any difficulties experienced in the implementation of the guidelines. At its ninetieth session, the Committee decided to revise its reporting guidelines and requested Mr. O'Flaherty to review the existing guidelines and to prepare a working paper identifying in particular any difficulties that might arise with the implementation of harmonized guidelines. The Committee began a discussion on the basis of Mr. O'Flaherty's document at its ninety-second and ninety-third sessions and decided to begin work on the preparation of new guidelines.

20. This issue was also discussed at the seventh inter-committee meeting (23-25 June 2008) and the twentieth meeting of persons chairing the treaty bodies (26 and 27 June 2008), at which the Committee was represented by Mr. Rivas Posada, Mr. Amor and Mr. O'Flaherty. The Committee welcomed the fact that the inter-committee meeting intended to devote more time in future to the harmonization of working methods of the treaty bodies.

### **H. Related United Nations human rights activities**

21. At each session, the Committee was informed about the activities of United Nations bodies dealing with human rights issues. In particular, the relevant general comments and concluding observations of the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee against Torture and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families were made available to it. Recent developments in the General Assembly and relating to the Human Rights Council were also discussed.

22. At its ninetieth session, the Committee decided to request Ms. Chanut to submit recommendations on its relations with the Human Rights Council for discussion during the ninety-third session. At the same time the Committee also requested Ms. Wedgwood to draft recommendations on strengthening cooperation with the special procedures of the Human Rights

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<sup>3</sup> See *ibid.*, *Fifty-eighth Session, Supplement No. 40 (A/58/40)*, vol. I, paras. 63 and 64.

<sup>4</sup> See *ibid.*, *Fifty-ninth Session, Supplement No. 40 (A/59/40)*, vol. I, paras. 20-23.

<sup>5</sup> See *ibid.*, *Sixtieth Session, Supplement No. 40 (A/60/40)*, vol. I, para. 20.

Council, in particular to have a clearer idea of the Committee's contribution to the universal periodic review mechanism. At its ninety-second session, the Committee requested Ms. Chanet and Ms. Wedgwood to attend, as observers, a session of the Working Group of the Council on the universal periodic review. At its ninety-third session, the Committee decided to discuss these issues in plenary at its ninety-fourth session on the basis of the reports by Ms. Chanet and Ms. Wedgwood.

23. Pursuant to a recommendation of the fourth inter-committee meeting and the seventeenth meeting of persons chairing the treaty bodies, an inter-committee working group was set up to study the secretariat report on the practice of treaty bodies with regard to reservations to international human rights treaties. This working group met on 8 and 9 June 2006 and on 14 and 15 December 2006 and was chaired by Sir Nigel Rodley, who also represented the Committee. The reports of these two meetings (HRI/MC/2006/5 and Rev.1 and HRI/MC/2007/5) were transmitted to the sixth inter-committee meeting, held from 18 to 20 June 2007, and the nineteenth meeting of persons chairing the treaty bodies, held on 21 and 22 June 2007. On 15 and 16 May 2007, Sir Nigel Rodley also attended, on behalf of the Committee, a meeting of bodies set up pursuant to the international human rights treaties with the International Law Commission, on the topic of reservations. Sir Nigel Rodley reported to the Committee, at its eighty-ninth and ninetieth sessions, on the outcome of the work of the working group and the discussions with the International Law Commission. The Committee continues to follow this matter closely.

#### **I. Derogations pursuant to article 4 of the Covenant**

24. Article 4, paragraph 1, of the Covenant stipulates that, in time of public emergency, States parties may take measures derogating from certain of their obligations under the Covenant. Pursuant to paragraph 2, no derogation is allowed from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18. Pursuant to paragraph 3, any derogation must be immediately notified to the other States parties through the intermediary of the Secretary-General. A further notification is required upon the termination of the derogation.<sup>6</sup>

25. On 8 November 2007, the Government of Georgia notified the other States parties, through the intermediary of the Secretary-General, of the adoption of order No. 621 declaring a state of emergency throughout Georgia and of decree No. 1 on measures to be adopted following the declaration of the state of emergency. The Government of Georgia specified that during the state of emergency the rights covered by articles 24, 25 and 33 of the Covenant would be suspended. On 19 November 2007, the Secretary-General received information from the Government of Georgia that the state of emergency had been lifted.

26. On 2 January 2008, the Government of Peru notified the other States parties, through the intermediary of the Secretary-General, of the adoption of decree No. 099-2007-PCM, published on 28 December 2007, declaring a state of emergency for a period of 60 days in certain districts and several provinces. The Government specified that, during the state of emergency, the rights covered by articles 9, 12, 17 and 21 of the Covenant would be suspended.

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<sup>6</sup> Ibid., vol. I, chap. I, H.

27. On 21 February 2008, the Government of Peru notified the other States parties, through the intermediary of the Secretary-General, of the adoption of decree No. 012-2008-PCM, published on 18 February 2008, declaring a state of emergency for a period of seven days in certain districts and several provinces. The Government specified that, during the state of emergency, the rights covered by articles 9, 12, 17 and 21 of the Covenant would be suspended.

28. During the period under review, the Government of Guatemala notified the other States parties, through the intermediary of the Secretary-General, on 9 May 2008 of the declaration of a state of emergency throughout the country by Government decree No. 1-2008 of 7 May 2008, specifying the restriction placed on certain rights and freedoms.

29. All these notifications can be consulted on the website of the United Nations Office of Legal Affairs.

#### **J. General comments under article 40, paragraph 4, of the Covenant**

30. At its eighty-fifth session, the Committee decided that, after adoption of the new general comment No. 32 on article 14,<sup>7</sup> a draft general comment on States parties' obligations under the Optional Protocol would be considered. The Committee began its consideration of the draft document at its ninety-second and ninety-third sessions.

#### **K. Staff resources**

31. The Committee reaffirms the importance of allocating more staff resources to service its sessions in Geneva and New York and to promote greater awareness, understanding and implementation of its recommendations at the national level.

#### **L. Emoluments of the Committee**

32. The Committee has noted with concern that since 2002 the emoluments provided to its members in accordance with article 35 of the Covenant have been reduced by General Assembly resolution 56/272 from US\$ 3,000 to the symbolic amount of US\$ 1, which is in violation of the Covenant. It regrets that nothing has been said on the matter and requests that it should be duly reconsidered, in keeping with article 35 of the Covenant, and that the rights improperly disregarded should be restored.

#### **M. Publicity for the work of the Committee**

33. At its eighty-third session, the Committee agreed that press conferences should be prepared sufficiently in advance and that in-session press conferences could be organized when relevant. That arrangement was followed during the ninety and ninety-third sessions.

34. The Committee notes with satisfaction that press releases summarizing the most important final decisions under the Optional Protocol were issued after the ninety-first, ninety-second and ninety-third sessions. This practice helps to publicize the Committee's decisions under the Optional Protocol. The Committee further welcomes the creation and continued development of

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<sup>7</sup> *Ibid.*, *Sixty-second Session, Supplement No. 40 (A/62/40)*, vol. I, annex VI.

an electronic mailing list, through which its concluding observations on reports considered under article 40 of the Covenant and final decisions adopted under the Optional Protocol are disseminated electronically to an ever-increasing number of individuals and institutions.

35. The regular updating of the OHCHR web page on the Human Rights Committee also contributes to better public awareness of the Committee's activities. Obviously, publicity for the work of the Committee must be enhanced to reinforce the protection mechanisms under the Covenant. In that context, the recent production by OHCHR of a DVD containing both a film and extensive documentation on the work of the treaty bodies is a positive initiative.

36. At its ninetieth session, the Committee discussed the need to develop a media strategy. It continued the discussion during the ninety-first, ninety-second and ninety-third sessions on the basis of a working paper prepared by Mr. Shearer.

#### **N. Publications relating to the work of the Committee**

37. The Committee notes with appreciation that volumes 5, 6, 7 and 8 of the Selected Decisions under the Optional Protocol have been published, bringing its jurisprudence up to date to the July 2005 session. Such publications will make the Committee's jurisprudence more accessible to the general public and to the legal profession in particular. These volumes of the Selected Decisions must still be made available in all official languages of the United Nations, however.

38. The Committee has learned with satisfaction that its decisions adopted under the Optional Protocol have been published in the databases of various institutions.<sup>8</sup> It appreciates the growing interest shown in its work by universities and other institutions of higher learning in this respect. It also reiterates its previous recommendation that the treaty body database of the OHCHR website (ohchr.org) should be equipped with adequate search functions.

#### **O. Future meetings of the Committee**

39. At its ninetieth session, the Committee confirmed the following schedule of meetings for 2008: ninety-fourth session from 13 to 31 October 2008. At its ninety-third session, it confirmed the following schedule of meetings for 2009: ninety-fifth session from 9 to 27 March 2009, ninety-sixth session from 13 to 31 July 2009 and ninety-seventh session from 12 to 30 October 2009.

#### **P. Adoption of the report**

40. At its 2565th meeting, on 23 July 2008, the Committee considered the draft of its thirty-second annual report, covering its activities at its ninety-first, ninety-second and ninety-third sessions, held in 2007 and 2008. The report, as amended in the course of the discussion, was adopted unanimously. By virtue of its decision 1985/105 of 8 February 1985, the Economic and Social Council authorized the Secretary-General to transmit the Committee's annual report directly to the General Assembly.

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<sup>8</sup> *Ibid.*, *Fifty-ninth Session, Supplement No. 40 (A/59/40, vol. I, annex VII)*.

## CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT AND COOPERATION WITH OTHER UNITED NATIONS BODIES

41. The present chapter summarizes and explains the modifications introduced by the Committee to its working methods under article 40 of the Covenant in recent years, as well as recent decisions adopted by the Committee on follow-up to its concluding observations on State party reports.

### A. Recent developments and decisions on procedures

42. In March 1999, the Committee decided that the lists of issues for the examination of States parties' reports should henceforth be adopted at the session prior to the examination of the report, thereby allowing a period of at least two months for States parties to prepare for the discussion with the Committee. The oral hearing, where the delegations of States parties respond to the list of issues and supplementary questions from Committee members, is central to the consideration of States parties' reports. States parties are advised to use the list of issues to prepare better for the constructive dialogue with the Committee. While they are not required to submit written answers to the list of issues, they are encouraged to do so. At its eighty-sixth session, the Committee decided that States parties wishing to submit written replies would be encouraged to limit them to a total of 30 pages, without prejudice to further oral replies by the States parties' delegations, and to send written replies at least three weeks prior to the examination of reports so that they could be translated.

43. In October 1999, the Committee adopted new consolidated guidelines on the format and content of State party reports, which replaced all previous guidelines and which are designed to facilitate the preparation of initial and periodic reports by States parties. The guidelines provide for comprehensive initial reports prepared on an article-by-article basis and focused periodic reports dealing primarily with the concluding observations adopted by the Committee following the consideration of the previous report of the State party concerned. In their periodic reports, States parties need not report on every article of the Covenant and should concentrate on the provisions identified by the Committee in its concluding observations and those articles in respect of which there have been significant developments since the submission of the previous report. The revised consolidated guidelines were issued as document CCPR/C/66/GUI/Rev.2 (26 February 2001).<sup>9</sup>

44. For several years, the Committee has been concerned about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant.<sup>10</sup>

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<sup>9</sup> *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. A.

<sup>10</sup> *Ibid.*, chap. III, sect. B, and *ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, chap. III, sect. B.



Two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and to simplify the procedure. These amendments were formally adopted during the seventy-first session, in March 2001, and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).<sup>11</sup> All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.<sup>12</sup>

45. The amendments introduce a procedure to be followed when a State party has failed to honour its reporting obligations for a long time, or requests a postponement of its scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the State concerned that it intends to consider, from material available to it, the measures adopted by that State party to give effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduce a follow-up procedure to the concluding observations of the Committee: rather than setting in the last paragraph of the concluding observations a date by which the State party's next report should be submitted, the Committee will invite the State party to report back to it within a specified period regarding its follow-up to the Committee's recommendations, indicating what steps, if any, it has taken. The responses received will thereafter be examined by the Committee's Special Rapporteur on follow-up to concluding observations, and a definitive deadline will then be set for the submission of the next report. Since the seventy-sixth session, the Committee has, as a rule, examined the progress reports submitted by the Special Rapporteur on a sessional basis.<sup>13</sup>

46. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. In July 2002, it considered the measures taken by the Gambia to give effect to the rights set out in the Covenant, in the absence of a report and a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At its seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit by 1 July 2004 a periodic report that should specifically address the concerns identified in the Committee's provisional concluding observations. If the State party failed to meet the deadline, the provisional concluding observations would become final and the Committee would make them public. On 8 August 2003, the Committee amended rule 69A of its rules of procedure<sup>14</sup> to provide for the possibility of making provisional concluding observations

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<sup>11</sup> Ibid., *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. B.

<sup>12</sup> Ibid., *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex VI.

<sup>13</sup> Except for the eighty-third session, when a new Special Rapporteur was appointed.

<sup>14</sup> Rule 70 of the revised rules of procedure.

final and public. At the end of its eighty-first session, the Committee decided to make the provisional concluding observations on the Gambia final and public, since the State party had failed to submit its second periodic report.

47. At its seventy-sixth session (October 2002), the Committee considered the situation of civil and political rights in Suriname, in the absence of a report but in the presence of a delegation. On 31 October 2002, it adopted provisional concluding observations, which were transmitted to the State party. In its provisional concluding observations, the Committee invited the State party to submit its second periodic report within six months. The State party submitted its report by the deadline. The Committee considered the report at its eightieth session (March 2004) and adopted concluding observations.

48. At its seventy-ninth and eighty-first sessions (October 2003 and July 2004), the Committee considered the situation of civil and political rights in Equatorial Guinea and the Central African Republic, respectively, in the absence both of a report and a delegation in the first case, and in the absence of a report but in the presence of a delegation in the second case. Provisional concluding observations were transmitted to the States parties concerned. At the end of the eighty-first session, the Committee decided to make the provisional concluding observations on the situation in Equatorial Guinea final and public, the State party having failed to submit its initial report. On 11 April 2005, in conformity with the assurances it had made to the Committee at the eighty-first session, the Central African Republic submitted its second periodic report. The Committee considered the report at its eighty-seventh session (July 2006) and adopted concluding observations.

49. At its eightieth session (March 2004), the Committee decided to consider the situation of civil and political rights in Kenya at its eighty-second session (October 2004), as Kenya had not submitted its second periodic report, due on 11 April 1986. On 27 September 2004, Kenya submitted its second periodic report. The Committee considered the second periodic report of Kenya at its eighty-third session (March 2005) and adopted concluding observations.

50. At its eighty-third session, the Committee considered the situation of civil and political rights in Barbados, in the absence of a report but in the presence of a delegation, which pledged to submit a full report. Provisional concluding observations were transmitted to the State party. On 18 July 2006, Barbados submitted its third periodic report. The Committee considered the report at its eighty-ninth session (March 2007) and adopted concluding observations. As Nicaragua had not submitted its third periodic report, due on 11 June 1997, the Committee decided, at its eighty-third session, to consider the situation of civil and political rights in Nicaragua at its eighty-fifth session (October 2005). On 9 June 2005, Nicaragua gave assurances that it would submit its report by 31 December 2005 at the latest. Then, on 17 October 2005, Nicaragua informed the Committee that it would submit its report by 30 September 2006. At its eighty-fifth session (October 2006), the Committee requested Nicaragua to submit its report by 30 June 2006. Following a reminder from the Committee, dated 31 January 2007, Nicaragua again undertook, on 7 March 2007, to submit its report by 9 June 2007. Nicaragua submitted its third periodic report on 20 June 2007.

51. At its eighty-sixth session (March 2006), the Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines, in the absence of a report but in the presence of a delegation. Provisional concluding observations were transmitted to the State party. In accordance with the provisional concluding observations, the Committee invited the State party to submit its second periodic report by 1 April 2007 at the latest. On 12 April 2007, the Committee sent a reminder to the authorities of Saint Vincent and the Grenadines. In a letter dated 5 July 2007 Saint Vincent and the Grenadines pledged to submit its report within a month.

52. As San Marino had not submitted its second periodic report, due on 17 January 1992, the Committee decided, at its eighty-sixth session, to consider the situation of civil and political rights in San Marino at its eighty-eighth session (October 2006). On 25 May 2006, San Marino gave assurances to the Committee that it would submit its report by 30 September 2006. San Marino submitted its second periodic report in conformity with that commitment, and the Committee considered it at its ninety-third session.

53. As Rwanda had not submitted its third periodic report or a special report, due respectively on 10 April 1992 and 31 January 1995, the Committee decided, at its eighty-seventh session, to consider the situation of civil and political rights in Rwanda at its eighty-ninth session (March 2007). On 23 February 2007, Rwanda undertook, in writing, to submit its third periodic report by the end of April 2007, thereby superseding the planned consideration of the situation of civil and political rights in the absence of a report. Rwanda submitted its periodic report on 23 July 2007.

54. At its eighty-eighth session (October 2006), the Committee decided to consider the situation of civil and political rights in Grenada at its ninetieth session (July 2007), as the State party had not submitted its initial report, due on 5 December 1992. At its ninetieth session (July 2007), the Committee undertook this review in the absence of a report or a delegation but on the basis of written replies from Grenada.

55. At its seventy-fourth session, the Committee adopted decisions spelling out the modalities for following up on concluding observations.<sup>15</sup> At its seventy-fifth session, the Committee appointed Mr. Yalden as its Special Rapporteur on follow-up to concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden. At the ninetieth session, Sir Nigel Rodley was appointed Special Rapporteur on follow-up to concluding observations.

56. Also at the seventy-fourth session, the Committee adopted a number of decisions on working methods designed to streamline the procedure for the consideration of reports under article 40.<sup>16</sup> The principal innovation consists in the establishment of country report task forces, consisting of no fewer than four and no more than six Committee members who will have the

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<sup>15</sup> *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex III, sect. A.

<sup>16</sup> *Ibid.*, vol. I, annex III, sect. B.

main responsibility for the conduct of debates on a State party report. The Committee notes that the establishment of these task forces has enhanced the quality of the dialogue with delegations during the consideration of State party reports. The first task forces were convened during the seventy-fifth session.

## **B. Concluding observations**

57. Since its forty-fourth session in March 1992,<sup>17</sup> the Committee has adopted concluding observations. It takes the concluding observations as a starting point in the preparation of the list of issues for the consideration of the subsequent State party report. In some cases, the Committee has received, in accordance with rule 71, paragraph 5, of its revised rules of procedure, comments on its concluding observations and replies to the concerns identified by it from the States parties concerned, which are issued in document form. During the period under review, such comments were received from Bosnia and Herzegovina, Brazil, the Government of the Hong Kong Special Administrative Region of China, Mali, the Republic of Korea, Sri Lanka, Suriname, Ukraine and the United States of America. Replies were also sent by the United Nations Interim Administration Mission in Kosovo concerning Kosovo. These replies have been issued as documents and can be consulted in the files of the Committee's secretariat, or on the Office of the United Nations High Commissioner for Human Rights website ([www.unhchr.org](http://www.unhchr.org), human rights treaty bodies, documents, category "concluding observations"). Chapter VII of the present report summarizes activities relating to follow-up to concluding observations and States parties' replies.

## **C. Links to other human rights treaties and treaty bodies**

58. The Committee views the annual meeting of chairpersons of the human rights treaty bodies as a forum for exchanging ideas and information on procedures and logistical problems, streamlining working methods, improving cooperation among treaty bodies, and stressing the need to obtain adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively. In its opinion on the idea of creating a single human rights treaty body,<sup>18</sup> the Committee proposed that the meeting of chairpersons of treaty bodies and the inter-committee meeting should be replaced by a single coordinating body composed of representatives of the various treaty bodies, which would be responsible for the effective oversight of all questions relating to the harmonization of working methods.

59. The twentieth meeting of chairpersons of treaty bodies was held in Geneva on 26 and 27 June 2008; Mr. Rafael Rivas Posada participated. The seventh inter-committee meeting was held in Geneva from 23 to 25 June 2008. Representatives from each of the human rights treaty bodies participated. The Committee was represented by Mr. Abdelfattah Amor and Mr. Michael O'Flaherty (see chapter I, section G).

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<sup>17</sup> *Ibid.*, *Forty-seventh Session, Supplement No. 40 (A/47/40)*, chap. I, sect. E, para. 18.

<sup>18</sup> *Ibid.*, *Sixty-second Session, Supplement No. 40 (A/62/40)*, vol. I, annex V.

#### **D. Cooperation with other United Nations bodies**

60. At its eighty-sixth session (March 2006), the Committee established a mandate of Rapporteur to liaise with United Nations specialized agencies and programmes in order to promote more effective interaction on country specific as well as thematic issues and follow-up. Mr. O'Flaherty was appointed Rapporteur.

61. At its ninetieth session, Mr. Edwin Johnson Lopez took over from Mr. Solari Yrigoyen as Rapporteur mandated to liaise with the Office of the Special Adviser to the Secretary-General for the Prevention of Genocide and Mass Atrocities.

62. At its ninety-second session, the Committee held a dialogue with the Special Adviser on the Prevention of Genocide and Mass Atrocities, Mr. Francis Deng. The Committee and the Special Adviser discussed in particular strengthening cooperation in carrying out their respective mandates.

### **CHAPTER III. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT**

63. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the State party concerned and, thereafter, whenever the Committee so requests. Under the Committee's current guidelines, adopted at its sixty-sixth session and amended at the seventieth session (CCPR/C/GUI/66/Rev.2), the five-year periodicity in reporting, which the Committee itself had established at its thirteenth session in July 1981 (CCPR/C/19/Rev.1), was replaced by a flexible system whereby the date for the subsequent periodic report by a State party is set on a case-by-case basis at the end of the Committee's concluding observations on any report, in accordance with article 40 of the Covenant and in the light of the guidelines for reporting and the working methods of the Committee.

#### **A. Reports submitted to the Secretary-General from August 2007 to July 2008**

64. During the period covered by the present report, 15 reports were submitted to the Secretary-General by the following States parties: Argentina (fourth periodic report), Australia (fifth periodic report), Azerbaijan (third periodic report), Croatia (second periodic report), Ecuador (fifth periodic report), Russian Federation (fifth periodic report), New Zealand (fifth periodic report), Republic of Moldova (second periodic report), United Republic of Tanzania (fourth periodic report), Republic of Chad (initial report), Netherlands (Antilles) (fourth periodic report), Switzerland (third periodic report), Uzbekistan (third periodic report), Israel (third periodic report) and Mexico (fifth periodic report).

#### **B. Overdue reports and non-compliance by States parties with their obligations under article 40**

65. States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. Those reports are the basis for the discussion between the Committee and States parties on the human rights situation in States parties. Regrettably, serious delays have been noted since the establishment of the Committee.

66. The Committee is faced with a problem of overdue reports, notwithstanding its revised reporting guidelines and other significant improvements in its working methods. It has agreed that more than one periodic report submitted by a State party may be considered jointly. Under the Committee's reporting guidelines, the date for the submission of the next periodic report is stated in the concluding observations.

67. The Committee notes with concern that the failure of States parties to submit reports hinders the performance of its monitoring functions under article 40 of the Covenant. The list below identifies the States parties that have a report more than five years overdue, and those that have not submitted reports requested by a special decision of the Committee. The Committee reiterates that these States are in default of their obligations under article 40 of the Covenant.

**States parties that have reports more than five years overdue  
(as at 31 July 2008) or that have not submitted a report  
requested by a special decision of the Committee**

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Years overdue</u>
Gambia <sup>a</sup>	Second	21 June 1985	23
Equatorial Guinea <sup>b</sup>	Initial	24 December 1988	19
Somalia	Initial	23 April 1991	17
Saint Vincent and the Grenadines <sup>c</sup>	Second	31 October 1991	16
Grenada <sup>d</sup>	Initial	5 December 1992	16
Côte d'Ivoire	Initial	25 June 1993	15
Seychelles	Initial	4 August 1993	14
Angola	Initial/Special	9 April 1993/ 31 January 1994	14
Niger	Second	31 March 1994	14
Afghanistan	Third	23 April 1994	14
Ethiopia	Initial	10 September 1994	13
Dominica	Initial	16 September 1994	13
Guinea	Third	30 September 1994	13
Mozambique	Initial	20 October 1994	13
Cape Verde	Initial	5 November 1994	13
Bulgaria	Third	31 December 1994	13
Iran (Islamic Republic of)	Third	31 December 1994	13
Malawi	Initial	21 March 1995	13
Burundi	Second	8 August 1996	11
Haiti	Initial	30 December 1996	11
Jordan	Fourth	27 January 1997	11
Malta	Initial	12 December 1996	11
Belize	Initial	9 September 1997	10
Nepal	Second	13 August 1997	10
Sierra Leone	Initial	22 November 1997	10
Turkmenistan	Initial	31 July 1998	10
Romania	Fifth	28 April 1999	10
Nigeria	Second	28 October 1999	8
Bolivia	Third	31 December 1999	8
Lebanon	Third	31 December 1999	8
South Africa	Initial	9 March 2000	8
Burkina Faso	Initial	3 April 2000	8
Iraq	Fifth	4 April 2000	8
Senegal	Fifth	4 April 2000	8
Ghana	Initial	8 February 2001	7

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Years overdue</u>
Armenia	Second	1 October 2001	7
Macao Special Administrative Region (China) <sup>e</sup>	Initial	31 October 2001	6
Belarus	Fifth	7 November 2001	6
Jamaica	Third	7 November 2001	6
Bangladesh	Initial	6 December 2001	6
India	Fourth	31 December 2001	6
Lesotho	Second	30 April 2002	6
Cyprus	Fourth	1 June 2002	6
Zimbabwe	Second	1 June 2002	6
Cambodia	Second	31 July 2002	6
Uruguay	Fifth	21 March 2003	5
Guyana	Third	31 March 2003	5
Congo	Third	21 March 2003	5

<sup>a</sup> The Committee considered the situation of civil and political rights in the Gambia during its seventy-fifth session (July 2002) in the absence of a report and a delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session (July 2004), the Committee decided to convert them into final and public observations (see chap. II).

<sup>b</sup> The Committee considered the situation of civil and political rights in Equatorial Guinea during its seventy-ninth session (October 2003) in the absence of a report and delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session (July 2004), the Committee decided to convert them into final and public observations (see chap. II).

<sup>c</sup> The Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines during its eighty-sixth session (March 2006) in the absence of a report but in the presence of a delegation. Provisional concluding observations were sent to the State party, with a request to submit its second periodic report by 1 April 2007. A reminder was sent on 12 April 2007. In a letter dated 5 July 2007, Saint Vincent and the Grenadines undertook to submit its report within one month (see chap. II).

<sup>d</sup> The Committee considered the situation of civil and political rights in Grenada at its ninetieth session (July 2007) in the absence of a report and a delegation but on the basis of written replies from the State party. Provisional concluding observations were sent to the State party, which is requested to submit its initial report by 31 December 2008.

<sup>e</sup> While China is not itself a State party to the Covenant, the Chinese Government has honoured its obligations under article 40 for the Hong Kong and Macao Special Administrative Regions, which were formerly under British and Portuguese administration respectively.



68. The Committee once again draws particular attention to the fact that 32 initial reports have not yet been submitted (including the 21 overdue initial reports listed above). The result is frustration of a major objective of the Covenant, namely, to enable the Committee to monitor compliance by States parties with their obligations under the Covenant on the basis of periodic reports. The Committee addresses reminders at regular intervals to all those States parties whose reports are significantly overdue.

69. With respect to the circumstances that are set out in chapter II, paragraphs 49 and 51 of the present report, the amended rules of procedure now enable the Committee to consider compliance by States parties that have failed to submit reports under article 40, or have requested a postponement of their scheduled appearance before the Committee.

70. At its 1860th meeting, on 24 July 2000, the Committee decided to request the Government of Kazakhstan to submit its initial report by 31 July 2001, notwithstanding the fact that no instrument of succession or accession had been received from Kazakhstan following its independence. By the time of the adoption of the present report, the initial report of Kazakhstan had still not been received. The Committee once again invites the Government of Kazakhstan to submit its initial report under article 40 at its earliest convenience. In this context, it welcomes the ratification of the Covenant by Kazakhstan on 24 January 2006.

**CHAPTER IV. CONSIDERATION OF REPORTS SUBMITTED BY  
STATES PARTIES UNDER ARTICLE 40 OF THE  
COVENANT AND OF COUNTRY SITUATIONS  
IN THE ABSENCE OF A REPORT RESULTING IN  
PUBLIC CONCLUDING OBSERVATIONS**

71. Part A below, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contains the concluding observations adopted by the Committee with respect to the States parties' reports considered at its ninety-first, ninety-second and ninety-third sessions. The Committee urges those States parties to adopt corrective measures, where indicated, consistent with their obligations under the Covenant and to implement these recommendations. Part B relates to the concluding observations on one country situation adopted in the absence of a report and made public in accordance with rule 70, paragraph 3, of the rules of procedure.

**A. Concluding observations on the States parties' reports  
examined during the reporting period**

72. **Georgia**

(1) The Committee considered the third periodic report submitted by Georgia (CCPR/C/GEO/3) at its 2483rd and 2484th meetings (CCPR/C/SR.2483 and 2484), held on 15 and 16 October 2007, and adopted the following concluding observations at its 2500th meeting (CCPR/C/SR.2500), held on 26 October 2007.

**A. Introduction**

(2) The Committee welcomes the timely submission of the State party's third periodic report, which contains useful and detailed information on developments since the consideration of the second periodic report, in light of certain previous concluding observations. The Committee appreciates the attendance of a delegation composed of experts competent in various fields relevant to the Covenant, as well as its oral and written replies to the questions raised and concerns expressed by the Committee during the examination of the State party's report.

**B. Positive aspects**

(3) The Committee welcomes the significant and wide-ranging legislative and institutional changes that have been introduced in the State party during the years covered by the report, with a view to consolidating the rule of law, and in light of certain recommendations made by the Committee in 2002.

(4) The Committee welcomes the accession by Georgia in 2006 to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which should ensure better observance of article 7 of the Covenant.

(5) The Committee welcomes the adoption of the Law on Restitution of Property adopted on 29 December 2006, and encourages the State party to take all necessary measures to promptly implement it.

### C. Principal subjects of concern and recommendations

(6) While taking note of the difficulties expressed by the State party in implementing the Covenant in the Abkhazia and Tskhinvali Region/South Ossetia, and acknowledging positive steps taken to ensure protection of the rights under the Covenant of persons living in territories presently not under its control, including encouraging United Nations special procedures mechanisms invited to Georgia to visit such territories and engage in dialogue with de facto authorities, the Committee is concerned that the populations concerned do not fully enjoy the Covenant provisions (arts. 1 and 2).

**The State party should continue to take all possible measures, without discrimination, to enhance protection under the Covenant for the population of these regions by the Abkhazia and Tskhinvali Region/South Ossetia de facto authorities. The State party should ensure that international agencies are able to operate without obstacles.**

(7) The Committee acknowledges: a) the April 2007 amendments to the *Law on Refugees Issues*, which grant refugees registered in Georgia temporary residence; and b) the new procedure to appeal against deportation decisions of the Prosecutor General. However, the Committee remains concerned that the current legislation does not fully ensure respect for the principle of *non-refoulement* (arts. 2, 6 and 7).

**The State party should:**

**(a) Adopt effective legislative and procedural safeguards to ensure that nobody is returned to a country where there are substantial grounds to believe that they are at risk of being arbitrarily deprived of their life or being tortured or subjected to other cruel, inhuman or degrading treatment or punishment;**

**(b) Provide training to border guards on the rights of asylum-seekers, and institute a mechanism to speed up referral of asylum-seekers from the border guards to the asylum authority.**

(8) While acknowledging the *Law on Combating Domestic Violence, Prevention of and Support to its Victims*, adopted in May 2006, the Committee remains concerned at the still substantial number of women in Georgia who are subject to violence, in particular to domestic violence, as well as at the insufficient measures and services to protect victims. The Committee notes with regret that the State party considers that non-governmental organizations are mainly responsible for setting out and managing shelters for victims of domestic violence, without assuring to them appropriate financing (arts. 3, 23 and 26).

**The State party should take prompt measures to implement the 2006 Law, including:**

**(a) Institute a mechanism to compile disaggregated data on incidents of domestic violence, including sex, age and family relationship of victims and perpetrators, as well as investigations and prosecutions carried out. This information should be made public;**

**(b) Promptly investigate complaints related to domestic violence and other acts of violence against women, as bride-kidnapping and rape, and institute criminal proceedings against perpetrators;**

**(c) Take all the necessary measures to protect victims of domestic violence, including by establishing a sufficient number of appropriate shelters across the country.**

(9) The Committee is concerned about allegations of deaths caused by use of excessive force by police and prison officials. The Committee is particularly concerned at the Tbilisi prison No. 5 disturbance, in March 2006, in which at least seven inmates allegedly died (art. 6).

**The State party should take firm measures to eradicate all forms of excessive use of force by the law enforcement officials. It should in particular:**

**(a) Ensure prompt and impartial investigation of complaints concerning actions of law enforcement officials, and make public the results of such investigations, including with respect to the 2006 disturbance at Tbilisi prison No. 5;**

**(b) Initiate criminal proceedings against alleged perpetrators;**

**(c) Provide training to law enforcement officers with regard to the criminal nature of the excessive use of force, as well as on the principle of proportionality when using force. In this regard, the Committee draws to the attention of the State party the 1990 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**

**(d) Provide compensation to the victims and/or their families.**

(10) While acknowledging the positive legislative, judicial and monitoring measures taken by the State party to strengthen safeguards against torture and other ill-treatment, as well as significant reduction in allegations of such treatment of persons in custody, the Committee regrets the persistence of reports of acts of ill-treatment by the police, especially during the arrest of suspects (arts. 2, 7 and 9).

**The State party should:**

**(a) Ensure prompt and impartial investigation of complaints concerning allegations of torture or other ill-treatment, and initiate criminal proceedings against alleged perpetrators;**

**(b) Ensure proper reparation for victims;**

**(c) Establish independent and competent national mechanisms for the prevention of torture, in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, such as the present Office of the Public Defender;**

**(d) Continue to have a comprehensive action plan against torture and other ill-treatment for the future years, taking into consideration the recommendations made by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment of punishment following his visit to Georgia in 2005.**

(11) While noting the measures taken by the State party to improve the treatment of prisoners, such as the construction of the new prison in Gldani District (Tbilisi), the Committee remains concerned about the persistence of adverse conditions in a number of prisons in the State party, namely gross overcrowding, poor rations and quality of food, inadequate access to natural light and fresh air, insufficient personal hygiene conditions, and about the large number of deaths of prisoners allegedly due to the prison conditions that amount to ill-treatment in some detentions facilities (art. 10).

**The State party should take immediate, firm, positive and coordinated measures to improve the conditions of all persons deprived of their liberty before trial and after conviction, fulfilling all requirements outlined in the United Nations Standard Minimum Rules for the Treatment of Prisoners. In particular, the gross overcrowding should be ended at once. In addition, the State party should implement alternatives to imprisonment.**

(12) While acknowledging the adoption of the State party's strategy aimed at allowing internally displaced persons (IDPs) to lead a normal life while, at the same time, retaining their right to return, its efforts to prepare a plan of action in this regard, as well as measures taken to create conditions for their voluntary return to their permanent places of residence, the Committee regrets the reported cases of forced eviction from collective centres in Tbilisi, Kutaisi and Adjara regions, without a court decision or agreement of the persons concerned, and without proper compensation and support by governmental agencies (arts. 12 and 26).

**The State party should ensure that the privatization of collective centres is properly regulated and take all the necessary measures to prevent cases of forced evictions of IDPs in the future. The State party should also ensure that the plan of action for IDPs is fully in line with the Covenant, in particular with principles of voluntariness of return and non-discrimination.**

(13) While taking note of recent efforts undertaken by the State party to reform the judiciary and increase its efficiency, the Committee remains concerned at interference with the independence of the judiciary and the problem of judicial corruption (art. 14).

**The State party should take steps to ensure the independence of the judiciary. It should in particular take measures to eradicate all forms of interference with the judiciary, and ensure prompt, thorough, independent and impartial investigations into all allegations of interference, including by way of corruption; and prosecute and punish perpetrators, including judges who may be complicit.**

(14) The Committee regrets the absence of adequate education of judges, and the fact that they are not generally trained in international human rights law, with the result that in practice there is very little direct enforcement of the rights recognized under the Covenant.

**The State party should intensify its efforts to educate judges in order to ensure adequate administration of justice. The State party should in particular provide training on the Covenant and its implications for interpretation of the Constitution and domestic legislation, so as to ensure that all actions of the judiciary will be in accordance with its obligations under the Covenant.**

(15) The Committee notes that, as explained by the State party, the status of legal public entity was granted exclusively to the Georgian Orthodox Church on the grounds of historical and social factors. The Committee, however, is concerned by the fact that the different status of other religious groups could lead to discrimination. The Committee regrets that problems related to the restitution of places of worship and related properties of religious minorities, confiscated during the Communist era, have not been solved (art. 18).

**The State party should take steps to ensure equal enjoyment of the right of freedom of religion or belief and ensure that its legislation and practices conform fully to article 18 of the Covenant. The State party should address the problems related to the confiscation of places of worship and related properties of religious minorities.**

(16) The Committee expresses concern that acts of harassment against journalists in Georgia have not been properly investigated by the State party (art. 19).

**The State party should guarantee freedom of speech and of the press and other media, ensure that complaints in this regard are promptly investigated, and that perpetrators are prosecuted and punished.**

(17) The Committee remains concerned at the obstacles faced by minorities in the enjoyment of their cultural rights, as well as at the low level of political representation of minorities. While acknowledging that there is no prohibition of the use of minority languages in the private sphere, and minority languages are taught in schools, the Committee is concerned that lack of knowledge of the Georgian language could lead to marginalization and underrepresentation of minorities in different public and private spheres (arts. 25 and 26).

**The State party should:**

**(a) Consider the possibility of allowing minorities to use their own language at the level of local government and administration;**

**(b) Take all appropriate measures to ensure adequate political representation and participation of minorities, in particular Armenian and Azeri communities, as well as to improve their knowledge of the Georgian language. The State party should take steps to eliminate language-based discriminatory practices;**

**(c) Promote the integration of minorities in the Georgian society. To this purpose, the State party should engage in a dialogue with the concerned groups and civil society working with minorities issues;**

**(d) Adopt indicators and benchmarks to determine whether relevant anti-discrimination goals have been reached.**

(18) The Committee sets 1 November 2011 as the date for the submission of the fourth periodic report of Georgia. It requests that the State party's third periodic report and the present concluding observations be disseminated to the general public as well as to the judicial, legislative and administrative authorities. Hard copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and all other relevant places. It also requests that the fourth periodic report and these concluding observations be distributed to civil society and to non-governmental organizations operating in the country. It would be desirable to distribute a summary of the report and the concluding observations to minorities in their own languages.

(19) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 8, 9 and 11 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

### **73. Libyan Arab Jamahiriya**

(1) The Human Rights Committee considered the fourth periodic report of the Libyan Arab Jamahiriya (CCPR/C/LBY/4) at its 2487th and 2488th meetings, held on 17 and 18 October 2007 (CCPR/C/SR. 2487 and 2488). At its 2504th meeting, held on 30 October 2007 (CCPR/C/SR. 2504), it adopted the following concluding observations.

#### **A. Introduction**

(2) The Committee takes note of the submission of the State party's fourth periodic report and the opportunity thus offered to resume the dialogue with the State party, as well as the additional information supplied after the consideration of the report.

(3) The Committee notes with concern that the fourth periodic report of the State party was not submitted in timely manner and not prepared in accordance with the reporting guidelines of the Committee. Furthermore, it notes with regret that the report did not provide the requested data on the serious concerns raised by the Committee in its previous concluding observations (CCPR/C/79/Add.101) as well as the lack of sufficient information in the written and oral responses to the list of issues dated 16 August 2007 (CCPR/C/LBY/Q/4). The consideration of the report of the State party has thereby been significantly prejudiced. It invites the State party to fully cooperate with the Committee, in accordance with its obligations under the Covenant.

#### **B. Positive aspects**

(4) The Committee takes note of the accession by the State party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the two Optional Protocols to the Convention on the Rights of the Child.

(5) The Committee welcomes the measures taken to improve the situation of women in public life, particularly in the work place and in access to education and the freedom of movement.

### C. Principal subjects of concern and recommendations

(6) The Committee notes with concern that its recommendations of 1998 have not been fully taken into consideration and regrets that almost all subjects of concern remain unchanged.

**The State party should comply with all recommendations addressed to it by the Committee and take all necessary steps to ensure that national legislation and its implementation guarantee the effective enjoyment of all Covenant rights in the State party.**

(7) The Committee, while noting that some clarification regarding communication No. 1107/2002 (*Loubna El Ghar v. Libyan Arab Jamahiriya*) was provided in the oral presentation of the delegation, regrets the failure of the State party to provide information concerning the implementation of the views of the Committee in communication No. 4407/1990 (*Youssef El-Megreisi v. Libyan Arab Jamahiriya*).

**The State party should give full effect to the views of the Committee on individual communications and inform the Committee thereon as soon as possible.**

(8) The Committee reiterates its concern about the uncertain status of the Covenant in the legal system of the State party, which was not sufficiently clarified in the written responses, the oral replies of the delegation, as well as the additional information provided by the State party after the consideration of report by the Committee (art. 2).

**The State party should recognize that according to the 1969 Vienna Convention on the Law of Treaties, the provisions of its internal law cannot be invoked as a justification for its failure to fulfil its obligations under a treaty to which it is a party**

(9) The Committee regrets that Libyan laws permit the forced detention of women who have not been convicted in so-called social rehabilitation facilities, for their own protection according to the State party, without the possibility to challenge their detention before a court (arts. 3, 7, 26).

**The State party is urged to reconsider the legal provisions which now allow the detention of women in so-called rehabilitation facilities against their own will.**

(10) The Committee also remains concerned that the State party has not yet adopted legislation concerning the protection of women against violence, especially domestic violence (arts. 3, 7, 26).

**The State party should take all necessary measures to effectively combat violence against women, including the enactment of appropriate legislation. The State party is requested to provide detailed information on this subject as well as disaggregated data on prosecution in its next periodic report.**



(11) While the Committee takes note of some positive developments regarding the advancement of women, in particular regarding the admission of women to the judiciary and the establishment of a centre for women's studies as well as a Department for Women's Affairs, it reiterates its previous concern that inequality between women and men continues to exist in many areas, in law and practice, such as, notably, regarding inheritance and divorce (arts. 3, 17, 24, and 26).

**The State party should review its laws in order to ensure equality between men and women in matters of personal status, in particular regarding divorce and inheritance. The State party should furthermore guarantee that equality is ensured in law and in practice.**

(12) While taking note of the State party's assurance that all counter-terrorism measures taken by the State party are in compliance with international law, the Committee nevertheless is concerned that the terrorism-related elements in the draft penal code are not fully in conformity with the Covenant, and that it lacks a clear definition of "terrorism". The Committee also regrets the lack of information regarding the safeguards provided by article 4 of the Covenant in times of emergency. The Committee also regrets the lack of information regarding the alleged rendition to Libya by other States of Libyan nationals accused of terrorist crimes (arts. 4 and 9).

**The State party should ensure that the draft penal code in its application to terrorism is compatible with the Covenant and that presently applicable counter-terrorism measures are in full conformity with the Covenant. The State party should also provide the Committee with information regarding the whereabouts of the Libyan nationals that have been subject to rendition to Libya.**

(13) The Committee reiterates its concern that under current legislation the death penalty can be applied to offences which are vague and broadly defined and which cannot necessarily be characterized as the most serious crimes under article 6, paragraph 2, of the Covenant. It also notes that the delegation did not provide sufficient details on the full range of offences punishable by death. The Committee notes the data provided by the State party regarding executions in the past six years which were allegedly for murder and theft, without clarification of the numbers for each offence. The Committee also regrets the absence of information in respect to death sentences (arts. 6 and 15).

**The State party should take urgent steps to reduce the number and to specify, also in the envisaged revision of the penal code, the types of crimes for which the death penalty can be imposed. The State party should also provide the Committee with more detailed data regarding death sentences imposed and executions carried out in the past six years. The State party is furthermore encouraged to abolish the death penalty and to consider the ratification of the Second Optional Protocol to the Covenant.**

(14) The Committee reiterates its concern regarding the allegedly large number of forced disappearances and cases of extrajudicial, summary, or arbitrary executions and the lack of clarification on the part of the State party in this respect. The Committee is furthermore

concerned that some eleven years after the event, the State party was unable to provide information on the status of the work of the Commission responsible for the inquiry into the events at Abu Salim prison in 1996 (arts. 6, 7 and 9).

**The State party should urgently investigate all forced disappearances and extrajudicial, summary, or arbitrary executions, prosecute and punish the perpetrators of such acts and grant effective reparation including appropriate compensation, to victims or their families. The State party should provide the statistics required in this respect by the Committee in its previous concluding observations. The State party should ensure that the inquiry into the events in Abu Salim prison of 1996 is finalized as soon as possible and that the full report is made available.**

(15) While the Committee notes that the oversight of detention facilities is exercised by the Public Prosecutor's Office and the Ministry of Justice, it remains concerned at continuing reports of systematic use of torture and cruel, inhuman or degrading treatment or punishment and the lack of information by the State party regarding the prosecution of these cases. The Committee is also concerned by the testimony of the Bulgarian nurses and the Palestinian doctor that they had allegedly been subject to ill-treatment and were forced to sign papers absolving the State from any responsibility regarding their torture or ill-treatment (arts. 2, 7, 9 and 10).

**The State party should take urgent and effective measures to stop the use of all forms of torture and cruel, inhuman or degrading treatment or punishment, and to ensure prompt, thorough, and impartial investigations by an independent mechanism into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies and rehabilitation to the victims.**

(16) The Committee remains deeply concerned that corporal punishment such as amputation and flogging are prescribed by law even if rarely applied in practice. They constitute a clear violation of article 7 of the Covenant (art. 7).

**The State party should immediately stop the imposition of all corporal punishment and repeal the legislations for its imposition without delay, as stipulated in the previous concluding observations of the Committee.**

(17) The Committee notes with concern that the continued practice and legal provisions regarding *qisas* (retribution) and *diyah* (payment), which may contribute to impunity, remain in force (arts. 2, 7, 10 and 14).

**The State party should review the laws and practice of *qisas* and the *diyah* in light of the Covenant.**

(18) While noting the establishment of a committee to draft a law on refugees and migrants, the Committee is concerned by reports that the State party routinely and collectively sends back refugees and asylum-seekers to their countries of origin where they might be subject to torture and other ill-treatment. The Committee furthermore notes with concern the persistent allegations by migrants, asylum-seekers and refugees of being exposed to torture and cruel, inhuman and degrading treatment upon arrest and particularly in detention centres (arts. 7, 10, and 13).

**The State party should adopt legislative and administrative structures to ensure that detention as well as extradition, expulsion or deportation of aliens do not lead to their being subjected to torture or other ill-treatment. The State party should also ensure that aliens claiming risks of torture and cruel, inhuman and degrading treatment can file an appeal against their forced removal with suspensive effects.**

(19) The Committee reiterates its concern at reports about the excessive length of pretrial detention. The Committee is also concerned by the persistent reports of substantial numbers of detainees being held incommunicado, especially in cases of concern to the State security bodies. The Committee is furthermore concerned regarding reports about arbitrary arrests without judicial review and in violation of the provisions of the Covenant (arts. 9 and 14).

**The State party should take all necessary measures to ensure that remand in custody and pretrial detention is not excessively long in law and in practice, particularly through independent judicial supervision and prompt access to lawyers. The State party should also immediately stop arbitrary arrests and ensure that all persons under its jurisdiction are guaranteed the rights contained in the Covenant.**

(20) While noting the moratorium and the legal review of the “Charter of Honour” of 1997 authorizing collective punishment, the Committee is concerned that it had reportedly been applied to members of a community in Bani Walid (arts. 9 and 14).

**The State party should repeal the law, investigate instances where this punishment has been applied, and remedy the consequences as necessary.**

(21) The Committee regrets that the new draft penal code has yet to be adopted and that the State party could not provide a specific timeframe within which its adoption is foreseen (art. 14).

**The State party should ensure that the new penal code is in conformity with the Covenant and that it is adopted within a reasonable specified time frame.**

(22) While acknowledging the abolition of the People’s Court in 2005, the Committee is concerned that the need for and the mandate of the new State Security Court, as well as the method of appointment and the period of tenure of the judges of this court are unclear, as is the difference between the State Security Court and the former People’s Court. The Committee regrets the reluctance of the State party so far to review the cases decided by the People’s Court (art. 14).

**The State party should take urgent measures to ensure that all rights and guarantees provided under article 14 of the Covenant are respected in the composition, functions and procedures of the State Security Court, including that accused persons are granted the right to appeal against decisions of the court. The State party should provide the Committee with information regarding its mandate, legal basis, its composition, and its competence. Finally, the convictions and sentences handed down by the People’s Court should be reviewed by the State party’s judicial authority in the light of the guarantees contained in article 14 of the Covenant.**

(23) While noting the release in March 2006 of more than 100 prisoners convicted of offences against State security, the Committee continues to be concerned at the extensive limitations of the right to freedom of opinion and expression in law and in practice, particularly those imposed on peaceful opposition to, or criticism of the Government and the political system. Furthermore, the Committee regrets that the State party did not provide any indication as to when the long overdue revision of the Publication Act of 1972, which, in its present form, severely restricts freedom of opinion and expression, will be completed and adopted (arts. 18, 19, 21, 22, 25).

**The State party should urgently revise its legislation, including the Publication Act of 1972, to ensure that any limitations on the right to freedom of opinion and expression, including those of the media, are in strict compliance with the Covenant.**

(24) The Committee notes with concern that under Law 71 of 1972 and article 206 of the Penal Code, the death penalty can still be imposed for the establishment of groups, organizations or associations based on a political ideology contrary to the principles of the 1969 Revolution or calling for the establishment of such groups (arts. 6 and 22).

**The State party should provide statistical information on the number of and grounds for people sentenced to death or to prison based on having violated Law 71 of 1972 and Article 206 of the Penal Code. The State party should abolish these legal provisions in light of the Covenant.**

(25) The Committee, while noting the revision of laws governing the registration of groups with a view to authorizing appeals, is concerned that the laws and regulations and their current application prevent the exercise of the right to freedom of association and peaceful assembly (art. 21).

**The State party should take all necessary measures to guarantee the exercise in practice of the right to peaceful association and assembly.**

(26) The Committee has taken note of certain information provided by non-governmental organizations about the existence of a group of Amazigh whose rights are allegedly violated (art. 27).

**The State party is invited to provide information on this question in its next periodic report.**

(27) While the Committee notes the legal non-discrimination provisions with regard to children born out of wedlock, it remains concerned that, in practice, there are reports of widespread discrimination against them. The Committee is also concerned about reports that children whose mothers are married to non-Libyan nationals were not admitted to school in September 2007 (arts. 24 and 26).

**The State party should, in its next periodic report, provide information on its strategies and social policies to overcome prejudices within society in order to ensure non-discrimination against children born out of wedlock and children whose mothers are married to non-Libyan nationals, in law and in practice.**

(28) The Committee notes the absence of any information by the State party as to the dissemination of information about the submission of the third periodic report, its examination by the Committee, or its recommendations of 1998.

**The State party should ensure the dissemination of information pertaining to its reporting obligations, and the recommendations by the Committee, as well as general awareness about the Covenant within all sectors of society.**

#### **D. Dissemination of information about the Covenant**

(29) The State party should publish and widely disseminate its fourth periodic report to the Committee and the present concluding observations thereon to the judicial, legislative and administrative authorities, and to all other organizations of the civil society, including the people's congresses.

(30) The Committee reiterates that future reports should contain detailed and updated information on the extent to which each of the rights protected under the Covenant are enjoyed by the individuals under the jurisdiction of the State party. In the preparation of the next periodic report, the Committee suggests that the State party may wish to seek technical assistance from the Office of the United Nations High Commissioner on Human Rights and other United Nations entities or agencies dealing with human rights.

(31) In accordance with rule 70, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 10, 21, and 23 above. The Committee requests the State party to include in its next periodic report information concerning the remainder of its recommendations, to be presented by 30 October 2010.

#### **74. Austria**

(1) The Committee considered the fourth periodic report submitted by Austria (CCPR/C/AUT/4) at its 2490th and 2491st meetings (CCPR/C/SR.2490 and 2491), held on 19 October 2007, and adopted the following concluding observations at its 2505th meeting (CCPR/C/SR.2505), held on 30 October 2007.

##### **A. Introduction**

(2) The Committee welcomes the State party's detailed fourth periodic report which makes reference to the Committee's previous concluding observations. It notes, however, that the report was submitted only in July 2006, although it was due in October 2002. The Committee appreciates the comprehensive written replies provided by the delegation as well as the frank and detailed answers given by the delegation to the Committee's written and oral questions. It also appreciates the presence of a high-level inter-ministerial delegation and the constructive dialogue held between the delegation and the members of the Committee.

##### **B. Positive aspects**

(3) The Committee notes that the Work Programme of the Austrian Government 2007-2010 envisages the establishment of a preventive agency, as defined in the Optional Protocol to the

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, under the aegis of the Austrian Ombudsman's Board, and that the Advisory Board for Human Rights will be integrated into that agency upon transfer from the Ministry of the Interior, with a view to ensuring its independence and extending its jurisdiction to cover all places of detention.

(4) The Committee notes that according to the Government Programme for 2007-2010, a constitutional reform will be introduced which will bring about a new codification of fundamental rights and further improvements in the human rights protection system, including the establishment of a two-tier administrative court system.

(5) The Committee welcomes the following amendments to the Code of Criminal Procedure of the State party, which will enter into force on 1 January 2008:

(a) The introduction of an express prohibition of evidence obtained by means of torture or cruel, inhuman, or degrading treatment, or other unlawful interrogation methods (Section 166 (1) of the Criminal Proceedings Reform Act);

(b) The obligation of courts to report cases in which evidence was allegedly extracted by such unlawful means immediately and *ex officio* to the public prosecutor (Section 100 (2) of the Criminal Proceedings Reform Act);

(c) The requirement to expedite criminal proceedings, especially if the accused is held in custody (Section 9 of the amended Code of Criminal Procedure), as well as the right of the accused to file a motion to discontinue proceedings if the current suspicion does not justify the continuation of the proceedings, and if no substantiation of the suspicion can be expected from a further clarification of the facts (Section 108 (2) of the amended Code of Criminal Procedure).

### **C. Principal subjects of concern and recommendations**

(6) The Committee notes that, unlike the European convention on Human Rights, the Covenant is not directly applicable in the State party and that the courts and authorities of the State party rarely apply or interpret domestic law in the light of the Covenant. In this regard, it reiterates that a number of Covenant rights exceed the scope of the provisions of the European Convention of Human Rights which has been incorporated into Austrian law at the rank of constitutional law (art. 2).

**The State party should ensure that all rights protected under the Covenant are given effect in domestic law and that judges and law enforcement officers receive adequate training to apply and interpret domestic law in the light of the Covenant.**

(7) The Committee is concerned about the absence in the State party of any mechanisms ensuring systematic follow-up to the Views adopted by the Committee under the Optional Protocol to the Covenant, in particular mechanisms enabling victims to obtain compensation for violations of their Covenant rights (art. 2).

**The State party should consider adopting adequate mechanisms to give effect to the Committee's Views, with the aim to ensure that victims obtain redress, including compensation, in case their Covenant rights have been violated by the State party.**

(8) The Committee notes that the Equal Treatment Act, the Employment of Disabled Persons Act and the Equality of Disabled Persons Act provide protection against discrimination on grounds of ethnic origin and disability at work and in other areas such as social security, housing, education and health. However, it notes with concern that protection against gender discrimination is less comprehensive and that protection against discrimination on grounds of age, religion and sexual orientation is limited to ‘work’ only under the Equal Treatment Act. It is also concerned that such hierarchization of discrimination grounds can also be found in Provincial laws, and that in cases covered by the Acts concerning disabled persons, victims must seek an out-of-court settlement prior to filing a court action (arts. 2 (1), 14 (1), 26).

**The State party should consider amending the Equal Treatment Act, the Employment of Disabled Persons Act, the Equality of Disabled Persons Act and relevant Provincial laws, with a view to levelling up and ensuring equal substantive and procedural protection against discrimination with regard to all prohibited grounds of discrimination.**

(9) The Committee is concerned that police training specifically aimed at preventing discrimination against persons of different ethnic background is not mandatory (arts. 2 (1) and 26).

**The State party should introduce mandatory police training aimed at preventing discrimination against all vulnerable ethnic groups, specifically including the Roma.**

(10) The Committee is concerned that, despite the progress achieved in recent years, women continue to be under-represented in senior positions in the public service, despite statutory quota, as well as in the National Council and, in particular, in many Provincial legislative bodies (arts. 3 and 25).

**The State party should expand its strategies to achieve the 40-percent quota for women’s employment in the public service, especially in senior positions, including at the Provincial level, e.g. by introducing open competition for senior posts. It should also adopt measures to achieve equal representation of women in the National Council and, in particular, in Provincial legislative bodies, e.g. by introducing statutory quotas.**

(11) The Committee is concerned about reports that the State party has repeatedly failed to initiate a prompt investigation and, that only lenient sentences and disciplinary sanctions have been imposed, in cases of death and abuse in police custody. It is particularly concerned about the case of Cheibani Wague, a Mauritanian national, who died on 16 July 2003 in Vienna in the presence of a doctor while being restrained by three paramedics and six police officers, none of whom were suspended during the investigations and most of whom were acquitted; the doctor and one police officer were sentenced to suspended prison terms of seven and four months. It is also concerned about the case of Bakary Jassay, a Gambian national who was abused and severely injured by policemen in Vienna on 7 April 2006 after his deportation had been cancelled, resulting in suspended sentences of eight and six months’ imprisonment due to ‘mitigating factors’, as well as in disciplinary fines, for the responsible officers who continue to serve in the police force (arts. 6, 7 and 10).

**The State party should take immediate and effective steps to ensure that cases of death and abuse of detainees in police custody are promptly investigated by an independent and impartial body outside the Ministry of the Interior and that sentencing practices and disciplinary sanctions for police officers are not overly lenient. It should also reinforce preventive measures, including by introducing mandatory training for police, judges and law enforcement officers on human rights and treatment of detainees and by intensifying its efforts to eliminate deficiencies within the police training system with regard to restraint methods.**

(12) The Committee notes with concern that under Section 79 (6) of the Aliens Police Act (2005), detainees awaiting deportation who are on hunger strike can be kept in detention which reportedly may result in situations where their life or health is endangered, in the absence of adequate medical supervision. It is particularly concerned about the cases of Yankuba Ceesay, an 18 year-old asylum-seeker from Gambia awaiting deportation, who died in October 2005 in a 'safety cell' after 11 days of hunger strike, and Geoffrey A., a Nigerian detainee awaiting deportation, who was released in August 2006 after 41 days of hunger strike, without anyone having been notified about his release, and who collapsed on his way home (arts. 6 and 10).

**The State party should ensure adequate medical supervision and treatment of detainees awaiting deportation who are on hunger strike. It should also conduct an independent and impartial investigation of the case of Geoffrey A. and inform the Committee about the outcome of the investigations in that case and in the case of Yankuba Ceesay.**

(13) The Committee notes with concern the absence of detailed statistical information on the nature of reported incidents of torture or ill-treatment of detainees, especially foreign nationals, and the types of sanctions imposed on perpetrators of such acts (arts. 7 and 10).

**The State party should provide detailed information on the nature of reported incidents of torture and ill-treatment of detainees, disaggregated by age, gender and ethnic origin of victims, the number of convictions, and the types of sanctions imposed on perpetrators of such acts. It should also provide information on specific cases of torture and ill-treatment of detainees, especially foreign nationals, including information on the concrete measures taken by the State party.**

(14) The Committee is concerned about the absence of disaggregated statistical data on the number of women and children trafficked for sexual exploitation and for forced labour, and on the number of victims of trafficking in human beings who have been granted residence permits on humanitarian grounds (art. 8).

**The State party should devise a system for the collection of such data and include such information, as well as information on the progress achieved under the National Action Plan against Trafficking in Human Beings adopted in 2006, in its fifth periodic report.**

(15) The Committee is concerned about reports that, in accordance with the Code of Criminal Procedure, indigent criminal suspects may be appointed a legal aid lawyer only after a judge has decided on their remand in custody, i.e. 96 hours after their apprehension (arts. 9 and 14 (3)).



**The State party should give full effect to the rights of criminal suspects to contact counsel before and to have counsel present during interrogation, in particular by ensuring that the free 24-hour legal counsel service to be provided by the Federal Ministry of Justice and the Federal Bar Association from 1 January 2006 will operate as a fully fledged and properly funded system of legal aid for, as a minimum, indigent criminal suspects.**

(16) The Committee notes with concern that Section 59 (1) of the Criminal Proceedings Reform Act (2004), which will enter into force on 1 January 2008, authorizes the police to supervise contacts between an arrested or detained person and counsel and exclude the presence of counsel during interrogations, “insofar as it is considered necessary to avoid that the investigation or the gathering of evidence are adversely affected by the presence of counsel” (art. 9).

**The State party should ensure that any restrictions under Section 59 (1) of the Criminal Proceedings Reform Act on the contact between an arrested or detained person and counsel are not left to the sole discretion of the police, and that the rights to talk to counsel in private and to have counsel present during interrogations are never totally denied to persons deprived of their liberty.**

(17) The Committee is concerned about the high number of asylum-seekers, including traumatized persons, who have been detained pending deportation under the Aliens Police Act, which entered into force in January 2006. That Act provides that asylum-seekers may be detained at an early stage of their asylum procedure if it may be assumed that their application will be rejected under the EU Dublin II Regulation. It is particularly concerned that asylum-seekers awaiting deportation are frequently detained for up to several months in police detention facilities which are not designed for a long-term stay, and where the majority of detainees are reportedly confined to locked cells for 23 hours a day, separated from their families, and without access to qualified legal aid or adequate medical care (arts. 10 and 13).

**The State party should review its detention policy with regard to asylum-seekers, in particular traumatized persons, give priority to alternative forms of accommodation for asylum-seekers, and take immediate and effective measures to ensure that all asylum-seekers who are detained pending deportation are held in centres specifically designed for that purpose, preferably in open stations, offering material conditions and a regime appropriate to their legal status, occupational activities, the right to receive visits, and full access to free and qualified legal counselling and adequate medical services.**

(18) The Committee notes with concern reports that asylum-seeking women are not automatically interviewed by female asylum officers and assisted by female interpreters and, that children are treated in the same way as adults in the asylum procedure (arts. 3, 13 and 24 (1)).

**The State party should adopt a gender- and age-sensitive approach to refugee status determination by automatically assigning female interviewers and interpreters to asylum-seeking women and by issuing guidelines for first instance asylum officers on the treatment of separated children. The State party should also issue guidelines on gender-related persecution as a ground for claiming asylum.**

(19) The Committee is concerned that the Federal Asylum Act (2005) foresees family reunification only for nuclear family members, i.e. spouses, minor children and parents of minor children, of recognized refugees and beneficiaries of subsidiary protection, and that the exclusion of dependent adult children, minor orphan siblings and other persons with whom persons granted international protection enjoyed family life in their country of origin can result in hardship situations (arts. 13, 17 and 23 (1)).

**The State party should consider amending the Federal Asylum Act, with a view to applying a more liberal approach towards family reunification in cases of refugees and beneficiaries of subsidiary protection.**

(20) The Committee is concerned about the persistence of racist and xenophobic speech against Muslims, Jews and ethnic minorities in political and media discourse and on the Internet (arts. 18, 20 and 26).

**The State party should vigorously combat any advocacy of racial or religious hatred, including political hate speech, by intensifying public information and awareness-raising campaigns and ensuring the strict application by judges, prosecutors and the police of article 283 of the Criminal Code as well as of other criminal law provisions punishing incitement to racial or religious hatred.**

(21) The Committee notes with concern that Romani is taught as an extra-curricular subject only in Vienna and that specific instruction about Romani culture is not available at schools in the State party (arts. 26 and 27).

**The State party should intensify its efforts to provide adequate opportunities for Roma children to receive instruction in or on their language and culture, wherever there is sufficient demand, and ensure adequate training and recruitment of qualified teachers for that purpose.**

(22) The Committee notes that the decision of the Constitutional Court of 13 December 2001 on topographical road signs has not been implemented in Carinthia (arts. 19 (2) and 27).

**The State party should take further steps to ensure that the decision of the Constitutional Court of 13 December 2001 on topographical road signs is enforced in Carinthia.**

(23) The Committee sets 30 October 2012 as the date for the submission of the fifth periodic report of Austria. It requests that the State party's fourth periodic report and the present concluding observations, as well as the full text of the Committee's Views concerning the State party, be published and widely disseminated in German to the general public, as well as to the judicial, legislative and administrative authorities. It also requests that the fifth periodic report be made available to civil society and to non-governmental organizations operating in the State party.

(24) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 11, 12, 16 and 17 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

## **75. Costa Rica**

(1) The Committee considered the fifth periodic report of Costa Rica (CCPR/C/CRI/5) at its 2492nd and 2493rd meetings (CCPR/C/SR.2492 and 2493), held on 22 October 2007, and adopted the following concluding observations at its 2508th meeting (CCPR/C/SR.2508), held on 1 November 2007.

### **A. Introduction**

(2) The Committee welcomes the fifth periodic report of Costa Rica, which contains detailed information concerning the State party's legislation and new draft legislation. The Committee regrets, however, that the report provides insufficient practical information regarding the effective implementation of the Covenant and lacks disaggregated statistics. The Committee is grateful for the written replies to its list of issues and to those raised orally with the delegation. It regrets, however, that no expert on the subjects covered by the Covenant, discharging relevant responsibilities in the country, was present during the presentation of the report, which made the dialogue between the Committee and the State party difficult.

### **B. Positive aspects**

(3) The Committee acknowledges the State party's commitment to and leadership in the defence and promotion of human rights internationally, particularly with respect to the abolition of the death penalty and the elimination of torture, and appreciates the stability of its democratic institutions, which is conducive to respect for and promotion of human rights.

(4) The Committee notes with satisfaction that Costa Rica ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a text that was the result of a Costa Rican initiative, in 2005; this step should ensure better compliance with article 7 of the Covenant.

(5) The Committee welcomes the establishment of the prosecutor's office of the Supreme Court of Justice specializing in indigenous affairs, the creation of a team of indigenous-language court translators and the guideline issued to judges regarding the need to consult indigenous peoples when handling disputes that have a bearing on their interests.

(6) The Committee notes with satisfaction: (a) the adoption of the Act Criminalizing Violence against Women on 25 April 2007; (b) the amendments to the Family Code, the Criminal Code and the Civil Code aimed at protecting children in matters relating to marriage; and (c) the adoption of the Responsible Paternity Act, which establishes the right to paternal recognition.

### C. Principal areas of concern and recommendations

(7) The Committee notes with concern that the names of almost 9,000 Colombian refugees were unduly disclosed by the Costa Rican authorities to the Colombian authorities (arts. 2 and 13).

**The State party should take steps to ensure full respect for the principle of confidentiality of the personal files of asylum-seekers and refugees.**

(8) The Committee reiterates its concern regarding the duration of pretrial detention, which may last for up to 12 months and is subject to further extensions, and regarding the legally authorized regime of incommunicado detention, which can last for up to 10 days. The situation of persons held incommunicado was unclear to the Committee, as was the procedure for judicial inspection, particularly in view of the potential inconsistency between articles 37 and 44 of the Constitution (arts. 7-10 of the Covenant).

**The Committee reiterates its recommendation that the State party should take the necessary legislative measures to reduce the duration of pretrial detention and to eliminate prolonged incommunicado detention, taking due care to ensure compliance in practice.**

(9) The Committee is concerned about overcrowding and poor conditions in the State party's detention centres, including those administered by the migration authorities (art. 10 of the Covenant).

**The State party should take steps to end overcrowding in detention centres, including those administered by the migration authorities, and to ensure compliance with the requirements of article 10. In particular, the State party should take into consideration the Standard Minimum Rules for the Treatment of Prisoners.**

(10) While noting the historic reasons invoked by the State party, the Committee is concerned that only Catholic marriages have civil effect in Costa Rica, since this situation discriminates against couples practising other religions (arts. 2, 18, 23 and 26 of the Covenant).

**The State party should take the necessary steps to bring its domestic legislation into line with articles 2, 18, 23 and 26 of the Covenant and to guarantee the principle of non-discrimination between religions.**

(11) The Committee is concerned about the legislative restrictions on journalism in the State party, such as the law protecting the honour of officials and public figures, and the provisions defining the press offences of defamation and libel, although it notes that they are punishable with a fine. The Committee is also concerned about reports of attacks on and threats against journalists in the State party, which could jeopardize its democratic system.

**The State party should take vigorous steps to guarantee freedom of expression and of the press in accordance with the terms of article 19 of the Covenant. In particular, it should ensure that bill No. 15974 concerning "Freedom of expression and the press", which is currently before the Legislative Assembly, is fully compatible with the**

**safeguards and limitations set out in the Covenant, including access to information. The State party should also investigate, bring to trial and punish perpetrators of attacks on or threats against journalists and should compensate the victims.**

(12) While acknowledging the State party's efforts to combat trafficking in women and children and sexual exploitation, such as surveillance systems and alliances with private-sector actors, including hoteliers and taxi networks, the Committee is concerned at the lack of public awareness of the unlawful nature of such phenomena. It also regrets that it has not received clear-cut information regarding the alleged trafficking of children from Ecuador in 2004. The Committee is concerned that such acts may go unpunished (arts. 2 and 24).

**The State party should reinforce measures to combat trafficking of women and children and, in particular:**

- (a) Ensure that penalties commensurate with the seriousness of the acts are imposed on anyone engaging in such exploitation;**
- (b) Continue its efforts to generate public awareness of the unlawful nature of the sexual exploitation of women and children;**
- (c) Provide training courses for the competent authorities;**
- (d) Protect victims so that they may find refuge and testify against those charged in criminal or civil cases, and award them compensation.**

(13) The Committee notes with concern the statements made by the authorities of the State party in the press stigmatizing Colombians in general, and Colombian refugees in particular, by linking them to the rising crime rate in Costa Rica (arts. 2, 20 and 26).

**The State party should ensure that public officials refrain from making xenophobic public statements that stigmatize or stereotype foreigners.**

(14) The Committee sets 1 November 2012 as the date for the submission of the sixth periodic report of Costa Rica. It requests that the State party's fifth report and the present concluding observations be published and widely disseminated to the general public as well as among the judicial, legislative and administrative authorities. Printed copies of these documents should be distributed to universities, public libraries, the parliamentary library and other relevant locations. The Committee also requests that the fifth periodic report and these concluding observations be made available to civil society and to non-governmental organizations operating in the country. It would be appropriate to distribute a summary of the report and the concluding observations to indigenous communities in their languages.

(15) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 9 and 12 above. The Committee requests that the State party include in its next periodic report information concerning its remaining recommendations and the implementation of the Covenant as a whole.

## 76. Algeria

(1) The Human Rights Committee considered the third periodic report of Algeria (CCPR/C/DZA/3) at its 2494th, 2495th and 2496th meetings (CCPR/C/SR.2494, 2495 and 2496), held on 23 and 24 October 2007 and adopted the following concluding observations at its 2509th meeting (CCPR/C/SR.2509), held on 1 November 2007.

### A. Introduction

(2) The Committee welcomes the submission of the third periodic report of Algeria and the opportunity thus offered to resume the dialogue with the State party. It also welcomes the presence of a high-level delegation during the consideration of the report. It further expresses its gratitude to the Government for the additional documents with which it was provided prior to and during the consideration of the report. While the Committee is conscious of the suffering caused by the rampant violence of the 1990s, including against civilians, compounded by political exploitation of religion and religious extremism that compromises human rights and constitutes a denial of tolerance - a challenge for both society and the State - the Committee considers that this must not be used to justify in time of emergency, breaches of article 4 of the Covenant.

### B. Positive aspects

(3) The Committee welcomes the amendments to the Family Code aimed at effecting some improvement in respect for the rights of women and protection of the family in Algeria.

(4) The Committee welcomes the State party's efforts to provide human rights education in educational institutions and train its judges and candidates for judgeships in human rights, ethics and the issues surrounding the treatment of detainees. It also welcomes the fact that human rights education has been incorporated into the training programmes of the national gendarmerie and the law-enforcement agencies.

(5) The Committee welcomes the de jure moratorium on the death penalty in effect since 1993, and the fact that the State party considers itself to be a de facto abolitionist State.

### C. Principal subjects of concern and recommendations

(6) The Committee notes that, according to the State party's report, the Covenant has primacy over national law and may be invoked in the State party's courts. It regrets, however, that the rights protected by the Covenant have not been fully incorporated into domestic legislation, and that the Covenant has not been disseminated widely enough for it to be regularly invoked before the courts and the administrative authorities. It also regrets that, notwithstanding the case law of Algerian courts, which finds recourse to civil imprisonment pursuant to article 407 of the Code of Civil Procedure to be contrary to article 11 of the Covenant, this provision of the Code has still not been repealed (Covenant, art. 2).

**The State party should ensure that its legislation gives full effect to the rights established by the Covenant. It should in particular ensure that remedies exist to guarantee the exercise of these rights. It should make the Covenant known to the population as a whole and, above all, to those responsible for law enforcement.**

(7) Notwithstanding the State party's references to criminal proceedings against persons responsible for human rights violations, the Committee notes with concern that the State party has not furnished precise and specific information on such proceedings. It also notes with concern that, reportedly, many serious violations of human rights have been committed with complete impunity in Algeria, including by public officials, and continue to be committed. It also notes that the State party has provided few examples of serious crimes that have been prosecuted and punished, for example in connection with cases of "disappearance". The Committee is concerned that Ordinance No. 06-01 enacting the Charter for Peace and National Reconciliation, which prohibits any prosecution of members of the defence or security force, seems thus to promote impunity and infringe the right to an effective remedy (Covenant, arts. 2, 6, 7 and 14).

**The State party should:**

**(a) Ensure that article 45 of Ordinance No. 60-01 does not impede enjoyment of the right to an effective remedy in conformity with article 2 of the Covenant and, in particular, that article 45 is amended in order to make it clear that the article does not apply to crimes such as torture, murder and abduction. Furthermore, the State party should take steps to inform the public that article 45 does not apply to statements or prosecutions for torture, extrajudicial execution or disappearances;**

**(b) Take all appropriate measures to guarantee that serious violations of human rights brought to its attention, such as massacres, torture, rapes and disappearances, are investigated and that the perpetrators of such violations, including State officials and members of armed groups, are prosecuted and held to account for their acts;**

**(c) Ensure that no pardon, commutation or remission of sentence or termination of public proceedings is granted in respect of any person, whether a State official or member of an armed group, who has committed or commits serious human rights violations such as massacres, torture, rapes and disappearances, that a thorough and exhaustive inquiry is conducted by the competent judicial authorities, into other violations and that the courts are able to examine the crimes of which these persons are allegedly guilty before any decision on a pardon, commutation or remission of sentence or termination of public proceedings is taken;**

**(d) Provide, in its next report, detailed information on the implementation of Ordinance No. 06-01, indicating not only the number of persons who have benefited from a pardon, commutation or remission of sentence or termination of public proceedings, but also for what offences and in what circumstances Ordinance No. 06-01 was applied in their regard.**

(8) The Committee takes note of the explicit assurances given by the State party delegation that no provision of Ordinance No. 06-01 enacting the Charter for Peace and National Reconciliation, in particular article 46, infringes the right of private individuals to submit a communication to the Committee under the Optional Protocol to the Covenant and that no proceedings have been brought pursuant to article 46. The Committee notes, however, with concern that article 46 prescribes a penalty of imprisonment and a fine for anyone who attacks the institutions of the State party, impugns the honour of its officials or tarnishes the image of the State party abroad (Covenant, arts. 2 and 19; Optional Protocol, arts. 1 and 2).

**The State party should repeal any provision of Ordinance No. 06-01 enacting the Charter for Peace and National Reconciliation, in particular article 46, which infringes freedom of expression and the right of any person to have access, at the national and international levels, to an effective remedy against violations of human rights. The State party should also ensure that the public is informed of the right of private individuals to refer a matter to the Committee, pursuant to the Optional Protocol, and to any other international or regional body, and that this right is not impaired by the provisions of Ordinance No. 06-01.**

(9) The Committee notes with concern that the State party has provided it with no information on the implementation of the recommendations set out in the Views adopted by the Committee under the Optional Protocol to the Covenant (communications Nos. 1172/2003, *Madani Abbassi v. Algeria*, Views adopted on 28 March 2007 (unfair trial and arbitrary detention); 1297/2004, *Medjnoune v. Algeria*, Views adopted on 14 July 2006 (arbitrary detention and disappearance); 1196/2003, *Boucherf v. Algeria*, Views adopted on 30 March 2006 (disappearance); 992/2001, *Bousroual and Saker v. Algeria*, Views adopted on 30 March 2006 (disappearance); 1085/2002, *Taright et al. v. Algeria*, Views adopted on 15 March 2006 (arbitrary detention)): (Covenant, art. 2; Optional Protocol, arts. 1 and 2).

**The State party should take the necessary measures to give effect to the Committee's Views, so as to guarantee the right to an effective remedy as established in article 2, paragraph 3, of the Covenant.**

(10) While taking note of the work of the National Advisory Commission for the Promotion and Protection of Human Rights, the Committee notes, with concern, the lack of information on the outcome of the Commission's work, due, inter alia, to the non-publication of its annual reports. It also regrets the lack of information on the Commission's national action plan on human rights (art. 2).

**The State party should ensure that the annual reports and action plans of the National Advisory Commission for the Promotion and Protection of Human Rights are made public.**

(11) While noting the assurances given by the State party's delegation on the periodic and unannounced inspections that the authorities and the International Committee of the Red Cross conduct in prisons, the Committee is concerned about the numerous reports from non-governmental sources pointing to the existence of secret detention centres located, allegedly, at Houch Chnou, Oued Namous, Reggane, El Harrach and Ouargla, among others, where persons deprived of their liberty are allegedly being held (Covenant, arts. 2 and 9).

**The State party should make sure that all places of detention are under the control of the civil prison authorities and the prosecutor's office, ensure compliance with all the provisions of article 9 of the Covenant and establish a national register of detention centres and persons in detention, which is accessible, in particular, to the families and lawyers of detainees and specifies, inter alia, the authority responsible for detention.**



**In addition, the State party should take all necessary measures, in its legislation and in practice, to ensure that all custodial establishments, including those of the Intelligence and Security Department, are visited regularly not only by the International Committee of the Red Cross, but also by an independent national organization.**

(12) While noting the work of the ad hoc National Commission on Disappearances and the establishment of offices to register complaints of disappearance, the Committee notes with concern that the authorities have not, to date, undertaken any public, exhaustive and independent assessment of the serious human rights violations perpetrated in Algeria. It also notes with concern the almost total absence of information on the work and results obtained by the ad hoc National Commission on Disappearances, whose report has still not been made public (Covenant, arts. 2, 6, 7, 9, 10 and 16).

**The State party should:**

**(a) Undertake to ensure that disappeared persons and/or their families have access to an effective remedy and that proper follow-up is assured, while ensuring respect for the right to compensation and the fullest possible redress;**

**(b) Undertake, in all circumstances, to clarify and resolve each case of disappearance, in particular the circumstances of the case and the identity of the victims. The State party should furthermore ensure that any person held in secret detention is placed under the protection of the law, and that the right of these persons to be brought before a judge in the shortest possible time is duly respected. In the case of deceased persons, the State party should take all necessary measures to clarify the place and cause of death, together with the place of burial, and undertake to return the bodies of deceased persons to their families;**

**(c) Undertake to convey all information concerning investigations and their outcome to the families of disappeared persons, in particular by publishing the final report of the ad hoc National Commission on Disappearances;**

**(d) Conduct a comprehensive and independent investigation into all allegations of disappearance, in order to identify, prosecute and punish the culprits.**

(13) The Committee takes note with concern of the provisions of Ordinance No. 06-01 enacting the Charter for Peace and National Reconciliation which oblige the families of disappeared persons to have the family member declared dead in order to be eligible for compensation (Covenant, arts. 2, 6 and 7).

**The State party should:**

**(a) Abolish the obligation in cases of disappearance which makes the right to compensation dependent on the family's willingness to have the family member declared dead;**

**(b) Ensure that any compensation or other form of redress adequately reflects the gravity of the violation and of the harm suffered.**

(14) While noting the State party's assertion that the state of emergency does not entail any restriction on most rights and freedoms, the Committee is nevertheless concerned that the state of emergency proclaimed in Algeria in 1992 has remained in force since then, as evidenced, for instance, by the continued delegation of the functions of the police to the Intelligence and Security Department. The Committee further draws the State party's attention to general comment No. 29 (2001) on article 4 of the Covenant (Derogations during a state of emergency).

**The State party should undertake to review the need for maintaining the state of emergency in accordance with the criteria laid down in article 4 of the Covenant and ensure that its application does not lead to violations of the Covenant. In the meantime, the State party should indicate which rights are still subject to derogation and the specific need for such derogation.**

(15) The Committee takes note with concern of the information regarding cases of torture and cruel, inhuman or degrading treatment in the State party, for which the Intelligence and Security Department reportedly has responsibility (Covenant, arts. 2, 6 and 7).

**The State party should:**

**(a) Guarantee that all allegations of torture and cruel, inhuman or degrading treatment are investigated by an independent authority and that the perpetrators of such acts are duly prosecuted and punished;**

**(b) Improve training for State officials in this area, so as to ensure that any person who is arrested or detained is informed of his or her rights.**

(16) The Committee notes with satisfaction the progress that the State party has made towards the abolition of the death penalty by reducing the number of crimes punishable by death and commuting the sentences of some prisoners. It regrets, however, that it has not received the full list of capital offences and that some persons sentenced to death have not yet formally benefited from commutation of their sentence, even though they are now entitled to such a measure (Covenant, arts. 2 and 6).

**The State party should take all necessary measures to commute as soon as possible the death sentences imposed for crimes which are no longer punishable by death by virtue of the moratorium in effect since 1993. The State party should carry out its intention of abolishing the death penalty and ratify the second Optional Protocol.**

(17) While it understands the security requirements associated with the fight against terrorism, the Committee expresses concern at the lack of details on the particularly broad definition of terrorist and subversive acts given in the Criminal Code, especially in view of the consequences of acts subject to the death penalty (Covenant, arts. 6, 7 and 14).

**The State party should ensure that counter-terrorism measures are consistent with the Covenant. In addition, the definition of terrorist and subversive acts should not lead to constructions whereby the terrorist acts can be invoked to deny the legitimate expression of rights established in the Covenant.**

(18) While noting the amendments made to the Code of Criminal Procedure, the Committee expresses its concern over the length of police custody (up to 12 days), which, in practice, can also be extended further. The Committee further notes with concern that the law does not guarantee the right to remain silent or the right to see a lawyer during the period in police custody and that the right of a person in custody to have access to a doctor, to communicate with his or her family and to be brought before a court within a reasonable time, is not always respected (Covenant, arts. 7 and 9).

**The State party should ensure that a limit on the legal duration of police custody is set in the Code of Criminal Procedure, in accordance with article 9 of the Covenant, and should then guarantee that the legal limit is respected in practice. The right of persons in custody to be informed of the reasons for their arrest, to remain silent and to have access to a lawyer upon arrest, and to a doctor and their family, should be spelt out in the Code of Criminal Procedure and applied in practice. The State party is invited to supply precise information, in its next report, on the measures adopted to ensure that the rights of persons in custody are respected in practice and on the methods for monitoring custody conditions.**

(19) The Committee is concerned that confessions obtained under torture are not explicitly prohibited and excluded as evidence under the State party's legislation (Covenant, arts. 7 and 14).

**In addition to the absolute prohibition of torture established in the Algerian Criminal Code, the State party should formally prohibit the use, in all courts in Algeria of confessions obtained under torture. The State party should also indicate, in its next report, the number of complaints lodged which call for review of a sentence imposed following an unfair trial, including as a result of confessions obtained under torture.**

(20) While noting the State party's desire to amend its laws and engage in reflection on the status of women in Algeria, the Committee notes with concern the persistence of discrimination against women in both practice and law, particularly in relation to marriage, divorce and adequate participation in public life (Covenant, arts. 3, 23, 25 and 26).

**The State party should:**

**(a) Expedite efforts to bring the laws on the family and personal status into line with articles 3, 23 and 26 of the Covenant, particularly with regard to the institution of the *wali*, (guardian) the rules on marriage and divorce - especially the non-attribution of housing to divorced women without children - and decisions concerning custody of children. In addition, the State party should abolish polygamy, a practice which is an affront to women's dignity and is incompatible with the Covenant;**

**(b) Step up its efforts to increase awareness of women's rights among the Algerian population, to promote women's participation in public life, to improve access for women to education and to guarantee them access to employment opportunities.**

(21) While noting the efforts of the State party to reduce violence against women in Algeria, the Committee remains concerned by the absence of any stipulation in criminal law on the subject, and, in particular, by the lack of a definition of domestic violence and marital rape. It also regrets the lack of information on the national strategy against violence towards women (Covenant, arts. 3 and 7).

**The State party should:**

**(a) Intensify its efforts to raise awareness among and educate State officials, in particular the police, and the population at large about the need to combat violence against women;**

**(b) Amend its legislation in order to define and criminalize domestic violence and marital rape.**

(22) The Committee notes with concern the reports that certain categories of asylum-seekers, including persons with refugee status granted by the Office of the High Commissioner for Refugees, do not have access to the asylum procedures in effect pursuant to Algerian legislation and thus risk being detained as illegal immigrants and returned (Covenant, art. 7).

**The State party should guarantee every asylum-seeker access to the procedures established by law. The State party should refrain from expelling asylum-seekers or persons who have been granted refugee status, in accordance with the principle of non-refoulement, especially when such persons risk being subjected to torture and ill-treatment in their country of origin.**

(23) While noting the State party's replies, the Committee is concerned that some activities leading persons to convert from Islam to another religion have been criminalized and that article 11 of Ordinance No. 06-03 establishing the conditions and rules for the practice of faiths other than Islam does not specify exactly which activities are prohibited (Covenant, art. 18).

**The State party should ensure that its laws and practices regarding religious activities are brought into line with article 18 of the Covenant.**

(24) While taking note of the pardon granted to some journalists in July 2006, the Committee nevertheless notes with concern that many journalists have been and continue to be subjected to pressure and intimidation, or even measures of deprivation of liberty, by the authorities of the State party. It is also concerned that the 2001 amendment to the Criminal Code makes it an offence to defame and insult State officials and institutions and that such offences are subject to severe penalties, in particular imprisonment (Covenant, art. 19).

**The State party should guarantee the exercise of freedom of the press and the protection of journalists, in accordance with article 19 of the Covenant. In addition, the State party should encourage the re-establishment of an independent journalists' organization to deal with matters of professional ethics and conduct. The State party should also amend its legislation in order to decriminalize defamation.**

(25) The Committee is concerned that many human rights organizations and human rights defenders are not able to pursue their activities freely, including their right of peaceful demonstration, and are often subjected to harassment and intimidation by State officials (Covenant, arts. 9, 21 and 22).

**The State party should respect and protect the activities of human rights organizations and human rights defenders. It should ensure that any restrictions imposed on the right of peaceful assembly and demonstration and on the registration of associations and the peaceful pursuit of their activities are compatible with articles 21 and 22 of the Covenant and also that the Information Act (No. 90-07) of 3 April 1990 is in conformity with the Covenant. In this connection, the State party should guarantee the right of any association to appeal against any refusal of registration.**

(26) The Committee notes with concern that some provisions of the Criminal Code, in particular article 338, prohibit private sexual activity between consenting adults of the same sex (Covenant, arts. 17 and 26).

**The State party should revoke these provisions.**

(27) The Committee sets 1 November 2011 as the date for the submission of Algeria's next periodic report. It requests that the text of the State party's third periodic report and the present concluding observations should be published and disseminated, as appropriate and in a timely manner, throughout Algeria. It further requests that the next periodic report should be brought to the attention of civil society and the non-governmental organizations operating in the State party.

(28) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit information within one year on the follow-up given to the Committee's recommendations as set out in paragraphs 11, 12 and 15 above. The Committee requests the State party to include information in its next report on the other recommendations of the Committee and on the application of the Covenant as a whole.

## 77. Tunisia

(1) The Human Rights Committee considered the fifth periodic report of Tunisia (CCPR/C/TUN/5) at its 2512th, 2513th and 2514th meetings on 17 and 18 March 2008 (CCPR/C/SR.2512, 2513 and 2514). It adopted the following concluding observations at its 2527th meeting (CCPR/C/SR.2527) on 28 March 2008.

### A. Introduction

(2) The Committee welcomes with satisfaction the submission of the fifth periodic report of Tunisia and the opportunity it presents to resume the dialogue with the State party after more than 13 years. It also welcomes the participation during the consideration of the report of a high-level and competent delegation. It is grateful to the State party for the written replies (CCPR/C/TUN/Q/5/Add.1) and additional explanations provided in advance and during the consideration of the report, even though some of the responses were incomplete.

(3) While recognizing the existence of obstacles that are not the responsibility of the Tunisian authorities relating to the politicization of religion and religious extremism, which compromise human rights and constitute a negation of tolerance representing a challenge for both the State and society, the Committee considers that this cannot serve as a justification for derogations or restrictions not authorized by the Covenant.

### **B. Positive aspects**

(4) The Committee welcomes the progress made in law and in fact concerning the application of article 3 of the Covenant. It notes with interest the examples of jurisprudence of national jurisdictions having to do with child custody, transmission of nationality and inheritance rights, in particular with regard to the transmission of nationality by Tunisian women and rules of succession.

(5) The Committee welcomes the moratorium on the death penalty applied in the State party since 1991. It welcomes the fact that the State party considers itself de facto abolitionist. In that regard, it takes note of the solemn commitment reiterated by the President of the Republic that no sentence of capital punishment would be carried out.

(6) The Committee takes note of the delegation's statement regarding the State party's decision to accede to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and to the Convention on the Rights of Persons with Disabilities. It notes the commitment by the delegation of the State party to invite various United Nations special rapporteurs, within the framework of their mandates, to undertake missions to Tunisia, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. It notes that the State party also intends to establish a body responsible for follow-up to the recommendations of treaty bodies.

(7) The Committee welcomes the State party's intention to remove its reservations to the Convention on the Rights of the Child, in particular with respect to the effective application of articles 23 and 24 of the Covenant.

### **C. Principal subjects of concern and recommendations**

(8) The Committee regrets the fact that the State party has still not established a national institution with competence in the area of human rights in accordance with the Paris Principles, even though the delegation indicated that bringing the High Committee on Human Rights and Fundamental Freedoms into conformity with the Paris Principles was currently the subject of a bill before Parliament following a recent decision by the Council of Ministers in that regard (art. 2 of the Covenant).

**The State party should take the necessary steps to ensure that the High Committee on Human Rights and Fundamental Freedoms functions in conformity with the Paris Principles.**

(9) The Committee notes that the issue of the advisability of acceding to the Optional Protocol is still being debated.

**The State party should consider acceding to the first Optional Protocol to the Covenant.**

(10) While acknowledging the efforts of the authorities to eradicate domestic violence, the Committee notes that more attention should be paid to the situation of women who are the victims of violence.

**The State party should increase the awareness of public opinion regarding the problem, and take all necessary steps to eradicate the phenomenon.**

(11) While welcoming the fact that the courts have handed down a certain number of convictions against public officials found guilty of acts of torture or ill-treatment, and that reparations have been made to victims, the Committee is concerned about serious and substantiated reports that acts of torture and cruel, inhuman or degrading treatment or punishment are being committed in the territory of the State party. According to some of these reports: (a) some judges refuse to register complaints of ill-treatment or torture; (b) some inquiries ordered subsequent to such complaints take an unreasonable amount of time; and (c) some superiors responsible for the conduct of their agents, in violation of article 7 of the Covenant, are neither investigated nor prosecuted. It regrets the lack of statistical data on the number of complaints of torture submitted to and registered by the authorities (arts. 2 and 7 of the Covenant).

**The State party should:**

**(a) Ensure that all allegations of torture and cruel, inhuman or degrading treatment or punishment are investigated by an independent authority, and that the perpetrators of such acts, including their hierarchical superiors, are prosecuted and punished and that the victims receive reparation, including appropriate compensation;**

**(b) Improve the training of public officials in this area;**

**(c) Include detailed statistics on this subject in its sixth periodic report.**

(12) While noting with satisfaction that article 101 bis of the Criminal Code prohibits torture, the Committee is concerned by reports that, in practice, confessions obtained through torture are not excluded as evidence in a trial. The Committee further notes that such confessions are not explicitly prohibited by the State party's legislation (arts. 7 and 14, para. 3 (g) of the Covenant).

**The State party should prohibit the use of confessions obtained through torture in all jurisdictions. Likewise, it should ensure that the burden of proof does not rest on the victims.**

(13) The Committee is concerned that Tunisian law allows the police to make arrests and detain individuals for a period of three days, renewable subject to a judge's consent. During these periods of deprivation of liberty, detainees do not have access to a lawyer. According to

numerous reports transmitted to the Committee, the legal guarantees of persons deprived of their freedom are not observed in practice. Thus the lawful period of police custody is allegedly exceeded, in certain cases, without the persons arrested being allowed to undergo medical examinations and/or without their families being informed of their arrest. Furthermore, the Committee is concerned at the fact that persons deprived of their liberty do not have the right to take proceedings before a court so that it may decide without delay on the lawfulness of their detention (art. 9 of the Covenant).

**The State party should take measures to limit the lawful duration of police custody and bring its legislation into conformity with all the provisions of article 9 of the Covenant.**

(14) The Committee notes with satisfaction the progress the State party has made towards abolishing the death penalty and commuting the death sentences of certain prisoners. It regrets, however, that the courts are still handing down death sentences and that in some cases persons condemned to death have not automatically had their sentences commuted. The Committee is also concerned that the competent authorities take into account the time elapsed since a death sentence has been passed when taking a decision on commuting the sentence (arts. 2, 6 and 7 of the Covenant).

**The State party should take the necessary measures to commute all death sentences as soon as possible. The State party should consider abolishing the death penalty and ratifying the second Optional Protocol to the Covenant.**

(15) While understanding the security requirements related to combating terrorism, the Committee is concerned at the lack of precision in the particularly broad definition of terrorist acts contained in the Terrorism and Money-laundering Act (Act No. 2003-75). The Committee is concerned in particular that, under this Act, (a) lawyers are released from their obligation of professional confidentiality and obliged to testify or face the risk of imprisonment; and (b) investigators and judges may remain anonymous (arts. 6, 7 and 14 of the Covenant).

**The definition of terrorist acts should not lead to interpretations allowing the legitimate expression of rights enshrined in the Covenant to be violated under the cover of terrorist acts. The State party should ensure that the measures taken to combat terrorism are in conformity with the provisions of the Covenant (arts. 6, 7, 14).**

(16) While noting the assurances given by the delegation of the State party regarding regular and unannounced inspections of prisons conducted both by the authorities and by the International Committee of the Red Cross (ICRC) under the terms of an agreement signed between the Government and ICRC, the Committee expresses its concern at the numerous reports of the poor conditions of detention prevailing in some prisons (art. 10 of the Covenant).

**The State party should ensure compliance with the provisions of article 10 of the Covenant. The State party should increase the supervision and monitoring established in places of detention, in particular by allowing national NGOs access to such places.**



(17) The Committee is concerned by the question of the independence of the judiciary. It is also concerned that the executive branch still wields too much influence over the High Council of the Judiciary, despite the 2005 reform (art. 14 of the Covenant).

**The Committee recommends that measures be taken to strengthen the independence of the judiciary, in particular with respect to the executive branch.**

(18) The Committee is concerned by certain provisions of the Press Code as well as by their application in practice, which is contrary to article 19 of the Covenant. Article 51 of that Code contains a particularly extensive definition of the offence of defamation, which is moreover subject to severe penalties, including imprisonment, especially in cases of criticism of official bodies, the army or the administration (art. 19 of the Covenant).

**The State party should take steps to put an end to direct and indirect restrictions on freedom of expression. Article 51 of the Press Code should be brought in line with article 19 of the Covenant, so as to ensure a fair balance between protection of a person's reputation and freedom of expression.**

(19) The Committee is concerned that during elections, the Electoral Code (article 62-III) prohibits anyone from using a private or foreign radio or television channel or one broadcasting from abroad with a view to encouraging listeners to vote or to abstain from voting for a candidate or list of candidates (arts. 19 and 25 of the Covenant).

**The State party should abolish these restrictions in order to make the provisions of the Electoral Code fully compatible with articles 19 and 25 of the Covenant.**

(20) The Committee is concerned that various human rights organizations and defenders are unable freely to conduct their activities or exercise the right to peaceful assembly, and are subjected to harassment and intimidation and sometimes even arrest (arts. 9, 19, 21 and 22 of the Covenant).

**The State party should take steps to put an end to acts of intimidation and harassment and to respect and protect the peaceful activities of human rights organizations and defenders. Reports of acts of intimidation and harassment should be investigated without delay. The State party should ensure that any restrictions imposed on the right to peaceful assembly and demonstration are compatible with the provisions of articles 19, 21 and 22 of the Covenant.**

(21) The Committee is concerned at reports that a very limited number of independent associations have been registered officially by the authorities and that, in practice, several associations for the protection of human rights whose objectives and activities are not in violation of the Covenant have encountered impediments when applying for such registration (arts. 21 and 22 of the Covenant).

**The State party should ensure that such organizations are registered, and they should be provided with effective and prompt recourse against any rejection of their applications.**

(22) The Committee establishes 31 March 2012 as the date by which it should receive the sixth periodic report of Tunisia. It requests the State party to publish and disseminate widely the text of the fifth periodic report and the present concluding observations to the public as well as to the country's judicial, legislative and administrative authorities and to circulate the sixth periodic report to non-governmental organizations working in the country.

(23) In accordance with article 71, paragraph 5, of the Committee's rules of procedure, the State party should transmit within a year the information on follow-up to the Committee recommendations contained in paragraphs 11, 14, 20 and 21 above. The Committee requests the State party to provide information in its next periodic report concerning the implementation of the other recommendations and the Covenant as a whole. The State party has undertaken to make an effort to give the Committee more detailed information on the concrete results achieved.

## **78. Botswana**

(1) The Human Rights Committee considered the initial report of Botswana (CCPR/C/BWA/1) at its 2515th, 2516th and 2517th meetings, held on 19 and 20 March 2008 (CCPR/C/SR. 2515, 2516 and 2517). At its 2527th meeting, held on 28 March 2008 (CCPR/C/SR.2527), it adopted the following concluding observations.

### **A. Introduction**

(2) The Committee welcomes the submission, albeit considerably late, of the State party's initial report and the opportunity thus offered to begin the dialogue with the State party.

(3) The Committee appreciates the written replies submitted by the delegation, as well as the detailed answers it provided to the Committee's oral questions. It particularly welcomes the efforts made by the State party, both in its initial report and during the dialogue with the Committee, to acknowledge the challenges faced in the implementation of the Covenant.

### **B. Positive aspects**

(4) The Committee notes with satisfaction the strong democratic culture of the State party, as well as the establishing of universal basic education, and its considerable achievements in addressing the challenges posed by the HIV/AIDS pandemic.

(5) The Committee welcomes the increased participation of women in Parliament, at the cabinet level and in the public service, and encourages the State party to strengthen its efforts to promote the participation of women in all walks of public life as well as in the private sector.

### **C. Principal subjects of concern and recommendations**

(6) The Committee notes that the Covenant is not directly applicable in domestic law, and is concerned that not all rights provided for in the Covenant are addressed in the Constitution and legislation. While welcoming court judgements that courts should interpret domestic law in a manner consonant with international treaties, including the Covenant, the Committee notes that the knowledge of the rights contained therein by the legal profession is limited (art. 2).

**The State party should ensure the harmonization of its domestic law with the provisions of the Covenant. It should provide training regarding provisions of the Covenant to judges and lawyers. It should disseminate the Covenant in the main local languages for the benefit of the public.**

(7) The Committee regrets the absence of detailed information and statistical data in the State party's initial report and the written replies to its list of issues, which would allow it to assess the impact of Covenant rights in practice in the State party, and which it deems essential to its task in monitoring the implementation of the Covenant.

**The State party should provide more comprehensive information on the implementation of its legislation in different areas covered by the Covenant. It should also provide complete relevant statistical data in its next periodic report, disaggregated by, inter alia, gender.**

(8) While noting the establishment of the Office of the Ombudsman in 1995, the Committee observes the lack of a national human rights institution in the State party, and welcomes the State party's statements that it is willing to consider establishing such an institution (art. 2).

**The State party should establish a national human rights institution. It should ensure that the institution will be in full compliance with the Principles relating to the Status of National Institutions (Paris Principles, adopted by the General Assembly in its resolution 48/134 of 20 December 1993). The State party should ensure that its budgetary provisions permit the national institution to discharge its functions effectively.**

(9) While welcoming the Abolition of Marital Power Act and an amendment of the Matrimonial Causes Act, the Committee notes with concern that the exceptions to the right not to be discriminated against, as provided for in section 15(4) (b), (c) and (d) of the Constitution, are not in compliance with articles 2, 3 and 26 of the Covenant. The Committee is concerned, in particular, at exceptions relating to non-citizens; adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; and the application of customary law (arts. 2, 3 and 26).

**The State party should review section 15 of the Constitution in order to bring it in line with articles 2, 3 and 26 of the Covenant, and amend relevant legislation, such as the Abolition of Marital Power Act, accordingly.**

(10) The Committee notes with interest the steps undertaken by the State party to review customary laws, and the enactment of legislation to amend such laws. It is, however, concerned that there still remain customary laws and practices that are inconsistent with the rights provided for in the Covenant (art. 2).

**The State party should as a matter of priority strengthen its efforts to ensure compatibility of customary laws and practices with the rights provided for in the Covenant.**

(11) The Committee welcomes the State party's intention to amend the Marriage Act to ensure that all marriages are registered. It remains concerned by the persistence of customary practices that are highly detrimental to women's rights, such as discrimination in the area of marriage and custody of children born outside of wedlock, early marriages and polygamy, and the continued practice of legal guardianship by men of unmarried women (arts. 2 and 3).

**The State party should ensure the full participation of women in the review of customary laws and practices. It should outlaw polygamy, which violates the dignity of women, and take effective steps to discourage the persistence of customary practices that are highly detrimental to women's rights.**

(12) The Committee notes with concern that the precedence of constitutional law over customary law is not always ensured in practice, due especially to the low level of awareness the population has of its rights, such as the entitlement to request a case to be transferred to a constitutional law court and the right to appeal customary courts' decisions before constitutional law courts (arts. 2 and 3).

**The State party should increase its efforts to raise awareness of the precedence of constitutional law over customary laws and practices, and of the entitlement to request the transfer of a case to constitutional law courts, and of appeal before such courts.**

(13) The Committee regrets the delegation's statements that it remains committed to retain the death penalty. It regrets that it was not provided with data on the number of death sentences handed down per year, and on the number of executions per year. It also regrets that it was not provided with full data regarding which crimes incur the death sentence, whereby it could determine whether these offences are included among the most serious crimes within the meaning of article 6, paragraph 2, of the Covenant. The Committee regrets the lack of information on cases considered by the Advisory Committee on the Prerogative of Mercy, and an explanation as to the low level of commutations of the death penalty. It also notes with concern the practice of the secrecy of execution dates, and the fact that the body of the executed person is not returned to the family for burial. The Committee reiterates its view that mandatory imposition of death penalty for any crime is in violation of article 6, paragraph 2, of the Covenant (art. 6).

**The State party should ensure that the death penalty is only imposed for the most serious crimes, and it should move towards abolition of the death penalty in accordance with article 6, paragraph 6, of the Covenant. The State party should provide more detailed information on the number of convictions for murder, the number of and reasons for the courts' findings of mitigating circumstances, the number of death sentences imposed by the courts, and on the number of the persons executed year by year. The State party should ensure that public debate on the death penalty is conducted on the basis of a full presentation of all aspects of the matter, especially the importance of achieving progress in the enjoyment of the right to life and the desirability of eventual ratification of the Second Optional Protocol to the Covenant. It should ensure that families are informed in advance of the date of the execution of their family members, and that the body is returned to the family for private burial.**

(14) The Committee notes with concern the vague and extremely wide reservation which the State party entered in relation to articles 7 and 12 of the Covenant. With regard to the reservation entered into in relation to article 7 of the Covenant, it recalls that reservations offending peremptory norms of international law including the prohibition of torture are incompatible with the objects and purposes of the Covenant (general comment No. 24, para. 8) (arts. 7 and 12).

**The State party should immediately withdraw its reservation to article 7 of the Covenant, and should also withdraw its reservation to article 12.**

(15) The Committee regrets that the Penal Code does not contain a definition of torture. It does not consider that existing laws treat all forms of torture as offences of sufficient gravity (art. 7).

**The State party should define, as soon as possible, the concept of “torture” in accordance with article 7 of the Covenant and make torture a criminal offence. An inquiry should be opened in each case of alleged torture, and the perpetrators of such acts should be prosecuted and punished appropriately. Effective reparations, including adequate compensation, should be granted to any victims.**

(16) The Committee is concerned by the lack of detailed information on the challenges faced by the State party with regard to human trafficking and the State party’s responses thereto, despite its acknowledgement that such practices occur (art. 8).

**The State party should redouble its efforts to combat this serious problem, in collaboration with neighbouring countries, inter alia with a view to protecting the human rights of victims. It should also rigorously review the activities of responsible governmental agencies to ensure that no State actors are involved and that its anti-trafficking initiatives are fully coordinated across relevant parts of government.**

(17) The Committee expresses concern at the incidence of prison overcrowding and the large proportion of persons held on remand in prison, and welcomes the State party’s statements that it is considering ways in which to address the overcrowding problem. It is also concerned that families have limited access to persons deprived of their liberty (arts. 7, 9 and 10).

**The State party should take measures to ensure that persons on remand are not kept in custody for an unreasonable period of time. It should significantly increase its efforts to guarantee the right of detainees to be treated with humanity and dignity, by ensuring that they live in healthy conditions and have adequate access to health care and food, and otherwise ensure that conditions of detention in the country’s prisons are compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners. It should immediately take action to reduce the prison population. The State party should develop alternative measures to imprisonment, such as community service orders and bail arrangements. The State party should enhance access to prisoners by family members.**

(18) The Committee, while noting that committing an act of violence against a prisoner is an offence under the Prisons Act, regrets that it has not received information on the practical implementation of this provision. It also regrets the absence of information on cases considered by the Board of Enquiry following a complaint against an officer (art. 7).

**The State party should ensure that any act of violence committed against a prisoner is duly prosecuted and punished. It should provide the Committee with more detailed information on the system put in place to hear complaints of prisoners regarding acts of violence.**

(19) The Committee is concerned about the existence in law and in practice of penal corporal punishment in the State party, in violation of article 7 of the Covenant (art. 7).

**The State party should abolish all forms of penal corporal punishment.**

(20) The Committee welcomes the provision by the State party of free legal assistance in cases where capital punishment may be inflicted, but notes with concern the State party's own admission that the quality of legal representation in such cases is unequal and could be improved. The Committee also notes with concern that there is no provision for legal aid to indigent accused in other criminal cases. In this regard, the Committee welcomes the State party's intention to carry out a study on establishing a legal aid system in Botswana (art. 14).

**The State party should introduce a comprehensive criminal legal aid system for those who do not have sufficient means to pay for legal representation, especially in cases where the interests of justice so require in accordance with article 14, paragraph 3 (d), of the Covenant.**

(21) The Committee is concerned that the customary court system does not appear to function according to basic fair trial provisions, and notes the rule which forbids legal representation in customary courts. The Committee reiterates its general comment No. 32 on article 14 which provides that customary courts "cannot hand down binding judgements recognized by the State, unless the following requirements are met: proceedings before such courts are limited to minor civil and criminal matters, meet the basic requirements of fair trial and other relevant guarantees of the Covenant, and their judgements are validated by State courts in light of the guarantees set out in the Covenant and can be challenged by the parties concerned in a procedure meeting the requirements of article 14 of the Covenant. These principles are notwithstanding the general obligation of the State to protect the rights under the Covenant of any persons affected by the operation of customary and religious courts" (para. 24) (art. 14).

**The State party should ensure that the customary law system and its courts function in a manner consistent with article 14 and general comment No. 32, paragraph 24, and in particular allow legal representation in customary courts.**

(22) The Committee notes with concern that the State party criminalizes same-sex sexual activities between consenting adults (arts. 17 and 26).

**The State party should repeal these provisions of its criminal law.**

(23) While taking account of the policy which aims at settling the population in order to provide it with essential public services, and while welcoming the State party's intention to engage in negotiations with those persons who were relocated from the Central Kalahari Game Reserve (CKGR), the Committee notes with concern reports that not all relocated persons will benefit from the High Court decision in *Roy Sesana et al v. Attorney-General*, and that the practical

enjoyment of the right to return is conditional on providing identity documents prior to entering the CKGR, obtaining Special Game Licences to hunt and that the State party will not provide access to ground-water for such persons (arts. 12 and 27).

**The State party should ensure that all persons who were relocated are granted the right to return to the Central Kalahari Game Reserve, consistent with the reasoning of the High Court decision, and that all necessary measures are taken to facilitate the enjoyment of Covenant rights by these persons upon their return.**

(24) The Committee is concerned that, despite recent amendments, the current rules regarding appointments to the Ntlo ya Dikgosi do not make provision for fair representation of all tribes. It also notes that the Bogosi Bill, which will repeal and replace the Chieftainship Act, has not been the subject of a full consultation with all interested parties (arts. 25, 26 and 27).

**The State party should ensure that it repeals any discriminatory element in the appointment and representation of tribes in the Ntlo ya Dikgosi, to ensure fair representation of all tribes. It should also ensure that consultations are held in relation to the adoption of the Bogosi Bill.**

(25) The Committee requests the State party to disseminate widely the present concluding observations and its initial report to the general public, including by publishing them on the government website, placing them in all public libraries and distributing them to the leaders of customary institutions and to the Ntlo ya Dikgosi.

(26) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 12, 13, 14 and 17.

(27) The Committee requests the State party to provide in its next report, due to be submitted by 31 March 2012, information on the remaining recommendations made and on the Covenant as a whole.

## 79. Panama

(1) The Committee considered the third periodic report submitted by Panama (CCPR/C/PAN/3) at its 2520th and 2521st meetings (CCPR/C/SR.2520 and 2521), held on 24 and 25 March 2008, and adopted the following concluding observations at its 2535th meeting (CCPR/C/SR.2535), held on 3 April 2008.

### A. Introduction

(2) The Committee welcomes Panama's third periodic report, while noting the significant delay in its submission. The report contains detailed information on the State party's legislation and on its new legislative projects. However, the Committee regrets that the report does not provide sufficient information on the effective implementation of the Covenant. The Committee expresses its appreciation for the written responses to its list of questions and the replies to the oral questions posed to the delegation, which facilitated an open and constructive dialogue.

## **B. Positive aspects**

- (3) The Committee notes with satisfaction the legislative reforms carried out by the State party, in particular the adoption of a new penal code, the repeal of the contempt laws and the process of review of the Code of Criminal Procedure which is intended, inter alia, to improve the guarantees of due process for all those in detention pending investigation.
- (4) The Committee also welcomes the adoption of the law on domestic violence and the adoption of legislative and administrative measures to prevent stigmatization of and discrimination against people living with HIV/AIDS.
- (5) The Committee welcomes the various measures adopted for persons with disabilities, including the establishment of the National Consultative Council for the Social Integration of Persons with Disabilities (CONADIS) and the ratification of the Convention on the Rights of Persons with Disabilities.
- (6) The Committee welcomes the recent adoption of legislation that allows refugees who have been in the country for 10 years or more to request permanent residence.

## **C. Principal subjects of concern and recommendations**

- (7) The Committee notes the authorities' follow-up to the 2002 report of the Truth Commission, which attests to violations of the right to life, including disappearances, that occurred between 1968 and 1989. Nevertheless, the Committee is concerned that the legal investigation in many of the documented cases has not yet been concluded, while others have been declared time-barred (arts. 2 and 6 of the Covenant).

**The State party should ensure that all cases of serious human rights violations, including those documented by the Truth Commission, are duly investigated, that those responsible are brought to justice and, where appropriate, punished and that the victims or their family members receive fair and adequate compensation. The statute of limitations on offences involving serious human rights violations should be abolished.**

- (8) The Committee notes with concern that, according to article 12 of the Constitution, the State may deny a request for naturalization for reasons of physical or mental incapacity (art. 2 of the Covenant).

**The State party should modify the Constitution with a view to eliminating this discriminatory provision that is contrary to the Covenant.**

- (9) The Committee expresses its concern at the restrictive legislation on abortion in the Criminal Code, in particular the limitation that it should be carried out within the first two months of pregnancy in the case of conception that occurred as a result of rape, which should be duly documented in court proceedings (art. 6 of the Covenant).

**The State party should amend its legislation so that it effectively helps women avoid unwanted pregnancies and so that they do not have to resort to illegal abortions that could endanger their lives.**



(10) The Committee notes with concern that there continue to be cases of abusive treatment of prisoners by law enforcement officers, especially in prisons but also at the time of arrest by the police, in most cases without such conduct being punished (art. 7 of the Covenant).

**(a) The State party should take immediate and effective measures to put an end to these abuses and to monitor, investigate and, where appropriate, bring to justice and punish members of law enforcement bodies who commit abuses. In this connection, the State party should provide the Committee with statistics on criminal and disciplinary proceedings initiated for this type of conduct and the results of those proceedings;**

**(b) The State party should strengthen human rights training measures for law enforcement personnel so that they do not engage in such conduct;**

**(c) The Committee notes with satisfaction the information provided by the State party to the effect that it is considering ratification of the Optional Protocol to the Convention against Torture, which provides for the establishment of mechanisms for regular visits to places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The Committee trusts that such ratification will take place.**

(11) In spite of the efforts currently being made to improve prison conditions, including alternative measures to prison, the Committee is concerned by the high levels of overcrowding and poor prison conditions, especially unsanitary conditions, a lack of safe drinking water and scarce medical care, as well as the shortage of staff and the lack of separation between accused and convicted persons (art. 10 of the Covenant).

**The State party should take steps to put an end to overcrowding in detention facilities and to ensure compliance with the requirements established in article 10. In particular, the State party should take measures with a view to the application in Panama of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.**

(12) While noting with satisfaction the efforts made to reduce the delay in the judicial process and to decrease the number of prisoners in preventive detention, the Committee expresses concern at the continuing high percentage of prisoners in that situation, as well as the extended duration of pretrial detention (arts. 9 and 10 of the Covenant).

**The State party should take prompt measures to reduce the number of persons in pretrial detention and the time of their detention in that situation, such as greater recourse to preventive measures and bail and a greater use of electronic bracelets.**

(13) While noting that the State party is aware of the problem, the Committee expresses its concern at the delays in processing applications for habeas corpus as well as the limited number of officially appointed counsel in Panama (arts. 9 and 14 of the Covenant).

**The State party should take steps to ensure that this type of application is processed as promptly as possible in order to guarantee its effectiveness and its raison d'être. The State party should also take measures to increase the number of officially appointed counsel in the country with a view to guaranteeing the right to defence of all citizens, including those who cannot afford the services of a lawyer.**

(14) The Committee notes with concern that many refugees, particularly those who do not have a formal status, live in a precarious economic and legal situation and that, in general, legislation does not guarantee to all foreigners in Panamanian territory who require international protection, including refugees, stateless persons and persons falling into other categories, the rights to which they are entitled under international law, including refugee law, in particular the State's obligation not to expose such persons to treatment contrary to articles 6 and 7 of the Covenant (arts. 2, 6, 7 and 9 of the Covenant).

**The State party should adopt legislation that will allow refugees to enjoy their rights under the Covenant and comply with its obligation not to extradite, deport, expel or otherwise remove a person from its territory where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated in articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed.**

(15) The Committee is concerned that, despite the constitutional guarantee of the freedom to practise all religions, that freedom is limited by a requirement to respect Christian morals, which could potentially give rise to instances of discrimination against persons of other religions and persons without religious convictions (art. 18 of the Covenant).

**The State party should guarantee full equality in respect of the right to freedom of thought, conscience and religion, which is recognized in the Covenant, and should avoid any possibility of discrimination in this regard.**

(16) The Committee expresses concern at the discrimination against women in respect of employment, including access to employment, and at the wage gap, despite the fact that female enrolment in higher education exceeds that of males. The Committee is also concerned by information it has received indicating that, despite the legal prohibition against the practice, pregnancy tests are still required of female job seekers (arts. 26 and 3 of the Covenant).

**The State party should increase its efforts to combat discrimination against women in the workforce in order to ensure, inter alia, equal opportunity in employment, equal pay for equal work and the abolition of pregnancy tests as a requirement for access to employment. Failure to respect the prohibition on pregnancy tests should be effectively punished.**

(17) The Committee regrets that, despite legal provisions aimed at promoting women's participation in political life, their participation rate continues to be low, whether in respect of elected office or of discretionary appointments (arts. 3, 25 and 26 of the Covenant).

**The State party should comply with the goals set out in the Equal Opportunity Act and, in particular, take steps to ensure increased access by women to the highest levels of the civil service.**

(18) The Committee welcomes the existence of a law against domestic violence and the measures taken to ensure its application. Nonetheless, the Committee is concerned by the high incidence of domestic violence, the many women who have died as a result of such violence and the impunity of the perpetrators (arts. 3 and 7 of the Covenant).

**The State party should increase its efforts to implement the law on domestic violence and protect women victims of such violence, such as the creation of a sufficient number of shelters where they can live in dignity, police protection for victims and the investigation and punishment of the perpetrators. In this regard, the Committee would welcome statistics on ongoing cases for domestic violence and their outcomes.**

(19) The Committee, while taking note of the efforts made by the State party to register all births, regrets the fact that some persons still remain unregistered, especially in rural areas and indigenous communities (arts. 16, 24 and 27).

**The Committee recommends that the State party strengthen the necessary programme and budgetary measures and take into consideration the good practices of other countries in this area in order to ensure the registration of all births and other vital details related to civil status throughout its national territory as well as the registration of all adults.**

(20) The Committee notes with concern that, despite the fact that the Constitution prohibits persons under the age of 14 years from working, including as domestic workers, and despite legislative measures to prohibit the worst forms of child labour, the rate of child labour in the country continues to be high (arts. 8 and 24).

**The State party should adopt urgent measures in order to ensure the full application of the law aimed at eradicating child labour, such as the establishment of an effective inspection system. The State party should also ensure that all school-age children receive a full education.**

(21) The Committee expressed its concern at the information included in the State party's report and received from non-governmental sources on the existence among the general population of racial prejudices against indigenous people and also on the many problems that affect indigenous communities, including serious shortcomings in health and education services; the lack of an institutional presence in their territories; the absence of a process of consultation to seek the prior, free and informed consent of communities to the exploitation of natural resources in their territories; the ill-treatment, threats and harassment to which members of the communities have reportedly been subjected on the occasion of protests against hydroelectric infrastructure construction projects, mining operations or tourism facilities on their territory; and the non-recognition of the special status of indigenous communities that are not within a *comarca* (arts. 1, 26 and 27 of the Covenant).

**The State party should:**

- (a) Effectively guarantee the right to education of indigenous people and ensure that the education is appropriate to their specific needs;**
- (b) Ensure the access of all indigenous people to adequate health services;**
- (c) Carry out a process of consultation with the indigenous communities before granting licences for the economic exploitation of the lands in which they live, and to ensure that in no case shall such exploitation violate the rights recognized in the Covenant;**
- (d) Recognize the rights of indigenous communities that live outside the *comarcas*, including the right to collective use of their ancestral lands.**

(22) The Committee sets March 2012 as the date for the submission of the fourth periodic report of Panama. It requests that the State party's third report and the present concluding observations be disseminated to the general public as well as to the judicial, legislative and administrative authorities. Hard copies of these documents should be distributed to universities, public libraries, the Parliamentary library and all other relevant places. It also requests that the third periodic report and these concluding observations be distributed to civil society and to non-governmental organizations operating in the country. It would be desirable to distribute a summary of the report and the concluding observations to the indigenous communities in their own languages.

(23) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 11, 14 and 18 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

## **80. The former Yugoslav Republic of Macedonia**

(1) The Committee considered the second periodic report of the former Yugoslav Republic of Macedonia (CCPR/C/MKD/2) at its 2525th and 2526th meetings (CCPR/C/SR.2525-2526), held on 26 March 2008, and adopted the following concluding observations at its 2537th meeting (CCPR/C/SR.2537), held on 3 April 2008.

### **A. Introduction**

(2) The Committee notes the submission of the State party's second periodic report elaborated in conformity with the reporting guidelines, which was six years overdue, and welcomes the information on developments since the consideration of the initial report as well as the written answers provided in advance.

(3) The Committee appreciates the positive dialogue with a delegation composed of experts competent in various fields relevant for the implementation of the Covenant, and welcomes their efforts to answer the Committee's written and oral questions during the examination of the State party's report.

## B. Positive aspects

- (4) The Committee welcomes the significant and wide-ranging legislative and institutional changes and reforms that have been introduced in the State party in the period covered by the second periodic report, with a view to improving the judicial system in the country.
- (5) The Committee welcomes the adoption of the new Law on Legal Status of a Church, Religious Community and Religious Groups, which brings about more equality among religious groups and churches.
- (6) The Committee welcomes the amendments to the Criminal Code, decriminalizing the offences of defamation (art. 172), insult (art. 173) and expressing personal or family circumstances (art. 174) as steps in the right direction towards ensuring freedom of opinion and expression particularly of journalists and publishers.

## C. Principal subjects of concern and recommendations

- (7) The Committee welcomes the establishment of the Office of the National Ombudsman, but notes that it is not fully in accordance with the principles relating to the status of national institutions (Paris Principles), adopted by the General Assembly in resolution 48/134 (art. 2).

**The State party should ensure that the Office of the National Ombudsman is fully in accordance with the Paris Principles and ensure that it is completely independent also in terms of funding. The Committee also invites the State party to consider the establishment of a more widely mandated national human rights institution for the protection and promotion of human rights and fundamental freedom in the former Yugoslav Republic of Macedonia.**

- (8) The Committee, while commending the numerous efforts taken by the State party to combat corruption, be it high-level or small-scale, with a view to achieving the “zero tolerance” goal for corruption in the State party, remains concerned about the persistence of corruption and its negative impact on the full enjoyment of the rights guaranteed by the Covenant (art. 2).

**The State party should continue its efforts to combat corruption so that attitudes in society change and corruption is not perceived as unavoidable.**

- (9) The Committee, while welcoming the adoption of the Law on Equal Opportunities for Men and Women and the increasing number of women holding higher positions in the private sector, remains concerned by the level of participation and representation of women in governmental institutions as well as by the way women are perceived in society (arts. 3 and 25, 26).

**The State party should continue to promote the participation and representation of women in the governmental and private sector and implement positive measures in accordance with article 6 of the Law on Equal Opportunities for Men and Women to this end. It should further undertake educational campaigns to change the perception of women in stereotypical roles in the State party’s society.**

(10) The Committee is concerned about the undue burden of proof, detrimental to the protection of victims, required for a conviction of rape in the legal definition of rape in the State party's Criminal Code (art. 2 (1), 3, 7 and 26 of the Covenant). It welcomes the State party's readiness to take into account the Committee's concerns and recommendation regarding this issue in their current effort to amend the Criminal Code.

**The State party should amend the law to ensure that no undue burden of proof is imposed on victims of rape and no environment of impunity is created for perpetrators of such crimes.**

(11) The Committee notes the long-standing concerns about the behaviour of certain elements of the police forces, including ill-treatment of detainees, as well as reports of deficiencies in the current police internal oversight mechanisms. It is, in particular, concerned about reports of police violence against members of minority groups, in particular against Roma, and the lack of effective investigation of such cases (arts. 2, 7, 9, 10, 26).

**The State party should enhance the human rights training of its police and continue to sensitize the police forces regarding the special vulnerabilities of minority groups, such as Roma. It should also ensure that all allegations of ill-treatment are investigated and those found responsible punished. The State party should also establish an independent monitoring body for the police.**

(12) The Committee is concerned about the scope of the Law on Amnesty and the number of persons to whom it has been applied. It observes that a political desire for an amnesty for crimes committed in periods of civil war may also lead to a form of impunity incompatible with the Covenant. The Committee reiterates the view, as expressed in its general comment No. 20 (1992) on prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, that amnesty laws are generally incompatible with the duty of States parties to investigate such acts, to guarantee freedom from such acts within their jurisdiction and to ensure that they do not occur in the future. The Committee is further concerned that victim organizations were not consulted in the drafting process of this Law (arts. 2, 6, 7).

**The State party should ensure that the Law on Amnesty is not applied to the most serious human rights violations or violations that amount to crimes against humanity or war crimes. It should also ensure that human rights violations are thoroughly investigated, those responsible brought to justice and that adequate reparation is made to the victims and their families.**

(13) The Committee, albeit commending the various efforts made by the State party to address and combat trafficking in women and children, remains concerned about this phenomenon and in particular about the low number of cases where compensation for non-pecuniary damage has been granted (arts. 3, 8, 24).

**The State party should continue to implement and enforce its measures to combat trafficking in women and children and bring those responsible to justice. Training for police, border guards, judges, lawyers and other relevant personnel should be provided, in order to raise awareness of the sensitivity of the issue of trafficking and the rights of victims. Measures should be taken to enhance the level of**

**indemnification of victims of trafficking and to ensure that assistance schemes are not applied in a selective manner. The State party should also undertake to promote a change of public perception regarding the issue of trafficking, in particular with regard to the status of trafficked persons as victims.**

(14) The Committee notes the investigation undertaken by the State party and its denial of any involvement in the rendition of Khaled al-Masri, notwithstanding the highly detailed allegations, as well as the concerns expressed inter alia by the Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners of the European Parliament, in the report by Dick Marty on behalf of the Council of Europe and in the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/MKD/CO/7) (arts. 2, 7, 9, 10 of the Covenant).

**The State party should consider undertaking a new and comprehensive investigation of the allegations made by Mr. al-Masri. The investigation should take account of all available evidence and seek the cooperation of Mr. al-Masri himself. If the investigation concludes that the State party did violate the Covenant-protected rights of Mr. al-Masri, it should provide him with appropriate compensation. The State party should also review its practices and procedures whereby it would never perpetrate acts such as those alleged by Mr. al-Masri.**

(15) The Committee, while noting the low number of internally displaced persons (IDPs) and the efforts made by the State party to provide a solution to their plight, is concerned that many of these persons, so many years after the events leading to their displacement, still remain in collective shelters (art. 12).

**The State party should find, without further delay, durable solutions for all IDPs in consultation with the remaining displaced persons and in accordance with the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add. 2).**

(16) The Committee notes the State party's commitment not to forcibly return rejected asylum-seekers to Kosovo and to fully cooperate with the Office of the United Nations High Commissioner for Refugees in order to ensure a return in safety and dignity, but remains concerned about the system of appeal regarding the independence of the appellate instance (arts. 7, 12, 13).

**The State party should ensure that return is always fully voluntary and not enforced where return in safety and dignity cannot be assured. To this end, the State party should particularly ensure that an effective system of appeal is in place.**

(17) The Committee, while commending the efforts taken and the significant progress made by the State party to increase the efficiency of the judicial system, remains concerned about the substantial backlog of court cases and the delays in proceedings, as well as the lack of court translators and interpreters for Albanian, Romani, Turkish and other minority languages (art. 14).

**The State party should continue its efforts to reduce the backlog of court cases and decrease the delays in the proceedings. It should increase the training of translators and interpreters for the respective minority languages.**

(18) The Committee notes with concern alleged irregularities during the local elections in 2005, including the inadequate supply of ballot papers to some minority groups, while noting the efforts of the State party to address these problems (art. 25).

**The State party should take measures to ensure that future elections are conducted in a manner fully guaranteeing the free expression of the will of the electors.**

(19) The Committee, while commending efforts taken by the State party to improve the situation of minorities, including the Roma population, remains concerned about the inadequate opportunities for members of minority groups, in particular Roma, to receive education at the primary and secondary levels in their language, as well as the high level of premature termination of schooling among Roma children. Segregationist trends and the harassment against Roma children in schools remain a source of concern to the Committee (arts. 26, 27).

**The State party should continue to strengthen its efforts towards providing children of minorities with adequate opportunities to receive education in their own language and should take measures to prevent premature termination of schooling among such children. It should further undertake all possible measures to prevent segregation of Roma children in schools and build an environment of mutual respect to avoid incidents of harassment against children of minority groups. Teacher training should include enhanced sensitization towards minority issues.**

(20) The Committee sets 1 April 2012 as the date for the submission of the third periodic report of the former Yugoslav Republic of Macedonia. It requests that the State party's second report and the present concluding observations be published and widely disseminated in the State party, to the general public as well as to the judicial, legislative and administrative authorities. Hard copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and other relevant places. It would be desirable to distribute a summary of the report and the concluding observations to minorities in their own languages. Furthermore, the third periodic report should be circulated for the attention of the non-governmental organizations operating in the country.

(21) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up to the Committee's recommendations in paragraphs 12, 14 and 15 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole, as well as on the difficulties encountered in this regard.

## **81. United Kingdom of Great Britain and Northern Ireland**

(1) The Committee considered the sixth periodic report submitted by the United Kingdom of Great Britain and Northern Ireland (CCPR/C/GBR/6) at its 2541st, 2542nd and 2543rd meetings, held on 7 and 8 July 2008 (CCPR/C/SR.2541, 2542 and 2543). The Committee adopted the following concluding observations at its 2558th and 2559th meetings, held on 18 July 2008 (CCPR/C/SR.2558 and 2559).



## A. Introduction

(2) The Committee welcomes the State party's detailed sixth periodic report and commends the inclusion in the report of a comprehensive account of action taken to follow up on each of the Committee's concluding observations on the consideration of the previous report. It appreciates the written replies provided in advance by the delegation, as well as the frank and concise answers given by the delegation to the Committee's written and oral questions.

## B. Positive aspects

(3) The Committee welcomes the adoption of the Racial and Religious Hatred Act 2006.

(4) The Committee welcomes the adoption of the Criminal Justice and Immigration Act 2008 abolishing the common law offences of blasphemy in England and Wales.

(5) The Committee welcomes the adoption of the Civil Partnership Act 2004, the Gender Recognition Act 2004, the Equality Act 2006 and the Sex Discrimination (amendment of Legislation) Regulations 2008.

## C. Principal subjects of concern and recommendations

(6) The Committee notes that the Covenant is not directly applicable in the State party. In this regard, it recalls that several Covenant rights are not included among the provisions of the European Convention on Human Rights which has been incorporated into the domestic legal order through the Human Rights Act 1998. The Committee also notes that the State party is the only Member State of the European Union not to be a party to the Optional Protocol to the Covenant (art. 2).

**The State party should ensure that all rights protected under the Covenant are given effect in domestic law and should make efforts to ensure that judges are familiar with the provisions of the Covenant. It should consider, as a priority, accession to the Optional Protocol to the Covenant.**

(7) The Committee regrets that the State party intends to maintain its reservations. It notes in particular that the general reservation to exempt review of service discipline for members of the armed forces and prisoners is very broad in scope.

**The State party should review its reservations to the Covenant with a view to withdrawing them. In particular, the State party should reconsider its general reservation concerning service discipline for members of the armed forces and prisoners.**

(8) The Committee notes that, despite recent improvements, the proportions of women and ethnic minorities in the judiciary remain at low levels (arts. 3 and 26).

**The State party should reconsider, with a view to strengthening, its efforts to encourage increased representation of women and ethnic minorities in the judiciary. The State party should monitor progress in this regard.**

(9) The Committee remains concerned that, a considerable time after murders (including of human rights defenders) in Northern Ireland have occurred, several inquiries into these murders have still not been established or concluded, and that those responsible for these deaths have not yet been prosecuted. Even where inquiries have been established, the Committee is concerned that instead of being under the control of an independent judge, several of these inquiries are conducted under the Inquiries Act 2005 which allows the Government minister who is responsible for establishing an inquiry to control important aspects of that inquiry (art. 6).

**The State party should conduct, as a matter of particular urgency given the passage of time, independent and impartial inquiries in order to ensure a full, transparent and credible account of the circumstances surrounding violations of the right to life in Northern Ireland.**

(10) The Committee is concerned at the slowness of the proceedings designed to establish responsibility for the killing of Jean Charles de Menezes and at the circumstances under which he was shot by police at Stockwell underground railway station (art. 6).

**The State party should ensure that the findings of the coroner's inquest, due to begin in September 2008, are followed up vigorously, including on questions of individual responsibility, intelligence failures and police training.**

(11) The Committee is concerned at the use of Attenuating Energy Projectiles (AEPs) by police and army forces since 21 June 2005 and emerging medical evidence that they may cause serious injuries (art. 6).

**The State party should closely monitor the use of Attenuating Energy Projectiles (AEPs) by police and army forces and consider banning such use if it is established that AEPs can cause serious injuries.**

(12) The Committee notes with concern that until the recent decision of the European Court of Human Rights in *Saadi v. Italy*, the State party was defending the position that persons suspected of terrorism could under certain conditions be returned to countries without the appropriate safeguards to prevent treatment prohibited by the Covenant. Furthermore, while the State party has concluded a number of memoranda of understanding on deportation with assurances, the Committee notes that these do not always in practice ensure that the affected individuals will not be subject to treatment contrary to article 7 of the Covenant, as acknowledged in the recent decisions of the Court of Appeal in *DD and AS v. Secretary of State for the Home Department* and *Omar Othman (aka Abu Qatada) v. Secretary of State for the Home Department* (2008) (art. 7).

**The State party should ensure that all individuals, including persons suspected of terrorism, are not returned to another country if there are substantial reasons for fearing that they would be subjected to torture or cruel, inhuman or degrading treatment or punishment. The State party should further recognize that the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be. The State**

**party should exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported, as well as effective means to monitor the fate of the affected individuals.**

(13) The Committee notes with concern that the State party has allowed the use of the British Indian Ocean Territory as a transit point on at least two occasions for rendition flights of persons to countries where they risk being subjected to torture or ill-treatment (arts. 2, 7 and 14).

**The State party should investigate allegations related to transit through its territory of rendition flights and establish an inspection system to ensure that its airports are not used for such purposes.**

(14) The Committee is disturbed about the State party's statement that its obligations under the Covenant can only apply to persons who are taken into custody by the armed forces and held in British-run military detention facilities outside the United Kingdom in exceptional circumstances. It also notes with regret that the State party did not provide sufficient information regarding the prosecutions launched, the sentences passed and reparation granted to the victims of torture and ill-treatment in detention abroad (arts. 2, 6, 7 and 10).

**The State party should state clearly that the Covenant applies to all individuals who are subject to its jurisdiction or control. The State party should conduct prompt and independent investigations into all allegations concerning suspicious deaths, torture or cruel, inhuman or degrading treatment or punishment inflicted by its personnel (including commanders), in detention facilities in Afghanistan and Iraq. The State party should ensure that those responsible are prosecuted and punished in accordance with the gravity of the crime. The State party should adopt all necessary measures to prevent the recurrence of such incidents, in particular by providing adequate training and clear guidance to its personnel (including commanders) and contract employees, about their respective obligations and responsibilities, in line with articles 7 and 10 of the Covenant. The Committee wishes to be informed about the measures taken by the State party to ensure respect of the right to reparation for the victims.**

(15) The Committee notes with concern that, in order to combat terrorist activities, the State party is considering the adoption of further legislative measures which may have potentially far-reaching effects on the rights guaranteed in the Covenant. In particular, while it is disturbed by the extension of the maximum period of detention without charge of terrorist suspects under the Terrorism Act 2006 from 14 days to 28 days, it is even more disturbed by the proposed extension of this maximum period of detention under the counter-terrorism bill from 28 days to 42 days. Recalling the withdrawal of the notification of the State party's derogation from article 9 of 18 December 2001 on 15 March 2005, the Committee notes that article 9 is therefore now fully applicable again in the State party (arts. 9 and 14).

**The State party should ensure that any terrorist suspect arrested should be promptly informed of any charge against him or her and tried within a reasonable time or released.**

(16) The Committee remains concerned that negative public attitudes towards Muslim members of society continue to develop in the State party (arts. 18 and 26).

**The State party should take energetic measures in order to combat and eliminate this phenomenon, and ensure that the authors of acts of discrimination on the basis of religion are adequately deterred and sanctioned. The State party should ensure that the fight against terrorism does not lead to raising suspicion against all Muslims.**

(17) The Committee is concerned about the control order regime established under the Prevention of Terrorism Act 2005 which involves the imposition of a wide range of restrictions, including curfews of up to 16 hours, on individuals suspected of being “involved in terrorism”, but who have not been charged with any criminal offence. While control orders have been categorized by the House of Lords as civil orders, they can give rise to criminal liability if breached. The Committee is also concerned that the judicial procedure whereby the imposition of a control order can be challenged is problematic, since the court may consider secret material in closed session, which in practice denies the person on whom the control order is served the direct opportunity to effectively challenge the allegations against him or her (arts. 9 and 14).

**The State party should review the control order regime established under the Prevention of Terrorism Act 2005 in order to ensure that it is in conformity with the provisions of the Covenant. In particular, it should ensure that the judicial procedure whereby the imposition of a control order can be challenged complies with the principle of equality of arms, which requires access by the concerned person and the legal counsel of his own choice to the evidence on which the control order is made. The State party should also ensure that those subjected to control orders are promptly charged with a criminal offence.**

(18) The Committee remains concerned that, despite improvements in the security situation in Northern Ireland, some elements of criminal procedure continue to differ between Northern Ireland and the remainder of the State party’s territory. In particular, the Committee is concerned that, under the Justice and Security (Northern Ireland) Act 2007, persons whose cases are certified by the Director of Public Prosecutions for Northern Ireland are tried in the absence of a jury. It is also concerned that there is no right of appeal against the decision made by the Director of Public Prosecutions for Northern Ireland. The Committee recalls its interpretation of the Covenant as requiring that objective and reasonable grounds be provided by the appropriate prosecution authorities to justify the application of different rules of criminal procedure in particular cases (art. 14).

**The State party should carefully monitor, on an ongoing basis, whether the exigencies of the situation in Northern Ireland continue to justify any such distinctions with a view to abolishing them. In particular, it should ensure that, for each case that is certified by the Director of Public Prosecutions for Northern Ireland as requiring a non-jury trial, objective and reasonable grounds are provided and that there is a right to challenge these grounds.**

(19) The Committee notes with concern that, under Schedule 8 to the Terrorism Act 2000, access to a lawyer can be delayed for up to 48 hours if the police conclude that such access would lead, for instance, to interference with evidence or alerting another suspect. The

Committee considers that the State party has failed to justify this power, particularly having regard to the fact that these powers have apparently been used very rarely in England and Wales and in Northern Ireland in recent years. Considering that the right to have access to a lawyer during the period immediately following arrest constitutes a fundamental safeguard against ill-treatment, the Committee considers that such a right should be granted to anyone arrested or detained on a terrorism charge (arts. 9 and 14).

**The State party should ensure that anyone arrested or detained on a criminal charge, including persons suspected of terrorism, has immediate access to a lawyer.**

(20) The Committee is concerned that despite anti-social behaviour orders (ASBOs) being civil orders, their breach constitutes a criminal offence which is punishable by up to five years in prison. The Committee is especially concerned with the fact that ASBOs can be imposed on children as young as 10 in England and Wales and 8 in Scotland, and with the fact that some of these children can subsequently be detained for up to two years for breaching them. The Committee is also concerned with the manner in which the names and photographs of persons subject to ASBOs (including children) are frequently widely disseminated in the public domain (arts. 14, para. 4 and 24).

**The State party should review its legislation on anti-social behaviour orders (ASBOs), including the definition of anti-social behaviour, in order to ensure that it complies with the provisions of the Covenant. In particular, the State party should ensure that young children are not detained as a result of breaching the conditions of their ASBOs and that the privacy rights of children and adults subject to ASBOs are respected.**

(21) The Committee remains concerned that the State party has continued its practice of detaining large numbers of asylum-seekers, including children. Furthermore, the Committee reiterates that it considers unacceptable any detention of asylum-seekers in prisons and is concerned that while most asylum-seekers are detained in immigration centres, a small minority of them continue to be held in prisons, allegedly for reasons of security and control. It is concerned that some asylum-seekers do not have early access to legal representation and are thus likely to be unaware of their right to make a bail application which is no longer automatic since the enactment of the Nationality, Immigration and Asylum Act 2002. The Committee is also concerned by the failure to keep statistics on persons subject to deportation who are removed from Northern Ireland to Great Britain, as well as their temporary detention in police cells (arts. 9, 10, 12 and 24).

**The State party should review its detention policy with regard to asylum-seekers, especially children. It should take immediate and effective measures to ensure that all asylum-seekers who are detained pending deportation are held in centres specifically designed for that purpose, should consider alternatives to detention, and should end the detention of asylum-seekers in prisons. It should also ensure that asylum-seekers have full access to early and free legal representation so that their rights under the Covenant receive full protection. It should provide appropriate detention facilities in Northern Ireland for persons facing deportation.**

(22) The Committee regrets that, despite its previous recommendation, the State party has not included the British Indian Ocean Territory in its periodic report because it claims that, owing to an absence of population, the Covenant does not apply to this territory. It takes note of the recent decision of the Court of Appeal in *Regina (Bancoult) v. Secretary of State for Foreign and Commonwealth Affairs (No. 2)* (2007) indicating that the Chagos islanders who were unlawfully removed from the British Indian Ocean Territory should be able to exercise their right to return to the outer islands of their territory (art. 12).

**The State party should ensure that the Chagos islanders can exercise their right to return to their territory and should indicate what measures have been taken in this regard. It should consider compensation for the denial of this right over an extended period. It should also include the Territory in its next periodic report.**

(23) The Committee remains concerned that while the Governor of the Cayman Islands has not recently exercised his power to deport any person who is “destitute” or “undesirable”, section 89 of the Immigration Law (2007 Revision) has not been amended (arts. 17 and 23).

**The State party should review the law on deportation in the Cayman Islands in order to bring it into conformity with the provisions of the Covenant.**

(24) The Committee remains concerned that powers under the Official Secrets Act 1989 have been exercised to frustrate former employees of the Crown from bringing into the public domain issues of genuine public interest, and can be exercised to prevent the media from publishing such matters. It notes that disclosures of information are penalized even where they are not harmful to national security (art. 19).

**The State party should ensure that its powers to protect information genuinely related to matters of national security are narrowly utilized and limited to instances where the release of such information would be harmful to national security.**

(25) The Committee is concerned that the State party's practical application of the law of libel has served to discourage critical media reporting on matters of serious public interest, adversely affecting the ability of scholars and journalists to publish their work, including through the phenomenon known as “libel tourism”. The advent of the internet and the international distribution of foreign media also create the danger that a State party's unduly restrictive libel law will affect freedom of expression worldwide on matters of valid public interest (art. 19).

**The State party should re-examine its technical doctrines of libel law, and consider the utility of a so-called “public figure” exception, requiring proof by the plaintiff of actual malice in order to go forward on actions concerning reporting on public officials and prominent public figures, as well as limiting the requirement that defendants reimburse a plaintiff's lawyers fees and costs regardless of scale, including Conditional Fee Agreements and so-called “success fees”, especially insofar as these may have forced defendant publications to settle without airing valid defences. The ability to resolve cases through enhanced pleading requirements (e.g., requiring a plaintiff to make some preliminary showing of falsity and absence of ordinary journalistic standards) might also be considered.**

(26) The Committee notes with concern that the offence of “encouragement of terrorism” has been defined in section 1 of the Terrorism Act 2006 in broad and vague terms. In particular, a person can commit the offence even when he or she did not intend members of the public to be directly or indirectly encouraged by his or her statement to commit acts of terrorism, but where his or her statement was understood by some members of the public as encouragement to commit such acts (art. 19).

**The State party should consider amending that part of section 1 of the Terrorism Act 2006 dealing with “encouragement of terrorism” so that its application does not lead to a disproportionate interference with freedom of expression.**

(27) The Committee notes with concern that corporal punishment of children is not prohibited in schools in Bermuda, the British Virgin Islands, Gibraltar, Montserrat and the Crown Dependencies (arts. 7 and 24).

**The State party should expressly prohibit corporal punishment of children in all schools in all British Overseas Territories and Crown Dependencies.**

(28) The Committee remains concerned at the State party’s maintenance of section 3 (1) of the Representation of the People Act 1983 prohibiting convicted prisoners from exercising their right to vote, especially in the light of the judgement of the European Court of Human Rights in *Hirst v. United Kingdom* (2005). The Committee is of the view that general deprivation of the right to vote for convicted prisoners may not meet the requirements of article 10, paragraph 3, read in conjunction with article 25 of the Covenant (art. 25).

**The State party should review its legislation denying all convicted prisoners the right to vote in light of the Covenant.**

(29) While the Committee notes that the State party is currently investigating the practice of “stop and search” in order to ensure that it is applied fairly and appropriately to all communities, it remains concerned about the use of racial profiling in the exercise of stop and search powers and its adverse impact on race relations (art. 26).

**The State party should ensure that stop and search powers are exercised in a non-discriminatory manner. To that end, the State party should undertake a review of stop and search powers under section 44 of the Terrorism Act 2000.**

(30) The State party should publicize widely the text of its sixth periodic report, the written answers it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations.

(31) In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, relevant information on the assessment of the situation and the implementation of the Committee’s recommendations in paragraphs 9, 12, 14 and 15 above.

(32) The Committee requests the State party to provide in its next report, due to be submitted by 31 July 2012, information on the remaining recommendations made and on the Covenant as a whole.

## 82. France

(1) The Committee considered the fourth periodic report of France (CCPR/C/FRA/4) at its 2545th and 2546th meetings (CCPR/C/SR.2545 and 2546), held on 9 and 10 July 2008, and adopted the following concluding observations at its 2562nd meeting (CCPR/C/SR.2562), held on 22 July 2008.

### A. Introduction

(2) The Committee welcomes the fourth periodic report of France, including information addressing the Committee's previous recommendations (CCPR/C/79/Add.80), and appreciates the comprehensive written replies made to the Committee's additional list of questions on current issues (CCPR/C/FRA/Q/4/Add.1). The dialogue with the State party was open and constructive, and the Committee notes that the delegation included representatives of key government departments responsible for the implementation of the Covenant.

(3) The Committee regrets that the report of France was submitted with a six-year delay, and urges the State party to submit future reports at regular intervals, in accordance with the requirements of the Covenant. The Committee also regrets that the report does not comply fully with its reporting guidelines, insofar as it lacks sufficient empirical information on issues such as the political participation of members of ethnic minorities, and does not contain sufficient information on the implementation of the Covenant in the French Overseas Departments and Territories.

### B. Positive aspects

(4) The Committee welcomes the State Party's ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, thus confirming France's prior decision to abolish death penalty.

(5) The Committee takes note of the State party's creation of a *Contrôleur général des lieux de privation de liberté* to oversee prison modernization and the treatment of detainees, in an effort to improve prison conditions and prison overcrowding.

(6) The Committee welcomes France's creation of the High Authority to Combat Discrimination and Promote Equality (*la haute autorité de lutte contre les discriminations et pour l'égalité*, HALDE), which has the power to receive individual complaints and act on its own initiative to remedy problems of discrimination based on national origin, disability, health, age, gender, family and marital status, trade union activity, sexual orientation, religious beliefs, physical appearance, surname, and genetic characteristics. HALDE is empowered, pursuant to Act No. 2004/1486 of 30 December 2004, to recommend statutory or regulatory changes to public authorities and to suggest settlements to private companies, and has described its activities in comprehensive annual reports.

(7) The Committee takes note that France has defined a new criminal offence of trafficking in persons for purposes of sexual exploitation or by imposing living or working conditions inconsistent with human dignity. The State party convicted 130 offenders under this statute in the first four years following its creation.



(8) The Committee welcomes the State party's new legislation on the punishment of domestic violence that extends aggravating circumstances to include abuse between partners in civil solidarity pacts and former partners, consolidates the jurisprudence on marital rape, and strengthens provisions for eviction of a violent spouse from the home (see Act No. 2006/99, adopted on 4 April 2006), as well as legislation that guarantees foreign nationals who fall victim to spousal abuse a right to stay in the country. In addition, the Committee notes the importance of the creation of a national hotline (3919) for reporting spousal abuse, the extension of unemployment benefits to women victims forced to change their place of residence as a result of spousal violence, and the priority for women victims in the assignment of State-funded housing.

(9) The Committee appreciates that France now applies the same minimum age for marriage to both genders, thus raising the age of marriage for girls from 15 to 18 years of age, including in the Overseas Departments and Territories. It is also commendable that in the Overseas Territory of Mayotte, the State party has established principles of monogamous marriage, prohibited unilateral repudiation of marriage, and forbidden discrimination among children in matters of inheritance on grounds of sex or legitimacy.

### **C. Principal subjects of concern and recommendations**

(10) While appreciating the State party's commitment to review its interpretative declaration concerning article 14, paragraph 5 of the Covenant, in regard to the right to appeal from a criminal conviction, and its declaration concerning article 13 on the expulsion of aliens, nonetheless the Committee remains concerned by the breadth and number of the other reservations and declarations taken to narrow the application of the Covenant. These include the reservation to article 4, paragraph 1 (claiming that the power of the President to take "measures required by circumstances" in a "state of emergency or state of siege" cannot be otherwise limited by the Covenant), as well as the reservation to articles 9 and 14 of the Covenant (stating that these articles cannot impede "enforcement of the rules pertaining to the disciplinary regime in the armies").

**The State party should review its reservations and interpretative declarations to the Covenant, with a view to withdrawing them in whole or in part.**

(11) The Committee, while welcoming the statement by the State party that the lack of official recognition of minorities within the territory of the State party does not prevent the adoption of appropriate policies aimed at preserving and promoting cultural diversity, remains unable to share the view of the State party that the abstract principle of equality before the law and the prohibition of discrimination represent sufficient guarantees for the equal and effective enjoyment by persons belonging to ethnic, religious or linguistic minorities of the rights set out in the Covenant (arts. 26 and 27).

**The State party should review its position concerning the formal recognition of ethnic, religious or linguistic minorities, in accordance with the provisions of article 27 of the Covenant.**

(12) The Committee notes that the State party has failed to provide any statistical information that would allow the empirical assessment of effective access to private and public employment, public services, and political participation, on the part of persons belonging to racial, ethnic or national minorities, as well as members of different religious communities. The Committee

observes that the absence of this information can mask problems of de facto discrimination, and impede the design of appropriate and effective public policies to combat all forms of racial and religious discrimination (arts. 2, 25, 26 and 27).

**The State party should collect and report adequate statistical data, disaggregated on the basis of racial, ethnic, and national origin, in order to enhance the effectiveness of its efforts aimed at ensuring equal opportunity to persons belonging to these minority groups, and to meet the reporting guidelines of the Committee.**

(13) The Committee remains concerned that, despite legislative and policy measures adopted by the State party to promote gender equality, women are underrepresented in high-level and managerial positions in the State, territorial, and hospital civil service as well as in the private sector. The wage gap between men and women, the overrepresentation of women in part-time jobs, and high unemployment rate among women belonging to racial, ethnic or national minorities also continue to be significant (arts. 3 and 26).

**The State party should strengthen its efforts to increase the representation of women in high-level and managerial positions, in the public as well as in the private sector, to narrow the wage gap between men and women, and to facilitate women's access to full-time work.**

(14) While noting the threat to life posed by acts of terrorism, the Committee is concerned that Act No. 2006/64 of 23 January 2006 permits the initial detention of persons suspected of terrorism for four days, with extensions up to six days, in police custody (*garde à vue*), before they are brought before a judge to be placed under judicial investigation or released without charge. It also notes with concern that terrorism suspects in police custody are guaranteed access to a lawyer only after 72 hours, and access to counsel can be further delayed till the fifth day when custody is extended by a judge. The Committee also notes that the right to remain silent during police questioning, in respect to any offence, whether related to terrorism or not, is not explicitly guaranteed in the Code of Criminal Procedure (arts. 7, 9 and 14).

**The State party should ensure that anyone arrested on a criminal charge, including persons suspected of terrorism, is brought promptly before a judge, in accordance with the provisions of article 9 of the Covenant. The right to have access to a lawyer also constitutes a fundamental safeguard against ill-treatment, and the State party should ensure that terrorism suspects placed in custody have prompt access to a lawyer. Anyone arrested on a criminal charge should be informed of the right to remain silent during police questioning, in accordance with article 14, paragraph 3 (g), of the Covenant.**

(15) The Committee remains concerned about the use of long-term pretrial detention in terrorism and organized crime cases, extending for periods up to four years and eight months. The Committee notes that there is access to defence counsel and periodic review of the custodial decision by “liberty and custody judges” (*juges des libertés et de la détention*) in regard to the factual basis and claimed necessity for detention, as well as a right of appeal. Nonetheless, the institutionalized practice of extended investigative detention, before proceeding to a final charge and criminal trial, is difficult to reconcile with the Covenant's guarantee of trial within a reasonable time (arts. 9 and 14).

**The State party should limit the duration of pretrial detention, and reinforce the role of “liberty and custody judges” (*juges des libertés et de la détention*).**

(16) The Committee is concerned by the State party’s claim of authority under Act No. 2008/174 (25 February 2008) to place criminal defendants under renewable one-year terms of civil preventive detention (*rétenion de sureté*) because of “dangerousness”, even after they have completed their original prison sentences. While the Constitutional Council has prohibited retroactive application of the statute, and the judge who sentences a criminal defendant contemplates the possibility of future civil preventive detention as part of the original disposition of a case, nonetheless, in the view of the Committee, the practice may remain problematic under articles 9, 14 and 15 of the Covenant (arts. 9, 14 and 15).

**The State party should review the practice of seeking to detain criminal defendants for “dangerousness” after they have served their prison sentences, in the light of the obligations imposed by articles 9, 14 and 15 of the Covenant.**

(17) While noting the significant efforts undertaken by the State party to renovate prison buildings, increase the number of places for criminal defendants, and develop alternatives to detention such as supervision in the community, the Committee remains concerned about overcrowding and other poor conditions in prisons. The plan to increase custodial facilities to a total of 63,500 places by the year 2012 will nonetheless apparently fall far short of the increase of prison population. In addition, while appreciating the plans of the State party to systematically collect data on allegations of abuse by law enforcement officials, there are continuing concerns about unprofessional conduct by some prison personnel, including inappropriate use of solitary confinement and intra-prison violence (arts. 7 and 10).

**The State party should multiply its efforts to reduce overcrowding in prisons, and enhance its monitoring of prisons in a proactive way, in order to guarantee that all persons in custody are treated in accordance with the requirements of articles 7 and 10 of the Covenant and the Standard Minimum Rules for the Treatment of Prisoners.**

(18) The Committee is concerned that large numbers of undocumented foreign nationals and asylum-seekers are detained in unsuitable airport waiting areas and administrative detention centres (*centres de rétenion administrative* and *locaux de rétenion administrative*). The Committee is further concerned about reports of overcrowding, lack of facilities for personal hygiene, and inadequate food and medical care, especially in the Overseas Departments and Territories, and that regular independent inspections are not carried out in such centres. The Committee is concerned about the status of unaccompanied children in such detention centres and the reported lack of arrangements for the protection of their rights, and safe return to their home communities (arts. 7, 10 and 13).

**The State party should review its detention policy in regard to undocumented foreign nationals and asylum-seekers, including unaccompanied children. The State party should reduce overcrowding and improve living conditions in such centres, especially those in the Overseas Departments and Territories.**

(19) The Committee remains concerned about allegations that foreign nationals, including some asylum-seekers, while detained in prisons and administrative detention centres, are subjected to ill-treatment by law enforcement officials, and that the State party has failed to investigate and appropriately punish such human rights violations. The Committee notes the absence of detailed statistical information concerning such alleged incidents of ill-treatment of foreign nationals, including the sanctions imposed on the perpetrators (arts. 7 and 9).

**The State party should have no tolerance for acts of ill-treatment perpetrated by law enforcement officials against foreign nationals, including asylum-seekers, who are detained in prisons and administrative detention centres. The State party must establish adequate systems for monitoring and deterring abuses and should develop further training opportunities for law enforcement officials.**

(20) The Committee appreciates the State party's statement that it seeks to honour the rule of "non-refoulement" to avoid the return of any persons to countries where they face the real risk of abusive treatment. Nonetheless, it is concerned by reports that foreign nationals have in fact been returned by the State party to such countries, and subjected to treatment that violates article 7 of the Covenant. The Committee has also received reports that foreign nationals are often not properly informed of their rights, including the right to apply for asylum, and often lack access to legal assistance. The Committee notes that foreign nationals are required to submit asylum applications within a maximum of five days after their detention, and that such applications must be drafted in French, often without the help of a translator. The right of appeal is also subject to a number of questionable restrictions, including a 48-hour time limit to lodge an appeal, and absence of the automatic suspension of deportation pending appeal in "national security" removals. The Committee is also concerned that under the State Party's so-called "priority procedure" (*procédure prioritaire*), physical deportation occurs without waiting for the decision of any court in removals to so-called "safe countries of origin" (*pays d'origine sûr*), apparently including Algeria and Niger. In addition, no recourse to the courts is available to persons deported from the overseas territory of Mayotte, involving some 16,000 adults and 3,000 children per year, nor in French Guiana or Guadeloupe (arts. 7 and 13).

**The State party should ensure that the return of foreign nationals, including asylum-seekers, is assessed through a fair process that effectively excludes the real risk that any person will face serious human rights violations upon his return. Undocumented foreign nationals and asylum-seekers must be properly informed and assured of their rights, including the right to apply for asylum, with access to free legal aid. The State party should also ensure that all individuals subject to deportation orders have an adequate period to prepare an asylum application, with guaranteed access to translators, and a right of appeal with suspensive effect.**

**The State party should further recognize that the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be. The State party should exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported, as well as effective means to monitor the fate of the affected individuals.**

(21) The Committee is concerned about the length of family reunification procedures for recognized refugees. It also notes that the procedure allowing the use of DNA testing as a way to establish filiation for the purpose of family reunification, introduced by article 13 of Act No. 2007/1631 of 20 November 2007, may pose problems regarding its compatibility with articles 17 and 23 of the Covenant, despite its optional nature and the procedural guarantees provided by the law (arts. 17 and 23).

**The State party should review its family reunification procedures for recognized refugees, with a view to ensuring that applications for family reunification are processed as speedily as possible. The State party should also adopt all appropriate measures to ensure that the implementation of DNA testing as a way to establish filiation does not create additional obstacles to family reunification, and that the use of such testing is always subject to the prior informed consent of the applicant.**

(22) While acknowledging the important role played by the National Commission of Information Technology and Liberties (*Commission nationale de l'informatique et des libertés*, CNIL) in protecting the integrity and confidentiality of information concerning a person's private life against any arbitrary or unlawful interference emanating from public authorities or private individuals or bodies, the Committee is concerned at the proliferation of different databases, and notes that according to reports received, the gathering, storage and use of sensitive personal data contained in databases such as EDVIGE (*exploitation documentaire et valorisation de l'information générale*) and STIC (*système de traitement des infractions constatées*) pose concerns with regard to article 17 of the Covenant (arts. 17 and 23).

**The State party should take all appropriate measures to ensure that the gathering, storage and use of sensitive personal data are consistent with its obligations under article 17 of the Covenant. Taking into account general comment No. 16 (1988) on Article 17 (Right to privacy), the State party should in particular ensure that:**

- 1. The gathering and holding of personal information on computers, data banks and other devices, whether by public authorities or private individuals or bodies, is regulated by law;**
- 2. Effective measures are adopted to ensure that such information does not reach the hands of persons who are not authorized by law to receive, process and use it;**
- 3. Individuals under its jurisdiction have the right to request rectification or elimination of information when it is incorrect or has been collected or processed contrary to the provisions of the law;**
- 4. EDVIGE is restricted to children above the age of thirteen who have been convicted of a criminal offence;**
- 5. STIC is restricted to individuals who are suspected in an enquiry of having committed a criminal offence.**

(23) The Committee is concerned that both elementary and high school students are barred by Act No. 2004/228 of 15 March 2004 from attending the public schools if they are wearing so-called "conspicuous" religious symbols. The State party has made only limited provisions -

through distance or computer-based learning - for students who feel that, as a matter of conscience and faith, they must wear a head covering such as a skullcap (or *kippah*), a headscarf (or *hijab*), or a turban. Thus, observant Jewish, Muslim, and Sikh students may be excluded from attending school in company with other French children. The Committee notes that respect for a public culture of *laïcité* would not seem to require forbidding wearing such common religious symbols (arts. 18 and 26).

**The State party should re-examine Act No. 2004/228 of 15 March 2004 in light of the guarantees of article 18 of the Covenant concerning freedom of conscience and religion, including the right to manifest one's religion in public as well as private, as well as the guarantee of equality under article 26.**

(24) The Committee is aware of the continued reports of serious anti-Semitic violence, directed at persons who are wearing visible symbols of the Jewish faith in public places or who are known to be members of the Jewish community, as well as inter-ethnic violence (arts. 2, 6, 18 and 26).

**The State party should redouble its efforts to fight racist and anti-Semitic violence, and to undertake public education on the necessity for mutual respect among citizens of a democratic polity.**

(25) The Committee notes with concern that despite the measures adopted by the State party to combat discrimination in the field of employment, such as the recent adoption of Act No. 2008/496 of 27 May 2008 and the signature by several private companies of the Charter of Diversity in Companies intended as an instrument to promote diversity in the workplace, nonetheless, persons belonging to ethnic, national or religious minorities - especially those with North African or Arabic names - face serious discriminatory practices that prevent or limit their equal access to employment (arts. 2 and 26).

**The State party should reinforce its legislative framework and institutional mechanisms to exclude all discriminatory practices that prevent equal access to employment for persons belonging to ethnic, national or religious minorities - most notably, those with North African or Arabic names. In addition, the State party should start collecting statistical data disaggregated on the basis of ethnic or national origin on access to employment in order to evaluate better the progress made, and the obstacles encountered, towards the achievement of equal opportunities in the field of employment for persons belonging to ethnic, national and religious minorities.**

(26) The Committee notes with concern that persons belonging to racial, ethnic or national minorities are rarely selected for representative bodies, including the National Assembly, and may occupy few positions in the police, the public administration and the judiciary (arts. 2, 25 and 26).

**The State party should facilitate the participation of persons who are members of minority groups in publicly elected bodies, including the National Assembly and local government. In particular, the State party should seek ways to increase the number of candidates belonging to minorities included in the list of political parties running for elections. The appointment of persons from minority backgrounds as members of**

**the police, public administration and the judiciary, is also important to assure the representation of the needs of varied communities in the planning, design, implementation and evaluation of policies and programmes affecting them.**

(27) The State party should widely publicize the text of its fourth periodic report, the written answers it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations.

(28) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 12, 18 and 20 above.

(29) The Committee sets 31 July 2012 as the firm date for the submission of the fifth periodic report of France. It requests the State party to include in its next periodic report updated empirical information on all the Committee's recommendations and on the Covenant as a whole, including detailed information on the implementation of the Covenant in the French Overseas Departments and Territories. The Committee also requests that the process of compiling the fifth periodic report involve civil society and non-governmental organizations operating in the State party.

### **83. San Marino**

(1) The Committee considered the second periodic report of San Marino (CCPR/C/SMR/2) at its 2548th and 2549th meetings on 11 July 2008 (CCPR/C/SR.2548 and 2549). It adopted the following concluding observations at its 2562nd meeting (CCPR/C/SR.2562) on 22 July 2008.

#### **A. Introduction**

(2) The Committee welcomes the submission of the second periodic report of San Marino and the opportunity it presents to resume the dialogue with the State party after 18 years. It is grateful to the State party for the written replies (CCPR/C/SMR/Q/2/Add.1 and Add.2) provided in advance to the list of issues and for the additional information provided during the consideration of the report. It regrets, however, the lack of sufficient information in the written materials on the practical implementation of the Covenant.

#### **B. Positive aspects**

(3) The Committee welcomes the legislative and policy developments on various issues concerning disability, which enabled the State party to ratify on 29 January 2008 the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

(4) The Committee observes that the State party has resumed dialogue with a number of treaty-bodies and notes its efforts to submit its overdue reports.

#### **C. Principal subjects of concern and recommendations**

(5) While by virtue of Law No. 36 of 26 February 2002, "Regularly signed and implemented international agreements on the protection of human rights and freedoms shall prevail over domestic legislation in case of conflict" (article 1, paragraph 1, Declaration of the Citizens'

Rights), the exact status of the Covenant and the Optional Protocol in domestic law remains unclear, in particular in contrast to the status of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Furthermore, the relationship between the Covenant and the Declaration of the Citizens' Rights and other parts of the constitutional order remains unclear (art. 2).

**The State party should clarify the exact status of the Covenant and the Optional Protocol in domestic law, as well as the relationship between the Covenant and the Declaration of the Citizens' Rights and other parts of the constitutional order, so as to ensure full implementation of all Covenant rights in all circumstances. In particular, the State party should clarify whether a party to pending judicial proceedings may turn to the Guarantors' Panel on the constitutionality of rules and claim that a national law is in conflict with the Covenant.**

(6) The Committee is concerned about the lack of independent mechanisms in San Marino for monitoring the implementation of rights, despite the State party's commitment to the establishment of an Ombudsman made in the "Government agenda for the XXVI Legislature", of 17 July 2006. While acknowledging that some form of Ombudsperson function has traditionally been conferred upon the Captains Regents (Head of State), the Committee notes that such a mechanism is not in accordance with the principles relating to the status of national institutions (Paris Principles), adopted by the General Assembly in resolution 48/134 (art. 2).

**The State party should establish an effective independent monitoring mechanism for implementation of Covenant rights which is fully in accordance with the Paris Principles.**

(7) The Committee is concerned that such non-discrimination grounds as sexual orientation, race, colour, language, nationality and national or ethnic origin are subsumed under the notion of "personal status" in article 4 of the Declaration of the Citizens' Rights. It observes that such subsuming of grounds makes it difficult to ensure their equal and comprehensive application (arts. and 26).

**The State party should adopt a comprehensive anti-discrimination legal framework which expressly indicates all those grounds of discrimination that are presently subsumed under the notion of 'personal status'.**

(8) The Committee notes that Law No. 97 of 20 June 2008 entitled "Prevention and Repression of Violence against Women and Gender Violence" defines the proscribed acts and establishes a framework for State protection and assistance to the victims and their families in all civil, criminal or administrative proceedings, including through legal assistance free of charge. The Committee considers that legal developments should be accompanied by programmes of education and training (arts. 2 and 26).

**The State party should adopt programmes and practical measures to combat all forms of gender-based violence, including training of police to receive complaints of domestic violence, to provide material and psychological relief to the victims and to make women aware of their rights.**



(9) The Committee, while noting the adoption of Law No. 84 of 17 June 2004, which allows all children born to San Marino citizens, male or female, to acquire San Marino citizenship at birth, remains concerned that differences still exist between children whose parents are naturalized and who may acquire citizenship immediately, and the children of a couple where one of the parents has been naturalized and the other parent has kept his/her foreign nationality, who can acquire citizenship only when they become 18 (arts. 2 and 24).

**The State party should amend the law so as to ensure that children are not discriminated against on the ground of the nationality of any one parent and in particular ensure equal right to acquisition of citizenship, irrespective of whether both or only one of the parents are naturalized San Marino citizens.**

(10) The Committee, albeit noting that the rule whereby a foreigner is required to present a guarantor as a condition enabling him/her to start a civil action before the courts has become obsolete in practice, remains concerned that this discriminatory requirement still exists in San Marino law (arts. 2 and 26).

**The State party should formally abolish this rule.**

(11) The Committee, while noting the adoption of Law No. 93 of 17 June 2008 on fair trial guarantees, is concerned about the delay by the State party to adopt a new comprehensive Code of Criminal Procedure (arts. 9 and 14).

**The State party should further prioritize its work to draft and adopt a new comprehensive Code of Criminal Procedure that will be in compliance with the Covenant.**

(12) The Committee notes with concern that immediate access to a lawyer by an arrested person who is unable to pay for the services of a lawyer might be impeded by the way the free legal assistance scheme is currently framed in San Marino (art. 4, para. (d)).

**The State party should review its free legal aid scheme to guarantee the right to have free legal assistance in any case where the interests of justice so require.**

(13) The Committee is concerned that the scope of the limitations on the right to privacy in Law No. 28 of 26 February 2004 entitled “provisions to combat terrorism, laundering of illegal proceeds and insider trading” remain unclear (art. 17).

**The State party should apply Law No. 28 of 26 February 2004 in a manner compatible with article 17 and ensure that any future law on wire and phone tapping for investigation purposes is compatible with the Covenant. In addition, the State party should ensure that its counter-terrorism measures, whether taken in connection with Security Council resolution 1373 (2001) or otherwise, are in full conformity with the Covenant and in particular that the legislation adopted in this context is limited to crimes that would justify being characterized as terrorist.**

(14) The Committee is concerned about the potentially far-reaching scope of application of articles 183, 184 and 185 of the Criminal Code (protection of the right to reputation), such as criminalization of ‘ascribing a fact which injures honour’, and the compatibility of such provisions with the Covenant (art. 9).

**The State party should review its Criminal Code in view to bring the provisions criminalizing various forms of expression and communication affecting one’s honour, decency and esteem into compliance with article 19 of the Covenant.**

(15) While noting the exceptional circumstance of possible general military mobilization under article 4 of Law No. 15 of 26 January 1990, and welcoming the information provided by the State party on current efforts to adopt the Comprehensive Regulations of the Military Corps, the Committee remains concerned about article 3 of the Law, according to which San Marino citizens may be obliged to serve in the military from 16 to 60 years of age (art. 24).

**The State party should amend the law in order to provide that the entitlement to conscientious objection is expressly recognized and that the minimum age for service is raised.**

(16) The Committee notes the State party’s assertion that there are no ethnic, linguistic and/or religious national minorities in San Marino, and observes that the identification of the presence in the territory of any country of such minorities is not so much a matter of policy or law as it is one of fact (see general comment No. 23 (1994) on article 27).

**The State party should consider whether, in particular in view of immigration trends in recent years, ethnic minorities exist in its territory, even if in very small numbers, and take necessary steps to protect their rights under article 27.**

(17) The Committee, noting that 16 per cent of the inhabitants of San Marino are of foreign origin, is concerned that acquiring citizenship in the State party is effectively precluded even for long-term inhabitants, first requiring a presence of 5 years on a staying permit, then followed by 30 years of continuous presence on a residence permit, and finally, a decision of the parliament that is taken only once every 10 years (art. 26).

**The State party should re-examine the extraordinary length and practical difficulties of acquiring citizenship for long-term residents.**

(18) The Committee requests the State party to make its second report and the written answers it has provided in response to the list of issues drawn up by the Committee as well as the present concluding observations widely available in the State party at all levels of society, and especially to the judicial, legislative and administrative authorities, and to inform the Committee of all steps taken to implement them in its next periodic report. Furthermore, it also encourages the State party to involve non-governmental organizations operating in the country and other members of civil society in discussions at the national level before it submits its third periodic report.

(19) In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, relevant information on the assessment of the situation and the implementation of the Committee’s recommendations in paragraphs 6 and 7.

(20) The Committee requests the State party to provide in its next report, due to be submitted by 1 July 2013, information on the remaining recommendations made and on the Covenant as a whole.

#### 84. **Ireland**

(1) The Human Rights Committee considered the third periodic report of Ireland (CCPR/C/IRL/3) at its 2551st and 2552nd meetings, held on 14 and 15 July 2008 (CCPR/C/SR. 2551 and 2552). At its 2563rd and 2564th meetings, held on 22 and 23 July 2008 (CCPR/C/SR.2563 and 2564), it adopted the following concluding observations.

##### **A. Introduction**

(2) The Committee welcomes the submission, albeit with some delay, of the State party's detailed and informative third periodic report. The Committee appreciates the written replies provided in advance by the State party, as well as the answers of the delegation to the Committee's oral questions.

##### **B. Positive aspects**

(3) The Committee welcomes the legislative and other measures that have been taken to improve the protection and promotion of human rights recognized under the Covenant since the examination of the second periodic report, including the establishment of the Irish Human Rights Commission in 2000; the adoption of the Mental Health Act in 2001; the incorporation into domestic law of the European Convention on Human Rights in 2003; and the establishment of the *Garda Síochaná* Ombudsman Commission in 2007.

(4) The Committee further notes the progress made in combating domestic violence, including the increased budgetary allocation for measures taken in this regard, the establishment of an Equality Authority and an Equality Tribunal, and the National Office for the Prevention of Domestic, Sexual and Gender-based Violence.

##### **C. Principal subjects of concern and recommendations**

(5) The Committee notes the State party's intention to withdraw its reservations to article 10, paragraph 2 and article 14 of the Covenant, but regrets that the State party intends to maintain its reservations to article 19, paragraph 2 and article 20, paragraph 1.

**The Committee urges the State party to implement its intention to withdraw its reservations to article 10, paragraph 2 and article 14 of the Covenant. The State party should also review its reservations to article 19, paragraph 2, and article 20, paragraph 1 of the Covenant, with a view to withdrawing them in whole or in part.**

(6) The Committee notes that, unlike the European Convention on Human Rights, the Covenant is not directly applicable in the State party. In this regard, it reiterates that a number of Covenant rights go beyond the scope of the provisions of the European Convention on Human Rights (art. 2).

**The State party should ensure that all rights protected under the Covenant are given full effect in domestic law. The State party should provide the Committee with a detailed account of how each Covenant right is protected by legislative or constitutional provisions.**

(7) While welcoming the establishment of the Irish Human Rights Commission, the Committee regrets the limited resources of the Commission as well as its administrative link to a Government department (art. 2).

**The State party should strengthen the independence and the capacity of the Irish Human Rights Commission to fulfil its mandate effectively in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134), by endowing it with adequate and sufficient resources and linking it to the *Oireachtas* (Parliament).**

(8) The Committee, while noting with satisfaction the State party's intention to adopt legislation on a civil partnership bill, expresses its concern that no provisions regarding taxation and social welfare are proposed at present. It is furthermore concerned that the State party has not recognized a change of gender by transgender persons by permitting birth certificates to be issued for these persons (arts. 2, 16, 17, 23, and 26).

**The State party should ensure that its legislation is not discriminatory of non-traditional forms of partnership, including taxation and welfare benefits. The State party should also recognize the right of transgender persons to a change of gender by permitting the issuance of new birth certificates.**

(9) The Committee, while noting the considerable efforts made by the State party in combating domestic violence, is still concerned about the continuing impunity due to high withdrawal rates of complaints and few convictions. It also regrets the lack of gender-based statistics with regard to complaints, prosecutions, and sentences in matters of violence against women (arts. 3, 7, 23, 26).

**The State party should continue to strengthen its policies and laws against domestic violence and prepare adequate statistics, including sex, age and family relationship of victims and perpetrators. Furthermore, it should increase the provision of services to victims, including rehabilitation.**

(10) The Committee is concerned that, despite considerable progress achieved in respect of equality in recent years, inequalities between women and men continue to persist in many areas of life. While noting the broad judicial interpretation of article 41.2 of the Constitution by the Irish courts, it remains concerned that the State party does not intend to initiate a change of article 41.2 of the Constitution, as the language of this article perpetuates traditional attitudes toward the restricted role of women in public life, in society and in the family (arts. 3, 25, and 26).

**The State party should reinforce the effectiveness of its measures to ensure equality between women and men in all spheres, including by increased funding for the institutions established to promote and protect gender equality. The State party should take steps to initiate a change of article 41.2 of the Constitution with a view to including a gender-neutral wording in the article. The State party should ensure that the National Women’s Strategy is regularly updated and evaluated against specific targets.**

(11) While noting the State party’s assurance that its counter-terrorism measures are in compliance with international law, the Committee regrets that Irish legislation does not contain a definition of terrorism and no information has been provided on the extent, if any, to which limitations have been made to Covenant rights, especially with regard to articles 9 and 14. It is also concerned about allegations that Irish airports have been used as transit points for so called rendition flights of persons to countries where they risk being subjected to torture or ill-treatment. The Committee notes the State party’s reliance on official assurances (arts. 7, 9, 14).

**The State party should introduce a definition of “terrorist acts” in its domestic legislation, limited to offences which can justifiably be equated with terrorism and its serious consequences. It should also carefully monitor how and how often terrorist acts have been investigated and prosecuted, including with regard to the length of pretrial detention and access to a lawyer. Furthermore, the State party should exercise the utmost care in relying on official assurances. The State party should establish a regime for the control of suspicious flights and ensure that all allegations of so-called renditions are publicly investigated.**

(12) The Committee is concerned that article 28.3 of the Constitution of the State party is not consistent with article 4 of the Covenant and that derogations may be made to the rights identified as non-derogable under the Covenant with the exception of the death penalty (art. 4).

**The State party should ensure that its provisions concerning states of emergency are compatible with article 4 of the Covenant. In this regard, the Committee draws the attention of the State party to its general comment No. 29 (2001) on article 4: Derogations during a state of emergency.**

(13) The Committee reiterates its concern regarding the highly restrictive circumstances under which women can lawfully have an abortion in the State party. While noting the establishment of the Crisis Pregnancy Agency, the Committee regrets that the progress in this regard is slow (arts. 2, 3, 6, 26).

**The State party should bring its abortion laws into line with the Covenant. It should take measures to help women avoid unwanted pregnancies so that they do not have to resort to illegal or unsafe abortions that could put their lives at risk (art. 6) or to abortions abroad (articles 26 and 6).**

(14) The Committee regrets the backlog of cases before the *Garda Síochána* Ombudsman Commission and the ensuing reassignment of the investigation of a number of complaints involving the potentially criminal conduct of *Gardaí* to the *Garda* Commissioner. It is also

concerned that access to counsel during interrogation at *Garda* stations is not prescribed by law and that the right of an accused person to remain silent is restricted under the Criminal Justice Act 2007 (arts. 7, 9, 10, 14).

**The State party should take immediate measures to ensure the effective functioning of the *Garda Síochána* Ombudsman Commission. The State party should also give full effect to the rights of criminal suspects to contact counsel before, and to have counsel present during, interrogation. The State party should furthermore amend its legislation to ensure that inferences from the failure to answer questions by an accused person may not be drawn, at least where the accused has not had prior consultations with counsel. It should also provide more detailed information to the Committee regarding the types of complaints filed with the Ombudsman Commission.**

(15) While noting the measures taken by the State party to improve the conditions of detention, in particular the current and planned construction of new facilities, the Committee remains concerned about increased incarceration. It is particularly concerned about the persistence of adverse conditions in a number of prisons in the State party, such as overcrowding, insufficient personal hygiene conditions, non-segregation of remand prisoners, a shortage of mental health care for detainees, and the high level of inter-prisoner violence (art. 10).

**The State party should increase its efforts to improve the conditions of all persons deprived of liberty before trial and after conviction, fulfilling all requirements outlined in the Standard Minimum Rules for the Treatment of Prisoners. In particular, the overcrowding and the “slopping-out” of human waste should be addressed as priority issues. In addition, the State party should detain remand prisoners in separate facilities and promote alternatives to imprisonment. Detailed statistical data showing progress since the adoption of the present recommendation, including on concrete promotion and implementation of alternative measures to detention, should be submitted to the Committee in the State party’s next periodic report.**

(16) While the Committee takes note of the positive measures adopted concerning trafficking in human beings, such as the establishment of an Anti-Human Trafficking Unit and the provision of training to border guards, immigration officers, and trainees in these fields, the Committee is concerned about the lack of recognition of the rights and interests of trafficking victims. It is particularly concerned about lesser protection for victims not willing to cooperate with authorities under the criminal law (human trafficking) bill 2007 (arts. 3, 8, 24, 26).

**The State party should continue to reinforce its measures to combat trafficking of human beings, in particular by reducing the demand for trafficking. It should also ensure the protection and rehabilitation of victims of trafficking. Moreover, the State party should ensure that permission to remain in the State party is not dependent on the cooperation of victims in the prosecution of alleged traffickers. The State party is also invited to consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.**

(17) The Committee is concerned about increased detention periods for asylum-seekers under the Immigration Act 2003. The Committee also notes with concern that an immigration officer's assessment that a person is not under 18 years of age could lead to the detention of that person and that such assessments are not verified by social services. Moreover, it is concerned about the placement of persons detained for immigration-related reasons in ordinary prison facilities together with convicted and remand prisoners and about their subjection to prison rules (arts. 10, 13).

**The State party should review its detention policy with regard to asylum-seekers and give priority to alternative forms of accommodation. The State party should take immediate and effective measures to ensure that all persons detained for immigration-related reasons are held in facilities specifically designed for this purpose. The State party should also ensure that the principle of the best interests of the child is given due consideration in all decisions concerning unaccompanied and separated children and that social services, such as the Health Service Executive, are involved in the age assessment of asylum-seekers by immigration officials.**

(18) The Committee is concerned that the State party does not intend to amend the laws which may in effect permit imprisonment for failure to fulfil a contractual obligation (art. 11).

**The State party should ensure that its laws are not used to imprison a person for the inability to fulfil a contractual obligation (art. 11).**

(19) The Committee welcomes the proposal in the immigration, residence and protection bill of 2008 to introduce a single procedure for determining all of a person's protection related claims, but it is concerned about some provisions, including the possibility of summary removal and the absence of formal legal protection as required by article 13 of the Covenant. The Committee is furthermore concerned about the alleged lack of independence of the proposed substitute for the Refugee Appeals Tribunal (the Protection Review Tribunal) due to the appointment procedures of its part-time members (arts. 9, 13, 14).

**The State party should amend the immigration, residence and protection bill 2008 to outlaw summary removal which is incompatible with the Covenant and ensure that asylum-seekers have full access to early and free legal representation so that their rights under the Covenant receive full protection. It should also introduce an independent appeals procedure to review all immigration-related decisions. Engaging in such a procedure, as well as resorting to judicial review of adverse decisions, should have a suspensive effect in respect of such decisions. Furthermore, the State party should ensure that the Minister for Justice, Equality and Law Reform is not charged with the appointment of members of the new Protection Review Tribunal.**

(20) The Committee reiterates its concerns about the continuing operation of the Special Criminal Court and the establishment of additional special courts (arts. 4, 9, 14, 26).

**The State party should carefully monitor, on an ongoing basis, whether the exigencies of the situation in Ireland continue to justify the continuation of a Special Criminal Court with a view to abolishing it. In particular, it should ensure that, for each case**

**that is certified by the Director of Public Prosecutions for Ireland as requiring a non-jury trial, objective and reasonable grounds are provided and that there is a right to challenge these grounds.**

(21) The Committee continues to be concerned that judges are required to take a religious oath (art. 18).

**The State party should amend the constitutional provision requiring a religious oath from judges to allow for a choice of a non-religious declaration.**

(22) The Committee notes with concern that the vast majority of Ireland's primary schools are privately run denominational schools that have adopted a religious integrated curriculum thus depriving many parents and children who so wish to have access to secular primary education (arts. 2, 18, 24, 26).

**The State party should increase its efforts to ensure that non-denominational primary education is widely available in all regions of the State party, in view of the increasingly diverse and multi-ethnic composition of the population of the State party.**

(23) The Committee is concerned that the State party does not intend to recognize the Traveller community as an ethnic minority. It is furthermore concerned that members of the Traveller community were not represented in the High Level Group on Traveller issues. The Committee is also concerned about the criminalization of trespassing on land in the 2002 Housing Act which disproportionately affects Travellers (art. 26, 27).

**The State party should take steps to recognize Travellers as an ethnic minority group. The State party should also ensure that in public policy initiatives concerning Travellers, representatives from the Traveller community should always be included. It should also amend its legislation to meet the specific accommodation requirements of Traveller families.**

(24) The State party should publicize widely the text of its third periodic report, the written answers it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations.

(25) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 11, 15, and 22 above.

(26) The Committee requests the State party to provide in its fourth periodic report, due to be submitted by 31 July 2012, information on the remaining recommendations made and on the Covenant as a whole. The Committee also requests that the process of compiling the next report again involve civil society and non-governmental organizations operating in the State party.



**B. Provisional concluding observations adopted by the Committee on the situation in a country in the absence of a report, and made public as concluding observations in accordance with rule 70, paragraph 3, of the rules of procedure**

**85. Saint Vincent and the Grenadines**

(1) The Human Rights Committee, in the absence of a periodic report, considered the implementation of the International Covenant on Civil and Political Rights in the State party at its 2353rd and 2354th meetings, held on 22 March 2006 (CCPR/C/SR/2353 and 2354). At its 2364th meeting, held on 29 March 2006 (see CCPR/C/SR/2364), it adopted provisional and confidential concluding observations. At its 2337th meeting, in conformity with rule 70 of its rules of procedure, the Committee converted its provisional and confidential concluding observations into the following final and public ones.

**A. Introduction**

(2) The Committee regrets that the State party has not submitted a report to the Committee since it submitted its second periodic report in 1990 (CCPR/C/26/Add.4) and considers that this represents serious disregard for article 40 of the Covenant.

(3) The Committee nevertheless notes with satisfaction that the State party has shown a desire to continue its dialogue with the Committee, as demonstrated by its sending of a delegation to the Human Rights Committee meeting. The Committee wishes to thank the delegation for the efforts it has made to address the Committee's questions.

**B. Positive aspects**

(4) The Committee welcomes the reforms of the State party's legislation implementing parts of the Covenant, including removal of discrimination based on gender relating to remuneration for work, protection from arbitrary search and detention, and the prohibition of slavery.

(5) The Committee welcomes the initiatives taken by the State party to improve judicial administration so as to deal with the backlog of criminal cases. In that connection it also notes the establishment of a Serious Offences Court to hold preliminary hearings in cases triable by jury.

**C. Principal subjects of concern and provisional concluding observations**

(6) The Committee regrets the State party's denunciation of the Optional Protocol (arts. 6, 7). In the light of the continued existence of the death penalty, The Committee recommends that:

(a) In relation to all persons accused of capital offences, the State party should ensure that every requirement of article 6 is strictly complied with;

(b) The assistance of counsel should be ensured, through legal aid as necessary, immediately on arrest and throughout all subsequent proceedings to persons accused of serious crimes, in particular in cases of offences carrying the death penalty;

(c) The Committee notes that, following a decision of the Eastern Caribbean Court of Appeal, confirmed by the Judicial Committee of the Privy Council, in the case of *Hughes and Spencer v. The Queen*, the death penalty, where applicable, is no longer applied in a mandatory fashion but is subject to a separate sentencing hearing at which the judge is required to consider the circumstances of the case and of the person convicted. With this welcome development in mind, and noting that in fact there have been no executions in the past 10 years, the Committee now invites the State party to consider the final abolition of the death penalty.

(7) The Committee is concerned that the Debtors Act, Cap. 86, section 4, permits imprisonment for debt in some civil cases (arts. 9, 11).

**The State party should review legislation permitting imprisonment for default in civil matters, so as to comply with the Covenant.**

(8) The Committee is concerned that consensual homosexual acts between adults in private are still criminalized under section 146 of the Criminal Code (art. 17).

**The State party should provide information on the application of the law in practice, and consider the abolition of this law.**

(9) The Committee notes with concern the absence of a law regulating the interception of communications (arts. 17 and 19).

**The State party should immediately draft and enact a law regulating the interception of communications taking due account of articles 17 and 19 of the Covenant.**

(10) The Committee is concerned about reported complaints against police involving unwarranted practices, such as the excessive use of force and the occurrence of a high ratio of convictions based on confessions (art. 7).

**The State party should provide precise information on action taken on these reports, in addition to improving police training at all levels of the police hierarchy.**

(11) While noting the delegation's statement that judicial corporal punishment is not resorted to in practice, the Committee is concerned that the Corporal Punishment of Juveniles Act still permits caning, in violation of the prohibition of cruel, inhuman and degrading punishment contained in article 7.

**The State party should immediately amend or repeal the Corporal Punishment of Juveniles Act so as to prohibit caning. It should also consider whether it is any longer necessary, or consistent with its obligations under the Covenant, to maintain in force the relevant savings clause of section 10 of the Second Schedule to the Constitution of the State Party.**

(12) The Committee is concerned about the high incidence of violence against women in the State party (arts. 3, 7 and 26).

**The State party should take steps to monitor this situation, facilitate investigations, and implement a plan of action. The State party should also take legal and educational measures to combat domestic violence.**

(13) The Committee is concerned at the lack of data and information available on sexual exploitation and trafficking of women and children (arts. 3, 7, 8 and 24).

**The State party should provide specific data on sexual exploitation and trafficking as well as information on legislation and measures aimed at preventing these phenomena in its next report to the Committee.**

(14) While acknowledging the efforts made by the State party to build a new State prison, the Committee expresses its concern over ongoing prison overcrowding and poor prison conditions as well as the high rate of incarceration in the State party. It notes the report of Justice Mitchell in this regard. It also notes with concern the continuing practice of imprisoning juvenile and adult offenders in the same premises.

**Additional resources should be allocated to the State party's prison system, and separate facilities should be made available to juvenile offenders. Alternatives to imprisonment should be sought as a matter of priority.**

(15) The Committee is concerned that there is currently no procedure in place to disseminate knowledge about the Covenant to the General Public (art. 2).

**The State party should include in its proposed website for the general public material, and relevant links, on the Covenant, the Office for the High Commissioner of Human Rights, and copies of reports and observations by the Human Rights Committee.**

(16) The Committee invites the State party to submit its second periodic report due on 31 October 1991, covering the period up to the date of submission, prepared in accordance with the Committee's guidelines.

## **CHAPTER V. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL**

86. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated by a State party, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. No communication can be considered unless it concerns a State party to the Covenant that has recognized the competence of the Committee by becoming a party to the Optional Protocol. Of the 162 States that have ratified, acceded to or succeeded to the Covenant, 111 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, section B).

87. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (article 5, paragraph 3, of the Optional Protocol). Under rule 102 of the Committee's rules of procedure, all working documents issued for the Committee are confidential unless the Committee decides otherwise. However, the author of a communication and the State party concerned may make public any submissions or information bearing on the proceedings, unless the Committee has requested the parties to respect confidentiality. The Committee's final decisions (Views, decisions declaring a communication inadmissible, decisions to discontinue the consideration of a communication) are made public; the names of the authors are disclosed, unless the Committee decides otherwise, at the request of the authors.

88. Communications addressed to the Human Rights Committee are processed by the Petitions Team of the Office of the United Nations High Commissioner for Human Rights. This Team also services the communications procedures under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

### **A. Progress of work**

89. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 1,800 communications concerning 82 States parties have been registered for consideration by the Committee, including 225 registered during the period covered by the present report. At present, the status of the 1,800 communications registered is as follows:

(a) Consideration concluded by the adoption of Views under article 5, paragraph 4, of the Optional Protocol: 635, including 503 in which violations of the Covenant were found;

(b) Declared inadmissible: 504;

(c) Discontinued or withdrawn: 251;

(d) Not yet concluded: 110.

90. The Petitions Team has also received thousands of communications in respect of which complainants were advised that further information would be needed before their communications could be registered for consideration by the Committee. Several thousand complainants were informed that their cases would not be dealt with by the Committee, for

example because they fell clearly outside the scope of application of the Covenant or of the Optional Protocol. A record of this correspondence is kept in the secretariat and reflected in its database.

91. At its ninety-first, ninety-second and ninety-third sessions, the Committee adopted Views on the following cases: Nos. 1149/2002 (*Donskov v. Russian Federation*); 1150/2003 (*Uteev v. Uzbekistan*); 1186/2003 (*Titiahonjo v. Cameroon*); 1205/2003 (*Yakupova v. Uzbekistan*); 1223/2003 (*Tsarjov v. Estonia*); 1209/2003, 1231/2003 and 1241/2004 (*Sharifova et al. v. Tajikistan*); 1306/2004 (*Haraldsson and Sveinsson v. Iceland*); 1310/2004 (*Babkin v. Russian Federation*); 1351 and 1352/2005 (*Hens Serena and Corujo Rodríguez v. Spain*); 1360/2005 (*Oubiña v. Spain*); 1373/2005 (*Dissanakye v. Sri Lanka*); 1376/2005 (*Bandaranayake v. Sri Lanka*); 1385/2005 (*Manuel v. New Zealand*); 1413/2005 (*de Jorge v. Spain*); 1422/2005 (*El Hassy v. Libyan Arab Jamahiriya*); 1423/2005 (*Sipin v. Estonia*); 1426/2005 (*Dingiri Banda v. Sri Lanka*); 1436/2005 (*Sathasivam v. Sri Lanka*); 1437/2005 (*Jenny v. Austria*); 1448/2006 (*Kohoutek v. Czech Republic*); 1450/2006 (*Komarovski v. Turkmenistan*); 1456/2006 (*X. v. Spain*); 1461/2006, 1462/2006, 1476/2006 and 1477/2006 (*Maksudov et al. v. Kyrgyzstan*); 1463/2006 (*Gratzinger v. Czech Republic*); 1482/2006 (*Gerlach v. Germany*); 1466/2006 (*Lumanog and Santos v. the Philippines*); 1474/2006 (*Prince v. South Africa*); 1484/2006 (*Lněnička v. Czech Republic*); 1485/2006 (*Vlcek v. Czech Republic*); 1486/2006 (*Kalamiotis v. Greece*); 1488/2006 (*Süsser v. Czech Republic*); 1497/2006 (*Preiss v. Czech Republic*); 1533/2006 (*Ondracka v. Czech Republic*); and 1542/2007 (*Aboushanif v. Norway*). These Views are reproduced in annex V (vol. II).

92. The Committee also concluded consideration of 25 cases by declaring them inadmissible. These are cases Nos. 1031/2001 (*Banda v. Sri Lanka*), 1141/2002 (*Gougnina v. Uzbekistan*), 1161/2003 (*Kharkhal v. Belarus*), 1358/2005 (*Korneenko v. Belarus*), 1375/2005 (*Subero v. Spain*), 1429/2005 (*A., B., C. and D. v. Australia*), 1487/2006 (*Ahmad v. Denmark*), 1492/2006 (*Van der Plaat v. New Zealand*), 1494/2006 (*Chadzjian v. The Netherlands*), 1496/2006 (*Stow v. Portugal*), 1505/2006 (*Vincent v. France*), 1513/2006 (*Fernandez v. The Netherlands*), 1515/2006 (*Schmidl v. Czech Republic*), 1516/2006 (*Schmidl v. Germany*), 1524/2006 (*Yemelianov v. Russian Federation*), 1527/2006 (*Conde v. Spain*), 1528/2006 (*Fernández Murcia v. Spain*), 1534/2006 (*Pham v. Canada*), 1543/2007 (*Aduhene v. Germany*), 1562/2007 (*Kibale v. Canada*), 1569/2007 (*Kool v. the Netherlands*), 1591/2007 (*Brown v. Namibia*), 1607/2007 (*San Juan v. Uruguay*) and 1745/2007 (*Mazon v. Spain*). These decisions are reproduced in annex VI (vol. II).

93. Under the Committee's rules of procedure, the Committee will normally decide on the admissibility and merits of a communication together. Only in exceptional circumstances will the Committee request a State party to address admissibility only. A State party which has received a request for information on admissibility and merits may, within two months, object to admissibility and apply for separate consideration of admissibility. Such a request will not, however, release the State party from the requirement to submit information on the merits within six months, unless the Committee, its Working Group on Communications or its designated special rapporteur decides to extend the time for submission of information on the merits until after the Committee has ruled on admissibility.

94. During the period under review, nine communications were declared admissible separately for examination on the merits. Decisions declaring communications admissible are not normally published by the Committee. Procedural decisions were adopted in a number of pending cases (under article 4 of the Optional Protocol or under rules 92 and 97 of the Committee's rules of procedure).

95. The Committee decided to discontinue the consideration of three communications following withdrawal by the author (cases Nos. 1243/2004 (*Taha v. Australia*), 1459/2006 (*Yklymov v. Turkmenistan*), and 1480/2006 (*Xie v. The Netherlands*)) and to discontinue consideration of eight communications either because counsel lost contact with the author (cases Nos. 1579/2007 (*Glini et al. v. Canada*), 1215/2003 (*Makhmudov v. Uzbekistan*), and 1248/2004 (*Madrakhimov and Yusupov v. Uzbekistan*)), or because the author or counsel failed to respond to the Committee despite repeated reminders (cases Nos. 1063/2002 (*Sultanov v. Uzbekistan*), 1064/2002 (*Kurbanov v. Uzbekistan*), 1139/2002 (*Vaygin v. Belarus*), 1408/2005 (*Masued v. Australia*), and 1409/2005 (*Prakash v. Canada*)).

96. In five cases decided during the period under review, the Committee noted that the State party had failed to cooperate in the examination of the author's allegations. The States parties in question are: Cameroon, Libyan Arab Jamahiriya and Tajikistan (three cases). The Committee deplored that situation and recalled that it was implicit in the Optional Protocol that States parties should transmit to the Committee all information at their disposal. In the absence of a reply, due weight had to be given to the author's allegations, to the extent that they had been properly substantiated.

### **B. Increase in the Committee's caseload under the Optional Protocol**

97. As the Committee has stated in previous reports, the increasing number of States parties to the Optional Protocol and better public awareness of the procedure have led to a growth in the number of communications submitted to the Committee. The table below sets out the pattern of the Committee's work on communications over the last eight years, to 31 December 2007. Since the previous annual report 225 communications have been registered.

**Communications dealt with 2000-2007**

Year	New cases registered	Cases concluded <sup>a</sup>	Pending cases at 31 December
2007	206	47	455
2006	96	109	296
2005	106	96	309
2004	100	78	299
2003	88	89	277
2002	107	51	278
2001	81	41	222
2000	58	43	182

<sup>a</sup> Total number of cases decided (by the adoption of Views, inadmissibility decisions and decisions to discontinue consideration).

98. Given the increase in the Committee's caseload, it will be necessary to extend one of the Committee's forthcoming sessions in order to deal at least in part with the backlog.

## **C. Approaches to considering communications under the Optional Protocol**

### **1. Special Rapporteur on new communications**

99. At its thirty-fifth session, in March 1989, the Committee decided to designate a special rapporteur authorized to process new communications as they were received, i.e. between sessions of the Committee. At the Committee's eighty-second session, in October 2004, Mr. Kälin was designated as the new Special Rapporteur. He acted as Special Rapporteur until 8 April 2008, when he resigned as a member of the Committee. The Chairperson acted as Special Rapporteur thereafter, until the ninety-third session, when Ms. Christine Chanet was designated Special Rapporteur. In the period covered by the present report, the Special Rapporteur transmitted 225 new communications to the States parties concerned under rule 97 of the Committee's rules of procedure, requesting information or observations relevant to the questions of admissibility and merits. In 12 cases, the Special Rapporteur issued requests for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure. The competence of the Special Rapporteur to issue and, if necessary, to withdraw requests for interim measures under rule 92 of the rules of procedure is described in the annual report for 1997.<sup>19</sup>

### **2. Competence of the Working Group on Communications**

100. At its thirty-sixth session, in July 1989, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all members of the Group so agreed. Failing such agreement, the Working Group refers the matter to the Committee. It also does so whenever it believes that the Committee itself should decide the question of admissibility. During the period under review, six communications were declared admissible by the Working Group on Communications.

101. The Working Group also makes recommendations to the Committee concerning the inadmissibility of certain communications. At its eighty-third session the Committee authorized the Working Group to adopt decisions declaring communications inadmissible if all members so agreed. At its eighty-fourth session, the Committee introduced the following new rule 93 (3) in its rules of procedure: "A working group established under rule 95, paragraph 1, of these rules of procedure may decide to declare a communication inadmissible, when it is composed of at least five members and all the members so agree. The decision will be transmitted to the Committee plenary, which may confirm it without formal discussion. If any Committee member requests a plenary discussion, the plenary will examine the communication and take a decision."

## **D. Individual opinions**

102. In its work under the Optional Protocol, the Committee seeks to adopt decisions by consensus. However, pursuant to rule 104 of the Committee's rules of procedure, members can add their individual or dissenting opinions to the Committee's Views. Under this rule, members can also append their individual opinions to the Committee's decisions declaring communications admissible or inadmissible.

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<sup>19</sup> *Official Records of the General Assembly, Fifty-second Session, Supplement No. 40 (A/52/40)*, vol. I, para. 467.

103. During the period under review, individual opinions were appended to the Committee's Views concerning cases Nos. 1306/2004 (*Haraldsson and Sveinsson v. Iceland*), 1533/2006 (*Ondracka v. Czech Republic*) and 1484/2006 (*Lněnička v. Czech Republic*), 1149/2002 (*Donskov v. Russian Federation*), 1456/2006 (*X. v. Spain*), 1482/2006 (*M.G. v. Germany*), 1542/2007 (*Hassan Aboushanif v. Norway*) and 1591/2007 (*Brown v. Namibia*).

## **E. Issues considered by the Committee**

104. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its eighty-seventh session in July 2006 can be found in the Committee's annual reports for 1984 to 2007, which contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol are reproduced in annexes to the Committee's annual reports to the General Assembly. The texts of the Views and decisions are also available in the treaty body database on the website of the Office of the United Nations High Commissioner for Human Rights ([www.ohchr.org](http://www.ohchr.org)).

105. Eight volumes of "Selected decisions of the Human Rights Committee under the Optional Protocol", from the second to the sixteenth sessions (1977-1982), from the seventeenth to the thirty-second sessions (1982-1988), from the thirty-third to the thirty-ninth sessions (1980-1990), from the fortieth to the forty-sixth sessions (1990-1992), from the forty-seventh to the fifty-fifth sessions (1993-1995), from the fifty-sixth to the sixty-fifth sessions (March 1996 to April 1999), from the sixty-sixth to the seventy-fourth sessions (July 1999 to March 2002) and from the seventy-fifth to the eighty-fourth sessions (July 2002 to July 2005) have been published. Some volumes are available in English, French, Russian and Spanish. The most recent volumes are currently available in only one or two languages, which is most regrettable. As domestic courts increasingly apply the standards contained in the International Covenant on Civil and Political Rights, it is imperative that the Committee's decisions can be consulted worldwide in a properly compiled and indexed volume, available in all the official languages of the United Nations.

106. The following summary reflects developments concerning issues considered during the period covered by the present report.

### **1. Procedural issues**

#### **(a) Claims not substantiated (Optional Protocol, art. 2)**

107. Article 2 of the Optional Protocol provides that "individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration".

108. Although an author does not need to prove the alleged violation at the admissibility stage, he or she must submit sufficient material substantiating the allegation for purposes of admissibility. A "claim" is, therefore, not just an allegation, but an allegation supported by substantiating material. In cases where the Committee finds that the author has failed to substantiate a claim for purposes of admissibility, it has held the communication inadmissible, in accordance with rule 96 (b) of its rules of procedure.



109. In case No. 1516/2006 (*Schmidl v. Germany*), the author, a German national born in the former Czechoslovakia, complained of violations of the Covenant by Germany, given that it had been unwilling to exercise diplomatic protection allowing him to lodge claims on account of the expulsion and uncompensated expropriation of his family following their expulsion from Czechoslovakia in 1946. He considered that as a result of the acts of genocide committed during the expulsion, the State party was obliged to support the claims of restitution of the *Sudeten* German expellees against the Czech State. The Committee recalled that the right of diplomatic protection under international law was a right of States, not of individuals. States retained the discretion as to whether or not and in which circumstances to grant and exercise that right. Whilst the Committee did not preclude that a denial by a State party of the right of diplomatic protection could amount, in very exceptional cases, to discrimination, it recalled that not every differentiation of treatment could be considered discrimination within the meaning of article 26, and that that provision did not prohibit differences of treatment which were based on objective and justifiable criteria. In this instance, the author had not shown that persons of *Sudeten* German descent had been treated in a discriminatory or arbitrary manner incompatible with the legitimate exercise of State discretion in espousing claims under the State party's right of diplomatic protection. In particular, he had failed to show that the decision of the State party not to exercise its right to diplomatic protection in his case was based not on legitimate considerations of foreign policy but exclusively on his *Sudeten* German descent. The Committee therefore concluded that the author had not sufficiently substantiated, for purposes of admissibility, his claim that he was a victim of prohibited discrimination based on his *Sudeten* German descent. Consequently, it declared the communication inadmissible under article 2 of the Optional Protocol.

110. Other claims were declared inadmissible for lack of substantiation in cases Nos. 1141/2002 (*Gougnina v. Uzbekistan*), 1358/2005 (*Korneenko v. Belarus*), 1429/2005 (*A., B., C. and D. v. Australia*), 1496/2006 (*Stow v. Portugal*), 1569/2007 (*Kool v. the Netherlands*) and 1375/2005 (*Subero v. Spain*), 1513/2006 (*Fernandez v. The Netherlands*), 1534/2006 (*Pham v. Canada*) and 1562/2007 (*Kibale v. Canada*).

**(b) Competence of the Committee with respect to the evaluation of facts and evidence (Optional Protocol, art. 2)**

111. A specific form of lack of substantiation is represented by cases where the author invites the Committee to re-evaluate issues of fact and evidence addressed by domestic courts. The Committee has repeatedly recalled its jurisprudence that it is not for it to substitute its views for the judgement of the domestic courts on the evaluation of facts and evidence in a case, unless the evaluation is manifestly arbitrary or amounts to a denial of justice. If a jury or court reaches a reasonable conclusion on a particular matter of fact in the light of the evidence available, the decision cannot be held to be manifestly arbitrary or to amount to a denial of justice. Claims involving the re-evaluation of facts and evidence have thus been declared inadmissible under article 2 of the Optional Protocol. This was true for cases Nos. 1031/2001 (*Weerasinghe v. Sri Lanka*), 1161/2003 (*Kharkhal v. Belarus*), 1141/2002 (*Gougnina v. Uzbekistan*), 1358/2005 (*Korneenko v. Belarus*), 1496/2006 (*Stow v. Portugal*), 1524/2006 (*Yemelianov v. Russian Federation*), 1528/2006 (*Fernández Murcia v. Spain*) and 1607/2007 (*San Juan et al v. Uruguay*).

**(c) Inadmissibility *ratione materiae* (Optional Protocol, art. 3)**

112. Claims are also declared inadmissible *ratione materiae* when they do not come under the scope of the articles of the Covenant. This was true of cases Nos. 1745/2007 (*Mazón Costa v. Spain*) and 1494/2006 (*Chadzjian v. The Netherlands*).

**(d) Inadmissibility for abuse of the right to submit a communication (Optional Protocol, art. 3)**

113. Under article 3 of the Optional Protocol, the Committee can declare inadmissible any communication which it considers to be an abuse of the right to submit communications. In case No. 1527/2006 (*Conde v. Spain*), the Committee noted that the author had already submitted a communication, based on exactly the same facts as those set out in a communication considered previously, but which raised a new claim. The author had neither presented any new facts which had occurred since that date nor provided any explanation as to why he had been unable to raise the claim at the time of submitting his initial communication. Under these circumstances, the Committee considered that the new communication constituted an abuse of the right to submit a communication and declared it inadmissible under article 3 of the Optional Protocol.

114. The Committee also found communication No. 1591/2007 (*Brown v. Namibia*) to be an abuse of this right because it was submitted 13 years after the author had left the State party and no explanation was given to justify the delay.

**(e) Inadmissibility because of submission to another procedure of international investigation or settlement (Optional Protocol, art. 5, para. 2 (a))**

115. Pursuant to article 5, paragraph 2 (a), of the Optional Protocol, the Committee shall ascertain that the same matter is not being examined under another procedure of international investigation or settlement. Upon becoming parties to the Optional Protocol, some States have made a reservation to preclude the Committee's competence if the same matter has already been examined under another procedure.

116. In case No. 1505/2006 (*Vincent v. France*) concerning a complaint that had also been filed with the European Court of Human Rights, the Committee recalled that on acceding to the Optional Protocol, the State party entered a reservation to article 5, paragraph 2 (a), of that Protocol specifying that the Committee "shall not have competence to consider a communication from an individual if the same matter is being examined or has already been considered under another procedure of international investigation or settlement". The Committee noted, however, that the European Court had not "examined" the case in the sense of article 5, paragraph 2 (a), of the Optional Protocol, inasmuch as its decision pertained only to an issue of procedure. There was therefore no impediment arising out of article 5, paragraph 2 (a), of the Optional Protocol as modified by the State party's reservation.

**(f) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))**

117. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, it is the Committee's constant jurisprudence that the rule of

exhaustion applies only to the extent that those remedies are effective and available. The State party is required to give details of the remedies which it submitted had been made available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective.

118. In case No. 1487/2006 (*Ahmad and Abdol-Hamid v. Denmark*), concerning the publication of caricatures of Mohammad and Islam, the authors claimed violations of the Covenant because they had been denied an effective remedy for incitement of hatred against Muslims, prohibited under article 20 of the Covenant. In their view, that gave licence to non-Muslim Danes to discriminate and engage in further defamatory speech against Muslims and Arabs in the State party. The Committee noted that both authors had been closely involved, in varying capacities and at differing stages, in the pursuit of domestic remedies before the police, prosecutorial authorities and the State party's courts. After the Director of Public Prosecutions decided against bringing criminal prosecutions, the same subject matter was advanced to the State party's courts by way of a private criminal prosecution under sections 21, 267 and 268 of the Criminal Code, resulting in a judgement assessing at length the criminal responsibility of senior managers of the publishing newspaper. That judgement was currently under appeal. Assessing as a whole the close involvement of the authors with each other in the course of the proceedings before the State party's prosecutorial and judicial authorities, the Committee recalled its constant jurisprudence that when authors of a communication seize a State party's authorities of the subject matter likewise presented to the Committee, such proceedings must be pursued to their conclusion before the Committee can assess the claim. The Committee therefore decided that the communication was inadmissible for failure to exhaust domestic remedies at the time of its consideration by the Committee.

119. During the period under review, other communications were declared inadmissible for failure to exhaust domestic remedies, including cases Nos. 1505/2006 (*Vincent v. France*), 1481/2006 (*Tadman v. Canada*), 1515/2006 (*Schmidl v. Czech Republic*) and 1543/2007 (*Aduhene v. Germany*).

**(g) Interim measures under rule 92 (old rule 86) of the Committee's rules of procedure**

120. Under rule 92 of the Committee's rules of procedure, the Committee may, after receipt of a communication and before adopting its Views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee continues to apply this rule on appropriate occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution and who claim that they were denied a fair trial. In view of the urgency of such communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 92 has also been applied in other circumstances, for instance in cases of imminent deportation or extradition which may involve or expose the author to a real risk of violation of rights protected under the Covenant.

121. In cases Nos. 1141/2002 (*Gougnina v. Uzbekistan*), 1161/2003 (*Kharkhal v. Belarus*), 1205/2003 (*Yakupova v. Uzbekistan*), the Committee requested the States parties not to execute the alleged victims while their case was under examination. Subsequently, the States parties informed the Committee that the respective supreme courts had commuted the death

sentences to prison sentences. In case No. 1150/2003 (*Uteev v. Uzbekistan*), in which a similar request was made, the author informed the Committee that the person concerned had already been executed, without, however, providing the exact date of execution.

122. In cases Nos. 1461/2006, 1462/2006, 1476/2006 and 1477/2006 (*Maksudov et al. v. Kyrgyzstan*), the State party extradited the authors even though their communications had been registered under the Optional Protocol and a request for interim measures of protection had been addressed to the State party. The Committee recalled that implicit in a State's adherence to the Protocol is an undertaking to cooperate with the Committee in good faith so as to permit and enable it to consider the communications submitted to it. It is incompatible with these obligations for a State party to take any action that would prevent or frustrate the Committee in its consideration and examination of a communication. Apart from any violation of the Covenant found against a State party in a communication, a State party commits grave breaches of its obligations under the Optional Protocol if it acts to prevent consideration by the Committee of a communication alleging a violation of the Covenant, or to render examination by the Committee moot and the expression of its Views nugatory and futile. In these cases, the authors alleged that their rights under article 6 and article 7 of the Covenant would be violated, should they be extradited to Uzbekistan. Having been notified of the communications, the State party breached its obligations under the Protocol by extraditing the authors before the Committee could conclude its consideration and examination and the formulation and communication of its Views. It was particularly regrettable for the State party to have done so after the Committee had acted under rule 92 of its rules of procedure, requesting the State party to refrain from doing so.

## **2. Substantive issues**

### **(a) The right to an effective remedy (Covenant, art. 2, para. 3)**

123. In case No. 1426/2005 (*Dingiri Banda v. Sri Lanka*), the author, an army officer who was violently assaulted by two other officers, claimed that none of the domestic courts had provided him with an effective remedy. The Committee recalled that under article 2, paragraph 3, the State party has an obligation to ensure that remedies are effective, and that expedition and effectiveness are particularly important in the adjudication of cases involving torture and other forms of mistreatment. The State party could not avoid its responsibilities under the Covenant with the argument that the domestic courts had already dealt or were still dealing with the matter, when it was clear that the remedies relied upon by the State party were unduly prolonged and rather ineffective. The Committee also reiterated the settled rule of general international law that all branches of government, including the judicial branch, are in a position to engage the responsibility of a State party. For these reasons, the Committee found that the State party had violated article 2, paragraph 3, read together with article 7 of the Covenant.

124. In case No. 1422/2005 (*El Hassy v. Libyan Arab Jamahiriya*), the victim did not have access to an effective remedy in regard to his detention, and the Committee therefore concluded that there was a violation of article 2, paragraph 3, read together with article 7 of the Covenant.

125. In case No. 1486/2006 (*Kalamiotis v. Greece*), the author claimed to have been subjected to treatment contrary to article 7 after he had been detained by the police, and not to have been provided with an effective remedy. The Committee recalled its jurisprudence that complaints against maltreatment must be investigated promptly and impartially by competent authorities and that expedition and effectiveness are particularly important in the adjudication of cases involving

allegations of torture and other forms of mistreatment. In view of the manner in which the author's complaint was investigated and decided, and notably the fact that there was no more than a preliminary police investigation during which neither the author nor the witnesses cited by him were heard, the Committee took the view that the requisite standard had not been met. Accordingly, the Committee found that the State party had violated article 2, paragraph 3, read together with article 7 of the Covenant.

**(b) Right to life (Covenant, art. 6)**

126. In case No. 1150/2003 (*Uteev v. Uzbekistan*), the Committee recalled that the imposition of a sentence of death upon conclusion of a trial in which the provisions of the Covenant have not been respected constitutes a violation of article 6 of the Covenant. In this case, the victim's death sentence was passed in violation of the guarantees set out in article 7 and article 14, paragraph 3 (g), of the Covenant, and thus also in breach of article 6, paragraph 2, of the Covenant.

127. In case No. 1186/2003 (*Titiahonjo v. Cameroon*), the author asserted that the State party had failed to protect the right to life of her husband, detained for belonging to the Southern Cameroon National Council, by (a) failing to allow a nurse access to his cell when he was clearly severely ill, and (b) condoning life-threatening conditions of detention in Bafoussam prison, especially the apparently unchecked propagation of life-threatening diseases. The State party did not refute these allegations. The Committee considered that the State party had not fulfilled its obligation under article 6, paragraph 1, of the Covenant, to protect Mr. Titiahonjo's right to life.

128. In case No. 1436/2005 (*Sathasivam v. Sri Lanka*), concerning the victim's death in custody, the Committee recalled that, according to the information provided to it, which was not challenged, the victim had been in normal health before being taken into police custody, where he was shortly thereafter seen by eyewitnesses suffering substantial and severe injuries. The alleged reasons for his subsequent death, namely that he died during an LTTE attack, have been dismissed by the State party's own judicial and executive authorities. In these circumstances, the Committee must give due weight to the presumption that injury and, a fortiori, death suffered in custody must be held to be attributable to the State party itself. The Committee accordingly concluded that the State party is responsible for arbitrary deprivation of the victim's life, in breach of article 6 of the Covenant.

129. In cases Nos. 1461/2006, 1462/2006, 1476/2006 and 1477/2006 (*Maksudov et al. v. Kyrgyzstan*), concerning the risk of imposition of the death penalty if the authors were to be extradited to Uzbekistan, the State party failed to show that the assurances procured from Uzbekistan were sufficient to eliminate the risk of imposition of the death penalty. The extradition thus amounted to a violation of article 6, paragraph 2.

**(c) Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Covenant, art. 7)**

130. In cases Nos. 1209/2003, 1231/2003 and 1241/2004 (*Sharifova et al v. Tajikistan*) the Committee recalled that, once a complaint about ill-treatment contrary to article 7 has been filed, a State party must investigate it promptly and impartially. In this case, the authors had given a detailed description of the treatment to which their relatives had been subjected and had

identified the alleged perpetrators of these acts. The allegations of torture had also been brought to the attention of the Prosecutor's Office and raised in court. The Committee considered that in these circumstances, the State party had failed to demonstrate that its authorities had adequately addressed the torture allegations advanced by the authors. The Committee reached a similar conclusion in case No. 1150/2003 (*Uteev v. Uzbekistan*).

131. In case No. 1186/2003 (*Titiahonjo v. Cameroon*), the author claimed that her husband's rights had been violated under article 7 of the Covenant, because of (a) the general conditions of detention, (b) the beatings to which he had been subjected, (c) the deprivation of both food and clothing in detention in the Gendarmerie cell and in Bafoussam prison, and (d) the death threats he had received and his incommunicado detention. The State party had not contested these allegations, and the author had provided a detailed account of the treatment and beatings to which her husband had been subjected. In the circumstances, the Committee concluded that Mr. Titiahonjo had been subjected to cruel, inhuman and degrading treatment, in violation of article 7 of the Covenant.

132. In the same case, the author also claimed a violation of article 7 on her own behalf. She alleged that she had been mistreated by the police and pushed into the gutter and slapped when they had arrested her husband. She had not been allowed to visit her husband and had been "chased" away when she had visited the police station to give him food. The Committee found that in the absence of any challenge to her claim by the State party, due weight must be given to the allegations. The Committee furthermore understood the anguish caused to the author by the uncertainty concerning her husband's fate and continued imprisonment. The Committee concluded that under the circumstances she too was a victim of a violation of article 7 of the Covenant.

133. In case No. 1422/2005 (*El Hassy v. Libyan Arab Jamahiriya*), concerning the alleged detention incommunicado of the author's brother, the Committee recognized the degree of suffering involved in being held indefinitely without contact with the outside world. It recalled its general comment No. 20 on article 7, which recommends that States parties should make provisions against incommunicado detention. It noted the author's claim that his brother had been detained incommunicado on several occasions, and that the author himself had been detained in the same prison and seen his brother there on several occasions, although he had not been allowed to communicate with him. In these circumstances, and in the absence of any explanations from the State party in this respect, the Committee concluded that to keep the author's brother in captivity and to prevent him from communicating with his family and the outside world constituted a violation of article 7 of the Covenant. As to the alleged beatings of the author's brother, the Committee noted that eye-witnesses at the prison had informed the author that his brother had been severely and systematically beaten during interrogation. The author himself had also witnessed the subsequent deterioration of his brother's poor physical condition. In these circumstances, and again in the absence of any explanations from the State party in this respect, the Committee concluded that the treatment of the author's brother in Abu Salim prison amounted to a violation of article 7.

134. The Committee also found a violation of article 7 given that the author's brother had been reported missing since 1996, the date on which he had last been seen in Abu Salim prison. As for the author himself, the Committee noted the anguish and stress that the disappearance of his brother had caused him. It was therefore of the opinion that the facts also revealed a violation of article 7 of the Covenant with regard to him.

135. In case No. 1436/2005 (*Sathasivam v. Sri Lanka*), concerning the victim's death in custody, the Committee found that the State party had subjected the victim to inhuman treatment in violation of article 7 of the Covenant. It recalled its jurisprudence that criminal investigation and consequential prosecution are necessary remedies for violations of human rights such as those protected by articles 6 and 7 of the Covenant. In this case, the State party's own authorities had dismissed the explanation for the victim's death advanced by the police in whose custody the victim died, and its judicial authorities had directed criminal proceedings against the offending police officers. In the absence of any explanation by the State party and in view of the detailed evidence placed before it, the Committee must conclude that the Attorney-General's decision not to initiate criminal proceedings in favour of disciplinary proceedings was clearly arbitrary and amounted to a denial of justice. Accordingly it held that the State party was in breach of its obligations under articles 6 and 7 to properly investigate the death and torture of the victim and take appropriate action against those found guilty.

136. In cases Nos. 1461/2006, 1462/2006, 1476/2006 and 1477/2006 (*Maksudov et al. v. Kyrgyzstan*), concerning the risk of torture if the authors were to be extradited to Uzbekistan, the State party failed to show that the assurances procured from Uzbekistan were sufficient to eliminate that risk. The Committee therefore found that the extradition amounted to a violation of article 7 of the Covenant. The Committee also recalled that by the nature of refoulement, effective review of an extradition decision must have an opportunity to take place prior to extradition, in order to avoid irreparable harm to the individual and rendering the review otiose and devoid of meaning. Thus, by failing to provide any opportunity for effective, independent review of the decision to extradite in the authors' cases, the State party violated article 6, paragraph 2, and article 7, read together with article 2, of the Covenant.

**(d) Liberty and security of person (Covenant, art. 9, para. 1)**

137. In case No. 1186/2003 (*Titiahonjo v. Cameroon*), it transpired from the file that no warrant had ever been issued for the victim's arrest or detention, and that he had not been charged with a criminal offence. In the absence of any relevant State party information, the Committee considered that his deprivation of liberty was arbitrary and in violation of article 9, paragraph 1. Moreover, there was nothing to suggest that the victim had ever been informed of the reasons for his arrest, that he had ever been brought before a judge or judicial authority, or been afforded the opportunity to challenge the lawfulness of his arrest or detention. In the absence of relevant State party information concerning these claims, the Committee considered that Mr. Titiahonjo's detention from 21 May to 14 September 2000 amounted to a violation of article 9, paragraphs 2, 3 and 4, of the Covenant.

138. The Committee drew a similar conclusion in case No. 1422/2005 (*El Hassy v. Libyan Arab Jamahiriya*).

139. In case No. 1385/2005 (*Manuel v. New Zealand*), the Committee considered that the recall to prison of the author, who had been convicted of murder and subsequently released on parole, was not arbitrary within the meaning of article 9, paragraph 1, of the Covenant. The Committee took account of the fact that the author had engaged in violent or dangerous conduct after his release on parole. That conduct was of sufficient nexus to the underlying conviction that his recall to continue serving his sentence was justified in the interests of public safety.

140. In case No. 1450/2006 (*Komarovski v. Turkmenistan*), the fact that the author was arrested by officers belonging to the General Prosecutor's Office who reportedly did not have the power to arrest individuals and held incommunicado for at least seven days made his detention arbitrary under article 9, paragraph 1.

141. In cases Nos. 1461/2006, 1462/2006, 1476/2006 and 1477/2006 (*Maksudov et al. v. Kyrgyzstan*), the Committee considered whether the authors' deprivation of liberty was in accordance with the State party's relevant laws. The authors claimed that, contrary to article 110 of the Kyrgyz Criminal Procedure Code, their placement in custody had not been authorized by the Kyrgyz prosecutor and had been done in the absence of their counsel and therefore violated relevant domestic provisions. In the absence of a reply from the State party, the Committee had decided to give due weight to the authors' allegations, to the extent that they were substantiated, and to assume that the events had occurred as described by the authors. Consequently, the Committee found a violation of article 9, paragraph 1, of the Covenant.

142. In case No. 1373/2005 (*Dissanakye v. Sri Lanka*), the author was sentenced to two years' rigorous imprisonment for having stated at a public meeting that he would not accept any "disgraceful decision" of the Supreme Court, in relation to a pending opinion on the exercise of defence powers between the President and the Minister of Defence. The Committee found, inter alia, that neither the Supreme Court nor the State party had provided any reasoned explanation as to why such a severe penalty was warranted. Thus it concluded that the author's detention was arbitrary, in violation of article 9, paragraph 1.

**(e) Right to be brought before a judge (Covenant, art. 9, paras. 3 and 4)**

143. In case No. 1450/2006 (*Komarovski v. Turkmenistan*), the Committee noted that the author was not brought before a judge or any other officer authorized by law to exercise judicial power for the entire duration of his detention, i.e. almost five months. The Committee reiterated that the length of custody without judicial authorization should not exceed a few days. It also noted that the author, despite having been assigned an ex officio lawyer, was prevented from taking proceedings before a court to assess the lawfulness of his detention. The Committee considered that in the circumstances, and in the absence of any response to the allegation from the State party, the State had violated article 9, paragraphs 3 and 4, of the Covenant.

**(f) Treatment during imprisonment (Covenant, art. 10)**

144. In cases Nos. 1209/2003, 1231/2003 and 1241/2004 (*Sharifova et al. v. Tajikistan*) the authors claimed that conditions of detention during the early stages of the alleged victim's confinement were inadequate. They were deprived of food, parcels sent by their families were not transmitted to them and their relatives were denied access to them. The food they received during the later stages of detention was monotonous and inadequate. The State party did not comment on the allegations and, in the circumstances, the Committee concluded that the facts amounted to a violation by the State party of the alleged victims' rights under article 10 of the Covenant. The Committee also concluded that there had been a violation of article 10 in case No. 1422/2005 (*El Hassy v. Libyan Arab Jamahiriya*).



**(g) Guarantees of a fair trial (Covenant, art. 14, para. 1)**

145. In cases Nos. 1209/2003, 1231/2003 and 1241/2004 (*Sharifova et al. v. Tajikistan*) the authors claimed to be victims of a violation of article 14, paragraph 1, as the trial had not met the requirements of fairness and the court had been biased. The Committee observed that those allegations related primarily to the evaluation of facts and evidence by the court. It recalled that it is generally for the courts of States parties to evaluate facts and evidence in a particular case, unless it can be ascertained that the evaluation was clearly arbitrary or amounted to a denial of justice. However, in this case, the State party had not presented any information to refute the authors' allegations and to demonstrate that the alleged victims' trial had not in fact suffered from any such defects. Accordingly, the Committee concluded that in the circumstances of the case, the facts as submitted amounted to a violation by the State party of the alleged victims' rights under article 14, paragraph 1, of the Covenant.

146. In case No. 1413/2005 (*de Jorge Asensi v. Spain*), the author claimed that the courts had refused to provide him with information from the administrative body concerning his appraisal for promotion in the Army. The Committee noted that, although article 14 does not explain what is meant by a "fair hearing" in a suit at law, the concept should be interpreted as requiring certain conditions, such as equality of arms and absence of arbitrariness, manifest error or denial of justice. However, in the present case, the Committee concluded that the information before it did not point to arbitrariness, manifest error or denial of justice by the courts. Consequently it did not find a violation of article 14, paragraph 1, of the Covenant.

147. In case No. 1437/2005 (*Jenny v. Austria*), concerning allegations of a lack of impartiality on the part of a judge, the Committee recalled that the requirement of impartiality has two aspects. First, judges must not allow their judgement to be influenced by personal bias or prejudice, nor harbour preconceptions about the particular case before them, nor act in ways that improperly promote the interests of one of the parties to the detriment of the other. Second, the tribunal must also appear to a reasonable observer to be impartial. The two aspects refer to the subjective and objective elements of impartiality, respectively. As to the subjective element, the impartiality of a judge must be presumed until there is evidence to the contrary. However, judges must not only be impartial, they must also be seen to be impartial. When deciding whether there is a legitimate reason to fear that a particular judge lacks impartiality, the standpoint of those claiming that there is a reason to doubt his impartiality is significant but not decisive. What is decisive is whether the fear can be objectively justified. In the present case, the remarks made by the judge may well have raised certain doubts on the part of the author as to his impartiality. However, the Committee found that the remarks were not such as to objectively justify the author's fears on that score. Accordingly, the Committee found that the facts before it did not disclose a violation of article 14, paragraph 1, of the Covenant.

**(h) Right to be tried without undue delay (Covenant, art. 14, para. 3 (c))**

148. In case No. 1466/2006 (*Lumanog and Santos v. the Philippines*), the authors claimed that the decision of the Supreme Court not to review their death sentence and to transfer their case to the Court of Appeals constituted a violation of article 14, paragraph 3 (c), of the Covenant. Their case had been pending for five years before the Supreme Court and had been ready for a decision when it had been transferred to the Court of Appeals, thereby unduly delaying the hearing. In addition, the case had been pending before the Court of Appeals since January 2005, but had still not been considered.

149. The Committee recalled that the right of the accused to be tried without undue delay covers not only the period of time between the bringing of formal charges against the accused and the commencement of the trial, but also the period of time up until the final appeal judgement is rendered. All stages, whether at first instance or on appeal, must be completed “without undue delay”. Therefore, the Committee should not have limited its consideration exclusively to the part of the judicial proceedings subsequent to the transfer of the case from the Supreme Court to the Court of Appeals. It should have taken into account the totality of time, i.e. from the moment the authors were charged until the final disposition by the Court of Appeals.

150. The Committee recalled that the right of the accused to be tried without undue delay is not only intended to avoid keeping persons too long in a state of uncertainty about their fate and, if held in detention during the period of the trial, to ensure that such deprivation of liberty does not last longer than necessary in the circumstances of the specific case, but also to serve the interests of justice. In this connection, the Committee noted that the authors had been in continuous detention since 1996 and that their conviction, dated 30 July 1999, had been pending for review before the Supreme Court for five years before being transferred to the Court of Appeals on 18 January 2005. The case has still not been heard. Although the establishment of an additional layer of jurisdiction to review death penalty cases is a positive step in the interest of the accused, States parties have an obligation to organize their system of administration of justice in such a manner as to ensure an effective and expeditious disposal of the cases. Accordingly, the Committee found that there had been a violation of article 14, paragraph 3, of the Covenant.

**(i) Right not to be compelled to testify against oneself or to confess guilt (Covenant, art. 14, para. 3 (g))**

151. In cases Nos. 1209/2003, 1231/2003 and 1241/2004 (*Sharifova et al. v. Tajikistan*), the Committee recalled its previous jurisprudence that the wording in article 14, paragraph 3 (g), must be understood in terms of the absence of any direct or indirect physical or psychological coercion by the investigating authorities on the accused with a view to obtaining a confession of guilt. The burden is on the State to prove that statements made by the accused have been given of their own free will. In the circumstances, the Committee concluded that the authors, who had been forced to confess under torture, had been victims of a violation of article 7, read together with article 14, paragraph 3 (g), of the Covenant.

152. The Committee also concluded that there had been violations of this provision, read together with article 7 of the Covenant, in case No. 1150/2003 (*Uteev v. Uzbekistan*).

**(j) Right of juvenile persons to a procedure that takes account of their age and the desirability of promoting their rehabilitation (Covenant, art. 14, para. 4)**

153. In cases Nos. 1209/2003, 1231/2003 and 1241/2004 (*Sharifova et al. v. Tajikistan*), the authors claimed that at the time of their arrest two of the alleged victims had been minors, but they had not benefited from the special guarantees prescribed for criminal investigation of juveniles and had not had access to a defence lawyer. The Committee recalled that juveniles must enjoy at least the same guarantees and protection as those accorded to adults under article 14 of the Covenant. In addition, juveniles need special protection in criminal proceedings. They should, in particular, be informed directly of the charges against them and, if appropriate,

through their parents or legal guardians, be provided with appropriate assistance in the preparation and presentation of their defence. In this case, the Committee concluded that there had been a violation of article 14, paragraph 4, of the Covenant.

**(k) Right to appeal (Covenant, art. 14, para. 5)**

154. In cases Nos. 1351/2005 and 1352/2005 (*Hens Serena and Corujo Rodríguez v. Spain*), the authors, who had been convicted by the highest ordinary court, claimed that they had not had the right to a review of their conviction and sentence by a higher court, in accordance with article 14, paragraph 5, of the Covenant. The Committee recalled that the expression “according to law” is not intended to mean that the very existence of a right to review is left to the discretion of States parties. The State party’s legislation may well provide that certain individuals, by virtue of their position, should be tried in a higher court than would normally be the case, but that cannot in itself detract from the accused’s right to have their conviction and sentence reviewed by a higher court. The Committee therefore found a violation of article 14, paragraph 5, of the Covenant.

155. In case No. 1360/2005 (*Oubiña Piñeiro v. Spain*), in which the author claimed that the evidence and the sentence handed down by the lower court had not been reviewed by a higher court, the Committee considered that the review by the Supreme Court was in accordance with article 14, paragraph 5, of the Covenant. It therefore concluded that there had been no violation of that provision.

156. In case No. 1542/2007 (*Aboushanif v. Norway*), the author complained that the Court of Appeal did not provide any argument for its denial of leave to appeal against his conviction and sentence. Owing to the nature and the complexity of his case, reasoned arguments for the preliminary dismissal of his appeal were required in order to ascertain that his appeal had been adequately reviewed in accordance with the requirements of article 14, paragraph 5, of the Covenant. The Committee recalled its jurisprudence, according to which, while States parties are free to set the modalities of appeal, they are under an obligation, under article 14, paragraph 5, to make a substantive review of the conviction and sentence. In this case, the judgement of the Court of Appeal did not provide any substantive reason at all for its determination that it was clear that the appeal would not succeed, which put into question the existence of a substantive review of the author’s conviction and sentence. The Committee considered that, in the circumstances of the case, the lack of a duly reasoned judgement, even a brief one, providing a justification for the court’s view that the appeal would be unsuccessful, impaired the effective exercise by the author of the right to have his conviction reviewed as required by article 14, paragraph 5, of the Covenant.

**(l) Right not to be tried or punished again for an offence for which one has already been finally convicted or acquitted (Covenant, art. 14, para. 7)**

157. In case No. 1310/2004 (*Babkin v. Russian Federation*), the author claimed that during a trial in which he was convicted of murder and a firearms offence, he was also charged with forgery, of which he had already been convicted a year earlier. The Committee concluded that there had been a violation of article 14, paragraph 1, of the Covenant, read together with paragraph 7, compounded by reason of its effects on the possibility of a fair trial. By having that charge brought against him again, in combination with other more serious charges, the jury was exposed to potentially prejudicial material having no relevance to the charges which the author was properly facing.

**(m) Right not to be subjected to unlawful attacks on one's honour and reputation (Covenant, art. 17)**

158. In case No. 1450/2006 (*Komarovski v. Turkmenistan*), the Committee considered that the publication of a book falsely portraying the author as the writer of the book constituted unlawful interference with the author's privacy and an unlawful attack on his honour and reputation, in violation of article 17, paragraph 1, of the Covenant.

159. In case No. 1482/2006 (*M.G. v. Germany*), the author complained that, in the course of civil proceedings brought against her by members of her family, the court, without hearing or seeing her in person, had ordered her to undergo a psychiatric examination in order to assess whether she was capable of taking part in legal proceedings. The Committee found that to issue such an order solely on the basis of the case file and without having heard or seen the author in person was not reasonable in the particular circumstances of the case. The Committee therefore found that the interference with the author's privacy and her honour and reputation was disproportionate to the end sought and therefore arbitrary, and that her rights under article 17, in conjunction with article 14, paragraph 1, of the Covenant had been violated.

**(n) Right to freedom of thought, conscience and religion (Covenant, art. 18)**

160. In case No. 1474/2006 (*Prince v. South Africa*), the author, an adherent of Rastafarianism, claimed a violation of article 18, paragraph 1, given that the law prohibited the use of cannabis in Rastafarian rituals. He argued that the use of cannabis was accepted to be an integral part of that religion and fundamental to its practice. The Committee observed that the prohibition of the possession and use of cannabis, which constituted the limitation on the author's freedom to manifest his religion, was prescribed by the law. According to the State party, the law in question was designed to protect public safety, order, health, morals or the fundamental rights and freedoms of others, based on the harmful effects of cannabis, and that an exemption allowing a system of importation, transportation and distribution to Rastafarians might constitute a threat to the public at large, were any of the cannabis, however small an amount, to enter into general circulation. Under these circumstances, the Committee could not conclude that the prohibition of the possession and use of drugs, without any exemption for specific religious groups, was not proportionate and necessary to achieve this purpose. The failure of the State party to grant Rastafarians an exemption to its general prohibition of possession and use of cannabis was, in the circumstances of the case, justified under article 18, paragraph 3. The Committee accordingly found that the facts of the case did not disclose a violation of article 18, paragraph 1.

**(o) Right to vote and to be elected (Covenant, art. 25 (b))**

161. In case No. 1373/2005 (*Dissanakye v. Sri Lanka*), the author had been stripped of his electoral rights for seven years after having been convicted for having stated at a public meeting that he would not accept any "disgraceful decision" of the Supreme Court, in relation to a pending opinion on the exercise of defence powers between the President and the Minister of Defence. The Committee recalled that the exercise of the right to vote and to be elected may not be suspended or excluded except on grounds, established by law, which are objective and reasonable. If a conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence. The Committee noted that, in this case, while the restrictions in question were established by law, the State party had

provided no argument as to how the restrictions on the author's right to vote or stand for office were proportionate to the offence and sentence. Given that the restrictions relied on the author's conviction and sentence, which the Committee had found to be arbitrary, as well as the fact that the State party had failed to adduce any justifications about their reasonableness or proportionality, the Committee concluded that the prohibition on the author's right to be elected or to vote for a period of seven years after conviction and completion of sentence was unreasonable and thus amounted to a violation of article 25 (b) of the Covenant.

**(p) Right of every citizen to have access, on general terms of equality, to public service in his country (Covenant, art. 25 (c))**

162. In case No. 1376/2005 (*Bandaranayake v. Sri Lanka*), concerning the dismissal of a judge following disciplinary proceedings marked by a number of irregularities, the Committee found that the failure of the Judicial Service Commission to provide the author with all of the documentation necessary to ensure that he had a fair hearing, in particular its failure to inform him of the reasoning behind the Committee of Inquiry's guilty verdict, on the basis of which he was ultimately dismissed, in their combination amounted to a dismissal procedure which did not respect the requirements of basic procedural fairness and thus was unreasonable and arbitrary. Accordingly, the Committee found that the dismissal procedure had been conducted neither objectively nor reasonably and had failed to respect the author's right of access, on general terms of equality, to public service in his country. Consequently, there had been a violation of article 25 (c) of the Covenant.

**(q) The right to equality before the law and the prohibition of discrimination (Covenant, art. 26)**

163. In cases Nos. 1448/2006 (*Kohoutek*), 1463/2006 (*Gratzinger*), 1533/2006 (*Ondracka*), 1484/2006 (*Lněnička*), 1485/2006 (*Vlcek*), 1488/2006 (*Süsser*) and 1497/2006 (*Preiss*) against the Czech Republic, the facts were nearly identical. The authors claimed to have been denied the right to restitution of the property which had been confiscated when they left the former Czechoslovakia for political reasons and took up residence in another country, of which they became citizens. The Committee recalled its findings in similar cases concerning the Czech Republic and concluded that there had been a violation of article 26 of the Covenant. Taking into account that the State party itself was responsible for the departure of the authors from the former Czechoslovakia in seeking refuge in another country, where they had eventually established permanent residence and obtained that country's citizenship, the Committee considered that it would be incompatible with the Covenant to require the authors to meet the condition of Czech citizenship for the restitution of their property or alternatively for its compensation.

164. In case No. 1223/2003 (*Tsarjov v. Estonia*) the author, who had been a member of the military personnel of the former Soviet Union, claimed to be the victim of discrimination on the grounds of ethnic and social origin because the Estonian Aliens Act restricted the issuance or extension of a residence permit of an alien who had served as a member of the armed forces of a foreign State, except citizens of the member States of the European Union or NATO. The Committee did not conclude that there had been a violation of article 26. It noted that the category of people excluded by the State party's legislation from being able to benefit from permanent residence permits was closely linked to considerations of national security, and that,

where such justification for differentiated treatment was persuasive, it was unnecessary that the application of the legislation be additionally justified in the circumstances of an individual case. The Committee took a similar decision in case No. 1423/2005 (*Sipin v. Estonia*).

165. In case No. 1306/2004 (*Haraldsson and Sveinsson v. Iceland*) the authors, who owned a fishing vessel, claimed that they had been allocated very small harvest rights and that the Fisheries Agency had refused to grant them a quota. As a result, they had to lease all catch entitlements from others, at exorbitant prices, and eventually faced bankruptcy. They claimed to be victims of a violation of article 26 of the Covenant, because they were lawfully obliged to pay money to a privileged group of fellow citizens, in order to be allowed to pursue the occupation of their choice.

166. The Committee recalled that under article 26, States parties are bound, in their legislative, judicial and executive action, to ensure that everyone is treated equally and without discrimination based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Discrimination should not only be understood to imply exclusions and restrictions but also preferences based on any such grounds if they have the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of rights and freedoms. The Committee recalled that not every distinction constitutes discrimination, in violation of article 26, but that distinctions must be justified on reasonable and objective grounds, in pursuit of an aim that is legitimate under the Covenant.

167. The Committee noted, firstly, that the authors' claim was based on the differentiation between two groups of fishers. The first group received for free a quota share because they had engaged in fishing of quota-affected species during the period between 1 November 1980 and 31 October 1983. Members of this group were not only entitled to use these quotas themselves, but could sell or lease them to others. The second group of fishers had to buy or rent a quota share from the first group if they wished to fish quota-affected species, for the simple reason that they had not owned and operated fishing vessels during the reference period. The Committee concluded that such distinction was based on grounds equivalent to those of property. It also considered that, while the aim of the distinction adopted by the State party, namely the protection of its fish stocks, which constitute a limited resource, was a legitimate one, the State party had not shown that this particular design and the modalities of implementation of the quota system met the requirement of reasonableness. The Committee therefore concluded that, in the particular circumstances of the case, the property entitlement privilege accorded permanently to the original quota owners, to the detriment of the authors, was not based on reasonable grounds, which disclosed a violation of article 26. Several members of the Committee presented individual dissenting opinions on the case.

#### **F. Remedies called for under the Committee's Views**

168. After the Committee has made a finding of a violation of a provision of the Covenant in its Views under article 5, paragraph 4, of the Optional Protocol, it proceeds to ask the State party to take appropriate steps to remedy the violation. Often, it also reminds the State party of its obligation to prevent similar violations in the future. When pronouncing a remedy, the Committee observes that:

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

The time limit for the reply was extended from 90 to 180 days at the ninety-first session.

169. During the period under review the Committee took the following decisions regarding remedies.

170. In case No. 1150/2003 (*Uteev v. Uzbekistan*), in which the author’s brother was sentenced to death in violation of the guarantees set out in article 7 and article 14, paragraph 3 (g), of the Covenant, and thus also in breach of article 6, paragraph 2, the Committee found that the State party was under an obligation to provide the author with an effective remedy in the form of compensation.

171. In case No. 1186/2003 (*Titiahonjo v. Cameroon*) concerning the violation of several articles of the Covenant arising from the death of the author’s husband while in detention, the Committee pointed out that the State party was under the obligation to provide the author with an effective remedy, in the form of compensation and the institution of criminal proceedings against all those responsible for the treatment of Mr. Titiahonjo upon arrest and in detention and his subsequent death, as well as against those responsible for the violation of article 7 suffered by the author herself. A similar decision was taken in case No. 1436/2005 (*Sathasivam v. Sri Lanka*), which concerned the victim’s death in detention.

172. In cases Nos. 1209/2003, 1231/2003 and 1241/2004 (*Sharifova et al. v. Tajikistan*) concerning violations of articles 7, read together with article 14, paragraph 3 (g); 10 and 14, paragraphs 1 and 4, arising from the detention and torture of the victims, the Committee pointed out that the State party was under an obligation to provide the victims with an effective remedy, including early release and compensation.

173. In case No. 1306/2004 (*Haraldsson and Sveinsson v. Iceland*), in which the Committee considered that the authors had been discriminated against in violation of article 26 in the allocation of fishing quotas by the State, the Committee asked the State party to provide the authors with an effective remedy, in the form of adequate compensation and review of its fisheries management system.

174. In case No. 1310/2004 (*Babkin v. Russian Federation*), concerning a violation of article 14, paragraph 1, read in conjunction with paragraph 7, of the Covenant, the Committee declared that the State party was under an obligation to provide the author, who had been tried and sentenced twice for forgery, with such appropriate forms of remedy as compensation and a retrial in relation to the author’s murder charges.

175. In case No. 1351 and 1352/2005 (*Hens and Corujo v. Spain*), in which the Committee found a violation of article 14, paragraph 5, of the Covenant, given that the authors’ right to the

review of their conviction and sentence had not been guaranteed, the Committee pointed out that the State party was under an obligation to provide the victims with an effective remedy, in the form of compensation.

176. In case No. 1376/2005 (*Bandaranayake v. Sri Lanka*), in which the Committee found a violation of article 25 (c) in conjunction with article 14, paragraph 1, the Committee declared that the State party was under an obligation to provide the author with an effective remedy, including appropriate compensation.

177. In case No. 1422/2005 (*El Hassy v. Libyan Arab Jamahiriya*), in which the Committee found violations of several articles of the Covenant in regard to the detention and subsequent disappearance of the author's brother, the Committee pointed out that the State party was under an obligation to provide the author with an effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's brother, his immediate release if he was still alive, adequate information resulting from its investigation, and adequate compensation for the author and his family for the violations suffered by the author's brother. The Committee also considered the State party duty-bound to conduct thorough investigations into alleged violations of human rights, particularly enforced disappearances and acts of torture, and also to prosecute, try and punish those held responsible for such violations.

178. In cases Nos. 1448/2006 (*Kohoutek*), 1463/2006 (*Gratzinger*), 1533/2006 (*Ondracka*), 1484/2006 (*Lněnička*), 1485/2006 (*Vlcek*), 1488/2006 (*Süsser*) and 1497/2006 (*Preiss*) against the Czech Republic, concerning violations of article 26 in regard to restitution of property to persons whose property had been confiscated under Communist rule, the Committee pointed out that the State party was under an obligation to provide the authors with an effective remedy, including compensation if the property could not be returned. The Committee also urged the State party to review its legislation to ensure that all persons enjoyed both equality before the law and equal protection of the law.

179. In case No. 1426/2005 (*Banda v. Sri Lanka*), concerning a violation of article 2, paragraph 3, read together with article 7, arising from the assault suffered by the author at the hands of members of the army, the Committee pointed out that the State party was under an obligation to provide the author with an effective remedy, including adequate compensation. The State party was also under an obligation to take effective measures to ensure that the Magistrate's Court proceedings were expeditiously completed and that the author was granted full reparation.

180. In case No. 1466/2006 (*Lumanog and Santos v. the Philippines*), in which the Committee considered that the delay in the appeal against the authors' conviction constituted a violation of article 14, paragraph 3 (c), the Committee pointed out that the State party was under an obligation to provide the authors with an effective remedy, including the prompt review of their appeal before the Court of Appeals and compensation for the undue delay.

181. In case No. 1542/2007 (*Aboushanif v. Norway*), concerning a violation of article 14, paragraph 5, the Committee found that the State party was under an obligation to provide the author with an effective remedy, including the review of his appeal before the Court of Appeals and compensation.



182. In case No. 1450/2006 (*Komarovski v. Turkmenistan*), concerning a violation of article 17, paragraph 1, the Committee asked the State party to make a public retraction of the imputed authorship of the book that had been falsely published under his name.

183. In cases Nos. 1461/2006, 1462/2006, 1476/2006 and 1477/2006 (*Maksudov et al. v. Kyrgyzstan*), the Committee determined that the State party was under an obligation to provide the authors with an effective remedy, including adequate compensation, and to put in place measures for monitoring their situation. The State party was also urged to provide the Committee with updated information on the authors' current situation on a regular basis.

184. In case No. 1482/2006 (*M.G. v. Germany*), concerning a violation of article 17, the Committee found that the State party was under an obligation to provide the author with an effective remedy, including compensation.

185. In case No. 1486/2006 (*Kalamiotis v. Greece*), concerning violations of article 2, paragraph 3, read together with article 7, the Committee determined that the State party was under an obligation to provide the author with an effective remedy and appropriate compensation.

186. In case No. 1376/2005 (*Bandaranayake v. Sri Lanka*), concerning violations of articles 9 and 25 (b), the Committee asked the State party to provide the author with an effective remedy, including compensation and the restoration of his right to vote and be elected, and to make such changes to the law and practice as were necessary to avoid similar violations in the future.

## **CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL**

187. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

188. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

189. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

190. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

191. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

192. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2008, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

193. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/62/40) is set out in annex VII to volume II of the present annual report.

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Algeria (9)	992/20001, <i>Bousroual</i> A/61/40				X	
	1172/2003, <i>Madani</i> A/62/40				X	
	1085/2002, <i>Taright</i> A/61/40				X	
	1173/2003, <i>Benhadj</i> A/62/40				X	
	1196/2003, <i>Boucherf</i> A/61/40				X	
	1297/2004, <i>Medjnoune</i> A/61/40				X A/63/40	
	1327/2004, <i>Grioua</i> A/62/40				X	
	1328/2004, <i>Kimouche</i> A/62/40				X	
	1439/2005, <i>Aber</i> A/62/40				X	
Angola (2)	711/1996, <i>Dias</i> A/55/40	X A/61/40		X A/61/40		X
	1128/2002, <i>Marques</i> A/60/40	X A/61/40		X A/61/40		X
Argentina (1)	400/1990, <i>Mónaco de Gallichio</i> A/50/40	X A/51/40				X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Australia (24)	488/1992, <i>Toonen</i> A/49/40	X A/51/40	X			
	560/1993, A. A/52/40	X A/53/40, A/55/40, A/56/40		X		X
	802/1998, <i>Rogerson</i> A/58/40	Finding of a violation was considered sufficient.	X			
	900/1999, C. A/58/40	X A/58/40, CCPR/C/80/FU/1 A/60/40, A/62/40				X
	930/2000, <i>Winata et al.</i> A/56/40	X CCPR/C/80/FU/1 A/57/40, A/60/40 A/62/40 and A/63/40				
	941/2000, <i>Young</i> A/58/40	X A/58/40, A/60/40 A/62/40 and A/63/40		X		X
	1011/2002, <i>Madafferi</i> A/59/40	X A/61/40	X			
	1014/2001, <i>Baban et al.</i> A/58/40	X A/60/40, A/62/40		X		X
	1020/2001, <i>Cabal and Pasini</i> A/58/40	X A/58/40, CCPR/C/80/FU/1		X <sup>a</sup>		X
	1036/2001, <i>Faure</i> A/61/40	X A/61/40				X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Australia ( <i>cont'd</i> )	1050/2002, <i>Rafie and Safdel</i> A/61/40	X A/62/40 and A/63/40				X
	1157/2003, <i>Coleman</i> A/61/40	X A/62/40				X A/62/40
	1069/2002, <i>Bakhitiyari</i> A/59/40	X A/60/40, A/62/40		X		X
	1184/2003, <i>Brough</i> A/61/40	X A/62/40				X A/62/40
	1255, 1256, 1259, 1260, 1266, 1268, 1270, and 1288/2004, <i>Shams, Atvan, Shahrooei, Saadat, Ramezani, Boostani, Behrooz and Sefed</i> A/62/40	X A/63/40				X
	1324/2004, <i>Shafiq</i> A/62/40	X A/62/40 and A/63/40				X A/62/40
	1347/2005, <i>Dudko</i> A/62/40	X A/63/40				X A/63/40
Austria (6)	415/1990, <i>Pauger</i> A/57/40	X A/47/40, A/52/40		X		X
	716/1996, <i>Pauger</i> A/54/40	X A/54/40, A/55/40, A/57/40 CCPR/C/80/FU/1		X*		X
*Note: Although the State party has made amendments to its legislation as a result of the Committee's findings, the legislation is not retroactive and the author himself has not been provided with a remedy.						

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Austria ( <i>cont'd</i> )	965/2001, <i>Karakurt</i> A/57/40	X A/58/40, CCPR/C/80/FU/1, A/61/40				X
	1086/2002, <i>Weiss</i> A/58/40	X A/58/40, A/59/40, CCPR/C/80/FU/1, A/60/40, A/61/40				X
	1015/2001, <i>Perterer</i> A/59/40	X A/60/40, A/61/40				X
	1454/2006, <i>Lederbauer</i> A/62/40	X A/63/40				X
Belarus (14)	780/1997, <i>Laptsevich</i> A/55/40				X A/56/40, A/57/40	X
	814/1998, <i>Pastukhov</i> A/58/40				X A/59/40	X
	886/1999, <i>Bondarenko</i> A/58/40	X A/59/40, A/62/40 and A/63/40				
	887/1999, <i>Lyashkevich</i> A/58/40	X A/59/40, A/62/40 and A/63/40				
	921/2000, <i>Dergachev</i> A/57/40				X	X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Belarus ( <i>cont'd</i> )	927/2000, <i>Svetik</i> A/59/40	X A/60/40, A/61/40 and A/62/40				X A/62/40
	1009/2001, <i>Shchetko</i> A/61/40				X	
	1022/2001, <i>Velichkin</i> A/61/40				X A/61/40	X
	1039/2001, <i>Boris et al.</i> A/62/40	X A/62/40				X
	1047/2002, <i>Sinitsin, Leonid</i> A/62/40				X	
	1100/2002, <i>Bandazhewsky</i> A/61/40	X A/62/40				X
	1207/2003, <i>Malakhovsky</i> A/60/40	X A/61/40		X		X
	1274/2004, <i>Korneenko</i> A/62/40	X A/62/40				X A/62/40
	1296/2004, <i>Belyatsky</i> A/62/40	A/63/40				X
	Bolivia (2)	176/1984, <i>Peñarrieta</i> A/43/40	X A/52/40			
336/1988, <i>Fillastre and Bizouarne</i> A/52/40		X A/52/40	X			
Burkina Faso (1)	1159/2003, <i>Sankara</i> A/61/40	X A/61/40, A/62/40 and A/63/40	X			

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Cameroon (5)	458/1991, <i>Mukong</i> A/49/40				X A/52/40	X
	630/1995, <i>Mazou</i> A/56/40	X A/57/40	X A/59/40			
	1134/2002, <i>Gorji-Dinka</i> A/60/40				X	X
	1186/2003, <i>Titiahongo</i> A/63/40				X	
	1353/2005, <i>Afuson</i> A/62/40				X	
Canada (12)	24/1977, <i>Lovelace</i> Selected Decisions, vol. 1	X Selected Decisions, vol. 2, annex 1	X			
	27/1978, <i>Pinkney</i> Selected Decisions, vol. 1				X	X
	167/1984, <i>Ominayak et al.</i> A/45/50	X A/59/40,* A/61/40, A/62/40				X A/62/40
	*Note: According to this report, information was provided on 25 November 1991 (unpublished). It appears from the follow-up file that, in this response, the State party stated that the remedy was to consist of a comprehensive package of benefits and programmes valued at \$Can 45 million and a 95 square mile reserve. Negotiations were still ongoing as to whether the Lubicon Lake Band should receive additional compensation.					



State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Canada ( <i>cont'd</i> )	359/1989, <i>Ballantyne and Davidson</i> A/48/40	X A/59/40*	X			
	*Note: According to this report, information was provided on 2 December 1993 (unpublished). It appears from the follow-up file that, in this response, the State party stated that sections 58 and 68 of the Charter of the French Language, the legislation which was central to the communication, will be modified by Bill 86 (S.Q. 1993, c. 40). The date for the entry into force of the new law was to be around January 1994.					
	385/1989, <i>McIntyre</i> A/48/40	X*	X			
	*Note: See footnote on case 359/1989 above.					
	455/1991, <i>Singer</i> A/49/40	Finding of a violation was considered sufficient.	X			
	469/1991, <i>Ng</i> A/49/40	X A/59/40*	X			
	*Note: According to this report, information was provided on 3 October 1994 (unpublished). The State party transmitted the Views of the Committee to the Government of the United States of America and asked it for information concerning the method of execution currently in use in the State of California, where the author faced criminal charges. The Government of the United States of America informed Canada that the law in the State of California currently provides that an individual sentenced to capital punishment may choose between gas asphyxiation and lethal injection. In the event of a future request for an extradition with the possibility of the death penalty, the Views of the Committee in this communication will be taken into account.					
633/1995, <i>Gauthier</i> A/54/40	X A/55/40, A/56/40, A/57/40	X A/59/40				

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Canada ( <i>cont'd</i> )	694/1996, <i>Waldman</i> A/55/40	X A/55/40, A/56/40, A/57/40, A/59/40, A/61/40		X		X
	829/1998, <i>Judge</i> A/58/40	X A/59/40, A/60/40	X A/60/40, A/61/40			X* A/60/40
	*Note: The Committee decided that it should monitor the outcome of the author's situation and take any appropriate action.					
	1051/2002, <i>Ahani</i> A/59/40	X A/60/40, A/61/40		X		X* A/60/40
	*Note: The State party went some way to implementing the Views: the Committee has not specifically said implementation is satisfactory.					
	1052/2002, <i>Tcholatch</i> A/62/40	Not due				
Central African Republic (1)	428/1990, <i>Bozize</i> A/49/40	X A/51/40	X A/51/40			
Colombia (15)	45/1979, <i>Suárez de Guerrero</i> Fifteenth session Selected Decisions, vol. 1	X A/52/40*				X
*Note: In this case, the Committee recommended that the State party should take the necessary measures to compensate the husband of Mrs. Maria Fanny Suárez de Guerrero for the death of his wife and to ensure that the right to life is duly protected by amending the law. The State party replied that the Ministerial Committee set up pursuant to enabling legislation No. 288/1996 had recommended that compensation be paid to the author.						

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Colombia ( <i>cont'd</i> )	46/1979, <i>Fals Borda</i> Sixteenth session Selected Decisions, vol. 1	X A/52/40*		X		X
	*Note: In this case, the Committee recommended adequate remedies and for the State party to adjust its laws in order to give effect to the right set forth in article 9 (4) of the Covenant. The State party responded that, given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to enabling legislation No. 288/1996 did not recommend that compensation should be paid to the victim.					
	64/1979, <i>Salgar de Montejo</i> Fifteenth session Selected Decisions, vol. 1	X A/52/40*		X		X
	*Note: In this case, the Committee recommended adequate remedies and for the State party to adjust its laws in order to give effect to the right set forth in article 14 (5) of the Covenant. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	161/1983, <i>Herrera Rubio</i> Thirty-first session Selected Decisions, vol. 2	X A/52/40*				X
	*Note: The Committee recommended effective measures to remedy the violations that Mr. Herrera Rubio has suffered and further to investigate said violations, to take action thereon as appropriate and to take steps to ensure that similar violations do not occur in the future. The State party provided compensation to the victim.					
	181/1984, <i>Sanjuán Arévalo</i> brothers A/45/40	X A/52/40*		X		X
	*Note: The Committee takes this opportunity to affirm that it would welcome information on any relevant measures taken by the State party in respect of the Committee's Views and, in particular, invites the State party to inform the Committee of further developments in the investigation of the disappearance of the Sanjuán brothers. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Colombia ( <i>cont'd</i> )	195/1985, <i>Delgado Paez</i> A/45/40	X A/52/40*				X
	*Note: In accordance with the provisions of article 2 of the Covenant, the State party is under an obligation to take effective measures to remedy the violations suffered by the author, including the granting of appropriate compensation, and to ensure that similar violations do not occur in the future. The State party provided compensation.					
	514/1992, <i>Fei</i> A/50/40	X A/51/40*		X		X
	*Note: The Committee recommended that the State party provide the author with an effective remedy. In the Committee's opinion, this entails guaranteeing the author regular access to her daughters, and that the State party ensure that the terms of the judgements in the author's favour are complied with. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	563/1993, <i>Bautista de Arellana</i> A/52/40	X A/52/40, A/57/40 A/58/40, A/59/40 and A/63/40	X			
	612/1995, <i>Arhuacos</i> A/52/40				X	X
	687/1996, <i>Rojas García</i> A/56/40	X A/58/40, A/59/40				X
	778/1997, <i>Coronel et al.</i> A/58/40	X A/59/40				X
	848/1999, <i>Rodríguez Orejuela</i> A/57/40	X A/58/40, A/59/40		X		X
859/1999, <i>Jiménez Vaca</i> A/57/40	X A/58/40, A/59/40, A/61/40		X		X	

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Colombia ( <i>cont'd</i> )	1298/2004, <i>Becerra</i> A/61/40	X A/62/40				X A/62/40
	1361/2005, <i>Casadiego</i> A/62/40	X A/63/40				X
Croatia (1)	727/1996, <i>Paraga</i> A/56/40	X A/56/40, A/58/40				X
Czech Republic (19)*	*Note: For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.					
	516/1992, <i>Simunek et al.</i> A/50/40	X A/51/40,* A/57/40, A/58/40, A/61/40, A/62/40				X
	*Note: One author confirmed that the Views were partially implemented. The others claimed that their property was not restored to them or that they were not compensated.					
	586/1994, <i>Adam</i> A/51/40	X A/51/40, A/53/40 A/54/40, A/57/40, A/61/40, A/62/40				X
	765/1997, <i>Fábryová</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40				X
	774/1997, <i>Brok</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40	X (A/61/40)			
	747/1997, <i>Des Fours Walderode</i> A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40				X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Czech Republic ( <i>cont'd</i> )	757/1997, <i>Pezoldova</i> A/58/40	X A/60/40, A/61/40 and A/62/40				X
	823/1998, <i>Czernin</i> A/60/40	X A/62/40				X
	857/1999, <i>Blazek et al.</i> A/56/40	X A/62/40				X
	945/2000, <i>Marik</i> A/60/40	X A/62/40				X
	946/2000, <i>Patera</i> A/57/40	X A/62/40				X
	1054/2002, <i>Kriz</i> A/61/40	X A/62/40				X
	1445/2006, <i>Polacek</i> A/62/40				X	
	1448/2006, <i>Kohoutek</i> A/63/40	Not due				
	1463/2006, <i>Gratzinger</i> A/63/40				X	
	1484/2006, <i>Lnenicka</i> A/63/40	Not due				
	1485/2006, <i>Vlcek</i> A/63/40	Not due				
	1488/2006, <i>Süsser</i> A/63/40				X	

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Czech Republic ( <i>cont'd</i> )	1497/2006, <i>Preiss</i> A/63/40	Not due				
	1533/2006, <i>Ondracka</i> A/63/40				X	
Democratic Republic of the Congo (14)*	<i>*Note: See A/59/40 for details of follow-up consultations.</i>					
	16/1977, <i>Mbenge</i> Eighteenth session Selected Decisions, vol. 2					
	90/1981, <i>Luyeye</i> Nineteenth session Selected Decisions, vol. 2				X A/61/40	X
	124/1982, <i>Muteba</i> Twenty-second session Selected Decisions, vol. 2				X A/61/40	X
	138/1983, <i>Mpandanjila et al.</i> Twenty-seventh session Selected Decisions, vol. 2				X A/61/40	X
	157/1983, <i>Mpaka Nsusu</i> Twenty-seventh session Selected Decisions, vol. 2				X A/61/40	X
	194/1985, <i>Miango</i> Thirty-first session Selected Decisions, vol. 2				X A/61/40	X
	241/1987, <i>Birindwa</i> A/45/40				X A/61/40	X
	242/1987, <i>Tshisekedi</i> A/45/40				X A/61/40	X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Democratic Republic of the Congo ( <i>cont'd</i> )	366/1989, <i>Kanana</i> A/49/40				X A/61/40	X
	542/1993, <i>Tshishimbi</i> A/51/40				X A/61/40	X
	641/1995, <i>Gedumbe</i> A/57/40				X A/61/40	X
	933/2000, <i>Adrien Mundy</i> <i>Bisyo et al.</i> (68 judges) A/58/40				X A/61/40	X
	962/2001, <i>Marcel Mulezi</i> A/59/40				X A/61/40	X
	1177/2003, <i>Wenga and Shandwe</i> A/61/40				X	
Denmark (1)	1222/2003, <i>Byaruhunga</i> A/60/40	X* A/61/40	X			
*Note: State party requested a reopening of consideration of the case.						
Dominican Republic (3)	188/1984, <i>Portorreal</i> Thirty-first session Selected Decisions, vol. 2	X A/45/40	X A/45/40			
	193/1985, <i>Giry</i> A/45/40	X A/52/40, A/59/40		X		X
	449/1991, <i>Mojica</i> A/49/40	X A/52/40, A/59/40		X		X



State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Ecuador (5)	238/1987, <i>Bolaños</i> A/44/40	X A/45/40	X A/45/40			
	277/1988, <i>Terán Jijón</i> A/47/40	X A/59/40*		X		X
	*Note: According to this report, information was provided on 11 June 1992, but was not published. It appears from the follow-up file that in this response, the State party merely forwarded copies of two reports of the national police on the investigation of the crimes in which Mr. Terán Jijón was involved, including the statements he made on 12 March 1986 concerning his participation in such crimes.					
	319/1988, <i>Cañón García</i> A/47/40			X		X
	480/1991, <i>Fuenzalida</i> A/51/40	X A/53/40, A/54/40	X			
	481/1991, <i>Villacrés Ortega</i> A/52/40	X A/53/40, A/54/40	X			
Equatorial Guinea (3)	414/1990, <i>Primo Essono</i> A/49/40	A/62/40*			X	X
	468/1991, <i>Oló Bahamonde</i> A/49/40	A/62/40*			X	X
	1152 and 1190/2003, <i>Ndong et al.</i> and <i>Mic Abogo</i> A/61/40	A/62/40*			X	
* The State party has not replied but it has met several times with the Rapporteur.						
Finland (5)	265/1987, <i>Vuolanne</i> A/44/40	X A/44/40	X			
	291/1988, <i>Torres</i> A/45/40	X A/45/40	X A/45/40			

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Finland ( <i>cont'd</i> )	387/1989, <i>Karttunen</i> A/48/40	X A/54/40	X			
	412/1990, <i>Kivenmaa</i> A/49/40	X A/54/40	X			
	779/1997, <i>Äärelä et al.</i> A/57/40	X A/57/40, A/59/40				X
France (6)	196/1985, <i>Gueye et al.</i> A/44/40	X A/51/40	X			
	549/1993, <i>Hopu and Bessert</i> A/52/40	X A/53/40	X			
	666/1995, <i>Foin</i> A/55/40	Finding of a violation was considered sufficient.	N/A			
	689/1996, <i>Maille</i> A/55/40	Finding of a violation was considered sufficient.	N/A			
	690/1996, <i>Venier</i> A/55/40	Finding of a violation was considered sufficient.	N/A			
	691/1996, <i>Nicolas</i> A/55/40	Finding of a violation was considered sufficient.	N/A			
Georgia (5)	623/1995, <i>Domukovsky</i> A/53/40	X A/54/40	X			
	624/1995, <i>Tsiklauri</i> A/53/40	X A/54/40	X			
	626/1995, <i>Gelbekhiani</i> A/53/40	X A/54/40		X		X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Georgia ( <i>cont'd</i> )	627/1995, <i>Dokvadze</i> A/53/40	X A/54/40		X		X
	975/2001, <i>Ratiani</i> A/60/40	X A/61/40				X
Germany (1)	1482/2006, <i>Gerlach</i> A/63/40	Not due				
Greece (2)	1070/2002, <i>Kouldis</i> A/61/40	X A/61/40				X
	1486/2006, <i>Kalamiotis</i> A/63/40	Not due				
Guyana (9)	676/1996, <i>Yasseen and Thomas</i> A/53/40	A/60/40* A/62/40			X A/60/40	X
	728/1996, <i>Sahadeo</i> A/57/40	A/60/40* A/62/40			X A/60/40	X
	838/1998, <i>Hendriks</i> A/58/40	A/60/40* A/62/40			X A/60/40	X
	811/1998, <i>Mulai</i> A/59/40	A/60/40* A/62/40			X A/60/40	X
	812/1998, <i>Persaud</i> A/61/40	A/60/40* A/62/40			X	X
	862/1999, <i>Hussain and Hussain</i> A/61/40	A/60/40* A/62/40			X	X
	867/1999, <i>Smartt</i> A/59/40	A/60/40* A/62/40			X A/60/40	X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Guyana ( <i>cont'd</i> )	912/2000, <i>Ganga</i> A/60/40	A/60/40* A/62/40			X A/60/40	X
	913/2000, <i>Chan</i> A/61/40	A/60/40* A/62/40			X	
* The State party has not replied but it has met several times with the Rapporteur.						
Hungary (3)	410/1990, <i>Párkányi</i> A/47/40	X*		X		X
	*Note: Follow-up information referred to in the State party's reply, dated February 1993 (unpublished), indicates that compensation cannot be paid to the author due to lack of specific enabling legislation.					
	521/1992, <i>Kulomin</i> A/51/40	X A/52/40				X
	852/1999, <i>Borisenko</i> A/58/40	X A/58/40, A/59/40		X		X
Iceland (1)	1306/2004, <i>Haraldsson and Sveinsson</i> A/62/40	X A/63/40				X
Ireland (1)	819/1998, <i>Kavanagh</i> A/56/40	X A/57/40, A/58/40	X A/59/40, A/60/40			
Italy (1)	699/1996, <i>Maleki</i> A/54/40	X A/55/40		X		X
Jamaica (98)	92 cases*					X
	*Note: See A/59/40. Twenty-five detailed replies were received, of which 19 indicated that the State party would not implement the Committee's recommendations; in 2, it promises to investigate; in 1, it announces the author's release (592/1994 - Clive Johnson - see A/54/40). There were 36 general replies indicating that death sentences have been commuted. No follow-up replies in 31 cases.					

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Jamaica ( <i>cont'd</i> )	695/1996, <i>Simpson</i> A/57/40	X A/57/40, A/58/40, A/59/40, A/63/40				X
	792/1998, <i>Higginson</i> A/57/40				X	X
	793/1998, <i>Pryce</i> A/59/40				X	X
	796/1998, <i>Reece</i> A/58/40				X	X
	797/1998, <i>Lobban</i> A/59/40				X	X
	798/1998, <i>Howell</i> A/59/40	X A/61/40				
Kyrgyzstan (4)	1461, 1462, 1476 and 1477/2006, <i>Maksudov,</i> <i>Rahimov, Tashbaev,</i> <i>Pirmatov</i> A/63/40	Not due				
Latvia (1)	884/1999, <i>Ignatane</i> A/56/40	X A/57/40	X A/60/40 <sup>b</sup>			
Libyan Arab Jamahiriya (5)	440/1990, <i>El-Megreisi</i> A/49/40				X	X
	1107/2002, <i>El Ghar</i> A/60/40	X A/61/40, A/62/40				X A/62/40
	1143/2002, <i>Dernawi</i> A/62/40				X	

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Libyan Arab Jamahiriya ( <i>cont'd</i> )	1295/2004, <i>El Awani</i> A/62/40				X	
	1422/2005, <i>El Hassy</i> A/63/40				X	
Lithuania (2)	836/1998, <i>Gelazauskas</i> A/58/40	X A/59/40	X			
	875/1999, <i>Filipovich</i> A/58/40	X A/59/40	X			
Madagascar (4)	49/1979, <i>Marais</i> Eighteenth session Selected Decisions, vol. 2	A/52/40			X*	X
	*Note: According to the Annual Report (A/52/40), the author indicated that he had been released. No further information provided.					
	115/1982, <i>Wight</i> Twenty-fourth session Selected Decisions, vol. 2	A/52/40			X*	X
	*Note: According to the Annual Report (A/52/40), the author indicated that he had been released. No further information provided.					
	132/1982, <i>Jaona</i> Twenty-fourth session Selected Decisions, vol. 2	A/52/40			X	X
	155/1983, <i>Hammel</i> A/42/40 Selected Decisions, vol. 2	A/52/40			X	X
Mauritius (1)	35/1978, <i>Aumeeruddy-Cziffra et al.</i> Twelfth session Selected Decisions, vol. 1	X Selected Decisions, vol. 2, annex 1	X			

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Namibia (2)	760/1997, <i>Diergaardt A/55/40</i>	X A/57/40	X A/57/40			
	919/2000, <i>Muller and Engelhard A/57/40</i>	X A/58/40	X A/59/40			
Netherlands (8)	172/1984, <i>Broeks A/42/40</i>	X A/59/40*	X			
	*Note: According to this report, information was provided on 23 February 1995 (unpublished). The State party indicated that it had retroactively amended its legislation, thereby granting the author a satisfactory remedy. It referred to two cases subsequently considered by the Committee in which no violations of the Covenant were found, namely Lei-van de Meer (No. 478/1991) and Cavalcanti Araujo-Jongen (No. 418/1990), as the alleged inconsistency and/or deficiency had been corrected by the retrospective amendment embodied in the Act of 6 June 1991. Thus, as the situation was the same in the Broeks case, the amendment embodied in the Act of 6 June 1991 afforded the author sufficient satisfaction.					
	182/1984, <i>Zwaan-de Vries A/42/40</i>	X A/59/40*	X			
	*Note: According to this report, information was provided on 28 December 1990 (unpublished). It appears from the follow-up file that, in this response, the author's counsel indicated that the author had received her benefits covering the two years she was unemployed.					
	305/1988, <i>van Alphen A/45/40</i>	X A/46/40	X			
	453/1991, <i>Coeriel A/50/40</i>	X A/59/40*	X			
*Note: According to this report, information was provided on 28 March 1995 (unpublished). The State party submitted that, although its legislation and policy in the field of the changing of names offer sufficient guarantees to prevent future violations of article 17 of the Covenant, out of respect for the Committee's Views, the Government decided to ask the authors whether they still wish to change their names in line with their applications and, if so, permission would be granted for such a change to be effected without costs.						

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Netherlands ( <i>cont'd</i> )	786/1997, <i>Vos</i> A/54/40	X A/55/40		X		X
	846/1999, <i>Jansen-Gielen</i> A/56/40	X A/57/40	X A/59/40			
	976/2001, <i>Derksen</i> A/59/40	X A/60/40				X
	1238/2003, <i>Jongenburger Veerman</i> A/61/40				X	X
New Zealand (2)	1090/2002, <i>Rameka et al.</i> A/59/40	X A/59/40	X A/59/40			
	1368/2005, <i>Britton</i> A/62/40	X A/63/40				X
Nicaragua (1)	328/1988, <i>Zelaya Blanco</i> A/49/40	X (incomplete) A/56/40, A/57/40, A/59/40				X
Norway (3)	631/1995, <i>Spakmo</i> A/55/40	X A/55/40	X			
	1155/2003, <i>Leirvag</i> A/60/40	X A/61/40	X* (A/61/40)			
	*Note: Additional follow-up information expected.					
	1542/2007, <i>Aboushanif</i> A/63/40	Not due				
Panama (2)	289/1988, <i>Wolf</i> A/47/40	X A/53/40				X
	473/1991, <i>Barroso</i> A/50/40	X A/53/40				X



State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Peru (14)	202/1986, <i>Ato del Avellanal</i> A/44/40	X A/52/40, A/59/40 A/62/40 and A/63/40				X
	203/1986, <i>Muñoz Hermosa</i> A/44/40	X A/52/40, A/59/40				X
	263/1987, <i>González del Río</i> A/48/40	X A/52/40, A/59/40				X
	309/1988, <i>Orihuela Valenzuela</i> A/48/40	X A/52/40, A/59/40				X
	540/1993, <i>Celis Laureano</i> A/51/40				X A/59/40	X
	577/1994, <i>Polay Campos</i> A/53/40	X A/53/40, A/59/40				X
	678/1996, <i>Gutiérrez Vivanco</i> A/57/40				X A/58/40, A/59/40	X
	688/1996, <i>de Arguedas</i> A/55/40	X A/58/40, A/59/40	X			
	906/1999, <i>Vargas-Machuca</i> A/57/40				X A/58/40, A/59/40	X
	981/2001, <i>Gómez Casafranca</i> A/58/40				X A/59/40	X
	1125/2002, <i>Quispe</i> A/61/40	X A/61/40				X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Peru ( <i>cont'd</i> )	1126/2002, <i>Carranza</i> A/61/40	X A/61/40, A/62/40				X
	1153/2003, <i>K.N.L.H.</i> A/61/40	X A/61/40, A/62/40 and A/63/40				X
	1058/2002, <i>Vargas</i> A/61/40	X A/61/40 and A/62/40				X
Philippines (10)	788/1997, <i>Cagas</i> A/57/40	X A/59/40, A/60/40, A/61/40				X
	868/1999, <i>Wilson</i> A/59/40	X A/60/40, A/61/40, A/62/40		X A/62/40		X A/62/40
	869/1999, <i>Piandiong et al.</i> A/56/40	X N/A				
	1077/2002, <i>Carpo et al.</i> A/58/40	X A/59/40, A/60/40, A/61/40	X (A/61/40)			
	1110/2002, <i>Rolando</i> A/60/40	X A/61/40	X (A/61/40)			
	1167/2003, <i>Ramil Rayos</i> A/59/40	X A/61/40	X (A/61/40)			
	1089/2002, <i>Rouse</i> A/60/40				X	X
	1320/2004, <i>Pimentel et al.</i> A/62/40				X A/63/40	X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Philippines ( <i>cont'd</i> )	1421/2005, <i>Larrañaga</i> A/61/40				X	
	1466/2006, <i>Lumanog</i> A/63/40					
Poland (1)	1061/2002, <i>Fijalkovska</i> A/60/40	X A/62/40	X A/62/40			
Portugal (1)	1123/2002, <i>Correia de Matos</i> A/61/40	X A/62/40			X	X A/62/40
Republic of Korea (8)	518/1992, <i>Sohn</i> A/50/40	X A/60/40, A/62/40				X
	574/1994, <i>Kim</i> A/54/40	X A/60/40, A/62/40				X
	628/1995, <i>Park</i> A/54/40	X A/54/40				X
	878/1999, <i>Kang</i> A/58/40	X A/59/40				X
	926/2000, <i>Shin</i> A/59/40	X A/60/40, A/62/40				X
	1119/2002, <i>Lee</i> A/60/40	X A/61/40				X
	1321-1322/2004, <i>Yoon, Yeo-Bzum and Choi, Myung-Jin</i> A/62/40	X A/62/40 and A/63/40				X
Romania (1)	1158/2003, <i>Blaga</i> A/60/40				X	X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Russian Federation (8)	770/1997, <i>Gridin</i> A/55/40	A/57/40, A/60/40		X		X
	763/1997, <i>Lantsova</i> A/57/40	A/58/40, A/60/40		X		X
	888/1999, <i>Telitsin</i> A/59/40	X A/60/40				X
	712/1996, <i>Smirnova</i> A/59/40	X A/60/40				X
	815/1997, <i>Dugin</i> A/59/40	X A/60/40				X
	889/1999, <i>Zheikov</i> A/61/40	X A/62/40				X A/62/40
	1218/2003, <i>Platanov</i> A/61/40	X A/61/40				
	1310/2004, <i>Babkin</i> A/63/40	Not due				
Saint Vincent and the Grenadines (1)	806/1998, <i>Thompson</i> A/56/40				X A/61/40	X
Senegal (1)	386/1989, <i>Famara Koné</i> A/50/40	X A/51/40, summary record of 1619th meeting held on 21 October 1997	X			
Serbia and Montenegro (1)	1180/2003, <i>Bodrožić</i> A/61/40	X A/63/40	X A/63/40			

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Sierra Leone (3)	839/1998, <i>Mansaraj et al.</i> A/56/40	X A/57/40, A/59/40				X
	840/1998, <i>Gborie et al.</i> A/56/40	X A/57/40, A/59/40				X
	841/1998, <i>Sesay et al.</i> A/56/40	X A/57/40, A/59/40				X
Slovakia (1)	923/2000, <i>Mátyus</i> A/57/40	X A/58/40	X			
Spain (17)	493/1992, <i>Griffin</i> A/50/40	X A/59/40,* A/58/40				X
	*Note: According to this report, information was provided in 1995, but was not published. It appears from the follow-up file that, in this response, dated 30 June 1995, the State party challenged the Committee's Views.					
	526/1993, <i>Hill</i> A/52/40	X A/53/40, A/56/40, A/58/40, A/59/40, A/60/40, A/61/40	X			
	701/1996, <i>Gómez Vásquez</i> A/55/40	X A/56/40, A/57/40, A/58/40, A/60/40, A/61/40				X
	864/1999, <i>Ruiz Agudo</i> A/58/40				X A/61/40	X
	986/2001, <i>Semey</i> A/58/40	X A/59/40, A/60/40, A/61/40				X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Spain ( <i>cont'd</i> )	1006/2001, <i>Muñoz A/59/40</i>				X A/61/40	
	1007/2001, <i>Sineiro Fernando A/58/40</i>	X A/59/40, A/60/40, A/61/40				X
	1073/2002, <i>Terón Jesús A/60/40</i>				X A/61/40	X
	1095/2002, <i>Gomariz A/60/40</i>				X A/61/40	
	1101/2002, <i>Alba Cabriada A/60/40</i>				X A/61/40	X
	1104/2002, <i>Martínez Fernández A/60/40</i>				X A/61/40	X
	1211/2003, <i>Oliveró A/61/40</i>				X	X
	1325/2004, <i>Conde A/62/40</i>				X	X
	1332/2004, <i>Garcia and others A/62/40</i>				X	X
	1351 and 1352/2005, <i>Hens and Corujo A/63/40</i>	Not due				
	1381/2005, <i>Hachuel A/62/40</i>				X	

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Sri Lanka (11)	916/2000, <i>Jayawardena A/57/40</i>	X A/58/40, A/59/40, A/60/40, A/61/40				X
	950/2000, <i>Sarma A/58/40</i>	X A/59/40, A/60/40, A/63/40				X
	909/2000, <i>Kankanamge A/59/40</i>	X A/60/40				X
	1033/2001, <i>Nallaratnam A/59/40</i>	X A/60/40				X
	1189/2003, <i>Fernando A/60/40</i>	X A/61/40		X (A/61/40)		X
	1249/2004, <i>Immaculate Joseph et al. A/61/40</i>	X A/61/40				X
	1250/2004, <i>Rajapakse A/61/40</i>				X	
	1373/2005, <i>Dissanakye A/63/40</i>	Not due				
	1376/2005, <i>Bandaranayake A/63/40</i>	Not due				
	1426/2005, <i>Dingiri Banda A/63/40</i>				X	
1436/2005, <i>Sathasivam A/63/40</i>	Not due					

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Suriname (8)	146/1983, <i>Baboeram</i> Twenty-fourth session Selected Decisions, vol. 2	X A/51/40, A/52/40, A/53/40, A/55/40, A/61/40				X
	148 to 154/1983, <i>Kamperveen, Riedewald, Leckie, Demrawsingh, Sohansingh, Rahman, Hoost</i> Twenty-fourth session Selected Decisions, vol. 2	X A/51/40, A/52/40, A/53/40, A/55/40, A/61/40				X
Sweden (1)	1416/2005, <i>Al Zery</i> A/62/40	X A/62/40				X
Tajikistan (15)	964/2001, <i>Saidov</i> A/59/40	X A/60/40, A/62/40*				X
	973/2001, <i>Khalilov</i> A/60/40	X A/60/40, A/62/40*				X
	985/2001, <i>Aliboeva</i> A/61/40	A/62/40*			X A/61/40	X
	1096/2002, <i>Kurbanov</i> A/59/40	X A/59/40, A/60/40				X
	1108 and 1121/2002, <i>Karimov and Nursatov</i> A/62/40	X A/63/40				X
	1117/2002, <i>Khomidov</i> A/59/40	X A/60/40				X



State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Tajikistan ( <i>cont'd</i> )	1042/2002, <i>Boymurudov</i> A/61/40	X A/62/40, A/63/40				X
	1044/2002, <i>Nazriev</i> A/61/40	X A/62/40, A/63/40				X
	1096/2002, <i>Abdulali Ismatovich Kurbanov</i>	A/62/40*				
* The State party has not replied but it has met several times with the Rapporteur.						
	1208/2003, <i>Kurbanov</i> A/61/40	X A/62/40		X A/62/40		X
	1348/2005, <i>Ashurov</i> A/62/40				X	
	1209/2003, 1231/2003 and 1241/2004, <i>Rakhmatov, Safarovs &amp; Mukhammadiev</i> A/63/40	Not due				
Togo (4)	422 to 424/1990, <i>Aduayom et al.</i> A/51/40	X A/56/40, A/57/40		X A/59/40		X
	505/1992, <i>Ackla</i> A/51/40	X A/56/40, A/57/40		X A/59/40		X
Trinidad and Tobago (24)	232/1987, <i>Pinto</i> A/45/40 and 512/1992, <i>Pinto</i> A/51/40	X A/51/40, A/52/40, A/53/40		X		X
	362/1989, <i>Soogrim</i> A/48/40	X A/51/40, A/52/40 A/53/40, A/58/40			X	X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Trinidad and Tobago ( <i>cont'd</i> )	434/1990, <i>Seerattan</i> A/51/40	X A/51/40, A/52/40, A/53/40		X		X
	447/1991, <i>Shalto</i> A/50/40	X A/51/40, A/52/40, A/53/40	X A/53/40			
	523/1992, <i>Neptune</i> A/51/40	X A/51/40, A/52/40 A/53/40, A/58/40		X		X
	533/1993, <i>Elahie</i> A/52/40				X	X
	554/1993, <i>La Vende</i> A/53/40				X	X
	555/1993, <i>Bickaroo</i> A/53/40				X	X
	569/1996, <i>Mathews</i> A/43/40				X	X
	580/1994, <i>Ashby</i> A/57/40				X	X
	594/1992, <i>Phillip</i> A/54/40				X	X
	672/1995, <i>Smart</i> A/53/40				X	X
	677/1996, <i>Teesdale</i> A/57/40				X	X
683/1996, <i>Wanza</i> A/57/40				X	X	

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Trinidad and Tobago ( <i>cont'd</i> )	684/1996, <i>Sahadath A/57/40</i>				X	X
	721/1996, <i>Boodoo A/57/40</i>				X	X
	752/1997, <i>Henry A/54/40</i>				X	X
	818/1998, <i>Sextus A/56/40</i>				X	X
	845/1998, <i>Kennedy A/57/40</i>				X A/58/40	X
	899/1999, <i>Francis et al. A/57/40</i>				X A/58/40	X
	908/2000, <i>Evans A/58/40</i>				X	X
	928/2000, <i>Sooklal A/57/40</i>				X	X
	938/2000, <i>Girjadat Siewpers et al. A/59/40</i>				X A/51/40, A/53/40	X
Turkmenistan (1)	1450/2006, <i>Komarovsky A/63/40</i>	Not due				
Ukraine (2)	726/1996, <i>Zheludkov A/58/40</i>	X A/58/40	X A/59/40			
	781/1997, <i>Aliev A/58/40</i>	X A/60/40		X A/60/40		X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Uruguay (52)	<p>A. [5/1977, <i>Massera</i>  Seventh session  43/1979, <i>Caldas</i>  Nineteenth session  63/1979, <i>Antonaccio</i>  Fourteenth session  73/1980, <i>Izquierdo</i>  Fifteenth session  80/1980, <i>Vasiliskis</i>  Eighteenth session  83/1981, <i>Machado</i>  Twentieth session  84/1981, <i>Dermis</i>  Seventeenth session  85/1981, <i>Romero</i>  Twenty-first session  88/1981, <i>Bequio</i>  Eighteenth session  92/1981, <i>Nieto</i>  Nineteenth session  103/1981, <i>Scarone</i>  Twentieth session  105/1981, <i>Cabreira</i>  Nineteenth session  109/1981, <i>Voituret</i>  Twenty-first session  123/1982, <i>Lluberas</i>  Twenty-first session]</p>	X 43 follow-up replies received in A/59/40*	X (relating to cases D and G)	X (relating to cases A, B, C, E, F)		X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Uruguay ( <i>cont'd</i> )	<b>B.</b> [103/1981, <i>Scarone</i> 73/1980, <i>Izquierdo</i> 92/1981, <i>Nieto</i> 85/1981, <i>Romero</i> ]					
	<b>C.</b> [63/1979, <i>Antonaccio</i> 80/1980, <i>Vasiliskis</i> 123/1982, <i>Lluberas</i> ]					
	<b>D.</b> [57/1979, <i>Martins</i> Fifteenth session 77/1980, <i>Lichtensztein</i> Eighteenth session 106/1981, <i>Montero</i> Eighteenth session 108/1981, <i>Nuñez</i> Nineteenth session]					
	<b>E.</b> [4/1977, <i>Ramirez</i> Fourth session 6/1977, <i>Sequeiro</i> Sixth session 25/1978, <i>Massiotti</i> Sixteenth session 28/1978, <i>Weisz</i> Eleventh session 32/1978, <i>Touron</i> Twelfth session 33/1978, <i>Carballal</i> Twelfth session]					

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Uruguay ( <i>cont'd</i> )	37/1978, <i>De Boston</i> Twelfth session 44/1979, <i>Pietraroia</i> Twelfth session 52/1979, <i>Lopez Burgos</i> Thirteenth session 56/1979, <i>Celiberti</i> Thirteenth session 66/1980, <i>Schweizer</i> Seventeenth session 70/1980, <i>Simones</i> Fifteenth session 74/1980, <i>Estrella</i> Eighteenth session 110/1981, <i>Viana</i> Twenty-first session 139/1983, <i>Conteris</i> Twenty-fifth session 147/1983, <i>Gilboa</i> Twenty-sixth session 162/1983, <i>Acosta</i> Thirty-fourth session]					
	F. [30/1978, <i>Bleier</i> Fifteenth session 84/1981, <i>Barbato</i> Seventeenth session 107/1981, <i>Quinteros</i> Nineteenth session]					

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Uruguay ( <i>cont'd</i> )	<b>G.</b> 34/1978, <i>Silva</i> Twelfth session					
<p><i>*Note:</i> Follow-up information was provided on 17 October 1991 (unpublished). The list of cases under <b>A</b>: the State party submitted that on 1 March 1985, the competence of the civil courts was re-established. The amnesty law of 8 March 1985 benefited all the individuals who had been involved as authors, accomplices or accessory participants in political crimes or crimes committed for political purposes, from 1 January 1962 to 1 March 1985. The law allowed those individuals held responsible of intentional murder to have either their conviction reviewed or their sentence reduced. Pursuant to article 10 of the Act on National Pacification all the individuals imprisoned under “measures of security” were released. In cases subjected to review, appellate courts either acquitted or condemned the individuals. By virtue of Act 15.783 of 20 November all the individuals who had previously held a public office were entitled to return to their jobs. On cases under <b>B</b>: the State party indicates that these individuals were pardoned by virtue of Act 15.737 and released on 10 March 1985. On cases under <b>C</b>: these individuals were released on 14 March 1985; their cases were included under Act 15.737. On cases under <b>D</b>: the Amnesty Act, from the date on which it entered into force, put an end to the surveillance of individuals; pending arrest warrants; the restrictions on entry or departure from the country; and every official inquiry into crimes covered by the amnesty. From 8 March 1985, the issuance of travel documents was no longer subject to any restriction. Samuel Liechtenstein, after his return to Hungary, resumed his position as the Rector of the University of the Republic. On cases under <b>E</b>: from 1 March 1985, the possibility to file an action for damages was open to all of the victims of human rights violations which occurred during the de facto government. Since 1985, 36 suits for damages have been filed, 22 of them for arbitrary detention and 12 for the return of property. The Government settled Mr. Lopez’s case on 21 November 1990, by paying him US\$ 200,000. The suit filed by Ms. Lilian Celiberti is still pending. Besides the aforementioned cases, no other victim has filed a lawsuit against the State claiming compensation. On cases under <b>F</b>: on 22 December 1986, the Congress passed Act 15.848, known as “termination of public prosecutions”. Under the Act, the State can no longer prosecute crimes committed before 1 March 1985 by the military or the police for political ends or on orders received from their superiors. All pending proceedings were discontinued. On 16 April 1989, the Act was confirmed by referendum. The Act required investigating judges to send reports submitted to the judiciary about victims of disappearances to the Government, for the latter to initiate inquiries.</p>						

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Uruguay ( <i>cont'd</i> )	159/1983, <i>Cariboni</i> A/43/40 Selected Decisions, vol. 2				X	X
	322/1988, <i>Rodríguez</i> A/51/40 A/49/40				X A/51/40	X
Uzbekistan (15)	907/2000, <i>Sirageva</i> A/61/40	X A/61/40				
	911/2000, <i>Nazarov</i> A/59/40	X A/60/40		X		X
	915/2000, <i>Ruzmetov</i> A/61/40				X	X
	917/2000, <i>Arutyunyan</i> A/59/40	X A/60/40		X A/60/40		X
	931/2000, <i>Hudoyberganova</i> A/60/40	X A/60/40		X A/60/40		
	971/2001, <i>Arutyuniantz</i> A/60/40	X A/60/40				X
	959/2000, <i>Bazarov</i> A/61/40	X A/62/40				X A/62/40
	1017/2001, <i>Maxim Strakhov</i> and 1066/2002, <i>V. Fayzulaev</i> A/62/40				X	
	1041/2002, <i>Refat Tulayganov</i> A/62/40				X	
	1043/2002, <i>Chikiunov</i> A/62/40				X	



State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Uzbekistan ( <i>cont'd</i> )	1057/2002, <i>Korvetov</i> A/62/40	X A/62/40				X A/62/40
	1071/2002, <i>Agabekov</i> A/62/40				X	
	1150/2002, <i>Azamat Uteev</i> A/63/40				X	
	1140/2002, <i>Iskandar Khudayberganov</i> A/62/40				X	
Venezuela (Bolivarian Republic of) (1)	156/1983, <i>Solórzano</i> A/41/40 Selected Decisions, vol. 2	X A/59/40*		X		X
*Note: According to this report, information was provided in 1995 (unpublished). In its response, the State party stated that it had failed to contact the author's sister and that the author had not initiated proceedings for compensation from the State party. It made no reference to any investigation carried out by the State, as requested by the Committee.						
Zambia (7)	314/1988, <i>Bwalya</i> A/48/40	X A/59/40*	X			
	*Note: According to this report, information was provided in 1995 (unpublished). The State party stated on 12 July 1995 that compensation had been paid to the author, that he had been released and that the matter was closed.					
	326/1988, <i>Kalenga</i> A/48/40	X A/59/40*	X			
*Note: According to this report, information was provided in 1995 (unpublished). The State party stated that compensation would be paid to the author. In a subsequent letter from the author, dated 4 June 1997, he states that he was unsatisfied with the sum offered and requested the Committee to intervene. The Committee replied that it was not within its remit to contest or re-evaluate the amount of compensation that was offered and that it would decline to intervene with the State party.						

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
Zambia ( <i>cont'd</i> )	390/1990, <i>Lubuto</i> A/51/40	X A/62/40			X	X
	768/1997, <i>Mukunto</i> A/54/40	X A/56/40, A/57/40, A/59/40 CCPR/C/80/FU/1	X A/59/40			
	821/1998, <i>Chongwe</i> A/56/40	X A/56/40, A/57/40, A/59/40, A/61/40				X
	856/1999, <i>Chambala</i> A/58/40	X A/62/40			X	X
	1132/2002, <i>Chisanga</i> A/61/40	X A/61/40, A/63/40				X

<sup>a</sup> The State party's response is set out in CCPR/C/80/FU/1. The State party submits that it is unusual for two persons to share cells and that it has asked the Victoria police to take the necessary steps to ensure that a similar situation does not arise again. It does not accept that the authors are entitled to compensation. The Committee considered that this case should not be considered any further under the follow-up procedure

<sup>b</sup> The Committee decided that this case should be considered no further under the follow-up procedure.

## CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

194. In chapter VII of its annual report for 2003,<sup>20</sup> the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/62/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2008.

195. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-first, ninety-second and ninety third sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

196. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.<sup>21</sup> Over the reporting period, since 1 August 2007, 11 States parties (Bosnia and Herzegovina, Brazil, Hong Kong Special Administrative Region (China), Mali, Paraguay, Republic of Korea, Sri Lanka, Suriname, Togo, United States of America and Ukraine), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 10 States parties (Barbados, Central African Republic, Chile, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Honduras, Madagascar, Namibia and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

197. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided before 1 August 2007 to take no further action prior to the period covered by this report.

198. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

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<sup>20</sup> *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40)*, vol. I.

<sup>21</sup> The table format was altered at the ninetieth session.

## Seventy-fifth session (July 2002)

<b>State party: Republic of Moldova</b>
<b>Report considered:</b> Initial (due since 1994), submitted on 17 January 2001.
<b>Information requested:</b> <p>Para. 8: Ensure that counter-terrorism measures under Security Council resolution 1373 (2001) are taken in conformity with the Covenant (art. 2).</p> <p>Para. 9: Measures to improve prison conditions, prevention of spread of disease and provision of appropriate medical treatment to inmates (arts. 7 and 10).</p> <p>Para. 11: Ensure that all persons suspected of a crime are brought promptly before a judge; periodic review of pretrial detention; ensure the right of persons in administrative detention to initiate court proceedings to test the legality of their detention (arts. 9 and 14).</p> <p>Para. 13: Ensure that legislation and practice relating to the registration of religious organizations is in conformity with article 18 (art. 18).</p>
<b>Date information due:</b> 25 July 2003
<b>Date information received: NONE RECEIVED</b>
<b>Action taken:</b> <p><u>22 September 2003</u> A reminder was sent.</p> <p><u>26 February 2004</u> A further reminder was sent.</p> <p><u>March 2004</u> The Special Rapporteur met with a representative of the State party in New York at the eightieth session. The delegation undertook to submit the next periodic report as scheduled by 1 August 2004 and to send the follow-up information to the Committee earlier if available.</p> <p><u>October 2004</u> The Special Rapporteur again met with a representative of the State party.</p> <p><u>March 2006</u> The Special Rapporteur met with a representative of the State party, who explained the difficulties it faced in preparing its second periodic report, said that a commission had been established to prepare human rights reports, and requested an extension of the deadline until the end of 2006. The State party might request technical assistance from the secretariat.</p> <p>In a note verbale of <u>28 March 2006</u>, the State party informed the Special Rapporteur that, pursuant to government decision No. 225 of 1 March 2006, the national committee responsible for drafting reports had been set up and the second periodic report and follow-up replies would be formulated by the end of 2006. The State party requested permission to combine the second and third periodic reports.</p> <p><u>July 2006</u> At its eighty-seventh session, the Committee decided to approve the State party's request.</p> <p><u>5 February 2007</u> A further reminder was sent.</p> <p><u>29 June 2007</u> A further reminder was sent.</p>

<b>Recommended action: Consultations should be scheduled for the ninety-second session.</b>
<b>Next report due:</b> 11 August 2004

<p><b>State party: Gambia*</b></p> <p>* Pursuant to rule 69A, paragraph 3, of its rules of procedure, the Human Rights Committee decided to publish the provisional concluding observations on the Gambia that were adopted and transmitted to the State party at its seventy-fifth session.</p>
<p><b>Report considered:</b> Consideration of the situation in the absence of a report (15 and 16 July 2002).</p>
<p><b>Information requested:</b></p> <p>Para. 8: Detailed information on the crimes for which capital punishment may be imposed, the number of death sentences handed down since 1995, and the number of prisoners currently detained on death row (art. 6).</p> <p>Para. 12: Detailed information on the conditions of detention at Mile Two prison (art. 10).</p> <p>Para. 14: Guarantee security of tenure of judges; clarify the basis for the establishment and operation of military courts, and whether the operation of these military courts is linked to the existence of a state of emergency (arts. 7 and 10).</p> <p>Para. 24: Measures to implement article 27 of the Covenant.</p>
<p><b>Date information due:</b> 31 December 2002</p>
<p><b>Date information received: NONE RECEIVED</b></p>
<p><b>Action taken:</b></p> <p>Between October 2006 and September 2007, four reminders were sent.</p> <p><u>17 January 2008</u> The Special Rapporteur requested a meeting with a representative of the State party.</p> <p><u>14 March 2008</u> The Special Rapporteur requested a meeting with a representative of the State party.</p> <p><u>11 June 2008</u> A further reminder was sent and the State party was informed that, in the absence of a response by the ninety-third session, it will be declared to be in breach of its obligation to cooperate with the Committee in the performance of its functions under Part IV of the Covenant.</p>
<p><b>Recommended action: The Committee should declare the State party to be in breach of its obligation to cooperate with the Committee in the performance of its functions under Part IV of the Covenant.</b></p>
<p><b>Next report due:</b> 31 December 2002</p>

Seventy-sixth session (October 2002)

<b>State party: Togo</b>
<b>Report considered:</b> Third periodic (due since 1995), submitted on 19 April 2001.
<b>Information requested:</b> <p>Para. 9: Measures to combat and prevent extrajudicial executions, arbitrary arrests, threats and intimidation by the security forces (arts. 6 and 9).</p> <p>Para. 10: Limit the application of the death penalty; information on individuals sentenced to death under articles 229 to 232 of the Penal Code relating to attacks against the internal security (art. 6).</p> <p>Para. 12: Information on the treatment of inmates at the Landja and Temedla camps; prohibit all acts of torture as well as the use of statements obtained under torture as evidence; statistical data on complaints about torture and on sentences passed (art. 7).</p> <p>Para. 13: Identify political prisoners; release of persons detained arbitrarily; institution of criminal proceedings against those responsible (art. 9).</p> <p>Para. 14: Information on persons who have reportedly been detained for years without being charged; amend the provisions of the Code of Criminal Procedure dealing with police custody; measures taken to ensure that justice is administered without undue delay (art. 14).</p> <p>Para. 20: Ensure compliance with the Lomé Framework Agreement; ensure the safety of all members of civil society, particularly of opposition members, during the forthcoming elections (art. 25).</p>
<b>Date information due:</b> 4 November 2003
<b>Action taken:</b> <p><u>October 2004</u> At the eighty-second session, the Special Rapporteur held consultations with representatives of the State party, who provided additional information and undertook to supplement the partial reply.</p> <p><u>4 October 2005</u> At the eighty-fifth session, the Special Rapporteur requested a meeting with the State party. The State party sent additional information, but the reply remained incomplete with respect to paragraph 13.</p> <p><u>6 July 2006</u> The State party was asked to respond to paragraph 13 of the concluding observations.</p> <p>Between September 2006 and September 2007, four reminders were sent.</p>
<b>Date information received:</b> <p><u>5 March 2003</u> Partial reply (no response to paragraphs 10, 12, 14 and 20).</p> <p><u>7 November 2005</u> Full reply.</p> <p><u>4 December 2007</u> Further reply containing additional information on paragraph 13.</p>
<b>Recommended action: No further action recommended.</b>
<b>Next report due:</b> 1 November 2004

Seventy-seventh session (March 2003)

<b>State party: Mali</b>
<b>Report considered:</b> Second periodic (due since 1986), submitted on 3 January 2003.
<b>Information requested:</b> Para. 10 (a): Expedite the adoption of a new Family Code abolishing polygamy (arts. 3, 23 and 26). Para. 10 (d): Abolition of the practice of the levirate, whereby a widow is inherited by the deceased husband's brothers and cousins (arts. 3, 16 and 23). Para. 11: Measures to prohibit and criminalize the practice of female genital mutilation (arts. 3 and 7). Para. 12: Adoption of specific legislation expressly prohibiting and punishing domestic violence; ensure adequate protection of victims (arts. 3 and 7).
<b>Date information due:</b> 3 April 2004
<b>Date information received:</b> <u>12 November 2007</u> Partial reply (response incomplete with regard to paragraphs 10 (a) and (d), 11 and 12).
<b>Action taken:</b> <u>18 October 2004</u> A reminder was sent. <u>21 October 2005</u> At the eighty-fifth session, the Special Rapporteur met with a representative of the State party who informed him that an inter-ministerial commission had been set up to provide replies to the follow-up questions and that the replies would be forwarded to the Committee as soon as possible. <u>6 July 2006</u> The Special Rapporteur wrote to the Permanent Representative to remind him that the replies had yet to be received and to request a meeting. No reply was received from the State party. <u>20 September 2006</u> A further reminder was sent. Between February 2007 and March 2008, the Special Rapporteur sent five letters requesting a meeting with a representative of the State party. <u>27 March 2008</u> Consultations were held with the State party during the ninety-second session (response incomplete with regard to paragraphs 10 (a) and (d), 11 and 12). The delegation also informed that preparation of the report was under way. <u>11 June 2008</u> A further reminder was sent by way of follow-up to the consultations which took place between the Special Rapporteur and the State party during the ninety-second session, and the State party was reminded to submit its third periodic report.
<b>Recommended action: The Committee should express regret that the requested additional information has not been received and remind the State party that its third periodic report is overdue and should be submitted promptly.</b>
<b>Next report due:</b> 1 April 2005

**Seventy-eighth session (July 2003) (all State party reports were considered)  
Seventy-ninth session (October 2003)**

<b>State party: Sri Lanka</b>
<b>Report considered:</b> Fourth and fifth periodic (due since 1996), submitted on 18 September 2002.
<b>Information requested:</b> <p>Para. 8: No excessive restrictions on the exercise of fundamental rights; no derogation from the prohibition of retroactive punishment (arts. 14 and 15).</p> <p>Para. 9: Measures to prevent torture and ill-treatment; bring the National Police Commission complaints procedure into effect as soon as possible; investigate cases of suspected intimidation of witnesses; introduce witness protection programmes; strengthen the capacity of the National Human Rights Commission to investigate and prosecute alleged human rights violations (arts. 2, 7 and 9).</p> <p>Para. 10: Give effect to recommendations by the United Nations Working Group on Enforced or Involuntary Disappearances and by the Presidential Commissions for Investigation into Enforced or Involuntary Disappearances; allocation of sufficient resources to the National Human Rights Commission to monitor the investigation and prosecution of all cases of disappearances (arts. 6, 7, 9 and 10).</p> <p>Para. 18: Prevent harassment of journalists; prompt and impartial investigation and prosecution of those responsible (arts. 7, 14 and 19).</p>
<b>Date information due:</b> 7 November 2004
<b>Date information received:</b> <p><u>17 March 2005</u> The State party informed the Committee that it was finalizing the follow-up replies, which would be forwarded shortly.</p> <p><u>24 October 2005</u> Partial reply (response incomplete with regard to paragraphs 8 and 10).</p> <p><u>16 October 2007</u> Partial reply (response incomplete with regard to paragraphs 8 and 10).</p> <p><u>16 July 2008</u> Partial reply (response incomplete with regard to paragraph 8 as regards the National Police Commission complaints procedure and paragraph 10 as regards the implementation of the recommendations made by the United Nations Working Group on Enforced or Involuntary Disappearances in 1999).</p>
<b>Action taken:</b> <p>Between March 2005 and September 2007, seven reminders were sent. In his reminder of 28 September 2007, the Special Rapporteur also requested a meeting with a representative of the State party.</p> <p><u>10 December 2007</u> The Special Rapporteur requested a meeting with a representative of the State party, to be convened during the ninety-second session.</p> <p><u>18 March 2008</u> The Special Rapporteur requested a meeting with a representative of the State party, to be convened during the ninety-second session.</p>



31 March 2008 Consultations were held during the ninety-second session (substantial response with regard to paragraph 8, including details of a recent Supreme Court decision stating that all Covenant rights are justiciable under Sri Lankan law; no reply with regard to paragraphs 9, 10 and 18).

13 June 2008 A further reminder was sent by way of follow-up to the consultations which took place between the Special Rapporteur and the State party during the ninety-second session, in particular to clarify the date for the submission of the sixth periodic report.

**Recommended action: The State party should be informed that the outstanding information on paragraphs 9 and 10 should be included in its sixth periodic report which is overdue and should be submitted promptly.**

**Next report due:** 1 November 2007

**State party: Equatorial Guinea\***

\* Pursuant to rule 69A, paragraph 3, of its rules of procedure, the Human Rights Committee decided to publish the provisional concluding observations on Equatorial Guinea that were adopted and transmitted to the State party at its seventy-ninth session.

**Report considered:** Consideration of the situation in the absence of a report (27 October 2003).

**Information requested:**

The Committee asked for the complete initial report rather than any specific information on follow-up.

**Date information received: INITIAL REPORT NOT RECEIVED**

**Action taken:**

30 October 2006 The Special Rapporteur met with a representative of the State party, who informed him that consultations were being held at the domestic level.

Between February and September 2007, three reminders were sent. In his reminders of 29 June and 28 September 2007, the Special Rapporteur also requested a meeting with a representative of the State party.

19 October 2007 The Special Rapporteur met with a representative of the State party, who explained the difficulties faced by the State party in preparing its initial report, and promised that the initial report will be submitted by 31 December 2007.

11 June 2008 A further reminder was sent and the State party was informed that, in the absence of a response by the ninety-third session, it will be declared to be in breach of its obligation to cooperate with the Committee in the performance of its functions under Part IV of the Covenant.

**Recommended action: The Committee should declare the State party to be in breach of its obligation to cooperate with the Committee in the performance of its functions under Part IV of the Covenant.**

**Next report due:** 1 August 2004

## Eightieth session (March 2004)

**State party: Suriname\***

\* Pursuant to rule 69A, paragraph 3, of its rules of procedure, the Human Rights Committee decided to publish the provisional concluding observations on Suriname that were adopted and transmitted to the State party at its eightieth session.

**Report considered:** Second periodic (due since 1985), submitted on 1 July 2003.

**Information requested:**

Para. 11: Investigation of allegations of ill-treatment in custody by an independent body; prosecution of those responsible; compensation for victims; human rights training for law enforcement personnel (arts. 7 and 10).

Para. 14: Correct the practice of holding people in pretrial detention for excessive periods; amend legislation to ensure that anyone arrested or detained on a criminal charge is brought promptly before a judge (para. 9).

**Date information due:** 1 April 2005

**Date information received:**

5 May 2008 Partial reply (response incomplete with regard to paragraphs 11 and 14).

**Action taken:**

Between May 2005 and February 2006, three reminders were sent.

March 2006 The Special Rapporteur met with a representative of the State party, who informed him that a team of legal experts had been appointed to work on follow-up issues. They would try to submit their follow-up responses by the end of June 2006.

Between July 2006 and September 2007.

17 January 2008 The Special Rapporteur requested a meeting with a representative of the State party.

18 March 2008 The Special Rapporteur requested a meeting with a representative of the State party.

1 April 2008 Consultations were held during the ninety-second session (response incomplete with regard to paragraphs 11 and 14). The delegation committed itself to providing written replies within one month. The delegation informed that preparations for the third periodic report (due 1 April 2008) are under way and that the report should be submitted to the Committee by the end of 2008 or early in 2009.

**Recommended action: Consultations should be scheduled for the ninety-second session.**

**Next report due:** 1 April 2008

### Eighty-first session (July 2004)

<b>State party: Namibia</b>
<b>Report considered:</b> Initial (due since 1996), submitted on 15 October 2003.
<b>Information requested:</b> Para. 9: Measures to encourage the registration of customary marriages and to grant spouses and children of registered customary marriages the same rights as those married under civil law; adapt future Bills on Intestate Inheritance and Succession and on Recognition of Customary Law Marriages accordingly (arts. 3, 23 and 26). Para. 11: Make torture a specific statutory crime (art. 7).
<b>Date information due:</b> 29 July 2005
<b>Date information received: NONE RECEIVED</b>
<b>Action taken:</b> Between October 2005 and September 2007, seven reminders were sent. In his reminder of 29 June 2007, the Special Rapporteur also requested a meeting with a representative of the State party. <u>17 January 2008</u> The Special Rapporteur requested a meeting with a representative of the State party. <u>18 March 2008</u> The Special Rapporteur requested a meeting with a representative of the State party. <u>11 June 2008</u> A further reminder was sent.
<b>Recommended action: If no information is received, consultations should be scheduled for the ninety-fifth session.</b>
<b>Next report due:</b> 1 August 2008

### Eighty-second session (October 2004) (all State party reports were considered) Eighty-third session (March 2005)

<b>State party: Uzbekistan</b>
<b>Report considered:</b> Second periodic (on time) submitted on 14 April 2004.
<b>Information requested:</b> Para. 7: Provide data on the number of prisoners sentenced to death, the grounds for conviction and the number of executions since the beginning of the period covered by the second periodic report (art. 6). Para. 9: Amendment of the provisions of the Criminal Code relating to torture (art. 7). Para. 10: Legislative amendments to prohibit the use as evidence in court of information obtained from a detained individual in violation of criminal procedure requirements (arts. 7 and 14).

Para. 11: Ensure that complaints of torture and ill-treatment are investigated promptly by an independent body; prosecution and adequate punishment of those responsible; regular and independent inspection of detention centres; medical examination of detainees; possible installation of audio and video equipment in police stations and detention facilities (arts. 7 and 10).

**Date information due:** 31 March 2006

**Date information received:**

28 September 2006 Partial reply (response incomplete with regard to paragraphs 7, 9, 10 and 11).

9 December 2006 Partial reply (response incomplete with regard to paragraphs 7, 9, 10 and 11).

**Action taken:**

Between July 2006 and September 2007, three reminders were sent. In his reminder of 28 September 2007, the Special Rapporteur also requested a meeting with a representative of the State party.

15 October 2007 During the ninetieth session, the Special Rapporteur met with representatives of the State party, advising them that there is no need for additional separate follow-up replies, provided that the third periodic report (due on 1 April 2008) is submitted during the first half of 2008 and includes updated information on the follow-up to paragraphs 7, 9, 10 and 11.

**Recommended action: No further action recommended in light of the State party's submission of its third periodic report on 28 March 2008.**

**Next report due:** 1 April 2008

**Eighty-fourth session (July 2005)**

**State party: Yemen**

**Report considered:** Fourth periodic (on time), submitted on 4 August 2004.

**Information requested:**

Para. 11: Eradication of female genital mutilation and adoption of legislation prohibiting the practice; detailed information on (a) the number of women and girls concerned; (b) proceedings, if any, brought against perpetrators of female genital mutilation; and (c) the effectiveness of programmes and awareness-raising campaigns implemented in order to combat female genital mutilation (arts. 3, 6 and 7).

Para. 13: Ensure the proportionality of responses to terrorist threats and activities; information on the findings and recommendations of the parliamentary committee established to monitor the situation of persons detained in connection with terrorism (arts. 6, 7, 9 and 14).

Para. 14: Full and impartial investigation into the killing of four persons participating in a demonstration on 21 March 2003 (art. 6).

Para. 16: Measures to end corporal punishment, such as flogging or amputation of limb; amendment of relevant legislation (art. 7).

<b>Date information due:</b> 20 July 2006
<b>Date information received:</b> NONE RECEIVED
<p><b>Action taken:</b></p> <p>Between September 2006 and September 2007, four reminders were sent. In his reminders of 29 June and 28 September 2007, the Special Rapporteur also requested a meeting with a representative of the State party.</p> <p><u>31 October 2007</u> During the ninety-first session, the Special Rapporteur met with a representative of the State party, who assured him that the Government will reply to the Committee's follow-up questions, without committing himself to a specific date for the submission of such replies.</p> <p><u>13 June 2008</u> A further reminder was sent by way of follow-up to the consultations which took place between the Special Rapporteur and the State party during the ninety-first session.</p>
<b>Recommended action: If no information is received, consultations should be scheduled for the ninety-fourth session.</b>
<b>Next report due:</b> 1 July 2009

**Eighty-fifth session (October 2005)**

<b>State party:</b> Brazil
<b>Report considered:</b> Second periodic (due since 1998), submitted on 15 November 2004.
<p><b>Information requested:</b></p> <p>Para. 6: Accelerate demarcation of indigenous lands; provide effective civil and criminal remedies for deliberate trespass on such lands (arts. 1 and 27).</p> <p>Para. 12: (a) Measures to eradicate extrajudicial killing, torture and other forms of ill-treatment and abuse by law enforcement officials; (b) Prompt and impartial investigations by an independent body into reported violations of human rights by law enforcement officials; (c) Prosecution of perpetrators and punishment proportionate to the seriousness of the crime; grant effective remedies and redress to victims; (d) Utmost consideration to the recommendations of the United Nations Special Rapporteurs on the question of torture, on extrajudicial, summary or arbitrary executions, and on the independence of judges and lawyers contained in the reports on their visits to the State party (arts. 6 and 7).</p> <p>Para. 16: Measures to improve the situation of detainees and prisoners; limiting police custody to one or two days following arrest; end the practice of remand detention in police stations; develop a system of bail pending trial; ensure prompt trials; implement alternative measures other than imprisonment; end the practice of detaining prisoners in prolonged confinement even after their sentences have expired; introducing an effective bail system; prompt trials (arts. 9 and 10).</p> <p>Para. 18: Combat impunity by considering other methods of accountability for human rights crimes committed under the military dictatorship such as disqualifying perpetrators from certain public offices and establishing justice and truth inquiry processes; release to the public of all documents relevant to human rights abuses, including those currently withheld pursuant to Presidential Decree No. 4553 (art. 14).</p>

<b>Date information due:</b> 3 November 2006
<b>Date information received:</b> <u>18 April 2008</u> Partial reply (response incomplete with regard to paragraphs 6, 12, 16 and 18).
<b>Action taken:</b> Between December 2006 and September 2007, three reminders were sent. In his reminders of 29 June and 28 September 2007, the Special Rapporteur also requested a meeting with a representative of the State party. <u>18 October 2007</u> During the ninety-first session, the Special Rapporteur met with two representatives of the State party. The State party delegation committed itself to providing the requested follow-up information before the ninety-second session.
<b>Recommended action:</b> A reminder should be sent to request additional information.
<b>Next report due:</b> 31 October 2009

<b>State party:</b> Paraguay
<b>Report considered:</b> Second periodic (due since 1998), submitted on 9 July 2004.
<b>Information requested:</b> Para. 7: Ensuring that the Truth and Justice Commission has sufficient time and resources to carry out its mandate (art. 2). Para. 12: Prosecution and appropriate punishment of those responsible for torture; compensation for victims (art. 7) Para. 17: Measures to safeguard the independence of the judiciary (art. 14). Para. 21: Steps to ensure respect for children's rights, including urgent steps to eradicate child labour (arts. 8 and 24).
<b>Date information due:</b> 1 November 2006
<b>Date information received:</b> <u>1 November 2006</u> Partial reply (response incomplete with regard to paragraphs 7, 17 and 21 and no response to paragraph 12). <u>25 June 2008</u> Partial reply (response incomplete with regard to paragraphs 12, 17 and 21).
<b>Action taken:</b> <u>6 December 2006</u> A reminder was sent. <u>28 September 2007</u> A further reminder was sent, and the Special Rapporteur requested a meeting with a representative of the State party. <u>17 October 2007</u> During the ninety-first session, the Special Rapporteur met with a representative of the State party, who promised to provide the requested information on the outstanding follow-up issues. <u>13 June 2008</u> A further reminder was sent by way of follow-up to the consultations which took place between the Special Rapporteur and the State party during the ninety-first session.

**Recommended action: The State party should be reminded to include the outstanding information in its third periodic report which is due on 31 October 2008.**

**Next report due:** 31 October 2008

**Eighty-sixth session (March 2006)**

**State party: Democratic Republic of the Congo**

**Report considered:** Third periodic (due since 1991), submitted on 30 March 2005.

**Information requested:**

Para. 9: Measures to follow up on the Committee's recommendations on individual communications and submission of a report on such measures; acceptance of a mission by the Committee's Special Rapporteur for follow-up to Views (art. 2).

Para. 10: Steps to ensure that all reported human rights violations are investigated and that those responsible are prosecuted and punished (art. 2).

Para. 15: Inquiries into all reported forced disappearances and arbitrary executions; prosecution and punishment of perpetrators; appropriate compensation for victims; strengthen measures to curb the displacement of civilian populations (arts. 6, 7 and 9).

Para. 24: Strengthen the programme for the care of orphans; punishment of any person guilty of abusing orphans (art. 24).

**Date information due:** 25 March 2007

**Date information received: NONE RECEIVED**

**Action taken:**

29 June 2007 A reminder was sent.

28 September 2007 A further reminder was sent, and the Special Rapporteur requested a meeting with a representative of the State party.

29 October 2007 During the ninety-first session, the Special Rapporteur met with a representative of the State party, who indicated that the Government is in the process of preparing the follow-up replies, without being able to specify the date by which the replies will be submitted.

Between January and June 2008, the Special Rapporteur sent three letters requesting a meeting with a representative of the State party.

17 July 2008 During the ninety-third session, the Special Rapporteur met with a representative of the State party, who indicated that there were problems of coordination in the preparation of the follow-up replies. He would convey the urgency of submitting the replies before the Committee's ninety-fourth session to his Government.

**Recommended action: A reminder should be sent and the situation should be reviewed at the ninety-fourth session.**

**Next report due:** 1 April 2009

<b>State party: Hong Kong (China)</b>
<b>Report considered:</b> Second periodic (due since 2003), submitted on 14 January 2005.
<p><b>Information requested:</b></p> <p>Para. 9: Ensure that complaints against the police are investigated by an independent body whose decisions are binding on the authorities (art. 2).</p> <p>Para. 13: Measures to prevent and prosecute harassment of media personnel; ensure that the media can operate independently and free from government intervention (art. 19).</p> <p>Para. 15: Ensure that policies and practice regarding the right of abode fully take into consideration the right of families and children to protection (arts. 23 and 24).</p> <p>Para. 18: Ensure that the Legislative Council is elected by universal and equal suffrage; ensure that all interpretations of the Basic Law, including on electoral and public affairs issues, are in compliance with the Covenant (arts. 2, 25 and 26).</p>
<b>Date information due:</b> 1 April 2007
<p><b>Date information received:</b></p> <p><u>23 July 2007</u> Partial reply (responses incomplete with regard to paragraphs 9, 13, 15 and 18).</p>
<p><b>Action taken:</b></p> <p><u>29 June 2007</u> A reminder was sent.</p> <p><u>11 June 2008</u> The Special Rapporteur requested a meeting with a representative of China.</p> <p><u>16 July 2008</u> During the ninety-third session, the Special Rapporteur met with a representative of China, who stated that the issues identified by the Special Rapporteur as requiring further clarification will be transmitted to the Government and to the HKSAR authorities.</p> <p><u>18 July 2008</u> An aide mémoire was sent to the Chinese Permanent Mission summarizing the issues identified by the Special Rapporteur as requiring further clarification.</p>
<b>Recommended action: The situation should be reviewed at the ninety-fifth session.</b>
<b>Next report due:</b> 2010

### Eighty-seventh session (July 2006)

<b>State party: Central African Republic</b>
<b>Report considered:</b> Second periodic (due since 1989), submitted on 3 July 2005.
<p><b>Information requested:</b></p> <p>Para. 11: Mobilize public opinion against female genital mutilation; criminalize female genital mutilation; ensure that perpetrators are brought to justice (arts. 3 and 7).</p> <p>Para. 12: Ensure that all allegations of enforced disappearances, summary and arbitrary executions and torture and ill-treatment are investigated by an independent body and that perpetrators are prosecuted and appropriately punished; improve training for law enforcement personnel; compensation for victims; detailed information on complaints, the number of</p>



<p>persons prosecuted and convicted, including current or former members of the Central Office for the Prevention of Banditry, and compensation paid to victims over the past three years (arts. 2, 6, 7 and 9).</p> <p>Para. 13: Ensure that the death penalty is not extended to new crimes; abolition of the death penalty; accession to the Second Optional Protocol to the Covenant (arts. 2 and 6).</p>
<p><b>Date information due:</b> 24 July 2007</p>
<p><b>Date information received:</b> NONE RECEIVED</p>
<p><b>Action taken:</b></p> <p><u>28 September 2007</u> A reminder was sent.</p> <p><u>10 December 2007</u> A further reminder was sent.</p> <p><u>20 February 2008</u> The Special Rapporteur requested a meeting with a representative of the State party.</p> <p><u>18 March 2008</u> The Special Rapporteur requested a meeting with a representative of the State party.</p> <p><u>1 April 2008</u> Consultations were held during the ninety-second session. The delegation committed itself to transmitting the Special Rapporteur's and the Committee's request to the Government. No responses were provided.</p> <p><u>11 June 2008</u> A further reminder was sent by way of follow-up to the consultations which took place between the Special Rapporteur and the State party during the ninety-second session.</p>
<p><b>Recommended action:</b> A reminder should be sent.</p>
<p><b>Next report due:</b> 1 August 2010</p>

<p><b>State party:</b> United States of America</p>
<p><b>Report considered:</b> Second and third periodic (due since 1998), submitted on 28 November 2005.</p>
<p><b>Information requested:</b></p> <p>Para. 12: Immediate cessation of the practice of secret detention, closure of all secret detention facilities; grant the International Committee of the Red Cross prompt access to any person detained in connection with an armed conflict; ensure that all detainees benefit from the full protection of the law at all times (arts. 7 and 9).</p> <p>Para. 13: Ensure that any revision of the Army Field Manual provides only for interrogation techniques compatible with the Covenant; ensure that interrogation techniques are binding on all United States government agencies and any others acting on its behalf; ensure that there are effective means to follow suit against abuses committed by agencies operating outside the military structure; sanctions against personnel who used or approved the use of interrogation techniques that are now prohibited; reparation for victims; information on any revisions of interrogation techniques approved by the Manual (art. 7).</p> <p>Para. 14: Prompt and independent investigations into all allegations concerning suspicious deaths, torture and ill-treatment inflicted by United States personnel and contract employees in</p>

detention facilities in Guantánamo Bay, Afghanistan, Iraq and other overseas locations; prosecution and punishment of those responsible in accordance with the gravity of the crime; measures to prevent the recurrence of such behaviours, including training and clear guidance to United States personnel and contract employees; no reliance during legal proceedings on evidence obtained by means incompatible with article 7; information on reparation for victims (arts. 6 and 7).

Para. 16: Review by the State party of its restrictive interpretation of article 7 of the Covenant; ensure that individuals, including those detained by the State party outside its territory, are not returned to another country if there is a substantial risk of torture or ill-treatment; independent investigations into allegations of such occurrences; amendment of legislation and policies to ensure that no such situation will recur; appropriate remedies for victims; exercise of utmost care in the use of diplomatic assurances and adoption of clear and transparent procedures with adequate judicial mechanisms for review before individuals are deported and effective mechanisms to monitor the fate of those returned (art. 7).

Para. 20: Provide information on the implementation of the Supreme Court's decision in *Hamdan v. Rumsfeld* (art. 14).

Para. 26: Review of practices and policies to ensure the full implementation of the State party's obligation to protect life and of the prohibition of direct and indirect discrimination in matters related to disaster prevention and relief; increased efforts to ensure that the rights of the poor, in particular African-Americans, are fully taken into consideration in post-Hurricane Katrina reconstruction plans with regard to access to housing, education and health care; information on the results of the inquiries into the alleged failure to evacuate prisoners at the Parish prison, and allegations that New Orleans residents were not permitted by law enforcement officials to cross the Greater New Orleans Bridge to Gretna, Louisiana (arts. 6 and 26).

**Date information due:** 1 August 2007

**Date information received:**

1 November 2007 Partial reply (responses to paragraphs 12, 13, 14, 16 and 26 incomplete).

**Action taken:**

28 September 2007 A reminder was sent.

11 June 2008 The Special Rapporteur requested a meeting with a representative of the State party.

10 July 2008 During the ninety-third session, the Special Rapporteur met with representatives of the State party, who indicated that the Special Rapporteur's request to receive additional information on outstanding issues under paragraphs 12, 13, 14 and 16 before the Committee's ninety-fifth session will be conveyed to the Government.

**Recommended action: The situation should be reviewed at the ninety-fifth session.**

**Next report due:** 1 August 2010

<b>State party: Kosovo (Serbia)</b>
<b>Report considered:</b> Report by UNMIK, submitted on 2 February 2006.
<p><b>Information requested:</b></p> <p>Para. 12: Investigation of all outstanding cases of war crimes, crimes against humanity and ethnically motivated crimes committed before and after 1999; prosecution of perpetrators; compensation for victims; introduction of effective witness-protection programmes; full cooperation with International Criminal Tribunal for the former Yugoslavia prosecutors (arts. 2 (3), 6 and 7).</p> <p>Para. 13: Effective investigation of all outstanding cases of disappearances and abductions; prosecution of perpetrators; ensure that relatives of disappeared and abducted persons have access to information about victims' fate and to adequate compensation (arts. 2 (3), 6 and 7).</p> <p>Para. 18: Intensify efforts to ensure safe conditions for sustainable returns of displaced persons, in particular those belonging to minorities; ensure that they may recover their property, receive compensation for damage done and benefit from rental schemes for property temporarily administered by the Kosovo Property Agency (art. 12).</p>
<b>Date information due:</b> 1 January 2007
<p><b>Date information received:</b></p> <p><u>11 March 2008</u> Partial reply (responses incomplete with regard to paragraphs 13 and 18).</p>
<p><b>Action taken:</b></p> <p>Between April and September 2007, three reminders were sent.</p> <p><u>10 December 2007</u> The Special Rapporteur requested a meeting with the Special Representative of the Secretary General (SRSG) or a representative designated by the SRSG, to be convened during the ninety-second session.</p> <p><u>11 June 2008</u> The Special Rapporteur requested a meeting with a representative of UNMIK.</p> <p><u>22 July 2008</u> During the ninety-third session, the Special Rapporteur met with Mr. Roque Raymundo, Senior Human Rights Adviser to UNMIK, who provided additional written and oral information on paragraphs 12, 13 and 18 and undertook to submit further information on (a) cases where perpetrators of disappearances and abductions were tried and sentenced, access by relatives to information about the fate of victims, and measures taken to secure adequate resources for victim compensation schemes (para. 13); and (b) measures taken to implement the strategies and policies to ensure safe and sustainable returns, in particular for minority returnees, as well as to ensure that minority returnees benefit from the special rental scheme of the Kosovo Property Agency (para. 18). The meeting was also attended by a representative of the OHCHR Pristina Office.</p>
<b>Recommended action: The situation should be reviewed at the ninety-fifth session.</b>
<p><b>Next report due:</b></p> <p>...</p>

## Eighty-eighth session (October 2006)

<b>State party: Bosnia and Herzegovina</b>
<b>Report considered:</b> Initial (due since 2003), submitted on 24 November 2005.
<b>Information requested:</b> <p>Para. 8: Reopening of the public debate and talks on constitutional reform with a view to adopting an electoral system that guarantees equal enjoyment of the rights under article 25 of the Covenant to all citizens, irrespective of ethnicity (arts. 2, 25 and 26).</p> <p>Para. 14: Investigation of all unresolved cases of missing persons; ensure that the Institute for Missing Persons becomes fully operational in accordance with the Constitutional Court's decision of 13 August 2005; ensure that the central database of missing persons is finalized and accurate; ensure that the Fund for Support to Families of Missing Persons is secured and that payments to families commence as soon as possible (arts. 2 (3), 6 and 7).</p> <p>Para. 19: Improvement of material and hygiene conditions in detention facilities, prisons and mental health institutions in both Entities; adequate treatment of mental health patients; transfer of all patients from Zenica Prison Forensic Psychiatric Annex; ensure that Sokolac Psychiatric Hospital meets international standards (arts. 7 and 10).</p> <p>Para. 23: Review of relocation plan for the Roma settlement at Butmir; alternative solutions to prevent pollution of water supply; ensure that any relocation is carried out in a non-discriminatory manner and in compliance with international human rights standards (arts. 2, 17 and 26).</p>
<b>Date information due:</b> 1 November 2007
<b>Date information received:</b> <p><u>21 December 2007</u> Partial reply (responses incomplete with regard to paragraphs 8, 14, 19 and 23).</p>
<b>Action taken:</b> <p><u>17 January 2008</u> A reminder was sent.</p>
<b>Recommended action: Consultations should be scheduled for the ninety-fourth session.</b>
<b>Next report due:</b> 1 November 2010

<b>State party: Honduras</b>
<b>Report considered:</b> Initial (due since 1998), submitted on 21 February 2005.
<b>Information requested:</b> <p>Para. 9: Investigations into all cases of extrajudicial executions of children; prosecution of those responsible; compensation for relatives of victims; establishment of an independent mechanism, such as a children's ombudsman; training for officials dealing with children; public awareness-raising campaigns (arts. 6 and 24).</p>

<p>Para. 10: Monitoring of all weapons belonging to the police; human rights training for the police in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; investigations into allegations of excessive use of force; prosecution of those responsible; compensation for victims of their relatives (arts. 6 and 7).</p> <p>Para. 11: Identification of the causes of the growing numbers of street children; programmes to address those causes; provision of shelter to street children; identification of, compensation for and assistance to victims of sexual abuse; prosecution of those responsible (arts. 7, 8 and 24).</p> <p>Para. 19: Ensure the full exercise by members of indigenous communities of the right to enjoy their own culture; settlement of problems related to ancestral indigenous lands (art. 27).</p>
<p><b>Date information due:</b> 1 November 2007</p>
<p><b>Date information received:</b></p> <p><u>7 January 2007</u> Information on paragraph 18 (art. 16), which the Committee did not identify as a priority in its concluding observations.</p>
<p><b>Action taken:</b></p> <p><u>17 January 2008</u> A reminder was sent.</p> <p><u>11 June 2008</u> A further reminder was sent.</p>
<p><b>Recommended action: If no information is received, consultations should be scheduled for the ninety-fourth session.</b></p>
<p><b>Next report due:</b> 31 October 2010</p>

<p><b>State party: Republic of Korea</b></p>
<p><b>Report considered:</b> Third periodic (due since 2003), submitted on 10 February 2005.</p>
<p><b>Information requested:</b></p> <p>Para. 12: Ensure that migrant workers may enjoy the rights under the Covenant without discrimination, including equal access to social services and educational facilities, as well as the right to form trade unions; provision of adequate forms of redress (arts. 2, 22 and 26).</p> <p>Para. 13: Prevent all forms of ill-treatment by law enforcement officials in all places of detention including mental health hospitals; establish independent investigative bodies; introduce independent inspections of facilities and videotaping of interrogations; prosecution and appropriate punishment of perpetrators; effective remedies for victims; discontinuation of harsh and cruel measures of disciplinary confinement, in particular, the use of manacles, chains and face masks, and the “stacking” of 30-day periods of isolation (arts. 7 and 9).</p> <p>Para. 18: Ensure the compatibility of article 7 of the National Security Law, and sentences imposed thereunder, with the requirements of the Covenant (art. 19).</p>
<p><b>Date information due:</b> 1 November 2007</p>
<p><b>Date information received:</b></p> <p><u>25 February 2008</u> Partial reply (responses to paragraphs 12 and 13 incomplete; response to paragraph 18 unsatisfactory).</p>

**Action taken:**

17 January 2008 A reminder was sent.

11 June 2008 The Special Rapporteur requested a meeting with a representative of the State party.

21 July 2008 During the ninety-third session, the Special Rapporteur met with a representative of the State party, who indicated that additional information on any outstanding issues will be provided in the fourth periodic report.

22 July 2008 An aide mémoire was sent to the State party summarizing the issues identified by the Special Rapporteur as requiring further clarification.

**Recommended action: The situation should be reviewed at the ninety-fifth session.**

**Next report due:** 2 November 2010

**State party: Ukraine**

**Report considered:** Sixth periodic (on time), submitted on 1 November 2005.

**Information requested:**

Para. 7: Ensure the safety and proper treatment of all persons held in custody by the police; measures to guarantee freedom from torture and ill-treatment; establishment of an independent police complaints mechanism; video-surveillance of interrogations of criminal suspects; independent inspection of detention facilities (art. 6).

Para. 11: Guarantee the right of detainees to be treated humanely and with respect for their dignity; reduce prison overcrowding including by using alternative sanctions; provide hygienic facilities; ensure access to health care and adequate food (art. 10).

Para. 14: Protection of freedom of expression; investigation and prosecution of attacks on journalists (arts. 6 and 19).

Para. 16: Protection of all members of ethnic, religious or linguistic minorities against violence and discrimination; provision of robust remedies against these problems (arts. 20 and 26).

**Date information due:** 1 December 2007

**Date information received:**

19 May 2008 ... [in translation]

**Action taken:**

17 January 2008 A reminder was sent.

**Recommended action: To be considered at the ninety-fourth session.**

**Next report due:** 2 November 2011

**Eighty-ninth session (March 2007)**

<b>State party: Barbados</b>
<b>Report considered:</b> Third periodic (due since 1991), submitted on 18 July 2006.
<b>Information requested:</b> <p>Para. 9: Consider the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant; remove prescription of mandatory death sentences from relevant laws and ensure that such laws are compatible with article 6 of the Covenant (art. 6).</p> <p>Para. 12: Eliminate corporal punishment as a legitimate sanction and discourage its use in schools; measures towards the abolition of corporal punishment (arts. 7 and 24).</p> <p>Para. 13: Decriminalization of sexual acts between adults of the same sex, protection of homosexuals from harassment, discrimination and violence (art. 26).</p>
<b>Date information due:</b> 1 April 2008
<b>Date information received: NONE RECEIVED</b>
<b>Action taken:</b> <p>11 June 2008 A reminder was sent.</p>
<b>Recommended action: A further reminder should be sent.</b>
<b>Next report due:</b> 29 March 2011

<b>State party: Chile</b>
<b>Report considered:</b> Fifth periodic (due since 2002), submitted on 8 February 2006.
<b>Information requested:</b> <p>Para. 9: Ensure that serious human rights violations committed during the dictatorship are punished; ensuring that those suspected of being responsible for such acts are in fact prosecuted; scrutinize the suitability to hold public office of persons who have served sentences for such acts; publication of all the documentation collected by the National Commission on Political Prisoners and Torture (CNPPT) that may help to identify those responsible for extrajudicial executions, forced disappearances and torture (arts. 2, 6 and 7).</p> <p>Para. 19: (a) Ensure that negotiations with indigenous communities lead to a solution that respects their land rights; expedite procedures to recognize such ancestral lands; (b) Amendment of Act No. 18,314 to bring it in line with article 27 of the Covenant; review of any sectoral legislation that may contravene the rights spelled out in the Covenant; (c) Consultation of indigenous communities before granting licences for the economic exploitation of disputed lands; ensure that such exploitation will not violate the rights recognized in the Covenant (arts. 1 and 27).</p>
<b>Date information due:</b> 1 April 2008
<b>Date information received: NONE RECEIVED</b>

<b>Action taken:</b> <u>11 June 2008</u> A reminder was sent.
<b>Recommended action: A further reminder should be sent.</b>
<b>Next report due:</b> 27 March 2012

<b>State party: Madagascar</b>
<b>Report considered:</b> Third periodic (due since 1992), submitted on 24 May 2005.
<b>Information requested:</b> <p>Para. 7: Ensure the resumption of the work of the National Human Rights Commission, in accordance with the Paris Principles; provision of adequate resources for the Commission to fulfil its role effectively, fully and regularly (art. 2).</p> <p>Para. 24: Ensure the proper functioning and adequate funding of the judiciary; immediate release of detainees whose case files are missing (arts. 9 and 14).</p> <p>Para. 25: Ensure that any case registered may be heard without excessive delay (arts. 9 and 14).</p>
<b>Date information due:</b> 1 April 2008
<b>Date information received: NONE RECEIVED</b>
<b>Action taken:</b> <u>11 June 2008</u> A reminder was sent.
<b>Recommended action: A further reminder should be sent.</b>
<b>Next report due:</b> 23 March 2011



## Annex I

### STATES PARTIES TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND TO THE OPTIONAL PROTOCOLS, AND STATES WHICH HAVE MADE THE DECLARATION UNDER ARTICLE 41 OF THE COVENANT AS AT 31 JULY 2008

#### A. States parties to the International Covenant on Civil and Political Rights (162)

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Afghanistan	24 January 1983 <sup>a</sup>	24 April 1983
Albania	4 October 1991 <sup>a</sup>	4 January 1992
Algeria	12 September 1989	12 December 1989
Andorra	22 September 2006	22 December 2006
Angola	10 January 1992 <sup>a</sup>	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993 <sup>a</sup>	<sup>b</sup>
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992 <sup>a</sup>	<sup>b</sup>
Bahrain	20 September 2006 <sup>a</sup>	20 December 2006
Bangladesh	6 September 2000	6 December 2000
Barbados	5 January 1973 <sup>a</sup>	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996 <sup>a</sup>	10 September 1996
Benin	12 March 1992 <sup>a</sup>	12 June 1992
Bolivia	12 August 1982 <sup>a</sup>	12 November 1982
Bosnia and Herzegovina	1 September 1993 <sup>c</sup>	6 March 1992
Botswana	8 September 2000	8 December 2000
Brazil	24 January 1992 <sup>a</sup>	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burkina Faso	4 January 1999 <sup>a</sup>	4 April 1999
Burundi	9 May 1990 <sup>a</sup>	9 August 1990
Cambodia	26 May 1992 <sup>a</sup>	26 August 1992
Cameroon	27 June 1984 <sup>a</sup>	27 September 1984
Canada	19 May 1976 <sup>a</sup>	19 August 1976
Cape Verde	6 August 1993 <sup>a</sup>	6 November 1993
Central African Republic	8 May 1981 <sup>a</sup>	8 August 1981
Chad	9 June 1995 <sup>a</sup>	9 September 1995

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 <sup>a</sup>	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992 <sup>a</sup>	26 June 1992
Croatia	12 October 1992 <sup>c</sup>	8 October 1991
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993 <sup>c</sup>	1 January 1993
Democratic People's Republic of Korea	14 September 1981 <sup>a</sup>	14 December 1981
Democratic Republic of the Congo	1 November 1976 <sup>a</sup>	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002 <sup>a</sup>	5 February 2003
Dominica	17 June 1993 <sup>a</sup>	17 September 1993
Dominican Republic	4 January 1978 <sup>a</sup>	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987 <sup>a</sup>	25 December 1987
Eritrea	22 January 2002 <sup>a</sup>	22 April 2002
Estonia	21 October 1991 <sup>a</sup>	21 January 1992
Ethiopia	11 June 1993 <sup>a</sup>	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980 <sup>a</sup>	4 February 1981
Gabon	21 January 1983 <sup>a</sup>	21 April 1983
Gambia	22 March 1979 <sup>a</sup>	22 June 1979
Georgia	3 May 1994 <sup>a</sup>	<sup>b</sup>
Germany	17 December 1973	23 March 1976
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997 <sup>a</sup>	5 August 1997
Grenada	6 September 1991 <sup>a</sup>	6 December 1991
Guatemala	6 May 1992 <sup>a</sup>	6 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991 <sup>a</sup>	6 May 1991
Honduras	25 August 1997	25 November 1997

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979 <sup>a</sup>	10 July 1979
Indonesia	23 February 2006 <sup>a</sup>	23 May 2006
Iran (Islamic Republic of)	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kazakhstan <sup>d</sup>	24 January 2006	
Kenya	1 May 1972 <sup>a</sup>	23 March 1976
Kuwait	21 May 1996 <sup>a</sup>	21 August 1996
Kyrgyzstan	7 October 1994 <sup>a</sup>	<sup>b</sup>
Latvia	14 April 1992 <sup>a</sup>	14 July 1992
Lebanon	3 November 1972 <sup>a</sup>	23 March 1976
Lesotho	9 September 1992 <sup>a</sup>	9 December 1992
Liberia	22 September 2004	22 December 2004
Libyan Arab Jamahiriya	15 May 1970 <sup>a</sup>	23 March 1976
Liechtenstein	10 December 1998 <sup>a</sup>	10 March 1999
Lithuania	20 November 1991 <sup>a</sup>	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993 <sup>a</sup>	22 March 1994
Maldives	19 September 2006 <sup>a</sup>	19 December 2006
Mali	16 July 1974 <sup>a</sup>	23 March 1976
Malta	13 September 1990 <sup>a</sup>	13 December 1990
Mauritania	17 November 2004 <sup>a</sup>	17 February 2005
Mauritius	12 December 1973 <sup>a</sup>	23 March 1976
Mexico	23 March 1981 <sup>a</sup>	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	23 March 1976
Montenegro <sup>e</sup>		3 June 2006

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993 <sup>a</sup>	21 October 1993
Namibia	28 November 1994 <sup>a</sup>	28 February 1995
Nepal	14 May 1991 <sup>a</sup>	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980 <sup>a</sup>	12 June 1980
Niger	7 March 1986 <sup>a</sup>	7 June 1986
Nigeria	29 July 1993 <sup>a</sup>	29 October 1993
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Papua New Guinea	21 July 2008 <sup>a</sup>	21 October 2008
Paraguay	10 June 1992 <sup>a</sup>	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990 <sup>a</sup>	10 July 1990
Republic of Moldova	26 January 1993 <sup>a</sup>	<sup>b</sup>
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975 <sup>a</sup>	23 March 1976
Saint Vincent and the Grenadines	9 November 1981 <sup>a</sup>	9 February 1982
Samoa	15 February 2008 <sup>a</sup>	15 May 2008
San Marino	18 October 1985 <sup>a</sup>	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia <sup>f</sup>	12 March 2001	<sup>c</sup>
Seychelles	5 May 1992 <sup>a</sup>	5 August 1992
Sierra Leone	23 August 1996 <sup>a</sup>	23 November 1996
Slovakia	28 May 1993 <sup>c</sup>	1 January 1993
Slovenia	6 July 1992 <sup>c</sup>	25 June 1991
Somalia	24 January 1990 <sup>a</sup>	24 April 1990
South Africa	10 December 1998	10 March 1999
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980 <sup>a</sup>	11 September 1980

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Sudan	18 March 1986 <sup>a</sup>	18 June 1986
Suriname	28 December 1976 <sup>a</sup>	28 March 1977
Swaziland	26 March 2004 <sup>a</sup>	26 June 2004
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992 <sup>a</sup>	18 September 1992
Syrian Arab Republic	21 April 1969 <sup>a</sup>	23 March 1976
Tajikistan	4 January 1999 <sup>a</sup>	<sup>b</sup>
Thailand	29 October 1996 <sup>a</sup>	29 January 1997
The former Yugoslav Republic of Macedonia	18 January 1994 <sup>c</sup>	18 September 1991
Timor-Leste	18 September 2003 <sup>a</sup>	18 December 2003
Togo	24 May 1984 <sup>a</sup>	24 August 1984
Trinidad and Tobago	21 December 1978 <sup>a</sup>	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkey	23 September 2003	23 December 2003
Turkmenistan	1 May 1997 <sup>a</sup>	<sup>b</sup>
Uganda	21 June 1995 <sup>a</sup>	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976 <sup>a</sup>	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	<sup>b</sup>
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Viet Nam	24 September 1982 <sup>a</sup>	24 December 1982
Yemen	9 February 1987 <sup>a</sup>	9 May 1987
Zambia	10 April 1984 <sup>a</sup>	10 July 1984
Zimbabwe	13 May 1991 <sup>a</sup>	13 August 1991

*Note:* In addition to the States parties listed above, the Covenant continues to apply in the Hong Kong Special Administrative Region and the Macau Special Administrative Region of the People's Republic of China.<sup>g</sup>

## B. States parties to the First Optional Protocol (111)

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Albania	4 October 2007	4 January 2008
Algeria	12 September 1989 <sup>a</sup>	12 December 1989
Andorra	22 September 2006	22 December 2006
Angola	10 January 1992 <sup>a</sup>	10 April 1992
Argentina	8 August 1986 <sup>a</sup>	8 November 1986
Armenia	23 June 1993 <sup>a</sup>	23 September 1993
Australia	25 September 1991 <sup>a</sup>	25 December 1991
Austria	10 December 1987	10 March 1988
Azerbaijan	27 November 2001	27 February 2002
Barbados	5 January 1973 <sup>a</sup>	23 March 1976
Belarus	30 September 1992 <sup>a</sup>	30 December 1992
Belgium	17 May 1994 <sup>a</sup>	17 August 1994
Benin	12 March 1992 <sup>a</sup>	12 June 1992
Bolivia	12 August 1982 <sup>a</sup>	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Bulgaria	26 March 1992 <sup>a</sup>	26 June 1992
Burkina Faso	4 January 1999 <sup>a</sup>	4 April 1999
Cameroon	27 June 1984 <sup>a</sup>	27 September 1984
Canada	19 May 1976 <sup>a</sup>	19 August 1976
Cape Verde	19 May 2000 <sup>a</sup>	19 August 2000
Central African Republic	8 May 1981 <sup>a</sup>	8 August 1981
Chad	9 June 1995	9 September 1995
Chile	28 May 1992 <sup>a</sup>	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 <sup>a</sup>	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	5 March 1997	5 June 1997
Croatia	12 October 1995 <sup>a</sup>	
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993 <sup>c</sup>	1 January 1993
Democratic Republic of the Congo	1 November 1976 <sup>a</sup>	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002 <sup>a</sup>	5 February 2003
Dominican Republic	4 January 1978 <sup>a</sup>	4 April 1978
Ecuador	6 March 1969	23 March 1976

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987 <sup>a</sup>	25 December 1987
Estonia	21 October 1991 <sup>a</sup>	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984 <sup>a</sup>	17 May 1984
Gambia	9 June 1988 <sup>a</sup>	9 September 1988
Georgia	3 May 1994 <sup>a</sup>	3 August 1994
Germany	25 August 1993	25 November 1993
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997 <sup>a</sup>	5 August 1997
Guatemala	28 November 2000	28 February 2001
Guinea	17 June 1993	17 September 1993
Guyana <sup>h</sup>	10 May 1993 <sup>a</sup>	10 August 1993
Honduras	7 June 2005	7 September 2005
Hungary	7 September 1988 <sup>a</sup>	7 December 1988
Iceland	22 August 1979 <sup>a</sup>	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
Kyrgyzstan	7 October 1994 <sup>a</sup>	7 January 1995
Latvia	22 June 1994 <sup>a</sup>	22 September 1994
Lesotho	7 September 2000	7 December 2000
Libyan Arab Jamahiriya	16 May 1989 <sup>a</sup>	16 August 1989
Liechtenstein	10 December 1998 <sup>a</sup>	10 March 1999
Lithuania	20 November 1991 <sup>a</sup>	20 February 1992
Luxembourg	18 August 1983 <sup>a</sup>	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996 <sup>a</sup>	11 September 1996
Maldives	19 September 2006 <sup>a</sup>	19 December 2006
Mali	24 October 2001	24 January 2002
Malta	13 September 1990 <sup>a</sup>	13 December 1990
Mauritius	12 December 1973 <sup>a</sup>	23 March 1976
Mexico	15 March 2002 <sup>a</sup>	15 June 2002
Mongolia	16 April 1991 <sup>a</sup>	16 July 1991
Montenegro <sup>e</sup>		23 October 2006
Namibia	28 November 1994 <sup>a</sup>	28 February 1995

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Nepal	14 May 1991 <sup>a</sup>	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989 <sup>a</sup>	26 August 1989
Nicaragua	12 March 1980 <sup>a</sup>	12 June 1980
Niger	7 March 1986 <sup>a</sup>	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995 <sup>a</sup>	10 April 1995
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989	22 November 1989
Poland	7 November 1991 <sup>a</sup>	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990 <sup>a</sup>	10 July 1990
Republic of Moldova	23 January 2008	23 April 2008
Romania	20 July 1993 <sup>a</sup>	20 October 1993
Russian Federation	1 October 1991 <sup>a</sup>	1 January 1992
Saint Vincent and the Grenadines	9 November 1981 <sup>a</sup>	9 February 1982
San Marino	18 October 1985 <sup>a</sup>	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia <sup>f</sup>	6 September 2001	6 December 2001
Seychelles	5 May 1992 <sup>a</sup>	5 August 1992
Sierra Leone	23 August 1996 <sup>a</sup>	23 November 1996
Slovakia	28 May 1993 <sup>c</sup>	1 January 1993
Slovenia	16 July 1993 <sup>a</sup>	16 October 1993
Somalia	24 January 1990 <sup>a</sup>	24 April 1990
South Africa	28 August 2002	28 November 2002
Spain	25 January 1985 <sup>a</sup>	25 April 1985
Sri Lanka <sup>a</sup>	3 October 1997	3 January 1998
Suriname	28 December 1976 <sup>a</sup>	28 March 1977
Sweden	6 December 1971	23 March 1976
Tajikistan	4 January 1999 <sup>a</sup>	4 April 1999
The former Yugoslav Republic of Macedonia	12 December 1994 <sup>a</sup>	12 March 1995
Togo	30 March 1988 <sup>a</sup>	30 June 1988
Turkey	24 November 2006	24 February 2007
Turkmenistan <sup>b</sup>	1 May 1997 <sup>a</sup>	1 August 1997



<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Uganda	14 November 1995 <sup>a</sup>	14 February 1996
Ukraine	25 July 1991 <sup>a</sup>	25 October 1991
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	28 December 1995
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Zambia	10 April 1984 <sup>a</sup>	10 July 1984

*Note:* Jamaica denounced the Optional Protocol on 23 October 1997, with effect from 23 January 1998. Trinidad and Tobago denounced the Optional Protocol on 26 May 1998 and re-acceded on the same day, subject to a reservation, with effect from 26 August 1998. Following the Committee's decision in case No. 845/1999 (*Kennedy v. Trinidad and Tobago*) of 2 November 1999, declaring the reservation invalid, Trinidad and Tobago again denounced the Optional Protocol on 27 March 2000, with effect from 27 June 2000.

### C. States parties to the Second Optional Protocol, aiming at the abolition of the death penalty (66)

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Albania	17 October 2007 <sup>a</sup>	17 December 2007
Andorra	22 September 2006	22 December 2006
Australia	2 October 1990 <sup>a</sup>	11 July 1991
Austria	2 March 1993	2 June 1993
Azerbaijan	22 January 1999 <sup>a</sup>	22 April 1999
Belgium	8 December 1998	8 March 1999
Bosnia and Herzegovina	16 March 2001	16 June 2001
Bulgaria	10 August 1999	10 November 1999
Canada	25 November 2005 <sup>a</sup>	25 February 2006
Cape Verde	19 May 2000 <sup>a</sup>	19 August 2000
Colombia	5 August 1997	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995 <sup>a</sup>	12 January 1996
Czech Republic	15 June 2004 <sup>a</sup>	15 September 2004
Cyprus	10 September 1999 <sup>a</sup>	10 December 1999
Denmark	24 February 1994	24 May 1994
Djibouti	5 November 2002 <sup>a</sup>	5 February 2003
Ecuador	23 February 1993 <sup>a</sup>	23 May 1993
Estonia	30 January 2004 <sup>a</sup>	30 April 2004
Finland	4 April 1991	11 July 1991

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
France	2 October 2007 <sup>a</sup>	2 January 2008
Georgia	22 March 1999 <sup>a</sup>	22 June 1999
Germany	18 August 1992	18 November 1992
Greece	5 May 1997 <sup>a</sup>	5 August 1997
Honduras	1 April 2008	1 July 2008
Hungary	24 February 1994 <sup>a</sup>	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993 <sup>a</sup>	18 September 1993
Italy	14 February 1995	14 May 1995
Liberia	16 September 2005 <sup>a</sup>	16 December 2005
Liechtenstein	10 December 1998 <sup>a</sup>	10 March 1999
Lithuania	27 March 2002	26 June 2002
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994 <sup>a</sup>	29 March 1995
Mexico	26 September 2007 <sup>a</sup>	26 December 2007
Monaco	28 March 2000 <sup>a</sup>	28 June 2000
Montenegro <sup>e</sup>		23 October 2006
Mozambique	21 July 1993 <sup>a</sup>	21 October 1993
Namibia	28 November 1994 <sup>a</sup>	28 February 1995
Nepal	4 March 1998 <sup>a</sup>	4 June 1998
Netherlands	26 March 1991	11 July 1991
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991
Panama	21 January 1993 <sup>a</sup>	21 April 1993
Paraguay	18 August 2003	18 November 2003
Philippines	20 November 2007	20 February 2008
Portugal	17 October 1990	11 July 1991
Republic of Moldova	20 September 2006 <sup>a</sup>	20 December 2006
Romania	27 February 1991	11 July 1991
San Marino	17 August 2003 <sup>a</sup>	17 November 2004
Serbia <sup>f</sup>	6 September 2001 <sup>a</sup>	6 December 2001
Seychelles	15 December 1994 <sup>a</sup>	15 March 1995
Slovakia	22 June 1999	22 September 1999
Slovenia	10 March 1994	10 June 1994
South Africa	28 August 2002 <sup>a</sup>	28 November 2002

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994 <sup>a</sup>	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995 <sup>a</sup>	26 April 1995
Timor-Leste	18 September 2003 <sup>a</sup>	18 December 2003
Turkey	2 March 2006	2 June 2006
Turkmenistan	11 January 2000 <sup>a</sup>	11 April 2000
Ukraine	25 July 2007 <sup>a</sup>	25 October 2007
United Kingdom of Great Britain and Northern Ireland	10 December 1999	10 March 2000
Uruguay	21 January 1993	21 April 1993
Venezuela (Bolivarian Republic of)	22 February 1993	22 May 1993

**D. States which have made the declaration under article 41 of the Covenant (48)**

<u>State party</u>	<u>Valid from</u>	<u>Valid until</u>
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	19 April 1983	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Ghana	7 September 2000	Indefinitely
Germany	27 December 2001	Indefinitely
Guyana	10 May 1992	Indefinitely

<u>State party</u>	<u>Valid from</u>	<u>Valid until</u>
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Liechtenstein	10 March 1999	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	31 August 1972	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely
South Africa	10 March 1999	Indefinitely
Spain	11 March 1998	Indefinitely
Sri Lanka	11 June 1980	Indefinitely
Sweden	26 November 1971	Indefinitely
Switzerland	16 June 2005	16 June 2010
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

### Notes

<sup>a</sup> Accession.

<sup>b</sup> In the opinion of the Committee, the date of entry into force is that on which the State became independent.

<sup>c</sup> Succession.

<sup>d</sup> Prior to the receipt by the Secretary-General of the United Nations of the instrument of ratification, the Committee's position was the following: although a declaration of succession had not been received, persons within the territory of the State which constituted a part of a former State party to the Covenant continued to be entitled to the guarantees provided in the Covenant, in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40 (A/49/40)*, vol. I, paras. 48 and 49).

<sup>e</sup> Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006. On 23 October 2006, the Secretary-General received a letter dated 10 October 2006 from the Government of Montenegro, together with a list of multilateral treaties deposited with the Secretary-General, informing the Secretary-General that:

The Government of the Republic of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been a party or signatory.

The Government of the Republic of Montenegro was succeeding to the treaties listed in the attached annex and formally undertook to fulfil the conditions set out therein as from 3 June 2006, the date on which the Republic of Montenegro had assumed responsibility for its international relations and the Parliament of Montenegro had adopted the Declaration of Independence.

The Government of the Republic of Montenegro maintained the reservations, declarations and objections, as set out in the annex to the instrument, that had been made by Serbia and Montenegro before the Republic of Montenegro assumed responsibility for its international relations.

<sup>f</sup> The Socialist Federal Republic of Yugoslavia ratified the Covenant on 2 June 1971, which entered into force for that State on 23 March 1976. The successor State (the Federal Republic of Yugoslavia) was admitted to membership in the United Nations by General Assembly resolution 55/12 of 1 November 2000. By virtue of a subsequent declaration by the Yugoslav Government, the Federal Republic of Yugoslavia acceded to the Covenant with effect from 12 March 2001. In accordance with the established practice of the Committee, persons subject to the jurisdiction of a State which had been part of a former State party to the Covenant continue to be entitled to the guarantees set out in the Covenant. Following the adoption of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003, the name of the Federal Republic of Yugoslavia became "Serbia and Montenegro". The Republic of Serbia succeeded the State Union of Serbia and Montenegro as a Member of the United Nations, including all organs and bodies of the United Nations system, on the basis of article 60 of the Constitutional Charter of Serbia and Montenegro, to which the Declaration of Independence adopted by the National Assembly of Montenegro on 3 June 2006 gave effect. On 19 June 2006, the Secretary-General received a communication dated 16 June 2006 from the Minister for Foreign Affairs of the Republic of Serbia informing him that: (a) the Republic of Serbia would continue to exercise its rights and honour its commitments under international treaties concluded by Serbia and Montenegro; (b) the Republic of Serbia should be considered a party to all international agreements in force, instead of Serbia and Montenegro; and (c) the Government of the Republic of Serbia would

henceforth perform the functions formerly performed by the Council of Ministers of Serbia and Montenegro as a depositary for the corresponding multilateral treaties. The Republic of Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006.

<sup>g</sup> For information on the application of the Covenant in the Hong Kong Special Administrative Region of China, see *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40 (A/51/40)*, chap. V, sect. B, paras. 78-85. For information on the application of the Covenant in the Macau Special Administrative Region, see *ibid.*, *Fifty-fifth Session, Supplement No. 40 (A/55/40)*, chap. IV.

<sup>h</sup> Guyana denounced the Optional Protocol on 5 January 1999 and re-acceded on the same day, subject to a reservation, with effect from 5 April 1999. Guyana's reservation elicited objections from six States parties to the Optional Protocol.

## Annex II

### MEMBERSHIP AND OFFICERS OF THE HUMAN RIGHTS COMMITTEE, 2007-2008

#### A. Membership of the Human Rights Committee

Mr. Abdelfattah AMOR**	Tunisia
Mr. Prafullachandra Natwarlal BHAGWATI**	India
Ms. Christine CHANET**	France
Mr. Maurice GLÈLÈ-AHANHANZO*	Benin
Mr. Yuji IWASAWA**	Japan
Mr. Edwin JOHNSON LOPEZ*	Ecuador
Mr. Walter KÄLIN**	Switzerland***
Mr. Ahmed Tawfik KHALIL*	Egypt
Mr. Rajsoomer LALLAH*	Mauritius
Ms. Zonke Zanele MAJODINA**	South Africa
Ms. Iulia Antoanella MOTOC**	Romania
Mr. Michael O'FLAHERTY*	Ireland
Ms. Elisabeth PALM*	Sweden
Mr. Rafael RIVAS POSADA*	Colombia
Sir Nigel RODLEY*	United Kingdom of Great Britain and Northern Ireland
Mr. José Luis SANCHEZ-CERRO**	Peru
Mr. Ivan SHEARER*	Australia
Ms. Ruth WEDGWOOD**	United States of America

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\* Term expires on 31 December 2008.

\*\* Term expires on 31 December 2010.

\*\*\* Mr. Kälin resigned on 8 April 2008.

## **B. Officers**

The officers of the Committee, elected for a term of two years at the 2424th meeting, on 12 March 2007 (eighty-ninth session), are the following:

Chairperson: Mr. Rafael Rivas-Posada

Vice-Chairpersons: Mr. Ahmed Tawfik Khalil  
Ms. Elisabeth Palm  
Mr. Ivan Shearer

Rapporteur: Mr. Abdelfattah Amor



### Annex III

#### SUBMISSION OF REPORTS AND ADDITIONAL INFORMATION BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (AS AT 25 JULY 2008)

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Date of submission</u>
Afghanistan	Second	23 April 1989	25 October 1991 <sup>a</sup>
Albania	Second	1 November 2008	Not yet due
Algeria	Fourth	1 November 2011	Not yet due
Angola	Initial/Special	9 April 1993/ 31 January 1994	Not yet received
Argentina	Fourth	31 October 2005	17 December 2007
Armenia	Second	1 October 2001	Not yet received
Australia	Fifth	31 July 2005	Not yet received
Austria	Fifth	30 October 2012	Not yet due
Azerbaijan	Third	1 November 2005	4 October 2007
Bahrain	Initial	20 December 2007	Not yet received
Bangladesh	Initial	6 December 2001	Not yet received
Barbados	Fourth	29 March 2011	Not yet due
Belarus	Fifth	7 November 2001	Not yet received
Belgium	Fifth	1 August 2008	Not yet due
Belize	Initial	9 September 1997	Not yet received
Benin	Second	1 November 2008	Not yet due
Bolivia	Third	31 December 1999	Not yet received
Bosnia and Herzegovina	Second	1 November 2010	Not yet due
Botswana	Second	31 March 2012	Not yet due
Brazil	Third	31 October 2009	Not yet due
Bulgaria	Third	31 December 1994	Not yet received
Burkina Faso	Initial	3 April 2000	Not yet received
Burundi	Second	8 August 1996	Not yet received
Cambodia	Second	31 July 2002	Not yet received
Cameroon	Fourth	31 October 2003	Not yet received
Canada	Sixth	31 October 2010	Not yet due
Cape Verde	Initial	5 November 1994	Not yet received
Central African Republic	Third	1 August 2010	Not yet due
Chad	Initial	8 September 1996	18 September 2007
Chile	Sixth	27 March 2012	Not yet due

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Date of submission</u>
Colombia	Sixth	1 April 2008	Not yet received
Congo	Third	31 March 2003	Not yet received
Costa Rica	Sixth	1 November 2012	Not yet due
Côte d'Ivoire	Initial	25 June 1993	Not yet received
Croatia	Second	1 April 2005	27 November 2007
Cyprus	Fourth	1 June 2002	Not yet received
Czech Republic	Third	1 August 2011	Not yet due
Democratic People's Republic of Korea	Third	1 January 2004	Not yet received
Democratic Republic of the Congo	Fourth	1 April 2009	Not yet due
Denmark	Fifth	31 October 2005	4 April 2007
Djibouti	Initial	5 February 2004	Not yet received
Dominica	Initial	16 September 1994	Not yet received
Dominican Republic	Fifth	1 April 2005	Not yet received
Ecuador	Fifth	1 June 2001	22 January 2008
Egypt	Fourth	1 November 2004	Not yet received
El Salvador	Fourth	1 August 2007	Not yet received
Equatorial Guinea	Initial	24 December 1988	Not yet received <sup>b</sup>
Eritrea	Initial	22 April 2003	Not yet received
Estonia	Third	1 April 2007	Not yet received
Ethiopia	Initial	10 September 1994	Not yet received
Finland	Sixth	1 November 2009	Not yet due
France	Fifth		Not yet due
Gabon	Third	31 October 2003	Not yet received
Gambia	Second	21 June 1985	Not yet received <sup>b</sup>
Georgia	Fourth	1 November 2011	Not yet due
Germany	Sixth	1 April 2009	Not yet due
Ghana	Initial	8 February 2001	Not yet received
Greece	Second	1 April 2009	Not yet due
Grenada	Initial	6 September 1991	Not yet received <sup>b</sup>
Guatemala	Third	1 August 2005	Not yet received
Guinea	Third	30 September 1994	Not yet received
Guyana	Third	31 March 2003	Not yet received
Haiti	Initial	30 December 1996	Not yet received
Honduras	Second	31 October 2010	Not yet due
Hong Kong Special Administrative Region (China) <sup>c</sup>	Third (China)	1 January 2010	Not yet due

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Date of submission</u>
Hungary	Fifth	1 April 2007	Not yet received
Iceland	Fifth	1 April 2010	Not yet due
India	Fourth	31 December 2001	Not yet received
Indonesia	Initial	23 May 2007	Not yet received
Iran (Islamic Republic of)	Third	31 December 1994	Not yet received
Iraq	Fifth	4 April 2000	Not yet received
Ireland	Fourth		Not yet due
Israel	Third	1 August 2007	Not yet received
Italy	Sixth	31 October 2009	Not yet due
Jamaica	Third	7 November 2001	Not yet received
Japan	Fifth	31 October 2002	20 December 2006
Jordan	Fourth	21 January 1997	Not yet received
Kazakhstan	Initial	24 April 2007	Not yet received
Kenya	Third	1 April 2008	Not yet received
Kuwait	Second	31 July 2004	Not yet received
Kyrgyzstan	Second	31 July 2004	Not yet received
Latvia	Third	1 November 2008	Not yet due
Lebanon	Third	31 December 1999	Not yet received
Lesotho	Second	30 April 2002	Not yet received
Liberia	Initial	22 December 2005	Not yet received
Libyan Arab Jamahiriya	Fifth	30 October 2010	Not yet due
Liechtenstein	Second	1 September 2009	Not yet due
Lithuania	Third	1 April 2009	Not yet due
Luxembourg	Fourth	1 April 2008	Not yet received
Macau Special Administrative Region (China) <sup>c</sup>	Initial (China)	31 October 2001	Not yet received
Madagascar	Fourth	23 March 2011	Not yet due
Malawi	Initial	21 March 1995	Not yet received
Maldives	Initial	19 December 2007	Not yet received
Mali	Third	1 April 2005	Not yet received
Malta	Second	12 December 1996	Not yet received
Mauritania	Initial	17 February 2006	Not yet received
Mauritius	Fifth	1 April 2010	Not yet due
Mexico	Fifth	30 July 2002	Not yet received
Monaco	Second	1 August 2006	3 April 2007
Mongolia	Fifth	31 March 2003	Not yet received

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Date of submission</u>
Montenegro <sup>d</sup>	Initial	23 October 2007	Not yet received
Morocco	Sixth	1 November 2008	Not yet due
Mozambique	Initial	20 October 1994	Not yet received
Namibia	Second	1 August 2008	Not yet due
Nepal	Second	13 August 1997	Not yet received
Netherlands	Fourth	1 August 2006	9 May 2007
Netherlands (Antilles)	Fourth	1 August 2006	7 February 2008
Netherlands (Aruba)	Fifth	1 August 2006	5 July 2007
New Zealand	Fifth	1 August 2007	24 December 2007
Nicaragua	Third	11 June 1991	20 June 2007
Niger	Second	31 March 1994	Not yet received
Nigeria	Second	28 October 1999	Not yet received
Norway	Sixth	1 October 2009	Not yet due
Panama	Fourth	31 March 2012	Not yet due
Paraguay	Third	31 October 2008	Not yet due
Peru	Fifth	31 October 2003	Not yet received
Philippines	Third	1 November 2006	Not yet received
Poland	Sixth	1 November 2008	Not yet due
Portugal	Fourth	1 August 2008	Not yet due
Republic of Korea	Fourth	2 November 2010	Not yet due
Republic of Moldova	Second	1 August 2004	4 October 2008
Romania	Fifth	28 April 1999	Not yet received
Russian Federation	Sixth	1 November 2007	5 December 2007
Rwanda	Third	10 April 1992	23 July 2007
Saint Vincent and the Grenadines	Second	31 October 1991	Not yet received <sup>b</sup>
San Marino	Third		Not yet due
Senegal	Fifth	4 April 2000	Not yet received
Serbia	Second	1 August 2008	Not yet due
Seychelles	Initial	4 August 1993	Not yet received
Sierra Leone	Initial	22 November 1997	Not yet received
Slovakia	Third	1 August 2007	Not yet due
Slovenia	Third	1 August 2010	Not yet due
Somalia	Initial	23 April 1991	Not yet received
South Africa	Initial	9 March 2000	Not yet received
Spain	Fifth	28 April 1999	9 February 2007

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Date of submission</u>
Sri Lanka	Fifth	1 November 2007	Not yet received
Sudan	Fourth	26 July 2010	Not yet due
Suriname	Third	1 April 2008	Not yet received
Swaziland	Initial	27 June 2005	Not yet received
Sweden	Sixth	1 April 2007	17 July 2007
Switzerland	Third	1 November 2006	18 October 2007
Syrian Arab Republic	Fourth	1 August 2009	Not yet due
Tajikistan	Second	31 July 2008	Not yet due
Thailand	Second	1 August 2009	Not yet due
The former Yugoslav Republic of Macedonia	Third	1 April 2012	Not yet due
Timor-Leste	Initial	19 December 2004	Not yet received
Togo	Fourth	1 November 2004	Not yet received
Trinidad and Tobago	Fifth	31 October 2003	Not yet received
Tunisia	Sixth	31 March 2012	Not yet due
Turkey	Initial	16 December 2004	Not yet received
Turkmenistan	Initial	31 July 1998	Not yet received
Uganda	Second	1 April 2008	Not yet received
Ukraine	Seventh	2 November 2011	Not yet due
United Kingdom of Great Britain and Northern Ireland	Seventh		Not yet due
United Kingdom of Great Britain and Northern Ireland (Overseas Territories)	Seventh		Not yet due
United Republic of Tanzania	Fourth	1 June 2002	8 October 2007
United States of America	Fourth	1 August 2010	Not yet due
Uruguay	Fifth	21 March 2003	Not yet received
Uzbekistan	Third	1 April 2008	31 March 2008
Venezuela (Bolivarian Republic of)	Fourth	1 April 2005	Not yet received
Viet Nam	Third	1 August 2004	Not yet received
Yemen	Fifth	1 July 2009	Not yet due
Zambia	Fourth	20 July 2011	Not yet due
Zimbabwe	Second	1 June 2002	Not yet received

## Notes

<sup>a</sup> At its fifty-fifth session, the Committee requested the Afghan Government to submit information updating its report before 15 May 1996 for consideration at the fifty-seventh session. No additional information was received. At its sixty-seventh session, the Committee invited Afghanistan to present its report at the sixty-eighth session. The State party asked that the consideration of its report be postponed. At its seventy-third session, the Committee decided to postpone consideration of the situation in Afghanistan, pending consolidation of the new Government.

<sup>b</sup> The Committee considered the situation of civil and political rights in the Gambia, at its seventy-fifth session, in the absence of a report and a delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided that the observations would be made public.

The Committee considered the situation of civil and political rights in Equatorial Guinea, at its seventy-ninth session, in the absence of a report and a State party delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided that the observations would be made public.

The Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines, at its eighty-sixth session, in the absence of a report but in the presence of a delegation. Provisional concluding observations were sent to the State party, with a request that it submit its second periodic report by 1 April 2007. A reminder was sent on 12 April 2007. Saint Vincent and the Grenadines undertook, by letter dated 5 July 2007, to submit a report within one month. At the end of the ninety-second session and in view of the non-submission of a report from the State party, the Committee decided that the observations would be made public.

The Committee considered the situation of civil and political rights in Grenada, at its ninetieth session, in the absence of a report and a State party delegation. Provisional concluding observations were sent to the State party, with a request to submit its initial report by 31 December 2008.

<sup>c</sup> Although China is not itself a party to the Covenant, the Chinese Government has honoured the obligations under article 40 with respect to the Hong Kong and the Macau Special Administrative Regions, which were previously under British and Portuguese administration, respectively.

<sup>d</sup> Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006. On 23 October 2006, the Secretary-General received a letter, dated 10 October 2006, from the Government of Montenegro, together with a list of multilateral treaties deposited with the Secretary-General, informing him that:

- The Government of the Republic of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been a party or a signatory.

- The Government of the Republic of Montenegro was succeeding to the treaties listed in the attached annex and formally undertook to fulfil the conditions set out therein as from 3 June 2006, the date on which the Republic of Montenegro had assumed responsibility for its international relations and the Parliament of Montenegro had adopted the Declaration of Independence.
- The Government of the Republic of Montenegro maintained the reservations, declarations and objections, as set out in the annex to the instrument, which had been made by Serbia and Montenegro before the Republic of Montenegro assumed responsibility for its international relations.

## Annex IV

### STATUS OF REPORTS AND SITUATIONS CONSIDERED DURING THE PERIOD UNDER REVIEW, AND OF REPORTS STILL PENDING BEFORE THE COMMITTEE

#### A. Initial reports

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Chad	8 September 1996	18 September 2007	Awaiting appropriate electronic version for translation. Scheduled for consideration at a later session	CCPR/C/TCD/1
Botswana	8 December 2001	23 November 2006	Considered on 19 and 20 March 2008 (ninety-second session)	CCPR/C/BWA/1 CCPR/C/BWA/Q/1 CCPR/C/SR.2515, 2516 and 2517 CCPR/C/SR.2527

#### B. Second periodic reports

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Saint Vincent and the Grenadines	31 October 1991	Not yet received	Considered in the absence of a report but in the presence of a delegation on 22 March 2006 (eighty-sixth session). Concluding observations made public at the ninety-second session	CCPR/C/VCT/Q/3
The former Yugoslav Republic of Macedonia	1 June 2000	13 October 2006	Considered on 26 March 2008 (ninety-second session)	CCPR/C/MKD/2 CCPR/C/MKD/Q/2 CCPR/C/SR.2525-2526 CCPR/C/SR.2537
San Marino	17 January 1992	26 October 2006	Considered on 11 July 2008 (ninety-third session)	CCPR/C/SMR/2 CCPR/C/SR.2548-2549
Republic of Moldova	1 August 2004	4 October 2007	In translation. Scheduled for consideration at a later session	CCPR/C/MDA/2
Croatia	1 April 2005	27 November 2007	In translation. Scheduled for consideration at a later session	CCPR/C/HRV/2



<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Monaco	1 August 2006	3 April 2007	List of issues adopted during the ninety-third session Scheduled for consideration at the ninety-fourth session	CCPR/C/MCO/2

### C. Third periodic reports

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Algeria	1 June 2000	22 September 2006	Considered on 23 and 24 October 2007 (ninety-first session)	CCPR/C/DZA/3 CCPR/C/DZA/Q/3 CCPR/C/SR.2494-2496 CCPR/C/SR.2509
Azerbaijan	1 November 2005	4 October 2007	Scheduled for consideration at a later session	CCPR/C/AZE/3
Georgia	1 April 2006	1 August 2006	Considered on 15 and 16 October 2007 (ninety-first session)	CCPR/C/GEO/3 CCPR/C/GEO/Q/3 CCPR/C/SR.2483 and 2484 CCPR/C/SR.2500
Ireland	31 July 2005	23 February 2007	Considered on 14 and 15 July 2008 (ninety-third session)	CCPR/C/IRL/3 CCPR/C/SR.2551-2552
Panama	31 March 1992	9 February 2007	Considered on 24 and 25 March 2008 (ninety-second session)	CCPR/C/PAN/3 CCPR/C/SR.2520 and 2521 CCPR/C/SR.2535
Rwanda	10 April 1992	23 July 2007	In translation. Scheduled for consideration at a later session	CCPR/C/RWA/3
Nicaragua	11 June 1991	20 June 2007	In translation. Scheduled for consideration at a later session Scheduled for consideration at the ninety-fourth session	CCPR/C/NIC/3
Switzerland	1 November 2006	18 October 2007	In translation. Scheduled for consideration at a later session	CCPR/C/CHE/3
Uzbekistan	1 April 2008	31 March 2008	In translation. Scheduled for consideration at a later session	CCPR/C/UZB/3

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Israel	1 August 2007	25 July 2008	In translation. Scheduled for consideration at a later session	CCPR/C/ISR/3

#### **D. Fourth periodic reports**

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
United Republic of Tanzania	1 June 2002	8 October 2007	Scheduled for consideration at a later session	CCPR/C/TZA/4
Argentina	31 October 2005	17 December 2007	In translation. Scheduled for consideration at a later session	CCPR/C/ARG/4
Libyan Arab Jamahiriya	1 October 2002	5 December 2006	Considered on 17 and 18 October 2007 (ninety-first session)	CCPR/C/LIB/4 CCPR/C/LIB/Q/4 CCPR/C/SR.2487 and 2488 CCPR/C/SR.2504
Austria	1 October 2002	21 July 2006	Considered on 19 October 2007 (ninety-first session)	CCPR/C/AUT/4 CCPR/C/AUT/Q/4 (CCPR/C/AUT/4) CCPR/C/SR.2490 and 2491 CCPR/C/SR.2505
France	31 December 2000	13 February 2007	Considered on 9 and 10 July 2008 (ninety-second session)	CCPR/C/FRA/4 CCPR/C/SR.2545-2546
Netherlands (Antilles)	1 August 2006	7 February 2008	In translation. Scheduled for consideration at a later session	CCPR/C/NET/4/Add.2
Netherlands (including Aruba)	1 August 2006	9 May 2007	In translation. Scheduled for consideration at a later session	CCPR/C/NET/4 and Add.1

#### **E. Fifth periodic reports**

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Ecuador	1 June 2001	22 January 2008	In translation. Scheduled for consideration at a later session	CCPR/C/ECU/5
Costa Rica	30 April 2004	30 May 2006	Considered on 22 October 2007 (ninety-first session)	CCPR/C/CRI/5 CCPR/C/CRI/Q/5 CCPR/C/SR.2492-2493 CCPR/C/SR.2508

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Denmark	31 October 2005	4 April 2007	List of issues adopted during the ninety-third session Scheduled for consideration at the ninety-fourth session	CCPR/C/DEN/5
Spain	28 April 1999	9 February 2007	List of issues adopted during the ninety-third session Scheduled for consideration at the ninety-fourth session	CCPR/C/ESP/5
Japan	31 October 2002	20 December 2006	Scheduled for consideration at the ninety-fourth session	CCPR/C/JPN/5
Tunisia	4 February 1998	14 December 2006	Considered on 17 and 18 March 2008 (ninety-second session)	CCPR/C/TUN/5 CCPR/C/SR.2512, 2513, 2514 CCPR/C/SR.2527
New Zealand	1 August 2007	24 December 2007	In translation. Scheduled for consideration at a later session	CCPR/C/NZL/5
Mexico	30 July 2002	30 July 2008	[as for New Zealand]	CCPR/C/MEX/5

#### **F. Sixth periodic reports**

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
United Kingdom of Great Britain and Northern Ireland	1 November 2006	2 November 2006	Considered on 7 and 8 July 2008 (ninety-third session)	CCPR/C/UK/6 CCPR/C/SR.2541-2542
Sweden	1 April 2007	17 July 2007	Scheduled for consideration at the ninety-fifth session. List of issues adopted during the ninety-third session	CCPR/C/SWE/6
Russian Federation	1 November 2007	5 December 2007	In translation. Scheduled for consideration at a later session	CCPR/C/RUS/6

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